

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

July 21, 2015

Jefferson City, Missouri

Volume 2

In The Matter Of Union Electric)
Company d/b/a Ameren Missouri's)
2nd Filing to Implement) File No. E0-2015-0055
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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1 (Ameren Exhibit 110 was marked for
2 identification.)

3 JUDGE PRIDGIN: All right. Good morning.
4 We are back on the record in E0-2015-0055. It's my
5 recollection when we broke last night, that
6 Mr. Voytas's testimony had been completed and we would
7 be moving on to Mr. Laurent, the next Ameren Missouri
8 witness. If anyone has a different recollection or if
9 any counsel has anything to bring to my attention
10 before we move on it Mr. Laurent, please let me know.

11 All right. Hearing nothing, Mr. Laurent
12 if you would come forward to be sworn, please, sir.
13 All right. If you'll raise your right hand to be
14 sworn, please.

15 (Witness sworn.)

16 JUDGE PRIDGIN: Thank you very much, sir.
17 And Mr. Mitten, Ms. Tatro?

18 DANIEL G. LAURENT testified as follows:

19 DIRECT EXAMINATION BY MR. MITTEN:

20 **Q. Would you please state your name and**
21 **business address for the record.**

22 A. My name is Dan Laurent. My address is
23 1901 -- business address is 1901 Chouteau Avenue,
24 St. Louis, Missouri.

25 **Q. Mr. Laurent, did you cause to be filed in**

1 **this case Supplemental Testimony?**

2 A. Yes.

3 **Q. Are there any -- did you prepare that**
4 **testimony yourself?**

5 A. Yes.

6 **Q. Are there any changes or corrections**
7 **you -- that need to be made to that testimony?**

8 A. No.

9 **Q. If I ask you the questions that are**
10 **contained in that testimony today, would your answers**
11 **be the same as are reflected there?**

12 A. Yes.

13 **Q. And are those answers true and accurate?**

14 A. Yes.

15 MR. MITTEN: Your Honor, Mr. Laurent's
16 testimony has been designated Exhibit 110. I have no
17 further questions and I would offer Exhibit 110 into
18 evidence.

19 JUDGE PRIDGIN: Exhibit number 110 has
20 been offered. Any objections?

21 Hearing no objections, Exhibit 110 is
22 admitted into evidence.

23 (Ameren Exhibit 110 was received into
24 evidence.)

25 JUDGE PRIDGIN: Cross-examination, United

1 for Missouri ?

2 MR. LINTON: I have no questions, Your
3 Honor.

4 JUDGE PRIDGIN: NRDC?

5 MR. ROBERTSON: No questions.

6 JUDGE PRIDGIN: Division of Energy?

7 MR. ANTAL: Yes, a few.

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

9 CROSS-EXAMINATION BY MR. ANTAL:

10 Q. Good morning.

11 A. Good morning.

12 Q. **In your Supplemental Testimony, page 6,**
13 **you started in lines 5 and describe how the Utility**
14 **Agreement will provide incentives for the purchase of**
15 **CFLs in grocery stores, drug stores and discount**
16 **stores as well as online. Could you tell me why the**
17 **Company agreed to this provision and why it's offering**
18 **these rebates specifically to these stores?**

19 A. Sure. We thought that that's the area
20 where customers that shop in those types of locations,
21 more urban locations, are less likely to be able to or
22 want to buy the more expensive LED lights. So we
23 wanted to continue -- if we were going to continue
24 CFLs, we wanted to get an area where customers needed
25 it most. And in our mind, that's the kind of

1 neighborhood, the more urban type of smaller retail
2 stores as opposed to large discount stores.

3 **Q. Okay. And are you familiar with a study**
4 **done by Cadmus entitled Ameren Missouri Lighting**
5 **Impact and Process Evaluation Program Year 2014?**

6 A. Yes.

7 **Q. Okay. And do you recall what the**
8 **recommendations were in regards to the CFLs particular**
9 **to discounts, retail, as well as grocery and drug**
10 **stores?**

11 A. No, I don't recall.

12 MR. ANTAL: Okay. Judge, if I may
13 approach.

14 JUDGE PRIDGIN: You may.

15 BY MR. ANTAL:

16 **Q. Mr. Laurent, would you please identify**
17 **the document that I've just handed you?**

18 A. It's the Cadmus Lighting Impact and
19 Process Evaluation for Program Year 2014.

20 **Q. Okay. And would you please turn to**
21 **page 6 of that document.**

22 A. Okay.

23 **Q. Could you please read for the record**
24 **conclusion one?**

25 A. Conclusion one: EISA regulations ending

1 the manufacture of incandescent bulbs had a more
2 gradual effect on the market than Ameren Missouri
3 anticipated in its TRM. The Cadmus team found that
4 even 100 watt incandescent bulbs, the first to be
5 phased out under EISA regulations, persisted in
6 7 percent of retail locations in the last quarter of
7 program year 2014. As a result, baseline wattages
8 used to calculate energy savings were higher than
9 expected.

10 **Q. Okay. And could you please turn to**
11 **page 7 now. Could you please read for the record**
12 **conclusion 3?**

13 A. In an effort to tap an otherwise hard to
14 reach market, the program deliberately shifted more
15 program sales into discount retailers in 2014. The
16 effort was successful in a sense that the percent of
17 sales in discount retailers rose 10 points. We did
18 not find evidence that there is any reduced free
19 ridership benefit to this market. The market does
20 appear to be receptive to the program.

21 The draft report from an unpublished
22 northeastern study indicates that focusing more than
23 three-quarters of program sales in hard-to-reach
24 markets, including discount retail, may account for
25 the high levels of saturation rates in other states.

1 **Q. And lastly, could you please read**
2 **recommendation number 3.**

3 A. Continue to work with discount retailers
4 to increase uptake at discount retail stores.

5 **Q. Okay. Thank you. Based off those**
6 **conclusions and recommendation number three in the**
7 **Cadmus study, do you believe that there's still market**
8 **potential for CFL rebates in these hard-to-reach**
9 **markets?**

10 A. I believe there may be an opportunity for
11 CFL rebates in those hard-to-reach markets. This was
12 a 2014 study. We're talking about program years 2016
13 to '18 here. And as a result of, you know, a lot of
14 great discussion amongst the parties interested in
15 energy efficiency, we agreed in the spirit of
16 compromise to offer CFLs for program year 2016 as
17 outlined in our Stipulation and Agreement.

18 **Q. Okay. Thank you.**

19 MR. ANTAL: Your Honor, I would move that
20 the Commission take judicial notice of the Cadmus
21 study.

22 JUDGE PRIDGIN: Any objections?

23 Hearing none, the Commission will take
24 notice.

25 BY MR. ANTAL:

1 **Q. Mr. Laurent, are you aware of any Ameren**
2 **Missouri case studies on the cost effectiveness of**
3 **combined heat and power?**

4 A. I'm aware that it was included in the
5 potential study, but I'm not an expert on the
6 potential study.

7 **Q. Okay. Are you familiar with the terms of**
8 **the Utility Agreement?**

9 A. Yes.

10 **Q. Okay. Is it your understanding that**
11 **combined heat and power will be one measure offered**
12 **within the Company's proposed small business direct**
13 **install program?**

14 A. No. It's a measure that's in --
15 considered for our custom program.

16 **Q. Custom program. Thank you. And as part**
17 **of that custom program, will the cost effectiveness of**
18 **CHP be evaluated on a case-by-case basis?**

19 A. Yes.

20 **Q. Okay. Thank you.**

21 MR. ANTAL: I have no further questions.

22 JUDGE PRIDGIN: Mr. Antal, thank you.

23 Renew Missouri?

24 MR. LINHARES: No questions, Judge.

25

1 JUDGE PRIDGIN: National Housing Trust?
2 Tower Grove?

3 MR. LINHARES: No questions.

4 JUDGE PRIDGIN: Sierra Club?

5 MS. TAUBER: No questions.

6 JUDGE PRIDGIN: Brightergy?

7 MR. ZELLERS: No questions.

8 JUDGE PRIDGIN: MIEC? Is Mr. Downey in
9 here? MECG?

10 Public Counsel?

11 MR. OPITZ: A few, Judge. Thank you.

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

13 CROSS-EXAMINATION BY MR. OPITZ:

14 Q. Mr. Laurent, do you have a copy of the
15 Non-Unanimous Stipulation and Agreement filed
16 June 30th with you?

17 A. Yes.

18 Q. If you would, turn to page 9, paragraph
19 15, please.

20 A. Okay.

21 Q. And would you agree that paragraph 15
22 discusses additional -- identifying additional cost
23 effective savings?

24 A. Yes.

25 Q. Does Ameren Missouri believe that there

1 **are additional cost effective savings that can be**
2 **achieved in 2017 and 2018?**

3 A. We hope that there are. I mean what
4 we've included in our original filing is certainly all
5 the cost effective savings that we knew at the time,
6 but certainly we think it's important to, as we have
7 in the past, continue to work with all parties. We're
8 incented to find more and more cost effective energy
9 efficiency savings. And so while I can't say that
10 there are, I hope in working with the other parties
11 that we do find additional cost effective energy
12 efficiency savings.

13 **Q. Is there anything in this stipulation --**
14 **the Company's Stipulation that would require Ameren**
15 **Missouri to implement identified savings that come --**
16 **come up from your discussion with the parties?**

17 A. Well, certainly if we -- if we discuss
18 with the parties and we find additional cost effective
19 energy efficiency savings that would be applicable in
20 our service territory, we plan to implement those
21 savings. We're incented --

22 **Q. But there's nothing in the stipulation**
23 **that would require that?**

24 A. Well, depending on what you mean by
25 "require." Certainly the stipulation intends for that

1 to happen because it sets the performance incentive
2 such that the utility's encouraged to find as much
3 cost effective energy efficiency as we can.

4 **Q. And what is the cost effectiveness test**
5 **that Ameren Missouri would apply in evaluating those**
6 **programs?**

7 A. The total resource cost.

8 **Q. The Stipulation and Agreement also**
9 **includes a small business direct install program.**
10 **Correct?**

11 A. Yes.

12 **Q. And why did Ameren Missouri not include**
13 **that program in its initial application?**

14 A. When we did our original analysis, the
15 price of the LED bulbs was much higher than it is now,
16 so the price of the LED bulbs continues to come down.
17 And when we were working with the other parties
18 discussing opportunities to improve our filing, we
19 took another look at the price of the LED bulbs. And
20 the price has come down such that we think we can make
21 the small business direct install program cost
22 effective at this point in time.

23 **Q. How did you determine the \$9.9 million**
24 **budget for that program?**

25 A. That's -- we -- we've estimated that that

1 is the potential market for that program in our
2 service territory.

3 **Q. How did you make that estimate?**

4 A. Just based on discussing with our program
5 managers the size of our 2M customer market. So
6 that -- that -- that program is primarily for 2M
7 customers, less than 100 kW demand. We took a look at
8 that and there's I think -- subject to verification --
9 about 140,000 different customers out there.

10 We knew that this was a hard to reach
11 segment. This is a segment that typically don't have
12 decision makers within their organizations to do, you
13 know, the energy analysis and energy upgrades. And so
14 recognizing it was hard to reach, but a large market,
15 this was our estimate of what the potential was in our
16 service territory.

17 **Q. And how did you determine the 30,000**
18 **megawatt hour savings target?**

19 A. The same way.

20 **Q. If you look at page 8, please, of the**
21 **Stipulation and Agreement. Paragraph 11 discusses**
22 **public facilities. Correct?**

23 A. Yes.

24 **Q. Would you agree that those facilities**
25 **would have taken energy efficiency steps even absent**

1 an Ameren MEEIA plan?

2 A. No.

3 **Q. Why does the Stipulation and Agreement**
4 **define them as not free riders?**

5 A. Because we think it's important to point
6 out that, you know, whether there is a federal order
7 or a state order for buildings to be more energy
8 efficient, that does not in -- by itself make them a
9 free rider. And we wanted to point that out and make
10 sure all agreed to that. What we've been told --

11 **Q. But if -- but if there's an order**
12 **requiring them to be energy efficient, aren't they**
13 **required to be energy efficient?**

14 A. Well, there's a lot of different, I
15 guess, variations to energy efficient. I mean you --
16 if you replace an old HVA system with a new one,
17 you're going to get some energy efficiency. Our
18 incentives will be designed to encourage them to go
19 one level farther -- at least one level farther and
20 put in a more expensive, more energy efficient unit
21 than they otherwise would have.

22 **Q. Is that listed anywhere in the**
23 **Stipulation and Agreement, that description of what**
24 **you're incenting them to do?**

25 A. No. But that's -- that's the -- the

1 intent of energy efficiency in total. Right? That if
2 we're going to be good stewards of the money that
3 customers entrust us with, we're there to incent our
4 customers to do something they otherwise would not
5 have done. And so we're there to incent them to be
6 more energy efficient, to put in a more energy
7 efficient measure than they otherwise would have.
8 That's the spirit of our entire portfolio of programs.

9 **Q. So you would agree that if they would**
10 **have done it even absent the Ameren program, that**
11 **Ameren should not get credit for causing those energy**
12 **savings?**

13 A. Can you please repeat the question?

14 **Q. So you would agree that if they would**
15 **have taken that action even absent Ameren's MEEIA**
16 **program, that Ameren should not get credit for causing**
17 **those energy savings?**

18 A. In general. But as we stated here --

19 **Q. So that's a yes?**

20 A. No, it's not a yes.

21 **Q. It's not a yes? So you disagree. If**
22 **they would have done it anyway --**

23 MR. MITTEN: Your Honor, can the witness
24 please be allowed to answer the question before
25 Mr. Opitz interrupts him?

1 MR. OPITZ: Judge, that was a yes or no
2 question, and I believe he answered yes.

3 JUDGE PRIDGIN: I'll overrule. I mean, I
4 think he said no, that's not a yes. And then
5 Mr. Opitz is still trying to question, so I'll
6 overrule.

7 MR. OPITZ: Thank you.

8 BY MR. OPITZ:

9 Q. So you would -- you disagree that if they
10 would have taken that measure anyway, that they
11 shouldn't be claimed by Ameren Missouri?

12 A. Well, what we're saying with this part of
13 the Stipulation and Agreement is that if -- that just
14 by having a state or federal executive order or
15 statute, that does not by itself make them a free
16 rider, and we're asking the Commission to approve
17 that -- that fact.

18 Q. Let me go back to I think the question
19 that caused confusion. If they would take that
20 measure -- take that energy efficiency action
21 regardless of the MEEIA program, should Ameren be able
22 to claim those energy savings?

23 A. It depends on why they took that action.
24 So if they took it as a result of some federal order,
25 no. If they took an action to be more energy

1 efficiency because of our incentive, than we should
2 get the savings.

3 **Q. So the Stipulation and Agreement you**
4 **have in front of you includes an Appendix B. Correct?**

5 A. Yes.

6 **Q. And on the back of Appendix B is**
7 **paragraph 5?**

8 A. Yes.

9 **Q. And that paragraph talks about the EM&V**
10 **report process. Correct?**

11 A. In part, yes.

12 **Q. And the second sentence says, If the**
13 **portfolio-wide average energy savings NTG is between**
14 **.09 and 1.1, then the NTG will be deemed to 1.0 and**
15 **the portfolio-wide program year net annual energy**
16 **savings and annual net shared benefits will be**
17 **calculated consistent with a portfolio-wide NTG of 1.0**
18 **for the evaluator's program year final EM&V reports.**

19 **Did I read that correctly?**

20 A. Yes.

21 **Q. How many programs would have been deemed**
22 **to 1.0 in program year 2014 using that process?**

23 A. Well, the portfolio is deemed to have a
24 1.0 net to gross. And then that is allocated by -- to
25 the two respective programs.

1 **Q. So after -- excuse me. After the**
2 **evaluator, I guess -- so since Ameren proposes to**
3 **update its Technical Resource Manual using the results**
4 **from EM&V, paragraph 5 means that the TRM value would**
5 **remain deemed. Correct?**

6 A. American propos-- or this utility -- or
7 the Stipulation and Agreement proposes to update the
8 TRM one time at the beginning of the cycle of programs
9 based on 2014 EM&V results.

10 **Q. You were asked some questions about CFL**
11 **lighting. Did Ameren Missouri transform the lighting**
12 **market in its service territory in Cycle 1?**

13 A. No.

14 **Q. What is your definition of "transformed"?**

15 A. I guess the definition of
16 "transformed" -- I don't know. I don't know what the
17 industry definition of that is. But certainly there
18 is -- while there's -- while there's still
19 incandescents and halogens out there for purchase as
20 opposed to the more energy efficient bulbs, then the
21 market has not been transformed.

22 **Q. And is that your definition then?**

23 A. Yes.

24 **Q. Did Ameren claim that it caused market**
25 **effects for program year 2013 and 2014 for its CFL**

1 **programs?**

2 A. Yes.

3 **Q. And how do you define "market effects"?**

4 A. Market effects, there's -- when -- so
5 there's a lot of different contributions to the
6 net-to-gross calculation, all of which are very -- can
7 be very subjective and that's the problem with it. It
8 contains free riderships, spillover and market
9 effects.

10 And market effects is when you cause
11 other influences -- because of your implementing your
12 programs and you're incenting -- we've incented about
13 13 million bulbs since I think 2010. When you have
14 that kind of influence in the market, you increase the
15 shelf stock, the manufacturer, all of those types of
16 things.

17 And Cadmus reviews that and determines
18 that we had a significant impact on the market. So
19 the manufacture and the sale of bulbs beyond what's
20 measured directly from our programs.

21 **Q. And you -- and so you've said that your**
22 **program caused that in 2013 and 2014. Correct?**

23 A. Yes.

24 **Q. But disagree that you've transformed the**
25 **market?**

1 A. Right.

2 Q. Okay.

3 A. We are working on transforming the
4 market. It's not there yet.

5 Q. **How would you determine when the market**
6 **has been totally transformed?**

7 A. Well, I -- I think I partially answered
8 that earlier, but when -- the way -- so codes and
9 standards. Right? That's a way to completely
10 transform the market. When you -- when there's codes
11 and standards implemented such that the inefficient or
12 less efficient measures can no longer be manufactured,
13 than the market is transformed.

14 Q. **Isn't EISA a federal standard that**
15 **determines bulb energy efficiency levels?**

16 A. Well, the Energy Independence and
17 Security Act determines -- or mandates that bulbs
18 manufactured after certain periods of time have to be
19 more energy efficient.

20 Q. **And so what year is -- what year does CFL**
21 **become the baseline?**

22 A. Well, there's a phase in it that begins
23 in 2012 with I believe 100 watt bulbs and 2013 with
24 75 watt bulbs and 2014 with 60 watt bulbs.

25 Q. **And are any of -- those are all CFLs?**

1 A. No. Well, they're -- they're -- I mean,
2 60 watt bulbs can be different types of technologies.

3 **Q. So when would -- is there a year when**
4 **CFL -- when a CFL light bulb would be the baseline?**

5 A. I'm trying to remember the specifics of
6 the EISA standard. I believe it's not until the year
7 2020, which has yet to be implemented, where the
8 baseline would be equivalent to the approximate
9 15 watt usage of a CFL.

10 **Q. Are incandescent light bulbs being**
11 **manufactured in the United States anymore?**

12 A. I don't -- I can't specifically answer
13 whether they're being manufactured. I can tell you
14 that they are still appearing on retailers' shelves.

15 **Q. I believe that the Cadmus study you just**
16 **read from said that there was only 7 percent of shelf**
17 **space for incandescents. Would you agree with that?**

18 A. I would have to go back and look at that.

19 MR. OPITZ: Okay. That -- that study was
20 entered as an exhibit. Correct, Judge?

21 JUDGE PRIDGIN: I'm not sure, Mr. Opitz.
22 Do you have an exhibit number?

23 MR. OPITZ: It was the one that

24 Mr. Antal --

25 MS. TATRO: He took notice.

1 JUDGE PRIDGIN: Took judicial notice,
2 yes. Thank you.

3 MR. OPITZ: Thank you.

4 BY MR. OPITZ:

5 Q. When you determined the cost
6 effectiveness of your programs, you used the TRC. I
7 think you said that earlier. Correct?

8 A. Yes.

9 Q. But when you determined the net shared
10 benefits, you used the utility cost test. Correct?

11 A. I'm not sure. I don't calculate the net
12 shared benefits.

13 Q. Okay. Rate payers pay the Company --
14 ultimately pay the Company for its utility performance
15 incentive. Correct?

16 A. Yes. If we earn it.

17 Q. But the utility performance test is not
18 included in the Company's calculation of net shared
19 benefits; is that true?

20 A. Please repeat the question.

21 Q. The utility performance test is not
22 included in the Company's calculation of net shared
23 benefits; is that true?

24 A. Utility performance. Do you mean utility
25 performance incentive?

1 **Q. The utility performance incentive, yes.**

2 A. Yes. It's my understanding that's not
3 included in the net shared benefit calculation.
4 Mr. Davis is the expert witness on that. He could
5 certainly provide more information.

6 **Q. But is it your understanding that even**
7 **though customers pay this performance incentive, which**
8 **would reduce the benefit they receive from energy**
9 **efficiency programs, it's not included in the net**
10 **shared benefit calculation?**

11 A. That -- the way I look at the performance
12 incentive is if we're fortunate enough to be able to
13 earn it as a result of achieving the very aggressive
14 energy efficiency savings, as a Company, we get 5 to
15 6 percent of the net benefits generated. That means
16 the customers get, you know, 95 to 96 percent of the
17 net benefits generated. And so the more net benefits
18 that we generate, the better it is for customers and
19 also the better it is for the Company.

20 **Q. But that performance incentive is not**
21 **included in that -- as an offset to the net benefits.**
22 **Correct?**

23 A. That's my understanding.

24 **Q. The Ameren stipulation or the Company**
25 **Stipulation in front of you proposes to include energy**

1 **savings from Cycle 1 in the Cycle 2 time period.**

2 **Correct?**

3 A. No.

4 **Q. I believe you describe a program called**
5 **Continuity. Correct?**

6 A. We -- we -- we do recommend that there be
7 continuity between the existing cycle 2013 to '15 and
8 2016 to 2018.

9 **Q. And that would have the effect of moving**
10 **energy savings incurred in Cycle 1 into Cycle 2.**

11 **Correct?**

12 A. No. The way we've proposed it is that if
13 a customer would -- would talk about doing an energy
14 efficiency project in Cycle 1 but not actually do the
15 measure change until Cycle 2, that the incentives --
16 so that there's -- so that customers don't have a hard
17 stop, so that, you know, it's easy for customers and
18 trade allies to continue the work they're doing and
19 don't have to scrap a project, if a cus-- if a
20 customer and a corresponding trade ally talk about and
21 agree to, you know, the performance hurdles of doing a
22 project during the 2015 time frame but if they're not
23 able to start that project or complete that project,
24 we don't -- we're not -- we don't think that that
25 project should end. We want them to still do the more

1 energy efficient measure.

2 And so what we've proposed is that if
3 that project is actually completed in Cycle 2, then
4 the energy savings go -- are counted in Cycle 2 and
5 the corresponding costs are counted in Cycle 2, so
6 that the accounting stream remains constant.

7 **Q. So to clarify, the program costs would --**
8 **would be accounted for in the same cycle where the**
9 **energy savings were recorded. Correct?**

10 A. Absolutely.

11 **Q. Okay. If you would look back at**
12 **Appendix B of the stipulation, and paragraph 6 in**
13 **particular on the back page of the document. And**
14 **would you agree that paragraph 6 says that if the**
15 **evaluator and auditor average savings falls outside of**
16 **this range, the parties are free to file change**
17 **requests, initiate litigation or otherwise contest the**
18 **program year EM&V results?**

19 A. Yes. That's what it says. We hope that
20 doesn't happen.

21 **Q. If that did happen, the EM&V evaluator**
22 **would be integral to that hearing. Correct?**

23 A. Well, it -- I mean they -- their work
24 will have been completed, so I don't know what you
25 mean by "integral to that hearing."

1 **Q. Well, if their work is being contested,**
2 **wouldn't they be a central point of that change**
3 **request hearing or that hearing to determine the EM&V**
4 **results?**

5 A. Well, it could be, but I think it's
6 important to point out that regulatory stakeholders
7 will be involved -- one, the regulatory stakeholders
8 are involved when the evaluators are hired; they're
9 involved when the evaluation plans are put together;
10 they're involved throughout the year as updates when
11 we -- when we meet with regulatory stakeholders on a
12 quarterly basis, they're involved then.

13 They will -- all the regulatory
14 stakeholders already had the ability to comment on the
15 initial final report. And so there have been a lot of
16 interaction with the evaluators ongoing and up to this
17 point in time.

18 **Q. But even then there's still this**
19 **possibility of a litigation or a change request**
20 **hearing. Correct?**

21 A. There is -- there is -- yeah, there's a
22 potential and hopefully it doesn't happen that the
23 auditor and EM&V contractor, the average of their work
24 will be outside of that range.

25 **Q. So if it's not and there is a change**

1 **request hearing or an EM&V hearing, who does Ameren**
2 **propose would be the independent evaluator's legal**
3 **counsel?**

4 A. I mean, I think it will just have to -- I
5 mean, we would have to consult with our legal team. I
6 think you're asking me for a legal opinion there.

7 **Q. I don't think that's a legal opinion.**
8 **It's who would --**

9 MR. MITTEN: Your Honor, I think -- the
10 witness has answered the question. Mr. Opitz's
11 follow-up was argumentative. Object on that basis.

12 JUDGE PRIDGIN: I'll overrule.

13 BY MR. OPITZ:

14 **Q. Does Ameren propose that its attorneys**
15 **would represent the EM&V audit-- EM&V evaluator?**

16 A. I don't know. I mean I -- I -- again,
17 that's a question that if I was posed with, I would
18 consult with our legal team and ask for their input.

19 **Q. If they're supposed to be independent,**
20 **would you agree that Ameren's attorney probably**
21 **shouldn't represent that independent evaluator?**

22 A. No. I think you can be independent
23 regardless of who represents you.

24 **Q. How much money is -- well, EM&V costs are**
25 **5 percent of the budgeted program costs. Correct?**

1 A. Yes.

2 Q. And the evaluator is paid 5 -- that total
3 amount, 5 percent. Correct?

4 A. Well, the evaluators are paid based on
5 their work. It's estimated to be, you know, 5 percent
6 of our overall budget.

7 Q. And the program budget for Ameren's
8 Cycle 2 proposal is \$197 million dollars. Correct?

9 A. Approximately, yes.

10 Q. And correct my math if I'm wrong, but
11 5 percent of that is approximately \$9.85 million?

12 A. That sounds approximately correct.

13 Q. And so would you agree that for that
14 amount of money, the independent evaluator should be
15 able to hire its own attorney?

16 A. I mean, I don't know. I -- there -- I
17 can tell you based on working with the independent
18 evaluators over the last several years, that they're
19 spending a lot of time and money evaluating our
20 programs and providing a third-party input.
21 Interacting with the Commission-hired auditor takes a
22 lot of their time.

23 And so I can't tell you, you know, how
24 much or how little that they'll actually spend until
25 we get into the actual issues of -- that we incur when

1 we implement these programs.

2 **Q. So you don't think that there would be a**
3 **problem with the independent evaluator being**
4 **represented by the Company's attorneys?**

5 A. I don't see that that's a problem if --
6 you know, if that's the way it ends up being after we
7 consult with legal.

8 **Q. If you look at page 4 of the stipulation,**
9 **paragraph 8. That paragraph discusses multi-family**
10 **low-income programs. Correct?**

11 A. Yes.

12 **Q. And does your stipulation require a**
13 **specific customer count for the low-income program?**

14 A. I -- just a clarifying question. Do you
15 mean how many cus-- how many tenant units or how many
16 buildings that we'd actually incent?

17 **Q. Yes.**

18 A. No, it does not include that.

19 **Q. Okay. Is there any description of how**
20 **that budget would be spent?**

21 A. Well, yeah. There's -- the next two to
22 three pages talk a lot about specifically how we would
23 spend that money, what type of, you know, low-income
24 customers we spend that on, the fact -- you know, all
25 the different points in the next two pages talk about

1 that.

2 **Q. Well, when you developed that budget, did**
3 **you have a customer count in mind?**

4 A. When we developed our original proposal,
5 I'm sure we had much more information on potentially
6 how many customers we could -- we could make more
7 energy efficient because of that. As we've indicated
8 in our Stip and Agreement, there's a lot less
9 certainty into the proposal that has a 37 percent
10 increase. But -- so I don't have a number for you,
11 no.

12 What we do -- we do want to try to make
13 that as cost effective as we can. We recognize that
14 this is a program, because of the class of customers
15 that we're working with here, that doesn't have to be
16 cost effective. But certainly we want to make this
17 program as cost effective as we possibly can.

18 **Q. That's all I have. Thank you.**

19 JUDGE PRIDGIN: Mr. Opitz, thank you.

20 Staff, cross?

21 CROSS-EXAMINATION BY MR. BERLIN:

22 **Q. Just a few questions. Thank you.**

23 **Mr. Laurent, are the CFL lighting measures as a whole**
24 **cost effective in the 2016 Utility Stipulation?**

25 A. When we originally looked at, we didn't

1 think that they would be. As a result of, you know,
2 working with all the parties in the case and trying to
3 define compromise so that we can continue to do energy
4 efficiency in 2016 to 2018, we decided to put them in
5 for the 2016 year only as described in the Stipulation
6 and Agreement. And because there is a risk associated
7 with that, we chose to deem the baseline and the hours
8 of use for them.

9 **Q. So is the answer to that question they**
10 **are not cost effective in the -- for 2016 for your**
11 **stipulation?**

12 A. We don't know if they'll be cost
13 effective or not.

14 **Q. What is the TRC for the CFLs?**

15 A. I don't have that information with me.

16 **Q. Why are there no demand savings estimates**
17 **provided within the Utility Stipulation?**

18 A. I'm sorry. Can you please repeat the
19 question?

20 **Q. Why are there no demand savings estimates**
21 **provided within the Utility Stipulation?**

22 A. Well, I think that while they're not in
23 the wording of the Utility Stipulation, we provided
24 DSM batch work tools that indicate what the energy
25 savings and the demand savings of our proposed

1 portfolio were. So we provided that information.
2 It's just not in the written document. We provided
3 that analysis like we -- you know, from our DSMore
4 tool that we have with all of our programs.

5 **Q. If you were making an application for a**
6 **MEEIA cycle program, wouldn't you include demand**
7 **savings targets in there?**

8 A. We include energy savings targets and the
9 corresponding resulting demand that that they may
10 achieve.

11 **Q. So you wouldn't include demand savings**
12 **estimates?**

13 A. No. We would include demand savings
14 estimates. In fact, we did include demand savings
15 estimates. And like I just indicated, when we up--
16 when we changed our portfolio, we provided new batch
17 tools, new DSMore tools that also included demand
18 savings estimates.

19 **Q. But those demand savings estimates are**
20 **only incidental to the energy savings estimates that**
21 **you've put in the -- in the program?**

22 A. Yeah. We designed an energy efficiency
23 program, not a demand-response program. So as a
24 result --

25 **Q. Right. Thank you. You've answered my**

1 **question.**

2 MR. BERLIN: No more questions. Thank
3 you.

4 JUDGE PRIDGIN: Mr. Berlin, thank you.
5 Let me see if we have any Bench
6 questions. Mr. Chairman?

7 CHAIR R. KENNEY: No questions. Thank
8 you.

9 JUDGE PRIDGIN: Commissioner Stoll?

10 COMMISSIONER STOLL: No, thank you.

11 JUDGE PRIDGIN: Commissioner Kenney?

12 COMMISSIONER KENNEY: No questions.

13 Thank you.

14 JUDGE PRIDGIN: Any redirect?

15 MR. MITTEN: Briefly, Your Honor.

16 REDIRECT EXAMINATION BY MR. MITTEN:

17 **Q. Mr. Laurent, do you recall Mr. Opitz's**
18 **questions regarding why the Company did not include**
19 **performance incentive amounts in the calculation of**
20 **net shared benefits?**

21 A. Yes.

22 **Q. If you know -- and let's use MEEIA Cycle**
23 **1 as an example. MEEIA Cycle 1 covered the years 2013**
24 **through 2015; is that correct?**

25 A. Yes.

1 **Q. At what point in MEEIA Cycle 2 is it**
2 **determined whether or not the Company was able to earn**
3 **any performance incentives?**

4 A. It wouldn't be until after the third year
5 of the program was complete and the evaluation is
6 complete for that program. And so the programs run
7 2016, '17 and '18. The EM&V process could typically
8 take anywhere from three to six to nine months after
9 that. And so it may not be until the end of 2019 when
10 we would have any certainty on what the overall
11 performance incentive we earned as a result of those
12 programs would be.

13 **Q. Now, are you familiar with the EM&V**
14 **process that the Company has gone through for plan**
15 **years 2013 and 2014 in MEEIA Cycle 1?**

16 A. Yes.

17 **Q. Was a net shared benefit calculation made**
18 **for either or both of those years?**

19 A. I believe so, yes.

20 **Q. Would it have -- have been possible to**
21 **include in a net shared benefit calculation that was**
22 **made in 2013 or 2014, a performance incentive value**
23 **that wouldn't be determined until some time after**
24 **2015?**

25 A. No, it wouldn't.

1 **Q. Mr. Opitz also asked you some questions**
2 **about paragraph 11 of the Ameren Missouri Stipulation.**
3 **Do you recall those questions?**

4 A. Yes.

5 **Q. So the record is clear, there is a**
6 **certain amount of energy savings that is mandated for**
7 **government agencies; is that correct?**

8 A. Well, it could be. I mean it depends
9 upon what the federal and state entities mandate.

10 **Q. Are you familiar with the term "unfunded**
11 **mandate"?**

12 A. I understand what that -- that -- that
13 means in principle.

14 **Q. Well, just because an energy standard is**
15 **mandated, does that mean that the governmental entity**
16 **has the money that's necessary to meet that standard?**

17 A. After talking to, you know, the
18 regulatory stakeholders, I believe that that is not
19 the case. I mean just because there's a standard does
20 not necessarily mean there's a budget there to
21 implement it.

22 And so I think it's important for us -- I
23 think it's an opportunity for the Company to work with
24 those types of customers to provide incentives to make
25 their budget go farther, to make sure that they have

1 the expertise and the input from, you know, our expert
2 implementers on how they could put in the more energy
3 efficient measure, how that would reduce their costs
4 over time and also take any limited budget they may
5 have available to make it go farther.

6 **Q. And again, so the record is clear, would**
7 **Ameren Missouri try and take credit for any energy**
8 **efficiency measures that governments would implement**
9 **on their own without any encouragement from Ameren?**

10 A. No.

11 **Q. Mr. Opitz also asked you some questions**
12 **about paragraph 5 of the Ameren -- paragraph 5 of the**
13 **Appendix, I believe it is, to the Ameren Missouri**
14 **Stipulation. Do you recall those questions?**

15 A. Yes.

16 **Q. And he specifically focused you on a**
17 **sentence, I believe it was the second sentence in that**
18 **paragraph. If the portfolio-wide averaged energy**
19 **savings NTG is between 0.9 and 1.1, then the NTG will**
20 **be deemed to be 1.0 and the portfolio-wide program**
21 **year net annual savings and the annual net shared**
22 **benefits will be calculated consistent with a**
23 **portfolio-wide NTG of 1.0 for the evaluator's program**
24 **year final EM&V reports.**

25 **Did I read that correctly?**

1 A. Yes.

2 Q. Is there language similar to that in a
3 settlement that was reached with regard to the EM&V
4 for MEEIA Cycle 1 program year 2013?

5 A. Yes.

6 Q. And do you know whether Public Counsel
7 signed on to that stipulation?

8 A. I believe they did, subject to checking,
9 yes.

10 MR. MITTEN: I don't have any further
11 questions. Thank you, Your Honor.

12 JUDGE PRIDGIN: All right. Thank you.
13 Mr. Laurent, thank you very much. You may be excused.

14 Mr. Davis will be our next witness.
15 Mr. Davis, if you'll come forward and be sworn,
16 please. Mr. Davis, if you'll raise your right hand to
17 be sworn, please.

18 (Witness sworn.)

19 JUDGE PRIDGIN: Thank you very much, sir.
20 Please have a seat.

21 Counsel, when you're ready.

22 MS. TATRO: Thank you, Your Honor.

23 (Ameren Exhibits 100-HC, 105, 106-NP,
24 106-HC and 107 were marked for identification.)

25 WILLIAM DAVIS testified as follows:

1 DIRECT EXAMINATION BY MS. TATRO:

2 Q. Good morning.

3 A. Good morning.

4 Q. Can you state your name and business
5 address for the Commission, please.

6 A. My name is William Davis. My business
7 address is 1901 Chouteau Avenue, St. Louis, Missouri.

8 Q. And, Mr. Davis, are you the same
9 Mr. Davis who pre-filed Supplemental Testimony and
10 Rebuttal to Non-utility Stipulation Testimony?

11 A. Yes.

12 Q. And are you the same Bill Davis who is
13 adopting the portions of the original report which
14 are -- have been marked Exhibit 100 authored by
15 Mr. Steve Wills and also the Surrebuttal Testimony of
16 Steve wills?

17 A. Yes.

18 Q. Do you have any corrections to make to
19 any of that testimony?

20 A. No, I do not.

21 Q. And for 105, which is Supplemental, and
22 107 which is Rebuttal to Non-utility Stipulation, did
23 you draft that testimony yourself?

24 A. Yes.

25 Q. If I were to ask you the questions

1 contained in all of those testimonies, would your
2 answers be the same?

3 A. Yes, they would.

4 Q. Are the answers contained in the
5 testimony true and accurate, to the best of your
6 belief?

7 A. Yes.

8 MS. TATRO: Your Honor, at this time I
9 would move for admission of 100, and there is an HC
10 and NP version; 105, which is Supplemental Testimony
11 of Mr. Davis; 106, which is Surrebuttal Testimony that
12 had originally been filed by Steve Mr. Wills, HC and
13 NP; and 107, which is Rebuttal to Non-utility
14 Stipulation Testimony of Mr. Bill Davis.

15 JUDGE PRIDGIN: All right. Ms. Tatro,
16 thank you. Any objections?

17 All right. Hearing none, Exhibit 100-HC
18 is admitted, Exhibit 100-NP is admitted, Exhibit 105
19 is admitted, Exhibit 106-HC is admitted, Exhibit
20 106-NP is admitted, Exhibit 107 is admitted.

21 (Ameren Exhibits 100-HC, 100-NP, 105,
22 106-HC, 106-NP and 107 were received into evidence.)

23 MS. TATRO: Thank you. Tender the
24 witness for cross-examination.

25 JUDGE PRIDGIN: Thank you. United for

1 Missouri, any cross?

2 MR. LINTON: Yes, sir.

3 JUDGE PRIDGIN: When you're ready.

4 CROSS-EXAMINATION BY MR. LINTON:

5 Q. Good morning, Mr. Davis.

6 A. Good morning.

7 Q. How are you?

8 A. Just fine. Thank you.

9 Q. You're aware that United for Missouri has
10 signed on what has been called the Company or the
11 Utility Stipulation Agreement. Correct?

12 A. Yes.

13 Q. And you're -- are you also aware that
14 United for Missouri only signed that to the extent
15 that this portfolio is more cost effective than the
16 next unit of generation --

17 A. Yes.

18 Q. -- do you understand that?

19 Okay. With that in mind, let me ask you,
20 have you reviewed the Rebuttal -- Rebuttal to
21 Supplemental Testimony of Sarah Kliethermes?

22 A. Yes, I have.

23 Q. Have you looked at it carefully? Have
24 you analyzed it?

25 A. Yes, I have.

1 **Q. Could I ask you to make reference to that**
2 **and look at that testimony?**

3 A. Yes. I don't have a copy with me.

4 MS. TATRO: I can provide a copy if you
5 don't have one.

6 MR. LINTON: Yeah, I'd like him to take a
7 look at it.

8 MS. TATRO: Is this Rebuttal to
9 Supplemental ?

10 MR. LINTON: Rebuttal to Supplemental
11 Testimony, yes.

12 MS. TATRO: May I approach?

13 JUDGE PRIDGIN: Yes, you may, Ms. Tatro.

14 THE WITNESS: Thank you.

15 BY MR. LINTON:

16 **Q. I'd like you to take a look at page 7, if**
17 **you would, lines 10 through 12. And why don't you**
18 **just go ahead and read that answer into the record.**

19 A. Lines 10 through 12 it says, If this
20 method were used in setting retail rates, a
21 residential customer with an average -- with average
22 usage would pay a one-time bill of approximately
23 \$1,617 after each rate case. See the table and graphs
24 below provided.

25 **Q. Okay. Now, she's talking about the TDNSB**

1 **recovery in that answer. Correct?**

2 A. That's correct.

3 **Q. And I assume that this method has a lot**
4 **to do with that calculation. Have you made that**
5 **calculation according to this method?**

6 A. No. In fact, I don't even see that this
7 is an accurate representation of what -- what the
8 TDNSB mechanism is included in the joint position --
9 the June 30th stipulation. You know, to say that
10 that's a one-time payment is inaccurate. That payment
11 would -- under our proposal, that would actually be
12 amortized over 12 months, not just 1.

13 **Q. Are you interpreting this the same way**
14 **that I am; that there would be a one-time charge to**
15 **each customer of Ameren of approximately 1,617 --**
16 **\$1,617?**

17 A. Yeah. That's what this is saying. I
18 don't see the relevance -- you know, comparison to the
19 Company's proposal either. And again, that's not even
20 what Ameren's proposing in this case.

21 **Q. Okay. So approximately how many**
22 **customers does Ameren have?**

23 A. Residential customers, about a million.

24 **Q. About a million. So if my math is**
25 **correct, a million dollars -- or a million customers**

1 **times \$1,617 would be \$1.6 billion?**

2 A. That sounds about right.

3 **Q. Okay. So as you've said, this**
4 **calculation is really irrelevant?**

5 A. I don't understand the relevance, no.

6 **Q. Can you turn the page to page 8.**

7 A. Uh-huh.

8 **Q. And let me -- let me step over the first**
9 **column there, the Ameren Missouri TDNSB Mechanism**
10 **Method for a moment. Are you familiar with what the**
11 **next three columns are?**

12 A. Yes, I am.

13 **Q. Can you -- can you characterize what**
14 **those columns represent?**

15 A. Well, they're supposed to represent --
16 again this is looking at the average retail bill,
17 which I don't -- I don't understand -- well, okay. In
18 this particular case it's meant to represent the --
19 it's drawing some sort of link between the throughput
20 disincentive recovery mechanism that's in the
21 Non-utility Stipulation and it's somehow linking that
22 to how retail rates are paid.

23 **Q. Okay. So would this be -- would you say**
24 **it's a characterization of what customers would pay --**
25 **actually pay under the Non-utility Stipulation?**

1 A. Because this is looking at total retail
2 revenues, there's really no link to the portfolio or
3 the disincentive mechanism of what the other parties
4 are -- are proposing in this case.

5 **Q. So would these columns be irrelevant as
6 well or are these columns more true to form of what
7 would be charged?**

8 A. This is more true to form in terms of how
9 customers are billed normally. Again, this is only
10 looking at the non-- I believe this is only looking at
11 the non-fuel portion of the rate as well.

12 **Q. So getting back to the first column then,
13 Ameren Missouri TDNSB Mechanism Method, can we say
14 that that is an apple and the next three columns are
15 oranges?**

16 A. Again, this -- I don't even think the
17 first column is an accurate reflection of what the
18 Company's requesting in this case so it's hard for me
19 to understand, you know, the purpose of this
20 comparison.

21 **Q. Okay. If I were to ask you to come up
22 with a quick method of calculating that first column,
23 how would you go about doing that?**

24 A. Well, I guess to try to build in the
25 concept of what the Company's proposing, I would

1 divide that by 12 and have it be amortized over
2 January through December instead of just having it
3 show up in one month.

4 **Q. Do you have your Supplemental Testimony?**

5 A. Yes, I do.

6 **Q. Can you turn to page 9 of your**
7 **Supplemental Testimony.**

8 A. Okay.

9 **Q. And I see there on a chart you make some**
10 **predictions or characterizations of various throughput**
11 **disincentives.**

12 A. Yes.

13 **Q. And I see a figure there of 58.9, and I'm**
14 **assuming that's million dollars?**

15 A. That's correct.

16 **Q. Worst case scenario, 4 percent fixed cost**
17 **increases?**

18 A. It's not necessarily worst scenario. It
19 represents what the sharing mechanism would do if the
20 Company's original assumptions on rate case timing and
21 non-fuel rate increases happen to work out that way in
22 the end.

23 **Q. Okay. So let's round that up to**
24 **\$60 million.**

25 A. Okay.

1 **Q. Okay. That's the throughput disincentive**
2 **figure.**

3 A. Yes.

4 **Q. All right. Now, are you going to collect**
5 **that all in one year?**

6 A. Absolutely not. In this particular
7 example, that roughly \$60 million would -- a portion
8 of it would be collected over the first three years of
9 the implementation and then another portion of it
10 would be collected over the year 2020. So it would be
11 collected -- this full amount would be collected over
12 the period of 2016 through 2020, through the end of
13 2020 -- actually through February of 2021.

14 **Q. Okay. So let's make a conservative**
15 **assumption and say you're going to accelerate all**
16 **60 of it to the first three years. Is that a**
17 **conservative assumption?**

18 A. That's really not how it's going to work.
19 In fact, the way this would work is that the first
20 column here, that tier one assumption, that's the
21 amount that would be collected in the -- in the first
22 three years. And the difference between the
23 45.8 million in that first column and the 60 million,
24 which is just over \$15 million or roughly \$15 million,
25 that's the amount that would be collected over -- over

1 the year 2020 roughly.

2 **Q. Can we say you would not collect more**
3 **than \$20 million in any particular year?**

4 A. Let me think about that. I think you
5 could say that. It's tricky because what happens in
6 that second tier is dependent on actual rate case
7 timing and non-fuel increases. I would expect it to
8 be less than \$20 million, but I can't say with
9 100 percent certainty.

10 **Q. Somewhere around the \$20 million figure?**

11 A. Yes.

12 **Q. Okay. So you'd collect \$20 million over**
13 **12 months in any particular year; is that correct?**

14 A. That -- that's roughly correct, yes.

15 **Q. And then again divide that by a million**
16 **customers?**

17 A. Uh-huh.

18 **Q. So you've got 20 -- \$20 per customer**
19 **divided by 12, which would be a dollar -- dollar**
20 **something, dollar fifty?**

21 A. Yeah. That's for the throughput
22 disincentive portion of recovery.

23 **Q. Okay. Take a look at Ms. Kliethermes's**
24 **Rebuttal to Supplemental Testimony, page 9. And I'd**
25 **ask you to read lines 15 through page 10 --**

1 MR. BERLIN: Judge, I'm going to object
2 to this whole line of questioning of Mr. Davis on
3 Sarah Kliethermes's Rebuttal to Supplemental
4 Testimony. I think Ms. Kliethermes is scheduled to
5 appear before the Commission tomorrow and she is ready
6 to answer questions with respect to her testimony
7 because she prepared it. Mr. Davis did not.

8 JUDGE PRIDGIN: Mr. Linton?

9 MR. LINTON: Your Honor, I'm just trying
10 to find out what the actual calculation should be. I
11 am -- I am in this case to find out if these costs are
12 more cost effective than the next unit of generation.
13 Ms. Kliethermes has represented, purported to
14 calculate what Ameren is going to do and I want to
15 understand what -- if Ameren agrees, first of all. If
16 they do, that -- that impacts my determination. If
17 they don't agree, I want to know that as well.

18 JUDGE PRIDGIN: I understand. I'm going
19 to sustain. This is friendly cross, it sounds like to
20 me. And you're certainly welcome to cross-examine
21 Ms. Kliethermes on her testimony, but if you could
22 cross-examine Mr. Davis on his testimony now. If you
23 have any questions on his testimony, I would
24 appreciate it.

25 MR. LINTON: I have no further questions.

1 JUDGE PRIDGIN: All right. Thank you.
2 NRDC, any questions?

3 MR. ROBERTSON: No, Your Honor.

4 JUDGE PRIDGIN: Division of Energy?

5 MR. ANTAL: No questions. Thank you.

6 JUDGE PRIDGIN: Renew Missouri?

7 MR. LINHARES: No questions for Renew
8 Missouri or NHT or Tower Grove.

9 JUDGE PRIDGIN: Thank you.

10 Sierra Club?

11 MS. TAUBER: No questions, Your Honor.

12 JUDGE PRIDGIN: Brightergy?

13 MR. ZELLERS: No questions, Your Honor.

14 JUDGE PRIDGIN: MIEC? MECG? Public
15 Counsel?

16 MR. OPITZ: A few, Judge. May I
17 approach?

18 JUDGE PRIDGIN: You may.

19 MR. OPITZ: Judge, do you have my next
20 number for that exhibit?

21 JUDGE PRIDGIN: I'm looking. I'm going
22 to show it as 805. I believe you had 804 yesterday,
23 an EnerNOC report, so 805.

24 (OPC Exhibit 805 was marked for
25 identification.)

1 CROSS-EXAMINATION BY MR. OPITZ:

2 Q. Mr. Davis, do you recognize that
3 document?

4 A. Yes.

5 Q. And it is a portion of Ameren Missouri's
6 tariff. Correct?

7 A. The Energy Efficiency Investment Charge,
8 yes.

9 Q. And that is the MEEIA charge. Correct?

10 A. That's what's commonly referred to, yes.

11 Q. Would you read the definition of
12 low-income customers for me?

13 A. Yes. It says, Low-income customers means
14 those service classification 1M residential customers
15 eligible for low-income exemption provisions contained
16 in Section 393.1075.6 -- I guess it's RSMo, I'm not
17 sure how to say R-S-M-o -- as approved. And in the
18 next sentence, As approved in File Number
19 ER-2014-0258, customers eligible under this definition
20 will be exempt from rider EEIC charges for 12 billing
21 months following assistance received from either
22 Missouri energy assistance, also known as Low-income
23 Energy Assistance Program, or LIEAP, Winter Energy
24 Crisis Intervention Program, Summer Energy Crisis
25 Intervention Program, the Company's Keeping Current

1 Low-income Pilot Program and/or the Company's Keeping
2 Cool Low-income Pilot Program.

3 **Q. Thank you. So is it your understanding**
4 **that certain low-income customers who meet the**
5 **definitions in this tariff are exempt from paying the**
6 **MEEIA charge. Correct?**

7 A. That's correct.

8 **Q. What is the Company's Keeping Cool**
9 **Low-income Pilot Program?**

10 A. I couldn't tell you the specifics of it.
11 I think it has something to do with providing some
12 bill incentives for customers who -- who are current
13 on their bills.

14 **Q. But that's offered by Ameren Missouri .**
15 **Correct?**

16 A. Yes. That's a pilot -- Ameren Missouri
17 pilot program.

18 **Q. Do you know what the Company's Keeping**
19 **Current Low-income Pilot Program is?**

20 A. It's actually very similar. There's one
21 aspect of it for the summer and one aspect of it for
22 the -- one aspect is for the summer, one aspect is for
23 the winter.

24 **Q. And that's offered by Ameren Missouri ?**

25 A. That's correct.

1 **Q. Can you tell me what the Summer Energy**
2 **Crisis Intervention Program is?**

3 A. That's actually a sub-component of
4 Missouri Energy Assistance. It's -- I believe it's
5 administered by maybe a state or federal agency.

6 **Q. So that's not administered by Ameren**
7 **Missouri?**

8 A. No, it is not.

9 **Q. Is the Winter Energy Crisis Intervention**
10 **Program administered by Ameren Missouri?**

11 A. No, it is not.

12 **Q. And is Missouri Energy Assistance, a/k/a**
13 **Low-income Energy Assistance Program, or LIEAP,**
14 **administered by Ameren Missouri?**

15 A. No.

16 **Q. So if a customer at -- is it your**
17 **understanding that if a customer receives assistance**
18 **under any one of those programs, they no longer have**
19 **to pay the MEEIA charge. Correct?**

20 A. As long as it's an Ameren Missouri
21 customer, that's true.

22 **Q. And that would be true even if the**
23 **customer gets LIEAP for their gas bill. Correct?**

24 A. That wouldn't be true in that particular
25 case. There's no way for Ameren to know -- unless it

1 was an Ameren Missouri gas customer. But there's no
2 way for Ameren Missouri to know if a customer gets
3 LIEAP credit from a different gas service provider.
4 This whole -- this whole set-up here in terms of the
5 way this program is administered on Ameren's end is
6 that we understand -- we can see in our billing system
7 which Ameren customers have received any of these
8 credits. And through that mechanism, we can exempt
9 them from billing.

10 **Q. So if a customer were to get LIEAP, low**
11 **energy assistance, for their Laclede bill, but they're**
12 **also an Ameren electricity customer, Ameren still**
13 **requires them to pay the MEEIA charge?**

14 A. That's correct. Because there's no way
15 for Ameren to know that customer has received that
16 benefit. The link for administering this program is
17 specifically associated with what our billing sy--
18 what information that Ameren's billing system has
19 about these customers.

20 **Q. But the LIEAP isn't administered by**
21 **Ameren Missouri. Correct?**

22 A. That's correct. And this particular
23 aspect of the energy efficiency charge was approved in
24 ER-2014-0258. And when we went through that case,
25 Ameren was very clear that one of the things we needed

1 to do is define the low-income class. And in defining
2 that low-income class, we -- we had to come up with a
3 practical way to do that. And because the only way
4 Ameren Missouri can identify those customers who are
5 receiving these credits is by the credits that show up
6 in its own billing system, that's how we define the
7 scope of customers who would be eligible for this
8 exemption.

9 **Q. But if a customer is able to show that**
10 **they receive LIEAP credit, which is defined as an**
11 **exception under your tariff, does Ameren Missouri**
12 **remove the MEEIA charge for that customer?**

13 A. At this point that wasn't included in the
14 scope of this process. And we really haven't even
15 talked about or developed a process for which a
16 customer could present that information to Ameren.

17 **Q. Have -- has Ameren Missouri had customers**
18 **present information to it and request that it received**
19 **LIEAP for other utility bills?**

20 MS. TATRO: Your Honor, I'm going to
21 object at this point. I don't have any idea how this
22 has anything to do with this case. I mean, it's an
23 energy efficiency charge, but it has nothing to do
24 with any of the stipulations, doesn't have anything to
25 do with -- this tariff is not at issue in -- this

1 aspect of this tariff is not at issue in case. So I
2 gave him a lot of latitude because I realize relevance
3 isn't typically something that the Commission limits
4 on, but I have no idea why this is relevant.

5 JUDGE PRIDGIN: Mr. Opitz?

6 MR. OPITZ: Judge, this is the -- related
7 to the energy efficiency charge, which as Mr. Davis
8 has said, is the MEEIA charge. And I think it's
9 extremely relevant how the Company is defining its
10 tariffs in a way to either exempt or require customers
11 to pay this MEEIA charge.

12 JUDGE PRIDGIN: All right. I'll
13 overrule.

14 BY MR. OPITZ:

15 **Q. Mr. Davis, has Ameren Missouri had any**
16 **customers that have received LIEAP funding that hasn't**
17 **been applied to their Ameren electricity bill that**
18 **have requested to be exempt from the MEEIA charge?**

19 A. I don't have any firsthand information
20 about that. I have been on a call with you about -- I
21 think there is a customer who -- who has complained
22 about that, but I haven't been -- I don't know the
23 details of that particular issue. And I haven't been
24 involved in any sort of keeping track of that type of
25 information.

1 **Q. But Ameren made the decision to not**
2 **exempt that customer from paying the MEEIA charge.**

3 **Correct?**

4 A. That's my understanding. And again, this
5 is all about what Ameren can see in its billing system
6 and the scope of what is defined as a low-income
7 customer. You know, like I said, even when we were in
8 the last rate case, which is ER-2014-0258, we never
9 had any discussions about even developing a process or
10 what the process might look like for customers to even
11 provide that information to Ameren. All right?

12 We know in the billing system when a
13 customer receives those sorts of credits, we know
14 those accounts have received those credits and at that
15 point we implement the exemption.

16 **Q. But you would agree, Mr. Davis, that the**
17 **tariff does not include any such limitation?**

18 A. Well, I think it -- it probably might be
19 a little bit vague in that area in terms of how -- how
20 it defines what an Ameren -- in terms of needing to be
21 an Ameren Missouri customer and getting that credit in
22 our system, but it's clear --

23 **Q. Do you know who made the decision at**
24 **Ameren that low-income customers -- Ameren customers**
25 **who receive LIEAP assistance that's not applied to**

1 **their Ameren bill would not be exempt from the MEEIA**
2 **charge?**

3 A. I don't know that that can be pointed to
4 one particular person. And the reason I say that is
5 because when we were putting that proposal together
6 and going through the rate case, we had defined the
7 scope internally.

8 And as we had, you know, developed the
9 billing system approaches on how to implement it and
10 talked to our customer service representatives on how
11 to implement that program, it had always been clear to
12 us that the scope was limited to Ameren Missouri's
13 customers who were getting those credits on their
14 bills in our billing system. So it wasn't -- I don't
15 think -- I think at that point the scope was defined
16 and it was kind of socialized in that way.

17 MR. OPITZ: That's all I have, Your
18 Honor. Thank you.

19 JUDGE PRIDGIN: Mr. Opitz, thank you.
20 Staff?

21 MR. BERLIN: Yes, Judge. I have some
22 questions.

23 CROSS-EXAMINATION BY MR. BERLIN:

24 Q. **Mr. Davis, you're familiar with the**
25 **2016-2018 Ameren plan that was filed in December -- on**

1 **December 22nd, 2014. Correct?**

2 A. Yes.

3 Q. Okay. I'm handing out part of that plan,
4 which that plan is Exhibit 100. I'm handing out pages
5 40, 41. I believe your plan is Exhibit Number 100.
6 At the top you'll note that it states IRP Analysis.
7 As I mentioned, this is part of the 2016-2018 Energy
8 Efficiency Plan filed in December of 2014, Exhibit
9 100. I would like you to read the highlighted two
10 paragraphs, please.

11 A. Okay. Let me get a drink of water,
12 first. This might take a little bit.

13 Okay. As part of the IRP analysis,
14 Ameren Missouri analyzed what an alternative resource
15 plan would look like at the RAP level -- that means
16 Realistically Achievable Potential -- both with and
17 without energy efficiency. Under the no energy
18 efficiency plan, Ameren Missouri would need to
19 construct three supply-side resources; all natural
20 gas -- all natural gas-fired combined cycle plants
21 during the 20-year planning period to meet capacity
22 needs; in addition to new renewables being built for
23 renewable energy standard compliance and portfolio
24 diversification. The first combined cycle would need
25 to -- would be needed in 2023, the second in 2031 and

1 the third in 2034.

2 With RAP energy efficiency, the need for
3 combined cycle plants in 2023 and 2031 would be
4 deferred to 2034 and 2040. The alternative resource
5 plan with -- with combined cycle units much later in
6 the planning period requires significantly less
7 capital investment by the utility and, consequently,
8 would produce significantly lower utility earnings
9 over time.

10 For the purposes of understanding the
11 performance incentive opportunity, it is instructive
12 to understand the earnings difference that is manifest
13 as an alternative resource plan moves from one without
14 energy efficiency to one with it.

15 For purposes of this analysis, Ameren
16 Missouri an-- analyzed the annual earnings annuity
17 that would be necessary for energy efficiency to
18 generate in order to produce an equivalent NPV of
19 earnings as the no energy efficiency version of the
20 preferred resource plan. The analysis indicated that
21 the pre-tax earnings annuity would have to be
22 23.3 million to replicate the NPV of earnings from the
23 supply-side resources.

24 **Q. Thank you. Do you agree that the**
25 **analysis which produced the \$23.3 million of a pre-tax**

1 earnings annuity is based on the relative impact of a
2 RAP portfolio being delivered to customers over a
3 20-year planning horizon?

4 A. I believe that's true. I think what
5 you're trying to say is that --

6 Q. It's yes?

7 A. Yes.

8 Q. Okay. Thank you. Has Ameren Missouri
9 analyzed through its 2014 IRP, integrated resource
10 analysis, an alternative resource plan which has the
11 RAP portfolio for 2016 to 2018 with no additional DSM
12 resources after 2018?

13 A. Not that I'm aware of.

14 Q. Is Ameren Missouri requesting approval of
15 DSM programs and a DSIM for 3 years or for 20 years in
16 this MEEIA case?

17 A. For three.

18 Q. If there is a MEEIA Cycle 2 and no MEEIA
19 Cycle 3, would the pre-tax earnings annuity for MEEIA
20 Cycle 2 be \$23.2 million?

21 A. I don't know what it would be. And it
22 also would depend ON if there was a MEEIA Cycle 4 or
23 5.

24 Q. Okay. Is it -- so the answer would be
25 no?

1 MS. TATRO: I'm going to object that he
2 mi scharacterized his response. He said he didn't
3 know. He did not say no.

4 JUDGE PRIDGIN: He did say I don't know,
5 and I think he's trying to get him to change his
6 answer to no. So I'll let the witness answer the
7 question yes, no or I don't know.

8 THE WITNESS: Maybe you could repeat it.
9 BY MR. BERLIN:

10 Q. Sure. If there is a MEEIA Cycle 2 and no
11 MEEIA Cycle 3 or any other MEEIA cycles beyond 3,
12 would the pre-tax earnings annuity for that MEEIA
13 Cycle 2 still be \$23.2 million?

14 A. I doubt it.

15 Q. In fact, it will be a small fraction of
16 the \$23.2 million, wouldn't it?

17 A. Probably. I'm trying to think of how I
18 would do the analysis differently -- how we might do
19 the analysis differently if there was no continuation
20 of -- of energy efficiency.

21 Q. But it would be a smaller number?

22 A. Probably. I'm not for sure, but
23 probabl y.

24 Q. Okay. Thank you. Okay. Mr. Davis, I'm
25 going to shift gears here a little bit, ask you a

1 little different series of questions. I'd like you to
2 think of one energy efficiency measure, and that being
3 one single LED light bulb. And if that single LED
4 light bulb produces 1,000 kilowatt hours of energy
5 efficiency savings, would you agree with me that that
6 single light bulb that produced the 1,000 kilowatt
7 hour annual savings is 1,000 kilowatt hours that
8 Ameren did not sell?

9 A. That's correct.

10 Q. And if, for that LED light bulb, when you
11 consider the net impact and the net costs and net
12 revenues, let's say that the Company loses five cents
13 per kilowatt hour. You're still with me?

14 A. I'm trying.

15 Q. Okay. So if the Company loses five cents
16 per kilowatt hour, and we've already established that
17 that's -- that the Company loses 1,000 kilowatt hours
18 of sales. Could you agree with me then that the
19 Company loses \$50?

20 A. I mean I'm going to trust your math.

21 Q. All right. Well, that would be just --
22 just to be clear --

23 A. Five cents times a thousand.

24 Q. Right. So the Company would lose that
25 \$50. Correct?

1 A. Yes.

2 Q. Right. Okay. So if we have the exact
3 same light bulb and that light bulb as a measure --
4 individual efficiency measure, costs \$5, that's a
5 program cost. Correct?

6 A. Okay.

7 Q. Okay. It's possible that program costs
8 can vary. You might find a vendor that would charge
9 more, possibly 15 or 20 dollars for that same bulb.
10 That is a possibility. Correct?

11 A. That it would be four -- three to four
12 times --

13 Q. Well, or it could be some number greater
14 than -- you could see a variability in that price of
15 that measure, that exact same bulb. Right?

16 A. I guess.

17 Q. But the energy efficiency savings
18 produced by that same bulb would still be the same?

19 A. You're you talking about the impact to
20 the utility. Right?

21 Q. The same -- no, I'm talking about that
22 bulb.

23 A. Yes.

24 Q. The bulb price could vary?

25 A. That's correct.

1 Q. But the very same bulb that saves 1,000
2 kilowatt hours annually, whether it's \$5 or \$10 is
3 still going to save 1,000 kilowatt hours annually?

4 A. Okay.

5 Q. Okay. And the Company still loses the
6 \$50?

7 A. Assuming that that's installed because of
8 energy efficiency in between a rate case.

9 Q. Okay. Okay. So you'd at least agree
10 with me then that for that bulb, whatever vendor --
11 the vendor could supply different -- that very same
12 bulb but the pricing can be different, but for that
13 very exact bulb, it's going to produce the energy
14 efficiency savings of 1,000 --

15 A. Okay.

16 Q. -- kilowatt hours and the Company loses
17 the \$50?

18 A. Okay.

19 Q. Okay. All right. I'm going to ask you a
20 couple other questions, shifting gears again. Do you
21 have your Supplemental Rebuttal Testimony?

22 A. Is that Rebuttal Testimony to Non-utility
23 Stipulation? I think that's what is Supplemental
24 Rebuttal.

25 Q. I think -- yeah -- yes.

1 A. Okay. That was the last round, the fifth
2 round. Right?

3 Q. That's correct.

4 A. Okay. I have that one.

5 Q. And I'm going to go to page 5, lines 5 to
6 13. And I'll -- I'll read it. And it states, closed
7 quote, For example, in Ameren Missouri's most recent
8 case, the test period for use per customer, which was
9 lower than it would have been without the energy
10 savings from the Company's MEEIA 1 programs, was
11 12 months ending July 2014 while the effective date of
12 new rates was May 30th, 2015, 10 months later.

13 Consequently, none of the new energy
14 savings arising from the energy efficiency programs
15 from August 2014 through May 2015 are reflected in the
16 test period billing units, yet the Non-utility
17 Stipulation either ignores this reality or erroneously
18 assumes that the savings between the rate case test
19 period and the effective date of new rates are
20 included in rates from that point forward, closed
21 quote.

22 Is that a fair reading of your testimony?

23 A. Yes.

24 Q. Now, this -- would this concern go away
25 if the rebasing occurred at the end of the test period

1 **instead of the effective date of rates?**

2 A. Yes.

3 **Q. Okay. And are you familiar with the Case**
4 **ER-2014-0258, Ameren's last rate case?**

5 A. Yes.

6 **Q. Are you familiar that Staff performed an**
7 **annualization adjustment concerning the level of solar**
8 **installation that existed at the end of the test**
9 **period versus at the beginning of the test period?**

10 A. Yes.

11 **Q. If I was -- well, if I was to, you know,**
12 **make the representation that Staff would be willing to**
13 **do that type of a rebasing similar -- or annualization**
14 **adjustment similar to the solar installation**
15 **adjustment made in the last rate case, that should**
16 **address the concern, shouldn't it?**

17 A. Well, in this particular concern that
18 I've outlined here, if the rebasing is done using the
19 right cut-off in this example, which would have been
20 July 2014 and if there would be an annualization
21 aspect of it, that would remedy this concern in
22 testimony, yes.

23 **Q. Okay. In your experience, has Staff**
24 **built in billing determinants for customer growth that**
25 **occurs after the true-up cut-off date?**

1 A. After the true-up cut-off date?

2 Q. Yes.

3 A. For growth in customers? Gosh, I'm not
4 sure.

5 Q. In your Supplemental Rebuttal -- or I
6 believe that's the last round --

7 A. Right.

8 Q. -- we talked about. On page 5, lines 18
9 to 20 and I'll read, quote, In short, the Non-utility
10 Stipulation understates future utility losses
11 attributable to energy efficiency programs and would
12 result in a permanent financial loss to the Company of
13 \$9 million, closed quote.

14 Footnote 3 on page 5 goes on to state,
15 and I quote, Based on 30 months between rate cases and
16 the other necessary assumptions consistent with the
17 original MEEIA 2 filing, except updated for the fixed
18 cost increase outcome of Case Number ER-2014-0258,
19 closed quote.

20 Is that a fair reading of your testimony?

21 A. Yes, it is.

22 Q. Now, that -- that \$9 million that you
23 reference, I believe Ms. Tatro in her opening
24 statement may have referred to that as a \$9 million
25 hit to earnings. Is that your understanding?

1 A. Yes. Pre-tax earnings, that's correct.

2 Q. Okay. So isn't that \$9 million value, or
3 so-called hit to earnings, based on an assumption that
4 Ameren Missouri will be filing rate cases
5 approximately every 30 months?

6 A. That's correct.

7 Q. Okay. Do you expect Ameren Missouri to
8 be filing a rate case before the summer of 2017?

9 A. Not to my knowledge, no. Before the
10 summer of '17? No. I don't think so.

11 Q. You don't think Ameren Missouri will file
12 a rate case before summer of 2017?

13 A. I'm not aware of Ameren's rate case
14 filing timings. I mean that's an uncertainty on when
15 that will happen.

16 MR. BERLIN: Okay. One minute, please.

17 JUDGE PRIDGIN: Certainly.

18 BY MR. BERLIN:

19 Q. Okay. Mr. Davis, so if you don't know
20 when Ameren Missouri will file its next rate case, you
21 are making some assumptions with respect to TDNSB, are
22 you not?

23 A. Yes. Especially up front. In fact, this
24 highlights the value of incorporating the second tier
25 of the TDNSB into the process because --

1 **Q. Okay. But you don't -- you don't --**
2 **you're putting a number out there, but you really**
3 **don't know the filing date for the next rate case; is**
4 **that right?**

5 A. Which -- which is why tier one is set on
6 a conservative assumption based on a sequence of rate
7 case timings that's --

8 **Q. I understand. And -- but I think you**
9 **answered the question, that you really don't have any**
10 **idea when Ameren Missouri will file its next rate**
11 **case?**

12 A. That's correct. I don't know.

13 **Q. But yet you do make assumptions with**
14 **regard to timing to generate this number?**

15 A. That's correct.

16 **Q. Okay. Thank you. You've answered that**
17 **question. And I have only one final question. And**
18 **I'd like to know, are you working presently on**
19 **preparing a filing for the next rate case?**

20 A. Am I? No.

21 **Q. Okay.**

22 MR. BERLIN: Thank you. That concludes
23 my questions.

24 JUDGE PRIDGIN: Mr. Berlin, thank you.
25 Let me see if we have any Bench questions.

1 Mr. Chairman?

2 CHAIR R. KENNEY: No questions.

3 JUDGE PRIDGIN: Commissioner Stoll?

4 COMMISSIONER STOLL: No questions. Thank
5 you.

6 COMMISSIONER KENNEY: No questions.
7 Thank you.

8 JUDGE PRIDGIN: Any redirect?

9 MS. TATRO: Yes, thank you.

10 REDIRECT EXAMINATION BY MS. TATRO:

11 **Q. Mr. Davis, I'd like to start with the**
12 **line of questioning that Mr. Berlin took you through**
13 **there at the end where we talked about your making**
14 **assumptions such as rate case assumptions when you're**
15 **calculating the throughput disincentive or the TDNSB.**
16 **Do you recall those questions?**

17 A. Yes, I do.

18 **Q. Can you explain why it's necessary to**
19 **make assumptions in order to make the calculation?**

20 A. Yes. The actual -- the throughput
21 disincentive is -- is all about the recovery that --
22 that doesn't happen in between rate cases. So of
23 course, if it's about what happens in between rate
24 cases, the timing of rate cases matter.

25 So what we've done in -- in the June 30th

1 stipulation is implemented a second tier, which allows
2 us to set the first tier recovery at a very
3 conservative assumption about rate case timing. We're
4 assuming that rate cases are going to be sequentially
5 15 months in a row over this -- over this future
6 period, which is extremely fast. In fact, it's a pace
7 that Ameren Missouri has not sustained in -- in the
8 past, so it's a very conservative assumption.

9 And then the second tier of the proposal
10 is designed to pick up for differences in that rate
11 case timing. So if the rate case timing is slower
12 than what that more conservative assumption is, it
13 provides the opportunity to recover a more accurate
14 representation of what the throughput disincentive
15 was.

16 **Q. And when you say that tier one is set**
17 **conservatively, what does that mean in terms of how**
18 **customer and utility interests are balanced?**

19 A. It's basically coming up with what we
20 considered the lowest possible value of the throughput
21 disincentive to be is. That's the aim of it. So it's
22 very conservative in terms of the costs that would
23 flow through rider initially would be lower and then
24 later -- you know, several years later in 20-- in
25 2019, we take a look at when the rate case filings

1 actually happen and build that into recovery for 2020
2 if the rate case timing actually did take longer in
3 between rate cases than the original conservative
4 assumption of 15 months.

5 **Q. So because it's a conservative assumption**
6 **of 15 months, if there was never a tier two, if you**
7 **just did the tier one, would that be an**
8 **undercollection of throughput disincent-- and then the**
9 **u-- let me start over.**

10 **Let's assume it's just tier one so you're**
11 **just collecting the amount based upon the calculation**
12 **of a filing every 15 months. But in reality, the**
13 **utility didn't file until 30 months.**

14 A. Right.

15 **Q. Would that tier one undercollect or --**
16 **and all other factors being equal, would tier one**
17 **collect more or less than the throughput disincentive**
18 **that the Company would actually experience?**

19 A. It would collect less. In fact -- in
20 fact, we're -- we're actually having this issue with
21 Cycle 1 of energy efficiency where when we put
22 together the first MEEIA plan, we assumed there would
23 be 18 months between rate cases. And in the first
24 rate case, it was actually 29 months for that rate
25 case. So, you know, in terms of what's going on with

1 MEEIA 1, that would indicate that, you know, all else
2 being equal, the TDNSB mechanism would undercover.

3 In this mechanism, we have the tier two,
4 so it allows us to set up conservative assumptions up
5 front and then incorporate that uncertainty later on
6 in the filing.

7 **Q. So are you saying the allegations that**
8 **were made in opening statements saying that Ameren**
9 **Missouri had overcollected millions of dollars on the**
10 **throughput disincentive aren't -- isn't true?**

11 A. Yes, I heard that. I was very surprised
12 to hear that. I don't know. Maybe I forgot that was
13 in Mr. Rogers' testimony, but that's not true.

14 **Q. For the reasons that we just discussed?**

15 A. Yes. Certainly -- well, I mean that
16 analysis was also based on a change in avoided cost,
17 which I would disagree with doing that, but it
18 certainly didn't -- that analysis did not factor in
19 what the underlying cost of the throughput
20 disincentive is. In my view, that would be the
21 appropriate comparison.

22 What were the revenues collected through
23 the TDNSB mechanism versus the true underlying cost,
24 which is the throughput disincentive. And since
25 that's dependent on rate case timing, none of those

1 dynamics were even considered in that analysis.

2 **Q. So you'd consider that analysis**
3 **inaccurate or incomplete?**

4 A. Certainly incomplete.

5 **Q. Okay. Do you know if Staff attempted to**
6 **analyze the impact of this change in assumption that**
7 **you and Mr. Berlin discussed?**

8 A. Maybe you could be a little bit more
9 specific. We discussed --

10 **Q. The rate case timing, sorry. Did Staff**
11 **do an analysis -- a sensitivity that showed the impact**
12 **of assuming one rate case timing and when reality**
13 **turns out to be a different rate case timing?**

14 A. Yeah, kind of. Let me see if I have it
15 up here. I'm looking at Ms. Kliethermes' Rebuttal to
16 Supplemental Testimony. She does have a sensitivity
17 analysis in here. Doesn't really -- doesn't really
18 cover -- this is just looking at the sensitivity to
19 one rate case and there's multiple rate cases over the
20 implementation period.

21 **Q. I'm sorry. Can you tell me what page**
22 **you're on?**

23 A. Yes. I'm getting there. I'm flipping as
24 I'm talking.

25 I'm looking at the sensitivity analysis.

1 There's actually a description of it on -- it kind of
2 starts on page 18 and then there's a chart on page 22
3 that summarizes it. So Staff did do an analysis of
4 the sensitivity of rate case timing just of one rate
5 case looking at one measure or, you know, some
6 different installation paths of measures.

7 MR. BERLIN: I want to object, Judge.
8 Again, we're getting into the interpretation of
9 Ms. Kliethermes' testimony. And Ms. Kliethermes
10 presents her analysis in her testimony and will be
11 appearing in front of the Commission and I would
12 encourage counsel to ask Ms. Kliethermes questions
13 regarding her testimony.

14 MS. TATRO: Your Honor, I appreciate that
15 invitation and I'm sure we'll have questions for
16 Ms. Kliethermes. But that testimony -- the Company
17 did not have the opportunity to file responsive
18 testimony to that. Mr. Berlin had a discussion with
19 Mr. Davis about how rate case assumption -- it's just
20 an assumption and -- I'm sorry. Did you want to say
21 something?

22 MR. BERLIN: No, it's okay.

23 MS. TATRO: So I think that this is
24 perfectly legitimate. It comes directly from
25 Mr. Berlin's questions.

1 JUDGE PRIDGIN: All right. I'll
2 overrule.

3 MS. TATRO: I no longer remember what
4 question was being asked. Can you read that back for
5 me, please.

6 THE COURT REPORTER: "Question: Did
7 Staff do an analysis -- a sensitivity that showed the
8 impact of assuming one rate case timing and when
9 reality turns out to be a different rate case timing?"

10 BY MS. TATRO:

11 Q. And then I think you pointed to pages 18
12 through 22.

13 A. Yeah. I was describing the fact that,
14 you know, so Staff has performed an analysis of the
15 rate case timing and this particular analysis looks
16 at, you know, the change in one month for rate case
17 timing. And what I was -- what I was trying to say is
18 that there's actually several rate cases going on
19 throughout the implementation period.

20 And Ameren Missouri actually did also
21 provide a sensitivity analysis in its original report
22 on rate case timing as well and it was looking at --
23 in that particular analysis, was looking at the change
24 in the successive rate cases over the implementation
25 period.

1 **Q. All right. Let's start with the chart on**
2 **page 22 of Ms. Kliethermes' Rebuttal to Supplemental**
3 **Testimony.**

4 A. Okay.

5 **Q. Have you reviewed that chart?**

6 A. Yes, I have.

7 **Q. Did you review the work papers behind**
8 **that chart?**

9 A. Yes, I have.

10 **Q. Do you think it's an accurate**
11 **representation of the sensitivity or the impact of**
12 **these differences?**

13 A. On the rate case timing or just in total
14 on the chart?

15 **Q. Well, rate case timing since that's one**
16 **of the assumptions that Mr. Berlin talked to you**
17 **about.**

18 A. Well, I guess my concern is that it was
19 just looking at the change in one rate case on one
20 given measure. I mentioned that in our -- our
21 original filing -- the original MEEIA report, we did
22 perform a sensitivity analysis on our -- on the plan
23 that was proposed and on all of the rate case
24 assumptions associated with that on both a change in
25 faster rate case timing and slower rate case timing.

1 **Q. And are your two analyses consistent in**
2 **terms of the results?**

3 A. Well, it's hard to say because we just
4 have a percent. I don't think so. In this particular
5 example, it's talking about one percent change and
6 it's a negative 28 percent. That seems pretty high to
7 me.

8 It -- just to give some perspective of
9 that, our sensitivity analysis showed that plus or
10 minus six months was about \$5 million out of a total
11 of about \$50 million, so that's about a 10 percent
12 sensitivity. So -- and that was looking at all the
13 different rate case, you know, assumptions over the
14 implementation period and how that would impact the
15 total throughput disincentive of the Company's
16 proposed plan.

17 **Q. And that analysis was in your original**
18 **filing?**

19 A. That's correct. Yeah.

20 **Q. So -- sorry. So that means it was before**
21 **the tier one/tier two split was introduced; is that**
22 **correct?**

23 A. That's correct.

24 **Q. And would the tier one/tier two split**
25 **reduce the -- how does that impact the risk of Ameren**

1 **Missouri collecting more throughput disincentive due**
2 **to rate case timing?**

3 A. Basically I -- I see it as extremely
4 unlikely that Ameren would ever file successive rate
5 cases faster than 15 months each. So to me, I would
6 say -- although I guess it's theoretically possible we
7 file, you know, a rate case faster than 15 months, I
8 find it very unlikely. So virtually impossible that
9 because of rate case timing, customers would -- or
10 that Ameren would overcollect based on tier one
11 assumptions on rate case timing.

12 **Q. All right. Now I'm going to back up**
13 **where Mr. Berlin was talking to you about the concern**
14 **about rebasing at the end of the test year or when**
15 **rates take effect versus the update period for billing**
16 **units in each rate case. Do you remember that**
17 **discussion?**

18 A. Yes, I do.

19 **Q. And he had indicated or proffered that**
20 **Staff might be willing to make an -- agree to do**
21 **rebasing at a time to remedy that concern. Do you**
22 **remember that discussion?**

23 A. Yes.

24 **Q. Is that what the stip-- the Non-utility**
25 **Stipulation currently states?**

1 A. Not to my knowledge. And I haven't seen
2 any updates to it either.

3 **Q. So does Staff proffering that it would be**
4 **willing to make that adjustment resolve the concern or**
5 **do you need the rest of the parties to that**
6 **stipulation to make the same statement?**

7 A. Well, it's part of an agreement so
8 even -- even in my view, even if Staff's willing to
9 make that change, I guess because it's part of a total
10 agreement, all the other parties on the agreement
11 would be willing -- would be -- also would necessarily
12 be willing to make that kind of change for -- for it
13 to actually become, you know, the proposal that's on
14 the table at this time.

15 **Q. And have you seen any such amendment**
16 **being -- been offered in this case?**

17 A. No.

18 **Q. Okay. Going back up a little further,**
19 **Mr. Berlin talked to you about the cost of a bulb and**
20 **the savings that a bulb could have and that it could**
21 **cost \$5 in one store and \$15 in another store. Do you**
22 **remember that conversation?**

23 A. Yes.

24 **Q. Do you have any basis to believe that a**
25 **price of a bulb in a store can vary by 300 percent?**

1 A. No. I -- I don't know.

2 **Q. Then previous to that, Mr. Berlin asked**
3 **you questions about whether Ameren Missouri might have**
4 **a MEEIA Cycle 3, 4, 5, et cetera. Do you remember**
5 **that discussion?**

6 A. Yes.

7 **Q. Can you explain in your opinion how the**
8 **MEEIA statute would or would not incent Ameren**
9 **Missouri to continue making MEEIA filings for Cycle 3,**
10 **Cycle 4, Cycle 5?**

11 A. Sure. Certainly to the extent that, you
12 know, the Commission approves a framework or continues
13 approving frameworks that align the utility's
14 financial incentives, then Ameren, you know, will
15 continue to implement energy efficiency.

16 And -- and, you know, especially as I
17 think about energy efficiency and this need to
18 continue to implement energy efficiency, I think it's
19 important that we do establish a framework that, you
20 know, properly aligns the incentives and we
21 consistently apply it. Because it is necessary to
22 have continuity from each three-year plan to the next
23 three-year plan.

24 You know, this whole concept of
25 potentially stopping and starting energy efficiency,

1 if -- if we keep doing that, energy efficiency's not
2 going to be a good resource for Ameren Missouri. It's
3 the sustained efforts of engaging with customers, you
4 know, inserting, you know, incentives into their
5 purchasing behaviors and it has to be consistent, has
6 to be constant.

7 There is -- I don't think energy
8 efficiency's going to work as a resource if we have
9 this stop and start mentality. And I think we need to
10 keep at it. And that's where you produce the value.
11 And to the extent where we can consistently apply a
12 framework, then energy efficiency is going to be a
13 good resource for Missouri.

14 **Q. So in your opinion, was the assumption in**
15 **the IRP that Ameren Missouri would continue MEEIA**
16 **programs and RAP -- at the RAP level through the**
17 **20-year horizon a reasonable one, and why?**

18 A. I think it's reasonable. Absolutely I
19 think it's reasonable. And here's -- and I guess I'll
20 think about it this way too. In the 2011 Integrated
21 Resource Plan, that's when we first started
22 implementing -- that was before we had our first MEEIA
23 plan approved. So in that decision-making process,
24 you know, the Company was saying, that's not my
25 preferred plan. That will become my preferred plan if

1 I can get a framework in place that, you know,
2 promotes sustainable energy efficiency. And --

3 MR. BERLIN: Judge, I'm going to object.
4 This whole line of redirect is going well beyond the
5 scope of my questions. My questioning of Mr. Davis
6 had to do with the performance incentive award being
7 based on 3 years as opposed to the 20 years and a
8 lynching of that performance incentive, hooking that
9 on to a 20-year plan when there's no reasonable reason
10 to believe there's going to be a MEEIA program beyond
11 Cycle 1 or even Cycle 2.

12 MS. TATRO: And, Your Honor, my question
13 was is that a reasonable assumption. I mean it is
14 exactly tied off the question that he asked. It's not
15 beyond it at all.

16 JUDGE PRIDGIN: All right. I'll
17 overrule.

18 THE WITNESS: Okay. Try to remember
19 where I was. I guess my point was that at that time
20 Ameren Missouri, you know, didn't have energy
21 efficiency as its preferred plan. And if the
22 Commission, you know, approved this plan and -- and
23 approved the framework that allowed the sustainable
24 implementation of energy efficiency, then it became
25 the Company's preferred plan.

1 In the 2014 IRP, it started as the
2 Company's preferred plan, energy efficiency did.
3 Because we believe that the framework is -- in place
4 is a sustainable way to continue to implement energy
5 efficiency and that the Commission would see that and
6 understand the importance of continuing to implement
7 energy efficiency.

8 BY MS. TATRO:

9 **Q. And prior to that line of questioning,**
10 **Mr. Berlin handed you a portion of Exhibit 100, which**
11 **was page 40 and 41 of the original filing. And a**
12 **portion of it was highlighted and he asked you to read**
13 **quite a bit of it.**

14 A. Uh-huh.

15 **Q. Do you recall that line of questioning?**

16 A. Yes, I do.

17 **Q. Does the performance incentive proposed**
18 **in the June 30th stipulation represent the entire**
19 **20-year earnings opportunity for a supply-side**
20 **alternative?**

21 A. Absolutely not. In fact, Ameren's
22 request in this case is less than 10 percent of the
23 total foregone earnings opportunity that it identified
24 through this analysis.

25 **Q. Can you explain to me then why the**

1 **Company used a 20-year planning horizon to do -- to**
2 **come up with this lost earning opportunity number**
3 **which it then didn't request?**

4 A. Yeah. I mean that particular analysis is
5 really getting to one of the challenges of
6 implementing energy efficiency, which is, you know,
7 understanding what the foregone earnings of the
8 utility are. Right?

9 Because -- because implementing energy
10 efficiency is at odds with the traditional rate-making
11 environment of a utility, one of the first things we
12 had to start with was looking at, okay, what would we
13 be doing absent energy efficiency? And that becomes a
14 starting point to determine what the Company would be
15 giving up in terms of earnings opportunities by
16 engaging in energy efficiency.

17 **Q. All right. Now I'd like to turn to the**
18 **questions that Mr. Opitz asked you about the EEIC**
19 **rider. Do you recall that line of questioning?**

20 A. Yes, I do.

21 **Q. And are you the witness who sponsored**
22 **that tariff in the rate case, the tariff that he**
23 **handed you?**

24 A. Yes. This -- well, in the rate case we
25 did not implement the change for the rider EEIC. That

1 happened a little bit different timing. But I was the
2 witness who -- who provided testimony on the issue
3 about the low-income exemption for rider EEIC.

4 **Q. Can you explain for the Commission what**
5 **is the purpose of limiting customers that are eligible**
6 **to be exempted to customers that have these credits on**
7 **their Ameren Missouri bill versus Laclede or any other**
8 **utility?**

9 A. It's really about having a program that
10 is practical to implement. Because Ameren has, you
11 know, in its billing system which cu-- which of its
12 customers are receiving credits from these programs,
13 the program is -- can be implemented I'll say at
14 virtually zero cost. Right? Because, you know, it's
15 just a matter that we had to do some programming up
16 front so there was some cost. But there's no
17 additional cost for ongoing maintenance of the
18 program.

19 If we were to somehow change the scope
20 and create some sort of process whereby customers
21 could submit documentation about whether they've
22 received these credits, you know, we don't know how
23 much that would cost. And frankly, we also don't know
24 what the scope of participation could be. I don't
25 have any way to estimate how many of Laclede Gas's

1 customers or other, you know, gas service providers in
2 Ameren's territory about -- which one of their
3 customers are receiving these credits.

4 So when we -- in the rate case when we
5 were talking about the bill impact to other customers,
6 I guess I would have to work with those other
7 utilities to assess how many of their customers are
8 getting these credits and might -- and would also get
9 this credit as joint Ameren Missouri customers to
10 inform the Commission and all the other parties about
11 what those potential costs of expanding the scope of
12 the -- of the exemption would be.

13 **Q. So would it be -- so the rate -- the work**
14 **papers and the different calculations you did in the**
15 **rate case to show the impact of this exemption would**
16 **have shown -- would have included only Ameren Missouri**
17 **customers who have those credits on their bills -- on**
18 **Ameren Missouri bills?**

19 A. Yeah. Absolutely no doubt. And -- and I
20 would say -- I don't know. I mean in my opinion, it
21 was crystal clear in the rate case the scope of the
22 low-income exemption. In my testimony several times
23 we specifically talked about how it would work in our
24 billing system. When the customer receives the credit
25 in our billing system, then that exempts them for, you

1 know, the next 12 months. So I think the scope was
2 very clearly defined in the rate case.

3 **Q. And do customers have to request this**
4 **exemption?**

5 A. No, they do not. It is completely
6 automatic. Again, that's -- that's one of the
7 benefits of the way we've defined it is because when
8 we get the credit through the billing system, the
9 credit's automatically applied. Every single customer
10 who gets those credits through our billing system will
11 get the exemption. There's no need for us to spend
12 money or -- or time or resources to try to get the
13 message out that it's out there. It's all automatic.

14 **Q. Thank you, Mr. Davis.**

15 MS. TATRO: Your Honor, I have no further
16 questions.

17 JUDGE PRIDGIN: All right. Thank you
18 Mr. Davis. You may step down.

19 This looks to be a good time to take a
20 break. When we resume, we'll move on to Ms. Barnes
21 and --

22 MS. TATRO: Your Honor, I apologize for
23 interrupting. Ms. Barnes will -- had to leave for a
24 meeting. She'll be back afternoon. So I think we've
25 agreed to go on with the next witness and when we'll

1 take Ms. Barnes out of turn when she gets back.

2 JUDGE PRIDGIN: Any objection? Hearing
3 no objection, okay. Very good.

4 And let me inquire of counsel. You know,
5 I would normally just break for about 15 minutes, but
6 I believe I heard, you know, some possible movement on
7 at least one issue. And if counsel knows now if you
8 need more time, you can let me know or if at 10:40 the
9 parties want more time to try to figure out how they
10 want to proceed from there, just please let me know.

11 I mean, I guess I'll just ask before we
12 go off the record, do you -- do parties know now if
13 you want or need more than 15 minutes to discuss I
14 guess what sounds like at least a possible settlement
15 on an issue?

16 MR. OPITZ: Judge, I don't know about any
17 possible settlement issues --

18 MR. BERLIN: Judge --

19 MR. OPITZ: -- so 15 is fine.

20 MS. TATRO: He's talking about the
21 Staff --

22 MR. BERLIN: I'm not sure what you're
23 referring to.

24 JUDGE PRIDGIN: I just thought I
25 understood from testimony, that Staff might be willing

1 to move on an issue. Maybe I misunderstood and maybe
2 you don't need more time. I just wanted to allow more
3 time if it was needed. It doesn't sound like anybody
4 needs any more time.

5 MR. BERLIN: We don't need more time.

6 JUDGE PRIDGIN: We will resume then at
7 10:40. Thank you very much. We're off the record.

8 (Ameren Exhibit 113 was remarked as
9 Ameren Exhibit 100-HC after being incorrectly marked
10 Ameren Exhibit 113 in Volume 1.)

11 (Sierra Club Exhibits 1200 and 1201 were
12 marked for identification.)

13 (A recess was taken.)

14 JUDGE PRIDGIN: Good morning. We are
15 back on the record. When we went off the record --
16 excuse me, before we went off the record, I understood
17 that Ms. Barnes is not available yet. She will
18 testify later in the hearing and so that we would
19 simply move on to the next witness, which would be
20 Sierra Club witness Tim Woolf. Did I understand
21 correctly?

22 MS. TATRO: Yes, sir.

23 JUDGE PRIDGIN: Anything else from
24 counsel before we go on to Mr. Woolf?

25 MS. TATRO: Not from Ameren Missouri.

1 JUDGE PRIDGIN: All right. Hearing
2 nothing, Mr. Woolf, if you'll come forward to be
3 sworn, please. And if you'll raise your right hand
4 and be sworn, please.

5 (Witness sworn.)

6 JUDGE PRIDGIN: Thank you very much, sir.
7 Ms. Tauber, when you're ready.

8 MS. TAUBER: Thank you, Your Honor.

9 TIM WOOLF testified as follows:

10 DIRECT EXAMINATION BY MS. TAUBER:

11 **Q. Could you please state your name and**
12 **business address for the record.**

13 A. My name is Tim Woolf. I'm a vice
14 president at Synapse Energy Economics in Cambridge,
15 Massachusetts.

16 **Q. And what is your business address,**
17 **Mr. Woolf?**

18 A. It's 485 Massachusetts Avenue, Cambridge,
19 Massachusetts.

20 **Q. Mr. Woolf, did you cause to be pre-filed**
21 **in this case Rebuttal Testimony and Surrebuttal**
22 **Testimony?**

23 A. Yes, I did.

24 **Q. Do you have those pieces of testimony**
25 **before you?**

1 A. I do.

2 Q. Do you have any changes or corrections to
3 make at this time?

4 A. I do not.

5 Q. Are the answers you've given accurate to
6 the best of your knowledge?

7 A. Yes, they are.

8 MS. TAUBER: Your Honor, these pieces of
9 testimony have been marked Exhibits 1200 and 1201 and
10 at this point I would seek to move them into evidence.

11 JUDGE PRIDGIN: Thank you, Ms. Tauber.
12 Exhibits 1200 and 1201 have been offered into
13 evidence. Any objections?

14 Hearing no objections, Exhibit 1200 is
15 admitted into evidence, Exhibit 1201 is admitted into
16 evidence.

17 (Sierra Club Exhibits 1200 and 1201 were
18 received into evidence.)

19 MS. TAUBER: Thank you, Your Honor. At
20 this point Mr. Woolf is available for
21 cross-examination.

22 JUDGE PRIDGIN: Ms. Tauber, thank you.
23 United for Missouri, any cross?

24 MR. LINTON: I have no questions.

25 JUDGE PRIDGIN: Thank you.

1 Renew Missouri ?

2 MR. LINHARES: No questions, Your Honor.

3 JUDGE PRIDGIN: Tower Grove, National
4 Housing Trust? No questions?

5 JUDGE PRIDGIN: Brightergy?

6 MR. ZELLERS: No questions, Your Honor.

7 JUDGE PRIDGIN: MIEC or MEGC?
8 Staff?

9 MS. MUETH: Yes, Your Honor. Just a few.

10 JUDGE PRIDGIN: When you're ready.

11 CROSS-EXAMINATION BY MS. MUETH:

12 Q. Good morning, Mr. Woolf.

13 A. Good morning.

14 Q. Have you been involved in other energy
15 efficiency proceedings in other jurisdictions?

16 A. Yes. I've been involved in many
17 efficiency proceedings in many jurisdictions.

18 Q. Okay. Are you familiar with Ameren
19 Missouri's concern in this case regarding its ability
20 to book revenues in the context of throughput
21 disincentive recovery?

22 A. I'm familiar with their request for
23 throughput disincentive, yes.

24 Q. Okay. So are you familiar with the issue
25 that they have raised regarding retrospective true-up

1 **of lost revenue recovery?**

2 A. Meaning retrospective true-up with regard
3 to EM&V results?

4 Q. Yes.

5 A. I'm familiar with that, yes.

6 Q. **Okay. Are you aware of any proceedings**
7 **in other jurisdictions in which a utility raised**
8 **identical or very similar concerns pertaining to**
9 **recovery of lost revenue amounts as Ameren has raised**
10 **in this case?**

11 A. My -- the -- all of the lost revenue
12 adjustment mechanisms that I am familiar with require
13 EM&V to be performed to demonstrate the actual amount
14 of lost revenues saved, so that the Company is
15 compensated for what it's actually lost and not a
16 hypothetical estimate.

17 MS. MUETH: Thank you. I have nothing
18 further.

19 JUDGE PRIDGIN: Thank you.

20 Public Counsel?

21 MR. OPITZ: Just a few, Judge.

22 JUDGE PRIDGIN: Yes, sir. When you're
23 ready.

24 CROSS-EXAMINATION BY MR. OPITZ:

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

1 A. Good morning.

2 **Q. Do non-participants in a MEEIA program**
3 **benefit from a reduction in kilowatt savings?**

4 A. A reduction in kilowatt savings?

5 **Q. Do non-participants benefit from a**
6 **reduction in demand?**

7 A. Yes.

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

9 A. There are many ways. When demand is
10 reduced, at some point in time capacity can be avoided
11 on the system, whether it's generation capacity,
12 transmission capacity, distribution capacity. And
13 those can help reduce rates to all customers.

14 There's also, as I mention in my
15 testimony, a reduction in risk as a result of energy
16 efficiency. As sales grow at lower paces, a lower
17 pace, there's more time for utilities to respond to
18 customer needs in a way that is lowest cost. There's
19 also benefits in terms of mitigating any costs
20 associated with environmental compliance, whether it's
21 the Clean Power Plan from the EPA or whether it's
22 other environmental compliance costs. And there are
23 just the environmental benefits themselves that --
24 above and beyond compliance costs that benefit the
25 entire state.

1 **Q. Does -- in your experience, does energy**
2 **efficiency also include achieving demand savings?**

3 A. Yes. Every efficiency program that I
4 know of has demand savings as well as energy. And
5 by -- but when I say that, I use the term "energy
6 efficiency" not to include demand response, but of
7 course demand response also has demand savings.

8 **Q. Okay. Do you believe that the Ameren**
9 **Missouri potential study in this case reflected all**
10 **potential energy savings?**

11 A. No, I do not.

12 **Q. And what is your experience with market**
13 **potential for energy savings?**

14 A. So I have reviewed a lot of potential
15 studies over the years in a lot of different states
16 and jurisdictions. And they all have a similar
17 format. I would say it's -- it's fair to say that the
18 study performed here for Ameren used that standard
19 industry format of looking at technical potential
20 economic and reasonably achievable and so forth.

21 But all of them have limitations in terms
22 of the ability to anticipate all the savings that
23 might be out there just technically. They often have
24 limitations in how they anticipate avoided costs and
25 how much they account for all the benefits. In this

1 case in my testimony, I mention that they used the TRC
2 test as the sole determinant of what's economic.

3 The biggest -- biggest point in all of
4 these studies where I have concern is reaching the
5 achievable level of potential. Because that is
6 literally defined by what the Company can achieve by
7 its programs. And the Company has a huge opportunity
8 to influence what's achievable by the design of its
9 programs. And those opportunities are rarely, if
10 ever, factored into the technical potential studies.

11 **Q. Are you aware that the potential study**
12 **used in this case was adjusted by applying a YouGov**
13 **study to it?**

14 A. Yes.

15 MR. TOMC: Objection, Your Honor. I'm
16 going to object to the line of questioning. And the
17 basis for that is that this is friendly cross. Sierra
18 Club has indicated they support the stipulation that
19 was filed by the Office of the Public Counsel. I
20 believe an earlier objection was sustained for
21 friendly cross. I think, you know, given the short
22 time we have in this proceeding, I don't see this as
23 helpful to the record. These issues have been covered
24 with the witnesses that are adverse to the interests
25 of Office of Public Counsel already and I'd ask that

1 this cross-examination be limited, Your Honor.

2 MR. OPITZ: Judge, this is in the
3 testimony of Mr. Woolf. I believe that objection that
4 you sustained earlier was regarding friendly cross of
5 a witness about another witness's testimony, but my
6 questions relate to the testimony of Mr. Woolf.

7 JUDGE PRIDGIN: I'm going to overrule.
8 This does also seem to be friendly cross, so if we can
9 kind of move on.

10 BY MR. OPITZ:

11 Q. Mr. Woolf, I believe it was your
12 testimony that the YouGov study was inappropriate; is
13 that correct?

14 A. It was inappropriate to make the
15 adjustments that I -- I understood the Company to
16 make, yes.

17 Q. And why do you believe that that
18 adjustment was inappropriate?

19 A. Well, first I'll say that I just
20 mentioned a minute ago that the achievable potential
21 is the hardest one to get right. And it's -- the main
22 reason is to ca-- to try to capture the participation
23 rates. In this docket the Company uses the term "take
24 rate." And they've made these downward adjustments
25 on -- for reasons that I don't think are realistic.

1 They don't represent how customers might actually
2 respond to customer programs.

3 **Q. Did your testimony -- in your testimony**
4 **you also discussed that Ameren Missouri further**
5 **adjusted the market potential study downward.**

6 **Correct?**

7 A. Yes.

8 **Q. And what is your understanding of what**
9 **that adjustment was?**

10 A. So that's with response to -- with regard
11 to their psychographic segmentation. Is that what
12 your question is getting at?

13 **Q. I guess my question is do you have some**
14 **understanding of what adjustments Ameren Missouri made**
15 **to the potential study output to come up with their**
16 **application energy savings estimate?**

17 A. Okay. So the first thing is that they
18 use a pay-back period approach to calculate what the
19 take rate would be, and they have various assumptions
20 about different take rates in response to different
21 incentive levels.

22 And the point I make in my testimony is
23 that that doesn't account for many factors that can
24 influence take rates. It doesn't account for extreme
25 buy-down programs, it doesn't account for customer

1 behavior programs, it doesn't account for interactive
2 effects between measure whether customers will see one
3 measure as a good deal and then they'll realize, oh,
4 these are a good deal too.

5 It suggests that every customer decision
6 is based entirely upon a yes/no in terms of the
7 pay-back rate. That's my biggest concern with that
8 whole approach.

9 **Q. And do you believe that that adjustment**
10 **was appropriate?**

11 A. Well, in that case I wouldn't call it an
12 adjustment. I'd call it a methodology. It is a
13 methodology -- and it is used elsewhere. It's
14 standard practice in a lot of potential studies to
15 look at take rates in response to incentive levels.

16 My point is that it's key to understand
17 how to interpret that result. You should never
18 interpret that result to suggest that this is a
19 maximum, that this suggests -- it's one way to
20 indicate potential, but there clearly can be a whole
21 lot more savings if the delivery mechanisms are more
22 effective than just a simple yes or no incentive
23 payment.

24 The Company has taken the results of the
25 potential study and used it as if it's a cap. And

1 then they -- they put that into their IRP as if it
2 were a cap and further reduce it as well. So they're
3 literally moving down lower and lower levels when, in
4 fact, the technical potential study should be seen as
5 a rough guideline as to what might be out there.

6 MR. OPITZ: Thank you. That's all the
7 questions I have.

8 JUDGE PRIDGIN: Mr. Opitz, thank you.
9 Division of Energy?

10 MR. ANTAL: Yes.

11 CROSS-EXAMINATION BY MR. ANTAL:

12 Q. Good morning.

13 A. Good morning.

14 Q. **Mr. Woolf, is it a fair characterization**
15 **that -- of your testimony that you have some concern**
16 **with Staff's use of what you have described as a rate**
17 **impact screening?**

18 A. In Mr. Rogers' -- I'm not sure if it was
19 Rebuttal Testimony, his initial testimony, he pointed
20 out that the language in the MEEIA act and
21 regulations, that programs needed to benefit all
22 customers.

23 And I -- in my Rebuttal -- I guess it was
24 my Surrebuttal, I'm sorry, my Surrebuttal, I'm sorry.
25 I responded by saying that that implies the use of a

1 rate impact measure test, yes, and I have concerns
2 about that.

3 **Q. Okay. And what are your concerns with**
4 **the rate impact test?**

5 A. There are several. As I mentioned in my
6 testimony, it is not consistent with the statute and
7 the regulations, which suggest -- no, they state that
8 the TRC test and the utility cost test should be
9 preferred tests and not the RIM test.

10 But more to the point, I make this in
11 like every -- every state I go in because rate impacts
12 always comes up. And one of the big failings of the
13 RIM test is that it's calculating -- it's trying to
14 calculate increased rates, but it doesn't do it
15 correctly.

16 So the difference between the rate impact
17 measure test and the utility cost test is in the lost
18 revenues. The lost revenues are merely to recover
19 costs that are already embedded in rates and that the
20 utility is entitled to recover. Those costs are going
21 to be incurred in either case, with or without energy
22 efficiency.

23 What the RIM test does is it takes those
24 costs and adds it only to the energy efficiency
25 program. So those are costs that are going to be

1 incurred either way, they apply it to the energy
2 efficiency scenario and not the other one. It's --
3 it's bad math, it's bad economics, it's literally
4 taking a sunk cost, which shouldn't be a factor in
5 making resource decisions, and then putting it on one
6 side of the equation. It is theoretically unfounded
7 and should not be used for that reason.

8 The other reason, which is equally
9 important, is more practical. Which is that -- and
10 I've seen this over and over and over again for
11 30 years. You can apply the RIM test in such a way
12 that small, insignificant, literally in the noise rate
13 impacts that customers wouldn't even notice, would
14 lead to a rejection of programs that could save
15 hundreds and millions of dollars and add all the
16 benefits that we know energy efficiency offers. So it
17 leads you to what I call a perverse outcome --
18 literally a perverse outcome.

19 **Q. Okay. Thank you. And is it your belief**
20 **that energy efficiency benefits all customers**
21 **regardless of whether or not they participate in those**
22 **programs?**

23 A. Yes.

24 **Q. Okay. And why is that?**

25 A. Well, I answered that question a few

1 minutes ago, but I can repeat it if you'd like.

2 **Q. Well, if it's the same answer as what you**
3 **gave before, then there's no need.**

4 A. I would say it's the same answer, yes.

5 **Q. Okay. Have you reviewed the --**

6 A. Actually, if I may, I could add to that
7 answer.

8 **Q. If there's something additional that**
9 **you'd like to add --**

10 A. You gave me another 15 seconds. One of
11 the things that I like to point out with energy
12 efficiency is that this is a long-term resource. When
13 we make decisions, we all make decisions about
14 electric utility planning. Often there is supply-side
15 resources at stake who have -- which have operating
16 lives of 30, 40, 50 years, whether it's transmission
17 or generation. And so we all need to be thinking long
18 term about decisions.

19 I see energy efficiency as a resource
20 that the utility should be implementing, well, until
21 it -- until it doesn't exist any longer, which is as
22 far out in the future as I can see. So we should be
23 thinking about this long term.

24 And I see that there is so much
25 efficiency out there, that literally over time,

1 whether it's 10 years or 20 years, every single
2 customer can and will be served by it. And if every
3 single customer is served by it, then suddenly you
4 have very few non-participants, if any, and then
5 everyone's better off.

6 And I've done studies -- I've been
7 placing a lot of emphasis on participation rates in
8 recent years because they're not that well understood
9 around the country. And I've looked at several
10 states -- the leading states who have a lot of energy
11 efficiency, Massachusetts, Rhode Island, Vermont, in
12 Nova Scotia recently.

13 And I found that once you dig up the
14 data, that it's clear that if not by now, at least
15 within the next five or ten years, the vast majority
16 of customers will be served by the efficiency
17 programs. And in that case if you think about
18 efficiency as a long-term resource, you should not
19 only -- well, all customers benefit, but you should
20 have all customers participating.

21 **Q. Okay. Thank you very much for that**
22 **answer.**

23 **Have you had an opportunity to review**
24 **Rebuttal to Supplemental Testimony of John A. Rogers?**

25 **A. Yes.**

1 **Q. Okay. Now, in particular have you been**
2 **able to review his Schedule JAR-1?**

3 A. Give me a moment while I find it in my
4 stack here.

5 **Q. Sure.**

6 A. This is the table at the end of his
7 testimony?

8 **Q. Yes.**

9 A. I have seen it. I've looked at it very
10 generally.

11 **Q. Okay. In your general review,**
12 **particularly under the Non-participating Customers**
13 **section, does that include costs that would be**
14 **included in a rate impact screening?**

15 A. I may be looking at the wrong thing. I'm
16 looking at page 5 of the Mr. Rogers' Supplemental
17 Direct Testimony and there's a -- there's one table
18 and it lists the Non-utility Unanimous Stipulation
19 Agreement Portfolio.

20 **Q. I guess I'm referring to the Supplemental**
21 **Rebuttal Testimony.**

22 A. I'm not sure that I have that or that I
23 have read it.

24 MR. ANTAL: Okay. If I may approach the
25 witness.

1 JUDGE PRIDGIN: You may.

2 BY MR. ANTAL:

3 Q. All right. Mr. Woolf, if you would
4 identify the document that I've just handed you.

5 A. So this is a document that is from
6 Mr. John Rogers called Rebuttal Supplemental
7 Testimony. It's dated July 2015, in this docket.

8 Q. Okay.

9 A. May I ask a question about it?

10 Q. You may.

11 A. So the terminology is just not clear. So
12 I had a Supplemental Direct Testimony also dated July
13 2015. The Rebuttal to Supplemental came out after
14 that -- is dated after that?

15 Q. I believe so, yes.

16 A. Ah, yes, I'm sorry. July 15th is at the
17 top. And it's a Rebuttal to the Company's --

18 Q. Yes.

19 A. -- testimony on stipulation. Okay.
20 Thank you.

21 Q. So have you had an opportunity to review
22 this document?

23 A. I have not. I'm sorry. In the flurry of
24 testimony, I did not get this one.

25 Q. Okay. That's fine. I'll ask you just

1 some general questions. If you don't feel like you
2 answer them at this time, I understand.

3 On the -- I believe it's the
4 second-to-last page of that document.

5 MS. MUETH: Your Honor, I'm going to
6 object to this. The witness has already stated that
7 he hasn't had the chance to review this testimony.
8 Any questions that counsel might have in regard to
9 this testimony, Mr. Rogers himself can answer.

10 JUDGE PRIDGIN: I'm going to sustain. I
11 don't know why he's being cross-examined on somebody
12 else's testimony that he hasn't even seen. So I'm
13 going to sustain.

14 BY MR. ANTAL:

15 Q. All right. I'll move on. Are you
16 generally aware of the terms of the Non-utility
17 Agreement?

18 A. Yes.

19 Q. Okay. Under the terms of that agreement,
20 will the Sierra Club have any input on the selection
21 of the third-part mediator -- third-party mediator?

22 A. I am not aware of what the Sierra Club's
23 role would be in that entire process after the close
24 of this docket.

25 Q. Okay. If I were to represent to you that

1 **the terms of that agreement state that Staff will be**
2 **the only party to provide input to the Company on the**
3 **selection of the third-party mediator, do you have any**
4 **reason to disagree with me?**

5 A. Actually, could you rephrase the
6 question? I'm not sure what you're asking. Are you
7 asking that it would be a good idea? Are you asking
8 that it would be a fact?

9 **Q. Do you think it would be a good idea if**
10 **only the Staff had input on the selection of the**
11 **third-party mediator?**

12 A. No.

13 MS. TAUBER: I'm going to object and ask
14 if you're referring to a specific part of the
15 stipulation, I'd ask that you direct the witness
16 there.

17 MR. ANTAL: Sure.

18 MS. TAUBER: And I would also just note
19 that I'd like the questions to be based on the scope
20 of Mr. Woolf's Rebuttal and Surrebuttal Testimony.

21 JUDGE PRIDGIN: Does this go to his
22 testimony, Mr. Antal?

23 MR. ANTAL: He has -- I'm getting -- he's
24 the -- his testimony has been on the relevance or the
25 appropriateness of using a rate impact study and I'm

1 getting -- you know, I'm building to my -- what I need
2 to ask him about, but I wanted to make sure that he
3 had some general knowledge about the terms of the
4 agreements.

5 MR. TOMC: Your Honor, if I may address
6 the objection as well. The Sierra Club filed a
7 stipulation to which both the Division of Energy and
8 the Company are adverse. To the extent that Sierra
9 Club's counsel is suggesting that we can't ask
10 Mr. Woolf for his opinion on how the effect of those
11 stipulations will impact energy efficiency after this
12 proceeding is closed, I think that's inappropriate.

13 I think it's relevant, I think it's
14 probative and I think it's within the rights of the
15 parties to whom the stipulation filed by the Office of
16 Public Counsel adverse -- I think it's within our
17 rights to ask this witness about -- about those --
18 about those issues.

19 MS. TAUBER: And, Your Honor, if I may
20 respond briefly.

21 JUDGE PRIDGIN: You may.

22 MS. TAUBER: I am not now issuing a
23 standing objection to every question that is asked,
24 but I will say that Mr. Woolf is here to be
25 cross-examined on the testimony -- his Direct

1 Testimony in this case, which certainly relates to the
2 Company's MEEIA filing and their energy efficiency.
3 It does not relate to several of the issues in this
4 case. And I'm simply I guess saying now that I expect
5 to be objecting to cross-examination that goes beyond
6 the scope of direct, which is a pretty standard
7 objection.

8 JUDGE PRIDGIN: All right. I'll
9 overrule. You can continue, Mr. Antal.

10 BY MR. ANTAL:

11 Q. Okay. Given your testimony on the
12 appropriateness of the use of a rate impact screening
13 and the determination of cost effectiveness, do you
14 believe it would be in the best interest of customers
15 that Staff be the only party to this case that have --
16 who have input on the selection of a third-party
17 mediator?

18 A. I don't think it would be a good idea for
19 any one party to be the only party to select the
20 third-party facilitator. In general, that should be
21 something that's done by all the stakeholders engaged
22 in the process.

23 Q. Okay. And would you also agree that
24 every party in the case should have input on the
25 selection of an expert board of -- or board of

1 experts?

2 A. Yes.

3 Q. Okay. And is it your understanding that
4 all parties will have input on the selection of either
5 the third-party mediator or the expert board, as under
6 the Non-utility Agreement?

7 A. I can't say what will happen. I can say
8 that is the intent and that's -- that would be my goal
9 if I were engaged in it.

10 Q. Okay. And under Section 3 of the
11 Non-utility Agreement it states that, Programs shown
12 to be cost effective through this analysis that are
13 also beneficial to customers will be considered for
14 implementation on or before January 1st, 2017.

15 If Staff and the Company are the only two
16 parties with input on the selection of the third-party
17 mediator and the expert board, would you have concern
18 that programs that you would -- that your client would
19 find cost effective would not be determined to be cost
20 effective or beneficial to all customers?

21 A. I can't say what would be the outcome of
22 that. What I can say is I think any kind of process
23 like that really needs to have stakeholder input
24 that's meaningful from all the stakeholders involved.

25 Q. Okay. Thank you. A few more questions.

1 **Do you agree that energy efficiency is the least cost**
2 **resource when compared to supply-side equivalents in**
3 **Ameren's most recent triennial IRP?**

4 A. Yes. Although just to clarify, energy
5 efficiency has a range of costs. And they really
6 looked at, as I say in my testimony, a very small
7 range of energy efficiency opportunities. Within that
8 small range, yes, it was very cost effective. I
9 expect that there would be a whole lot more beyond
10 that. At some point you reach a point where it's not
11 cost effective.

12 Q. Okay. Thank you. Do you agree that --
13 **do you agree that power plants typically used to meet**
14 **peak demand are less emissions intensive?**

15 A. That's too general of a statement to
16 make. It depends upon the system.

17 Q. Okay. Do you agree that -- well, never
18 mind.

19 **Are non-energy benefits important to the**
20 **consideration of emissions reductions resulting from**
21 **MEEIA programs?**

22 A. I think you need to define your terms a
23 little more. Non-energy benefits can be referred --
24 can refer to a variety of things. So I think I need
25 to clarify.

1 **Q. What do non-energy benefits mean to you?**

2 A. So there are three categories of
3 non-energy benefits. There are those that pertain to
4 the utility, and those should be included in the
5 utility cost test. There are those that pertain to
6 program participants, and those should be included in
7 the TRC test. There are those that pertain to society
8 in general, and those should be included in the
9 societal cost test.

10 You mention air emissions. If you're
11 referring to the cost to comply with environmental
12 regulations, those are costs that are borne by
13 customers and should be included in every test. If
14 you mean the air emissions that are emitted in
15 addition to compliance, those would be considered
16 societal impacts. You could call them non-energy
17 benefits and that would have societal benefits.

18 **Q. Do you believe societal benefits should**
19 **be included?**

20 A. Included?

21 **Q. In an analysis of cost effectiveness?**

22 A. Well, in there's a pretty clearly defined
23 definition of cost effectiveness. And I've testified
24 that the statute and the regs are clear that it should
25 be the utility cost test and the total resource cost

1 test.

2 I do think that the -- as the preferred
3 test -- that the amount of air emissions that are
4 avoided are a consideration that, you know, that could
5 be accounted for. Even if it weren't the defining
6 factor, it could be a consideration. So that if you
7 had a program where the -- one of the tests, utility
8 or TRC, was less than one and you had concerns and yet
9 it had huge air emission benefits, maybe you should
10 consider that cost effective. I don't think they
11 should be as black and white as people often apply
12 these. But that's how I would see it applying in
13 Missouri.

14 **Q. Okay. Thank you very much. I appreciate**
15 **your responses.**

16 JUDGE PRIDGIN: Mr. Antal, thank you.

17 NRDC?

18 MR. ROBERTSON: No questions.

19 JUDGE PRIDGIN: Ameren Missouri?

20 MR. TOMC: Yes, Your Honor.

21 CROSS-EXAMINATION BY MR. TOMC:

22 **Q. Good morning, Mr. Woolf.**

23 A. Good morning.

24 **Q. My name is Matt Tomc. I'm attorney on**
25 **behalf of the Company in this case and I have a few**

1 **questions to ask you this morning.**

2 **You were retained by the Sierra Club, a**
3 **party to this case, to provide expert testimony and**
4 **analysis; is that right?**

5 A. That's correct.

6 **Q. Did you consult with the Sierra Club or**
7 **attorneys on behalf of Sierra Club with respect to the**
8 **issues at bar in this case?**

9 A. Yes.

10 **Q. Now, the Sierra Club is an environmental**
11 **advocacy group. Would you agree with that**
12 **characterization?**

13 A. Yes.

14 **Q. And as noted earlier, you've provided**
15 **expert testimony with respect to energy efficiency**
16 **before many state commissions; is that correct?**

17 A. Yes.

18 **Q. In fact, you yourself are a former**
19 **Commissioner from the Massachusetts DPU, which is the**
20 **Division of Public Utilities, a body comparable to the**
21 **Missouri Public Service Commission; is that correct?**

22 A. Yeah. It's referred to as the Department
23 of Public Utilities.

24 **Q. Okay. So -- and you are knowledgeable**
25 **with respect to energy efficiency issues as well as**

1 demand response as well; is that right?

2 A. Yes.

3 Q. And you are also vice president of
4 Synapse -- is it Synapse Group? Is that the correct
5 name?

6 A. Synapse Energy Economics.

7 Q. And Synapse provides consulting services,
8 expert witness services to its clients and offers
9 testimony, research papers and other materials for
10 consideration by state public utility commissions. Is
11 that -- I know it's a broad generalization, but is it
12 fair?

13 A. It is. We have a variety of clients.
14 And some of our work goes beyond just state
15 commissions, but in general, yes.

16 Q. Now, I first want to just ask you, you're
17 aware that there are two competing stipulations that
18 have been filed before the Missouri Commission in this
19 case --

20 A. Yes.

21 Q. -- correct?

22 Did you review both of those stipulations
23 before testifying today?

24 A. I did.

25 Q. Do you have copies with you?

1 A. I do.

2 Q. One other question. And as you recall,
3 some -- I believe two months ago approximately I took
4 your deposition. Do you recall that?

5 A. I do.

6 Q. And it was by phone, if I remember
7 correctly?

8 A. Yes.

9 Q. Do you have a copy of your deposition
10 with you?

11 A. I have an electronic copy I could call
12 up. I don't have a hard copy.

13 Q. Okay. I'll get you a hard copy. That's
14 a copy of the deposition.

15 MR. TOMC: And then, Ms. Tauber, you sent
16 me corrections, I believe?

17 MS. TAUBER: Do you have the corrections?

18 MR. TOMC: I do. I have my copy, but I
19 do not have the copy sent to me by counsel.

20 BY MR. TOMC:

21 Q. Just a reference. Now, Sierra Club, as I
22 understand it, supports the stipulation that's an
23 amended stipulation dated July 8th, 2015. And it was
24 filed by the Office of Public Counsel. Several
25 parties signed onto that.

1 A. Correct.

2 Q. But Sierra Club didn't sign onto it; is
3 that right?

4 A. That's right.

5 Q. They support it, but didn't sign it.
6 Right?

7 A. Yes.

8 Q. Now, are you aware or familiar with pub--
9 or energy efficiency programs that offer incentives
10 for customers to purchase CFL bulbs?

11 A. Yes.

12 Q. And it's a res-- can be residential
13 program. And most states that have done energy
14 efficiency, is it fair to say, that at some point in
15 time they've had a CFL program?

16 A. Yes.

17 Q. I would refer you to page 16 and 17 of
18 your Rebuttal Testimony.

19 A. Yes.

20 Q. Lines 12 through 14 is -- just take a
21 minute to review that.

22 A. On page 16?

23 Q. Yes. Lines 12 through 14. This is your
24 Rebuttal Testimony.

25 A. Oh, I'm sorry. I'm looking at the

1 deposition you handed me.

2 **Q. Sorry about that. That's just for**
3 **reference later in the examination.**

4 A. So again, you're on page 16 and 17?

5 **Q. Page 16, lines 12 through 14.**

6 A. Yes.

7 **Q. Okay. Now, you testified -- I'll**
8 **paraphrase -- that despite the import of federal**
9 **lighting standards, opportunities remain for lighting;**
10 **is that right?**

11 A. That's correct.

12 **Q. Now, if I were to tell you that --**
13 **represent to you that Ameren Missouri has been**
14 **credited with market transformation effects with**
15 **respect to lighting, does that mean that there's no**
16 **further opportunities in Ameren Missouri's service**
17 **territory for lighting programs?**

18 A. I would not say that ye-- yes.

19 **Q. Why do you say that?**

20 A. Well, first of all, market transformation
21 is very difficult to pin down. And from a lot of
22 information in this docket, it's clear that there's an
23 additional opportunities from both CFLs and LEDs in
24 Ameren's service territory.

25 **Q. Now, if -- based on your review of the**

1 **two competing stipulations, which of those two**
2 **stipulations actually includes explicit provisions for**
3 **a CFL program?**

4 A. The utility stip.

5 **Q. Are you familiar -- if I use the acronym**
6 **CHP, are you familiar with what that means?**

7 A. Yes.

8 **Q. Actually, before I ask that question,**
9 **with respect to LED lighting and CFL lighting, when**
10 **energy -- when customers use those options for**
11 **lighting their home, are there environmental benefits**
12 **associated with changing out an incandescent bulb with**
13 **a CFL bulb, for example?**

14 A. Yes, there are.

15 **Q. Now, what do I mean when I say CHP? What**
16 **do you understand that to be?**

17 A. Combined heat and power. It's a
18 technology that's used in industrial and commercial
19 applications.

20 **Q. Does Sierra Club support combined heat**
21 **and power advancement in the United States?**

22 A. I don't know if the organization has a
23 general policy on CHP.

24 **Q. Can CHP save energy?**

25 A. It typically saves a lot of

1 electricity -- electric energy. It will increase gas
2 consumption or other -- other fuels, but typically
3 yes.

4 **Q. Can the use of CHP technology offer**
5 **environmental benefits?**

6 A. Yes. And I'll add that I have no problem
7 with additional CHP investments in Missouri as a part
8 of the efficiency programs.

9 **Q. Based on your review, which stipulation**
10 **contains explicit provisions providing for CHP in**
11 **Ameren Missouri's service territory?**

12 A. The utility's.

13 **Q. I would refer you to your Rebuttal**
14 **Testimony on page 19, line 4 to 5, the bullet point**
15 **there.**

16 A. Yes.

17 **Q. Talking about what Ameren can do. And**
18 **you say -- and you're testifying that Ameren can**
19 **expand program budgets to increase participation rates**
20 **for programs serving key customer segments?**

21 A. Yes.

22 **Q. That's your testimony. Is it your**
23 **opinion that state commissions should be open to**
24 **boosting program budgets to boost customer**
25 **participation?**

1 A. If that results in cost effective energy
2 efficiency savings and complies with the other
3 regulatory goals in the state, then yes.

4 MR. TOMC: Your Honor, I'm going to have
5 an exhibit marked. May I approach?

6 JUDGE PRIDGIN: You may. By my count,
7 this will be Number 115.

8 MR. TOMC: Thank you, Your Honor.

9 JUDGE PRIDGIN: You're welcome.

10 (Ameren Exhibit 115 was marked for
11 identification.)

12 BY MR. TOMC:

13 **Q. Do you recognize this document?**

14 A. Yes, I do.

15 **Q. The title is Unleashing Energy**
16 **Efficiency. Right? And I notice in the byline your**
17 **name is listed there. Is that you?**

18 A. Yeah, I was the lead author.

19 MR. TOMC: And let me identify for the
20 record the exhibit we're talking about, Unleashing
21 Energy Efficiency, is an article. It is Exhibit 115.
22 Correct, Your Honor?

23 JUDGE PRIDGIN: That's correct.

24 BY MR. SCHNEIDER:

25 **Q. Turn to page 37 of that article, please.**

1 A. I am there.

2 Q. Okay. The third paragraph from the
3 bottom starts with a sentence, and that sentence
4 reads, Boosting program budgets to boost participation
5 might run exactly opposite to the typical response to
6 rate impact concerns, but might, in fact, result in a
7 much better way to address customer equity and to
8 maximize the benefits of energy efficiency.

9 A. Yes.

10 Q. Does that reflect your conclusions when
11 you wrote this article?

12 A. Yes.

13 Q. Okay. Now, based on your review, which
14 stipulation provides for a larger program budget in
15 explicit terms?

16 A. Well, to be clear, I still stand by every
17 conclusion and recommendation in my Rebuttal and
18 Surrebuttal Testimony. The stipulation that I agreed
19 to was a choice between two stipulations.

20 And the main reason that Sierra Club
21 chose this stipulation, the non-utility one, is not
22 because of the energy savings in it. It's because of
23 the process that was laid out to look into increased
24 energy savings for years 2017 and 2018 and also
25 because more comfort with the throughput disincentive

1 and the shareholder incentive.

2 **Q. Mr. Woolf, there will be an opportunity**
3 **for your attorney to provide redirect examination, and**
4 **I'd just like you to answer the question that was**
5 **posed.**

6 **In explicit terms, based on your review,**
7 **which stipulation provides for a larger program**
8 **budget?**

9 A. The Utility Stipulation.

10 **Q. Are you familiar, Mr. Woolf, with**
11 **executive orders, proclamations, ordinances,**
12 **resolutions and enactments of all kinds throughout the**
13 **United States calling upon government facilities and**
14 **buildings to become energy efficient?**

15 A. Yes, they -- they exist in many states.

16 **Q. Should the existence of those types of**
17 **executive orders or legal mandates or whatever kind**
18 **they may be, proclamations, should they exclude public**
19 **facilities from being included in utility-sponsored**
20 **energy efficiency programs?**

21 A. No. I think -- a thoughtful response to
22 that would be for the utility and other stakeholders
23 to identify ways where the utility can allow state and
24 public facilities to go above and beyond what they
25 would do otherwise.

1 **Q. So would it follow that just because a**
2 **public facility may be subject to some executive**
3 **order, for example, doesn't necessarily make that --**
4 **that facility or that agency a free rider?**

5 A. No. And even more importantly, the
6 program can be designed so that it's not a free rider,
7 by providing efficiency opportunities above and beyond
8 what they would otherwise do.

9 **Q. If we can incentivize public utilities to**
10 **become more energy efficient, could the result**
11 **actually produce environmental benefits?**

12 A. Yes. If more efficiency means reduced
13 electricity consumption, then yes.

14 **Q. Based on your review, in explicit terms**
15 **which of the two stipulations provides for energy**
16 **efficiency programs being made available to public**
17 **facilities?**

18 A. The utility one does. But I would add in
19 response to this question and the previous one with --
20 of the same nature, that the -- our -- the Non-utility
21 Stipulation allows for discussions of additional
22 savings opportunities which could exceed the savings
23 opportunities in the Utility Stipulation.

24 **Q. Are you aware, Mr. Woolf, that the Office**
25 **of Public Counsel objects to the provisions contained**

1 **in the Utility Stipulation that would clearly indicate**
2 **that just because there's an executive order, a**
3 **government agency is not a free rider?**

4 A. I'm aware of that. But the whole point
5 of the process established to look for additional
6 savings is to work with the various parties, including
7 the OPC and others, the utility, to identify ways
8 where maybe we could reach common ground or maybe
9 we -- they could go beyond their current positions.

10 **Q. Do you have the Non-unanimous Stipulation**
11 **and Agreement dated June 30th that was entered into by**
12 **Ameren Missouri, NRDC, KCPL, GMO and United for**
13 **Missouri? Do you have that with you?**

14 A. I do. Give me just a second. Yes.

15 MR. TOMC: Before I proceed, Your Honor,
16 do you have a copy -- does any of the Commissioners or
17 Your Honor want a copy of that stipulation? I have it
18 if you don't have it with you.

19 JUDGE PRIDGIN: I have a copy nearby.

20 MR. TOMC: If anybody -- I have copies.

21 BY MR. TOMC:

22 **Q. Okay. My question is -- I'll direct your**
23 **attention to page 9 and paragraph 15. And the title**
24 **of that paragraph is Identification of Additional Cost**
25 **Effective Energy Savings. Do you see that?**

1 A. Yes.

2 Q. And the following sentence indicates
3 that, The signatories agree to work together to
4 identify additional cost effective energy savings
5 strategies to be implemented for program years 2017
6 and 2018 --

7 A. Yes.

8 Q. -- is that right?

9 So it's fair to say that the -- the
10 stipulation the Company entered into also presents a
11 path forward to find additional cost effective energy
12 savings to be added to the portfolio of programs
13 presented here today?

14 A. Yeah. But there's one fatal flaw in the
15 Company's proposed process that gives me concern.

16 Q. With respect to the Non-utility
17 Stipulation, that provides for a panel of experts to
18 convene and to develop recommendations; is that right?

19 A. Yes.

20 Q. Okay. Ask you about that panel. Now,
21 the firm that you're an officer of -- vice president
22 of, Synapse, where is that located?

23 A. In Cambridge, Massachusetts.

24 Q. And are you familiar with Ms. Rohmund
25 from --

1 A. I'm familiar with her testimony in this
2 case.

3 Q. And she's with a firm formerly EnerNOC,
4 now AEG; is that right?

5 A. Yes.

6 Q. And you've worked across the table from
7 her before?

8 A. No. Not really. I've -- I'm familiar
9 with her in this case.

10 Q. Are you familiar with that firm generally
11 though?

12 A. Yes.

13 Q. How about The Brattle Group? Have you
14 heard of The Brattle Group?

15 A. Yes.

16 Q. Okay. How about the Cadmus group? Heard
17 of the Cadmus group?

18 A. Yes.

19 Q. These are firms that provide energy
20 efficiency consulting services of various types?

21 A. Yes.

22 Q. They're nationally-known firms. Right?

23 A. Yes, they are.

24 Q. Can you name any comparable firms located
25 here in the state of Missouri?

1 A. There may be some, but they don't come to
2 mi nd.

3 **Q. In fact, I think it's fair to say that**
4 **many of the experts in this area are located on the**
5 **large cities and coasts of the United States; is that**
6 **right?**

7 A. You know, there may be some in other
8 parts of the country, the Midwest, but a lot of them
9 are the ones you've cited.

10 **Q. Now, studying energy efficiency goals, is**
11 **that -- do you think that's an important issue of**
12 **state policy?**

13 A. I do.

14 **Q. Now, Missouri being a integrated resource**
15 **planning state -- you know what that means. Right?**

16 A. I do.

17 **Q. Well, resource planning and determining**
18 **what mix of resources that you're going to use to**
19 **serve your load, that's also an important issue of**
20 **state policy. Right?**

21 A. Yes, it is.

22 **Q. Now, let's say, for example -- let's say,**
23 **just for the sake of this question, that this**
24 **Commission doesn't accept the convened panel of**
25 **experts. Is it -- is there anything particularly**

1 **unique about Missouri that would render this**
2 **Commission, based upon advice of the utilities and the**
3 **stakeholders, from coming to reasonable policy goals**
4 **with respect to resource planning and energy**
5 **efficiency?**

6 A. So just to paraphrase the question, you
7 mean in the absence of such a panel, could the
8 Commission come to a reasonable outcome in this case?

9 **Q. That's my question, yes.**

10 A. Yeah. They could adopt my testimony.

11 **Q. Let me ask you a little bit about utility**
12 **motivation to do energy efficiency. Are you familiar**
13 **with that topic?**

14 A. I am.

15 **Q. The State Energy Efficiency Action**
16 **Network, are you familiar with that organization?**

17 A. State En-- yes, I am. In fact, I was a
18 member of it.

19 **Q. And at one point you chaired a committee**
20 **on Utility Motivation; is that right?**

21 A. Yes, it is.

22 **Q. What did that committee look at?**

23 A. So the committee -- the whole SEE Action
24 Network was made up of committees. There was I think
25 at least eight when I was involved. And each

1 committee looked at a different topic around energy
2 efficiency promotion. And our whole topic was Utility
3 Motivation, which really means how to get utilities to
4 do the right thing with energy efficiency.

5 So we looked at the three pillars of
6 utility cost recovery. One is recovering the costs
7 that are spent; two is looking at some way to recover
8 the lost revenues or through decoupling; and the other
9 is shareholder incentives.

10 **Q. Now, you firmly believe that utilities**
11 **need financial support so they can undertake energy**
12 **efficiency programs and it doesn't work against their**
13 **shareholders' interests. Right?**

14 A. I do within, you know, bounds.

15 **Q. You would agree that Ameren Missouri**
16 **cannot be expected to implement successful, cost**
17 **effective, efficiency programs unless they have proper**
18 **regulatory support and incentives to do so. Right?**

19 A. That's a general statement I would agree
20 with, yes.

21 **Q. You would also agree that while some may**
22 **argue that utilities have an obligation to provide low**
23 **cost reliable service to customers, utilities are**
24 **unlikely to be successful in light of the significant**
25 **financial barriers that they face?**

1 A. So you're making a very general
2 statement, and that's true in general. I think what
3 becomes very important is how the financial incentives
4 are designed and how they're applied. It would be
5 very easy to design a financial incentive that is way
6 too generous to the utility, which would not be in the
7 public interest. It's possible to design incentives
8 that give the wrong direction, which would not be in
9 the public interest. So the details of how the
10 mechanisms are designed really do matter.

11 MR. TOMC: May I approach, Your Honor?

12 JUDGE PRIDGIN: You may.

13 BY MR. TOMC:

14 **Q. I gave you two there, I think. I've**
15 **handed you what's been marked as Exhibit 116.**

16 JUDGE PRIDGIN: Yes, 116.

17 BY MR. TOMC:

18 **Q. Document styled Regulatory Policies to**
19 **Support Energy Efficiency in Virginia; is that right?**

20 A. Yes, it is.

21 **Q. Page 24. Well, first let me ask you, you**
22 **were the lead author on this document?**

23 A. I was, yes.

24 **Q. On page 24 it's indicated here,**
25 **Stakeholders sometimes argue that energy efficiency**

1 performance incentives should not be needed to
2 motivate utilities because utilities have an
3 obligation to provide low-cost reliable service to
4 customers, which includes energy efficiency services.

5 **Are those your words?**

6 A. Yes, those are the words of this report.

7 **Q. Okay. Now you go on to say, While it is**
8 **true that utilities have these obligations, it is also**
9 **true that utilities are unlikely to meet these**
10 **obligations successfully in light of the significant**
11 **financial barriers they face. Are those also your**
12 **words?**

13 A. Yes. Those are the words in this report
14 that I authored.

15 **Q. Okay. I would like to ask you about**
16 **those barriers. Now, if I use the term "throughput**
17 **incentive," what does that mean to you?**

18 A. Refers to the fact that with energy
19 efficiency savings and other policies that reduce
20 customer sales, utility will see lower sales and in
21 between rate cases there will be a portion of their
22 costs embedded in rates that they won't be able to
23 recover, and so that is a financial disincentive to
24 them.

25 **Q. And the existence of a throughput**

1 **incentive within rates, would that be a financial**
2 **barrier for implementing energy efficiency?**

3 A. That is a financial barrier, yes.

4 **Q. Under traditional cost-of-service**
5 **regulation, would you also agree that there's little**
6 **incentive to adopt innovative practices with respect**
7 **to energy efficiency?**

8 A. I wouldn't say that, no. There are lots
9 of incentives. Energy efficiency can help produce a
10 low cost, more reliable system. So it may not have
11 the benefits to the shareholders, but there are many
12 benefits to customers.

13 You're better at distributing our reports
14 than our marketing team is.

15 **Q. You've kept me very busy in the evenings**
16 **this week reading the materials.**

17 **(Ameren Exhibits 116 and 117 were marked**
18 **for identification.)**

19 JUDGE PRIDGIN: Mr. Tomc, do you want
20 this marked as an exhibit?

21 MR. TOMC: Yes, Your Honor. 117.

22 JUDGE PRIDGIN: Yes, sir. 117. Thank
23 you.

24 BY MR. TOMC:

25 **Q. I'd refer your attention to page -- well,**

1 **first of all, let me ask you, the title of this**
2 **document is Utility Performance Incentive Mechanisms**
3 **Handbook for Regulators?**

4 A. Yes.

5 Q. **And you were listed as one of the authors**
6 **of this document?**

7 A. Yes, I was.

8 Q. **And it was prepared for, as I see here,**
9 **the Western Interstate Energy Board?**

10 A. Yes.

11 Q. **Dated March 9th of this year?**

12 A. Correct.

13 Q. **Refer you to page 12. Towards the top,**
14 **second paragraph down, there's a bolded item**
15 **Innovation. Do you see that?**

16 A. Yes.

17 Q. **And here it indicates, There is little**
18 **incentive for utilities to adopt innovative practices,**
19 **technologies or resources under traditional**
20 **cost-of-service regulation.**

21 **Is that what you wrote?**

22 A. Yes. I can define what I meant there by
23 innovation.

24 Q. **I don't -- that -- I just asked you to**
25 **clarify that point. I have a question about the**

1 **previous page, which is 10 -- actually two pages back,**
2 **10:**

3 MS. TAUBER: Your Honor, I would actually
4 ask if Mr. Tomc is asking about a report that
5 Mr. Woolf wrote and he specifically asks to clarify a
6 word that Mr. Tomc just read, I would ask that he be
7 allowed to clarify.

8 MR. TOMC: There will be an opportunity,
9 Your Honor, for redirect. And I just asked him for a
10 simple clarification on what the report indicated.

11 JUDGE PRIDGIN: Yeah, I'll overrule.
12 You're certainly welcome to ask that in redirect,
13 Counsel.

14 MS. TAUBER: Thank you, Your Honor.

15 JUDGE PRIDGIN: You're welcome.

16 BY MR. TOMC:

17 **Q. On this Table 2 you have three categories**
18 **of regulatory elements. And here you have**
19 **cost-of-service regulation, performance-based**
20 **regulation and new regulatory models proposed to date?**

21 A. Not quite. The regulatory element
22 heading is referring to the rows below it.

23 **Q. Okay. Three categories of regulatory**
24 **systems, I'm sorry. Is that right?**

25 A. Yes.

1 **Q. And so there's cost-of-service**
2 **regulation, performance-based regulation and new**
3 **regulatory models proposed to date; is that right?**

4 A. Yes. And as we say, there's a lot of
5 gray areas between these three.

6 **Q. Okay. Which category would Missouri's**
7 **regulatory system fall into?**

8 A. Cost-of-service regulation.

9 **Q. Now, you don't disagree that the rate**
10 **structure in place for Ameren Missouri, as well as**
11 **Kansas City Power & Light as well, have a throughput**
12 **incentive included in their rate structure?**

13 A. Yes. There is a throughput disincentive
14 to energy efficiency investments.

15 **Q. Now, I understand that you believe that**
16 **the State of Missouri and the utilities in the state**
17 **of Missouri could -- their rate structures could be**
18 **improved in the sense of promoting energy efficiency**
19 **and other practices like that?**

20 A. Yes. I would recommend that they adopt
21 decoupling to do that.

22 **Q. You believe that decoupling electric --**
23 **electric rates is good policy; is that correct?**

24 A. Yeah. And to be clear, I'm -- I refer to
25 the term "revenue regulation" like we have on the

1 table here. Some people interpret decoupling to mean
2 higher fixed charges and even a straight fixed
3 variable approach, which I would not support. But I
4 would support revenue regulation, yes.

5 **Q. Okay. You would also -- you'd also agree**
6 **that until such time as decoupling is approved in**
7 **Missouri, if ever, utilities and this Commission are**
8 **going to have to continue to contend with the barriers**
9 **imposed by the throughput disincentive associated with**
10 **existing rate structures?**

11 A. Yes. There are many ways to do that, but
12 yes.

13 **Q. And you don't -- you're not suggesting**
14 **that the State of Missouri should put energy**
15 **efficiency on hold while it studies decoupling?**

16 A. I don't see any reason why they should
17 put efficiency on hold, no.

18 **Q. In that sense, the perfect should not be**
19 **the enemy of the good?**

20 A. In that sense.

21 **Q. Now, I gather from your response a few**
22 **questions back that you're knowledgeable concerning**
23 **decoupling or, as you would term it, revenue**
24 **regulation. Are you familiar?**

25 A. Yes, I am.

1 **Q. Now, at least in my understanding,**
2 **decoupling typically involves a rider-type mechanism;**
3 **is that fair?**

4 A. It typically involves an adjustment to
5 rates in between rate cases. Maybe -- I'm not sure
6 I'd call it a rider.

7 **Q. Okay. But it involves adjustments to**
8 **rates that occur in between rate cases; is that right?**

9 A. Yeah. Yes.

10 **Q. Now, the state that you were formerly a**
11 **Commissioner in and that your company is based in,**
12 **Massachusetts, does it currently have decoupling in**
13 **effect?**

14 A. Yes. We opened an investigation on
15 decoupling while I was a Commissioner and as a result
16 of that, we implemented decoupling throughout the
17 state.

18 **Q. Do you think it helps advance energy**
19 **efficiency within the state of Massachusetts?**

20 A. Yes. Very much so.

21 **Q. Now, the recoveries under Massachusetts**
22 **decoupling, do they occur by operation of a rider or**
23 **rate adjustments between rate cases?**

24 MS. TAUBER: Your Honor, I would issue an
25 objection just as the continued discussion is going

1 well beyond the scope certainly of Mr. Woolf's
2 Rebuttal, Surrebuttal. And this was something that
3 was discussed in a deposition. Relevancy objections
4 could not be raised then, but I will raise them now.

5 JUDGE PRIDGIN: Mr. Tomc?

6 MR. TOMC: The line of questioning is
7 concerning what type of cost recovery mechanism is
8 appropriate to encourage energy efficiency in the
9 state of Missouri. Mr. Woolf is a national expert,
10 holds himself out to be.

11 His testimony in this proceeding calls
12 upon the Commission to look into a number of policies
13 to advance energy efficiency. The Sierra Club,
14 Mr. Woolf's client, signed on to a stipulation that
15 provides for a cost recovery mechanism that is against
16 my client's interest.

17 And I would just like to ask a few more
18 questions concerning rate-making mechanisms that
19 Mr. Woolf is aware of. I think it will assist the
20 Commission in making a determination in this
21 proceeding.

22 JUDGE PRIDGIN: I'll overrule.

23 BY MR. TOMC:

24 **Q. Okay. Do the rate adjustments under**
25 **Massachusetts decoupling, they occur by operation of a**

1 **rider or some other mechanism?**

2 A. There's an annual adjustment between rate
3 cases.

4 **Q. Now, prior to that adjustment or as a**
5 **condition of that adjustment, are the utilities**
6 **required to go through some sort of retrospective EM&V**
7 **process before they're allowed to make those**
8 **recoveries?**

9 A. No. There's no energy efficiency EM&V
10 required with revenue regulation. That's one of its
11 advantages.

12 **Q. And you don't think under that regulatory**
13 **structure that Massachusetts customers are harmed?**

14 A. No. They're better off.

15 **Q. Okay. I'd like to ask you a few**
16 **questions about demand-response programs versus -- or**
17 **demand-response programs as compared to energy**
18 **efficiency programs. Is there a difference?**

19 A. Yes. There are some similarities as
20 well.

21 **Q. Now, if I were to say that a demand --**
22 **define a demand-response program to include, you know,**
23 **programs or measures that include controls that are**
24 **installed on customer end uses and the utility can**
25 **control those end uses to modify the peak demand of**

1 **its users, is that a fair characterization or**
2 **definition of demand-response program?**

3 A. That's one type of demand-response
4 program, yes.

5 **Q. And to your knowledge, did Ameren**
6 **Missouri include any such demand-response programs as**
7 **part of its energy efficiency plan in this proceeding?**

8 A. I don't recall, although I think not. I
9 could double check. They certainly weren't a
10 priority.

11 **Q. So one such program might be an air**
12 **conditioner cycling program that would allow the**
13 **Company to turn off or prevent an air conditioner to**
14 **coming on in perhaps a hot day in August? That would**
15 **be a demand-response program?**

16 A. Yes.

17 **Q. No such program has been discussed or**
18 **advanced here; is that right?**

19 A. Subject to check, as far as I know, yes.

20 **Q. Now, there is an energy efficiency**
21 **program that it provides for residential lighting**
22 **under the proposal by the Company; is that right?**

23 A. Yes.

24 **Q. Now is it fair to say that customers tend**
25 **to use lighting within their homes in the evening?**

1 A. It depends, but generally that's when
2 most of the lighting is used.

3 **Q. Is that the time when peak demand occurs**
4 **on a utility's system?**

5 A. Depends. Probably not as much in
6 Missouri at the moment. I haven't looked at the
7 Missouri sort of load profiles specifically.

8 **Q. I'd like to ask you about the**
9 **self-titled -- or it's -- as it's referred to, the**
10 **Non-utility Stipulation. Do you have that in front of**
11 **you?**

12 A. I do.

13 **Q. And specifically it's the Amended**
14 **Non-unanimous Stipulation and Agreement. Do you have**
15 **that?**

16 A. Yes.

17 **Q. Would you turn to page 8, paragraph 7A?**

18 A. Yes.

19 **Q. And this paragraph continues onto the**
20 **next page?**

21 A. Yes, it does.

22 **Q. And provides in explicit terms for a**
23 **performance incentive related to the reduction of peak**
24 **demand?**

25 A. Yes.

1 **Q. The incentives under this paradigm would**
2 **be paid to Ameren Missouri to incentivize it to reduce**
3 **peak demand; is that right?**

4 A. That is correct.

5 **Q. Let me ask you, do you think that -- and**
6 **you've written material concerning utility incentives.**
7 **Should incentives and incentive formulas be tied to**
8 **the desired outcome in terms of the program that's**
9 **being incentivized?**

10 A. Yeah. And I would add that kilowatt
11 demand savings is one of the desired outcomes.

12 **Q. The goal should promote the target to be**
13 **achieved; is that fair?**

14 A. Yes. If I may add, there's one important
15 piece to this that seems to be ignored in the
16 Company's response to this, which is this is one part
17 of a stipulation where there are many other parts,
18 including energy savings, budgets, program designs.
19 All those are also a part of the agreement being
20 reached here or hopefully reached. And so the
21 performance incentive isn't the only factor that's
22 going to define the outcome. All the other elements
23 of the settlement stipulation will define it as well.

24 **Q. But setting this agreement aside for just**
25 **a minute -- just a moment, an incentive should be tied**

1 **to the goal or the target that the Commission wants**
2 **the utility to achieve. Right?**

3 A. Utility has many goals. They have many
4 goals, some of which are incentivized clearly and some
5 of which are less clearly. So their overall goals
6 include safe, reliable, low-cost electricity. And
7 that should not be ignored in all of this.

8 **Q. If the goal is to assist customers with**
9 **saving energy measured by kilowatt hours, the**
10 **incentive provided to the utility should be tied to**
11 **that goal. Right?**

12 A. Not necessarily. If the program designs
13 are defined, the measures are more or less defined,
14 the energy savings are defined, the budgets are
15 defined, then what this incentive does is it should
16 not encourage the utility to modify its programs to
17 suddenly shift measure or to focus on peak savings.
18 It just should allow them to earn a share of that
19 incentive when those savings occur. It doesn't
20 redefine the entire stipulation.

21 **Q. If you look at page 8, towards the top**
22 **three little i's right there. If realized savings**
23 **exceed 834,000 kilowatt --**

24 A. I'm sorry. I'm not -- not with you. Top
25 of page 8?

1 Q. Top of page 9. I apologize.

2 A. Yes.

3 Q. If realized savings exceed 834,000
4 kilowatt, Ameren Missouri will receive a demand
5 performance incentive equal to peak kilowatt savings
6 in excess of 834,000 multiplied by \$250 per kilowatt
7 not to exceed an additional 166,000 kilowatt for a
8 total of 1 million kilowatt. Do you see that?

9 A. Yes.

10 Q. That's an incentive to reach a demand
11 goal. Right?

12 A. It is.

13 Q. And do you have any empirical analysis to
14 offer the Commission to help it assist whether or not
15 these goals are even achievable?

16 A. We have the analysis before us provided
17 by the Company in terms of energy efficiency savings
18 in terms of kilowatts and we also have the testimony
19 of the parties in terms of what's achievable.

20 Q. Has Synapse Energy prepared any analysis
21 to determine whether or not these goals are
22 achievable, these demand goals?

23 A. I have prepared testimony indicating that
24 there is a lot more energy efficiency savings, both in
25 energy savings and demand savings, than what the

1 Company has proposed in its plan.

2 **Q. But you did not testify with respect to**
3 **these specific targets and goals; is that right?**

4 A. The specific targets and goals, not
5 necessarily.

6 **Q. And as I indicated before, the Company**
7 **has not included any peak demand response programs, to**
8 **your knowledge, in its proposed measures in this case?**

9 A. That is my understanding.

10 **Q. Now, I want to direct your attention down**
11 **page 9 to the bottom of this paragraph C. The**
12 **energy-related performance incentive will be available**
13 **if so ordered by the Commission pursuant to paragraph**
14 **2D-4 above. There is no obligation imposed upon the**
15 **Commission or the parties that such a performance**
16 **incentive ever be approved; is that right?**

17 A. Whether it's approved would depend upon
18 the outcome of, you know, the process to look into the
19 additional programs.

20 **Q. May never happen; is that right?**

21 A. It's quite possible it never happens.
22 However, in this -- in this Settlement Stipulation it
23 provides the opportunity for that to happen; whereas,
24 my understanding is in the Utility Stipulation, that
25 opportunity is precluded.

1 **Q. In this particular agreement, by its**
2 **explicit terms, we don't know whether or not that**
3 **performance incentive would ever be applicable. We**
4 **won't know until a process to be conducted in the**
5 **future is determined; isn't that right?**

6 A. It is encouraged here and it will be
7 encouraged by my client, but the outcome is anyone's
8 guess.

9 **Q. I'd like to ask you about energy**
10 **efficiency as a resource. Are you comfortable with**
11 **that topic?**

12 A. Yes.

13 **Q. Now, Missouri, as we discussed before, is**
14 **an IRP jurisdiction. You'd agree with that?**

15 A. They do conduct IRP, yes.

16 **Q. And energy efficiency is considered a**
17 **resource among other options to meet demand; is that**
18 **right?**

19 A. It is. But as I say in my testimony,
20 it's only considered in a very limited way.

21 **Q. Okay. Now, for energy efficiency, unlike**
22 **a gas turbine, for example, or a gas-fired generator,**
23 **energy efficiency is not dispatchable. Would you**
24 **agree?**

25 A. Correct. Demand response could be

1 considered dispatchable. Energy efficiency, typically
2 not.

3 **Q. What does dispatchable mean to you?**

4 A. It means that it can be called upon in
5 short notice to contribute to the resource need,
6 customers need it and, you know, for the system.

7 **Q. Unlike a gas coal or nuclear unit or even**
8 **a wind unit, energy efficiency is a measure --**
9 **requires statistical methods of measurement and cannot**
10 **be directly metered. Would you agree?**

11 A. No. There are ways in which meters can
12 be used in EM&V practices to indicate the extent of
13 savings. It's not often done. It's a more expensive
14 way to do it, but it can be done.

15 **Q. So, for example, like a residential**
16 **lighting program that provides 500,000 bulbs to**
17 **customers, there -- there's no practical means to go**
18 **about metering all of those sockets that the customers**
19 **have. Right?**

20 A. If there was concern that the savings
21 weren't achieved, then it would be possible to do a
22 sample, a representative sample of those customers.
23 So it's not out of the question.

24 **Q. So you'd have to do some sort of**
25 **statistical sampling methodology in order to measure**

1 **the benefits or the energy savings. Right?**

2 A. Yes.

3 **Q. Now, with respect to a -- let's use a**
4 **nuclear power plant, for example. You can meter the**
5 **actual electric output of that facility. Correct?**

6 A. Yes.

7 **Q. Now, Ameren Missouri as a utility is**
8 **responsible to meet its customers demand 24 hours a**
9 **day, 7 days a week. Would you agree with that?**

10 A. Yes.

11 **Q. Do you agree that with respect to the**
12 **construction of natural gas, coal-fired, wind units,**
13 **nuclear plant, generation facilities of that kind,**
14 **there's a lead time for that construction required?**

15 A. Yes.

16 **Q. How long does it take, for example, to**
17 **construct a gas generating unit, do you know?**

18 A. Well, it depends on whether you include
19 siding and all the rest, but it's on the order of
20 three to four years and depends upon the unit.

21 **Q. If Ameren Missouri were to over-estimate**
22 **its energy efficiency potential and the savings, in**
23 **fact, did materialize, Ameren Missouri would have to**
24 **make up for that shortfall. Wouldn't you agree?**

25 A. Yes. And that is exactly why utilities

1 should be doing all cost effective efficiency every
2 year. Because that way, they'll have a record of how
3 much they can get, how reliable it is and they can use
4 that to help defer that -- that new power plant. If
5 they're not implementing all cost effective, then
6 there's this huge uncertainty around what they can do
7 or not.

8 **Q. Now, with respect to a goal though for**
9 **energy efficiency, if the utility sets an extremely**
10 **high goal for energy efficiency and for whatever**
11 **reasons doesn't meet that goal, there's a shortfall**
12 **that has to be made up for. Wouldn't you agree?**

13 A. There will be many years to account for
14 that, if that happens. So if, for example, there was
15 a goal of 1 percent savings --

16 **Q. Mr. Woolf, I asked you -- that's not the**
17 **question I asked. I asked you if there's a shortfall?**

18 A. Repeat the question, please.

19 **Q. To the extent there's a goal set for**
20 **energy efficiency, it's overly ambitious and the**
21 **company does not meet it, it still has to make up for**
22 **that shortfall. Wouldn't you agree?**

23 A. That's a hypothetical that is unlikely to
24 happen, but if it does, yes, the utility has to make
25 up for it. Maybe they can make up through it through

1 short-term measures like off-system purchases or
2 whatever.

3 **Q. There would be a number of methods to**
4 **make up for that shortfall; isn't that right?**

5 A. Probably, yes.

6 **Q. One possible consequence could be**
7 **delaying the retirement of a coal-fired generating**
8 **unit; is that right?**

9 A. That's one consequence.

10 **Q. Now, if I read your bio correctly, you**
11 **went to the London School of Economics for your**
12 **master's degree; is that correct?**

13 A. Actually it's called a diploma there, but
14 yes.

15 **Q. Okay. Now, you would agree that absent a**
16 **utility-sponsored energy efficiency program, customers**
17 **have the option to purchase energy efficient**
18 **appliances, bulbs and other energy efficient products?**

19 A. They have the option, yes.

20 **Q. Okay. Now, to the extent that a utility,**
21 **through a Commission-approved energy efficiency**
22 **program, offers incentives to customers, that can**
23 **enhance the already existing economic exist--**
24 **incentives that might already be present in the**
25 **marketplace. Would you agree?**

1 A. I would put it that the whole rationale
2 for utility energy efficiency programs and incentives
3 is to overcome the many market barriers that prevent
4 customers from adopting efficiency on their own.

5 **Q. Well, let's say, for example, that today**
6 **without energy efficiency at all, a customer can buy**
7 **an LED light bulb and over the course of the life of**
8 **that bulb, they'll save money. Now, with respect**
9 **to -- that's for the sake of my hypothetical.**

10 **The question is, if a utility can come in**
11 **and offer an incentive that enhances that incentive to**
12 **the customer, that can promote energy efficiency in**
13 **the utility service territory. Correct?**

14 A. Yeah. Although I want to make it clear
15 that there are many efficiency measures that the
16 utility can actually make much more readily available.
17 So, for example, light bulbs, the utilities can help
18 them be stocked so that the customer has the choice in
19 front of them. Without the utility, much, much less
20 of that would happen.

21 **Q. Now, let's say, for example, if we go**
22 **into the future, the price of power declines. And,**
23 **you know, as -- from an economic standpoint, all else**
24 **equal, can the incentives for customers to purchase**
25 **the energy efficiency appliance decline?**

1 A. The incentive for customers might
2 decline, but there still may be very good reasons for
3 the utility to provide.

4 **Q. And the utility can enhance or sustain**
5 **those incentives through the offering of incentives to**
6 **that customer to purchase that product?**

7 A. In fact, it's a very good time to do
8 that.

9 **Q. And in this regard, utility-sponsored**
10 **energy efficiency can sustain and enhance incentives**
11 **for customers to make efficient choices. Would you**
12 **agree with that characterization?**

13 A. Yes.

14 MR. TOMC: I have no further questions.

15 JUDGE PRIDGIN: Let me see if we have any
16 Bench questions. Mr. Chairman?

17 QUESTIONS BY CHAIR R. KENNEY:

18 **Q. Just briefly. Good to see you. Thank**
19 **you for being here.**

20 A. Thank you.

21 **Q. I want to ask a general question. As**
22 **between no programs at all and the programs performed**
23 **or offered in the Non-unanimous Stipulation by the**
24 **utility, which of the two would you be in favor?**

25 A. Well, I would say that it's a

1 hypothetical that I think is unrealistic, but since
2 you posed it, hypothetical, I think in general, I
3 would rather see cost effective, well designed energy
4 efficiency applied rather than nothing. That's pretty
5 much true in any state or jurisdiction.

6 **Q. So do you consider what's proposed by the**
7 **utility in the -- I'll call it the June 30th**
8 **stipulation. You consider that that would be -- that**
9 **would fit your criteria of cost effective programming?**

10 A. It's not all cost effective, but all the
11 programs within it are cost effective.

12 **Q. Okay. So as -- so as between nothing at**
13 **all and the June 30th stipulation, you'd rather see**
14 **the June 30th stipulation? I mean it's a hypothetical**
15 **so, yeah, but it's not realistic, by definition.**

16 A. Yeah. And I -- I also, if I may, I would
17 add it seems very unlikely that the Company would take
18 the risk of implementing no energy efficiency at all,
19 but since you posed the hypothetical, I would rather
20 see --

21 **Q. Why do you -- well, hold on. Why do you**
22 **say that? And what's the basis of you saying that?**

23 A. Because I think the utility has many
24 obligations, including the obligation to provide
25 low-cost, safe reliable service. If they reject any

1 one of these stipulations and instead do absolutely
2 nothing, then they're foregoing the opportunity to
3 save customers hundreds and millions of dollars at a
4 very low cost. And I would say that that means when
5 they come in for rate cases at a later point in time,
6 the additional costs incurred could be called into
7 question as to whether they're prudent or not.

8 I think the way the Company has framed
9 this whole debate, it's almost as if the shareholders
10 are the only people who matter here. They've said
11 very -- many times that if shareholders don't get what
12 they want, customers will get nothing. And that
13 ignores their obligation to serve customers at low
14 cost. And we and Commission cannot ignore that
15 obligation.

16 **Q. So let me just -- before we get back to**
17 **my hypothetical, so what you're saying then is that**
18 **it's unlikely that the utility would do nothing at**
19 **all, because in a future rate case that decision would**
20 **be challenged as an imprudent decision?**

21 A. I think it would be unwise of the utility
22 to do nothing at all because they're at risk of that.
23 And I don't know whether it would happen, but I think
24 one could raise the question of prudence, yes.

25 **Q. And based upon that possibility, the**

1 **utility is unlikely to do nothing at all?**

2 A. I think so. I think it would be a very
3 risky, unwise move.

4 Q. **So then back to my hypothetical then, the**
5 **June 30th stipulation would be better than nothing at**
6 **all. Right?**

7 A. Correct.

8 Q. **So let me turn you to the June 30th**
9 **stipulation. And I believe Mr. Tomc asked you a**
10 **question about paragraph 15 on page 9.**

11 A. Just a moment.

12 Q. **Do you have a copy? Do you have a copy**
13 **of that one still?**

14 A. I do. Just wait a moment. Page 9?

15 Q. **Paragraph 15. He was asking you a**
16 **question about that paragraph and then I think you**
17 **said that there's a fatal flaw in there that gives you**
18 **concern.**

19 A. Yes.

20 Q. **But I don't believe you were given an**
21 **opportunity to elaborate on what that fatal flaw is**
22 **that gives you concern. So I'd like to hear from you,**
23 **what's the fatal flaw that gives you concern?**

24 A. Thank you. It arises at the very end of
25 the paragraph and that's on bottom of page 10. The

1 sentence that says, The signatories agree the
2 identification of additional cost effective saving
3 strategies will not result in a change in the
4 performance incentive target.

5 And that suggests to me that even if
6 they're able to identify additional savings, the
7 companies will not receive any kind of performance
8 incentive rewards for that. And what we've heard from
9 the Company suggests if they're not going to get
10 incentive for it, they might not do it or might not do
11 it well.

12 **Q. So you think by that last sentence, it**
13 **caps where their performance incentive target can go**
14 **and, therefore, acts as a disincentive to do anything**
15 **beyond that?**

16 A. Yes. A very powerful disincentive.

17 **Q. I think those are all the questions I**
18 **have for you. Thank you.**

19 A. Thank you.

20 JUDGE PRIDGIN: Mr. Chairman, thank you.

21 COMMISSIONER STOLL: No questions. Thank
22 you for your testimony.

23 COMMISSIONER KENNEY: Thank you,
24 Mr. Woolf.

25 JUDGE PRIDGIN: All right. Thank you.

1 Any recross based on Bench questions United -- excuse
2 me: Yes, United for Missouri?

3 MR. LINTON: No questions.

4 JUDGE PRIDGIN: Renew Missouri?

5 MR. LINHARES: No questions.

6 JUDGE PRIDGIN: Tower Grove, National
7 Housing Trust?

8 MR. LINHARES: No questions.

9 JUDGE PRIDGIN: Brightergy?

10 MR. ZELLERS: No questions.

11 JUDGE PRIDGIN: MIEC, MECG I don't
12 believe are here. Staff?

13 MS. MUETH: No questions.

14 JUDGE PRIDGIN: Public Counsel?

15 MR. OPITZ: No questions, Judge.

16 JUDGE PRIDGIN: Division of Energy?

17 MR. ANTAL: No questions.

18 JUDGE PRIDGIN: NRDC?

19 MR. ROBERTSON: No questions.

20 JUDGE PRIDGIN: Ameren Missouri?

21 MR. TOMC: One question, Your Honor.

22 RECROSS-EXAMINATION BY MR. TOMC:

23 **Q. Mr. Woolf, did you review the MEEIA**
24 **statute before writing your testimony in this case?**

25 A. Yes.

1 **Q. Would you agree with me that that statute**
2 **provides for permissive allowance of energy efficiency**
3 **sponsored by utility programs in the state of**
4 **Missouri?**

5 A. Yes. My point is that their utility is
6 subject to other statutes and regulations, which
7 require them to consider their customers when making
8 decisions such as this.

9 **Q. Did you review the MEEIA regulations of**
10 **this Commission before providing testimony in this**
11 **case?**

12 A. Yes, I did.

13 **Q. Are you aware that to the extent an**
14 **energy efficiency plan is modified by this Commission,**
15 **that the Company has the ability to accept or reject**
16 **those modifications? Are you aware of that?**

17 A. I'm aware of, that, yes.

18 **Q. To the extent that the plan in this**
19 **proceeding is rejected or modified in a manner**
20 **incompatible with the interest of shareholders in this**
21 **proceeding, would you agree that incentives between**
22 **customers and shareholders are not aligned?**

23 A. Sorry. Could you repeat that?

24 **Q. Let me rephrase it. Should this**
25 **Commission, when looking at an energy efficiency plan**

1 **for approval or rejection, look to align the**
2 **incentives of shareholders and customers?**

3 A. Yes. And I see a line to mean a fair
4 balance between the two.

5 MR. TOMC: No further questions, Your
6 Honor.

7 JUDGE PRIDGIN: Thank you. Redirect?

8 MS. TAUBER: Yes, Your Honor. May I
9 approach?

10 JUDGE PRIDGIN: You may.

11 REDIRECT EXAMINATION BY MS. TAUBER:

12 Q. **Good afternoon.**

13 A. Good afternoon.

14 Q. **So I'm going to try to be brief here.**
15 **I'm going to start first with a discussion that you**
16 **had with counsel with Division of Energy, who was some**
17 **time ago so I'll try to refresh your memory. You**
18 **talked with counsel for the Division about -- you**
19 **talked a bit about the process contained in the**
20 **Non-utility Stipulation with regards to a panel of**
21 **experts. Do you generally recall?**

22 A. I do.

23 Q. **Are you familiar with this type of**
24 **process?**

25 A. Yeah. There are many ways to do it, but

1 yes, I am familiar with the process, in general.

2 **Q. What's your sense of the value of this**
3 **type of a process?**

4 A. It's highly valuable. In other states
5 there has been what's been called collaborative
6 processes or they might have advisory councils. And
7 in my mind, when those work well -- which is not
8 always, but when they work well, it's one of the most
9 effective way to make progress here.

10 **Q. What's your understanding of the point of**
11 **that provision in the Non-utility Stipulation, as it**
12 **applies to this case?**

13 A. Well, the point is to take some of the --
14 the debate and the discussion of the details out of
15 the context of a regulatory proceeding where
16 everything has to be done through discovery and
17 testimony and to put it into a more opening setting
18 where we can -- and the parties can sort of discuss
19 different options and maybe come to a better
20 understanding of what the options are.

21 **Q. And when you say "options," is that with**
22 **regards to energy savings?**

23 A. Yeah. The types of programs and -- as
24 described here, the -- I think they're called the --
25 well, I'm not sure what the exact term is, but both

1 stipulations say -- let me just find it, strategies.
2 Strategies to be assessed.

3 **Q. Do you think there are more strategies to**
4 **be assessed with respect to Ameren delivering energy**
5 **efficiency programs than is what -- what has been**
6 **reflected in this case thus far?**

7 A. Yeah. I very much agree with the
8 strategies that are listed in the Non-utility
9 Stipulation.

10 **Q. Okay. Now, turning to your**
11 **cross-examination from counsel for the Company, there**
12 **were a series of questions with regards to specific**
13 **measures such as CFLs, CHP that are in the Utility**
14 **Stip and not the Non-utility Stip. Do you recall**
15 **that?**

16 A. I do.

17 **Q. And you don't deny that that's the case.**
18 **Right?**

19 A. No. Those are -- those are what's --
20 those are descriptions of what's in each stip.

21 **Q. So if that's the case, what's your**
22 **understanding of why Sierra Club doesn't support that**
23 **stipulation?**

24 A. Couple of reasons. The main one I
25 described earlier is that the process of going forward

1 in the Utility Stipulation has a fatal flaw of sort of
2 not allowing performance incentives and creating that
3 huge risk or perceived risk by the utility.

4 But also, I find the shareholder
5 incentive and the throughput disincentive in the
6 Non-utility Agreement to be much more in line with
7 customers' interest and a much better balance between
8 shareholders and customers.

9 **Q. Now, what's your -- you were asked a**
10 **series of questions again about both stipulations.**
11 **And both stipulations have energy savings estimates in**
12 **them. Do you know that to be true?**

13 A. Yes.

14 **Q. What's your opinion on whether one or**
15 **both or either are sufficient?**

16 A. Well, as I said in my testimony, I think
17 that there's a lot more cost effective potential
18 throughout Ameren service territory than what's in the
19 Company's plan or what's in the stipulate -- either
20 stip. So if it were possible, if the regulators
21 allowed it, I would much prefer a much higher savings
22 in either case.

23 **Q. So do you agree then that the -- the**
24 **process in the Non-utility Stip is really taking the**
25 **long view about where we can go with energy efficiency**

1 **and not so much being satisfied with what's presented?**

2 A. Yes. It's putting a lot more emphasis on
3 2016 -- I'm sorry, 2017 and '18 to be used to make
4 more progress than we've made in this docket.

5 **Q. Now, you mentioned in response to counsel**
6 **for the Company that the Commission has another**
7 **option; they can adopt recommendations in your**
8 **testimony. Do you recall that?**

9 A. Yes.

10 **Q. Could you remind us what was your**
11 **recommendation of your testimony?**

12 A. Well, the primary findings were -- and
13 these findings were shared by many parties in the
14 docket, that the Company's efficiency plan vastly
15 understates the potential for cost effective energy
16 efficiency in the state even in these three years.
17 And I recommend that, among many things, that instead
18 they set a goal that's equal to the targets in MEEIA.
19 Quite simply that.

20 **Q. And what were those targets in MEEIA?**

21 A. They're on the order of 1 percent. I
22 think it starts at 1 and goes up to 1.1, 1.3, but it's
23 in that order of, you know, percent of sales saved
24 through energy efficiency.

25 **Q. If I represented to you that it was**

1 **between 1.1 and 1.5, would that sound --**

2 A. Yes. That sounds right. Thank you.

3 **Q. Where is the Company now on that -- using**
4 **that metric percentages?**

5 A. Well, in their plan they're at I think
6 .4 percent.

7 **Q. Each year?**

8 A. Each year, yes. Each one of those is an
9 annual metric.

10 **Q. So you were also asked several questions**
11 **from counsel from the Company using your materials as**
12 **exhibits, questions about recovery of lost revenue and**
13 **performance incentives. Do you generally recall those**
14 **types of questions?**

15 A. I do.

16 **Q. Now, you're not suggesting that there**
17 **should be no recovery of lost revenues?**

18 A. Correct.

19 **Q. And you're not suggesting that there**
20 **shouldn't be a performance incentive?**

21 A. Correct.

22 **Q. Okay. Now, with respect to the**
23 **discussion of decoupling or, as you called it, revenue**
24 **regulation, you, in an exchange with counsel for the**
25 **Company, responded that there is no EM&V with revenue**

1 **regulation, that it's not necessary?**

2 A. Yes.

3 **Q. And I just want to be clear. Could you**
4 **explain that as it pertains to revenue regulation and**
5 **perhaps explain why that may not be the case here?**

6 A. Yes. So under revenue regulation, the --
7 there's an adjustment between rate cases -- typically
8 it's every year -- where the utility and regulators
9 will look at the actual sales that occurred in the
10 past year and true-up the amount of revenues that were
11 allowed to the Company based upon those sales.

12 And so there's no need to figure out
13 whether the adjust -- the changes to sales were driven
14 by any energy efficiency, distributed generation, the
15 economy, the weather. You don't need to know. All
16 you need to know is what were the sales. And the
17 Company, of course, knows that anyway. So it's a very
18 simple adjustment to make.

19 **Q. Now, with the adjustments that are at**
20 **issue from both stipulations in this case, using some**
21 **version of a mechanism to solve the throughput**
22 **disincentive, is EM&V important there?**

23 A. Oh, yes, it's very important.

24 **Q. Why?**

25 A. Because -- first of all, I should explain

1 that I think lost revenue adjustment mechanism such as
2 what's proposed in both of these should be avoided at
3 all costs. Decoupling is just a much better way to
4 achieve the goal.

5 I see what we've -- what Sierra Club has
6 agreed to in this stipulation as a transition.
7 Hopefully, a transition just for the next year or two
8 until Missouri investigates and hopefully adopts a
9 full decoupling mechanism.

10 So with that introduction, I've forgotten
11 what your question was.

12 **Q. I have to confess, I do not remember**
13 **myself. I think we got the point.**

14 A. Okay.

15 **Q. Now, let me ask you, there was one other**
16 **exchange -- and I do not intend misrepresent what**
17 **counsel said. What I thought I heard was a discussion**
18 **of performance incentives and the word "guarantee" was**
19 **used and I don't know how it was used. I want to just**
20 **be clear. You don't believe performance incentives**
21 **should be guaranteed, do you?**

22 A. No. They should be provided based upon
23 performance that meets the standards of the -- you
24 know, the way the standards are set out.

25 **Q. Almost there. I think my second-to-last**

1 question is again in an exchange with counsel for the
2 Company, he asked about what would happen if a utility
3 missed an overly ambitious goal -- energy savings
4 goal. Do you recall that?

5 A. I do recall that.

6 Q. Would you characterize Ameren's
7 efficiency goals as overly ambitious?

8 A. Not even close, no.

9 Q. How would you characterize them?

10 A. I would characterize them as less than
11 modest. I think a 1 percent target is quite
12 reasonable. I think they could achieve a lot more. I
13 think, as I said, that with time as the utility gets
14 more experience with higher levels of savings, then
15 they can become -- we can all become more comfortable
16 with how reliable they'll be.

17 Q. And my final question, I'm just going to
18 grab it. If I can ask you to turn to Exhibit 117,
19 there was something that I think you mentioned you
20 might want to clarify. And I just want to ask you
21 about that.

22 And, Mr. Woolf, it's the utility
23 performance mechanism. I think that's right. And
24 it's on page 12 where you were with Mr. Tomc, the
25 bolded heading Innovation. Are you there?

1 A. Yes.

2 Q. So I believe the first sentence, there is
3 little incentives for utilities to adopt innovative
4 practices, and so on, under traditional
5 cost-of-service regulation.

6 I believe you said that you may want to
7 clarify the word "innovative," and I just wanted to
8 give you the opportunity to do so if you have any
9 clarification.

10 A. Yeah. In general, I think this point is
11 true. I think that it is not really even challenged.
12 I think the question is, you know, what's innovative.
13 And this report in its entirety was meant to cover a
14 variety of new futures and new opportunities, not just
15 energy efficiency but also distributed generation,
16 electric vehicles, storage and so forth, Smart Grid.
17 And a lot of those fall more into the category of
18 innovation.

19 Energy efficiency, again, they don't have
20 a lot of incentive to innovate there. However, I
21 would not describe that as innovative technology at
22 this point. At this point it is mainstream
23 practically. And so there is much less uncertainty or
24 question about their -- its performance and its
25 deliverability. Nonetheless, there's still less

1 incentive to be innovative about energy efficiency.

2 MS. TAUBER: Your Honor, that's all the
3 questions I have. Thank you.

4 JUDGE PRIDGIN: Ms. Tauber, thank you.

5 Mr. Woolf, thank you very much.

6 THE WITNESS: Thank you

7 JUDGE PRIDGIN: You may be excused.

8 This looks to be a good time to break for
9 lunch. And before we do that, let me inquire of
10 counsel. I believe the next witness on the list would
11 be Mr. Hyman, but I know Ms. Barnes has not yet
12 testified. Does counsel know if Ms. Barnes will be
13 available immediately after lunch?

14 MS. TATRO: I believe that she will, but
15 I've not yet confirmed that she's back. But I have a
16 reason to believe she will.

17 JUDGE PRIDGIN: So if Ms. Barnes is
18 available, we will put her on the stand; and if not,
19 we'll go on to Mr. Hyman. Is that what I'm hearing?

20 MS. TATRO: Yes.

21 JUDGE PRIDGIN: I'm seeing some nods.
22 Any objections? Anything else from counsel before we
23 break? All right. Hearing nothing, let's go back on
24 the record at 1:45 and we will stand in recess until
25 then. Thank you. We are off the record.

1 (Ameren Exhibits 101, 103 and 103 were
2 marked for identification.)

3 JUDGE PRIDGIN: Good afternoon, Counsel.
4 We are back on the record. I understand Ms. Barnes
5 has taken the stand and will be sworn in here
6 momentarily. And then just to make sure I understand,
7 we've already had Mr. Woolf on the stand. We would
8 then go on to Mr. Hyneman is the next witness and then
9 continue with the list. Is that everyone's
10 understanding? I'm seeing nods. Very good. Anything
11 further before Ms. Barnes is sworn?

12 All right. Ms. Barnes, if you will raise
13 your right hand to be sworn, please.

14 (Witness sworn.)

15 JUDGE PRIDGIN: Thank you very much.

16 And Mr. Lowery, when you're ready, sir.

17 MR. LOWERY: Thank you, Your Honor.

18 LYNN BARNES testified as follows:

19 DIRECT EXAMINATION BY MR. LOWERY:

20 Q. Could you state your name for the record,
21 please.

22 A. Lynn Barnes.

23 Q. Ms. Barnes, am I correct that you caused
24 to be prepared and filed in this docket three pieces
25 of testimony, Surrebuttal Testimony, Supplemental

1 **Testimony and Rebuttal Testimony to the Non-utility**
2 **Stipulation which have been marked as Exhibits 101,**
3 **102 and 103 respectively?**

4 A. Yes.

5 **Q. Do you have any corrections to any of**
6 **those testimonies?**

7 A. I do. On the Surrebuttal Testimony when
8 I originally drafted it, I think I misunderstood
9 Mr. Oligschlaeger's testimony originally, although it
10 did not affect the conclusions that I made in that
11 Surrebuttal Testimony. We originally were assuming,
12 as I was reading through it, that he was proposing an
13 EM&V after the fact to the TDNSB calculation and he
14 was not in that testimony. Subsequently, I think that
15 has been added to the Non-utility Stip, but it wasn't
16 in that Surrebuttal Testimony. And again, it didn't
17 change the conclusions.

18 And then I do have one typographical
19 error on my Supplemental Testimony. On page 4, line 2
20 the term TSNSB needs to be TDNSB.

21 **Q. And the reason that the correction that**
22 **you made to your Surrebuttal Testimony and the**
23 **misunderstanding you had doesn't affect your**
24 **conclusions is because while Mr. Oligschlaeger was not**
25 **recommending EM&V be reapplied retroactively at that**

1 **time, he was recommending some other assumptions be**
2 **applied retroactively. Right?**

3 A. Yes. And that's the impact that I --
4 didn't change my conclusions. It's just the fact that
5 it was retroactive; didn't really matter how it
6 happened.

7 **Q. But effectively we've gotten to where you**
8 **thought we were through the Non-utility Stipulation.**
9 **Correct?**

10 A. That's correct.

11 MR. LOWERY: With that, Your Honor --

12 BY MR. LOWRY:

13 **Q. Well, let me just back up. So with that**
14 **correction, if I were to you ask you the same**
15 **questions, would your answers be the same today?**

16 A. Yes.

17 MR. LOWERY: Your Honor, with that, I
18 would offer Exhibits 101, 102, 103 into the record and
19 tender Ms. Barnes for cross-examination.

20 JUDGE PRIDGIN: Very good. Any
21 objection?

22 MS. MUETH: Yes, Your Honor. Staff
23 objects to portions of Exhibit 101 and 103. In these
24 two pieces of Ms. Barnes' pre-filed testimony she
25 refers to advice she apparently received from

1 accounting firms, to include Ameren's auditor, yet she
2 provides no support or documentation. We don't know
3 specifically who she spoke with or what questions were
4 asked. The witnesses have not been -- have not
5 provided any testimony in this case and have not been
6 made available for cross.

7 Therefore, her testimony contains
8 inadmissible hearsay and those portions should not be
9 admitted into the record for this case.

10 JUDGE PRIDGIN: Mr. Lowery?

11 MR. LOWERY: Your Honor, as the Bench
12 knows, Ms. Barnes is an expert witness and she's, in
13 this particular case, an expert witness in accounting.
14 Experts can rely upon hearsay for their opinions and
15 that's what she's done here. And in that event, the
16 information is admissible. The witness need not
17 appear. And I believe that's under 490.065 of the
18 Missouri Revised Statutes.

19 JUDGE PRIDGIN: I will overrule the
20 objections. Exhibits 101, 102, 103 are admitted.

21 (Ameren Exhibits 101, 102 and 103 were
22 received into evidence.)

23 JUDGE PRIDGIN: Mr. Lowery, anything
24 further?

25 MR. LOWERY: No, thank you, Your Honor.

1 JUDGE PRIDGIN: Cross-examination.
2 United for Missouri?

3 MR. LINTON: I have no questions.

4 JUDGE PRIDGIN: Thank you. NRDC?

5 MR. ROBERTSON: No questions.

6 JUDGE PRIDGIN: Division of Energy?

7 MR. ANTAL: No questions. Thank you.

8 JUDGE PRIDGIN: Renew Missouri?

9 MR. LINHARES: No questions.

10 JUDGE PRIDGIN: Tower Grove, National
11 Housing Trust?

12 MR. LINHARES: No questions.

13 JUDGE PRIDGIN: Thank you. Sierra Club?

14 MS. TAUBER: No questions, Judge.

15 JUDGE PRIDGIN: Brightergy?

16 MR. ZELLERS: No questions, Your Honor.

17 JUDGE PRIDGIN: I don't see MIEC or MECG.
18 Public Counsel?

19 MR. OPITZ: No questions, Judge.

20 JUDGE PRIDGIN: Staff?

21 MS. MUETH: Yes, Your Honor.

22 CROSS-EXAMINATION BY MS. MUETH:

23 **Q. Good afternoon, Ms. Barnes.**

24 **A. Good afternoon.**

25 **Q. In your testimony you express concerns**

1 regarding Ameren's ability to book revenues in the
2 context of throughput disincentive recovery in the
3 event a retrospective true-up of lost revenue recovery
4 is ordered by the Commission; is that correct?

5 A. That's correct.

6 Q. Are you aware of any proceedings in other
7 jurisdictions in which a utility raised identical or
8 very similar accounting concerns pertaining to
9 recovery of lost revenue amounts as those you express
10 in your testimony?

11 A. I actually didn't go and do an extensive
12 search for orders that specifically do that.

13 Q. Okay. Are you familiar with the
14 accounting and rate-making treatments applied to those
15 expense items for which Ameren Missouri has or had
16 tracker mechanisms in place?

17 A. Yes.

18 Q. Can you give an example or two?

19 A. Sure. We've just recently discontinued
20 trackers on vegetation management and inspection
21 costs. In the last rate order those trackers were
22 discontinued, but we had them for many years before
23 that.

24 Q. Okay. Thank you.

25 A. Uh-huh.

1 Q. Let's assume Ameren Missouri has a
2 tracker mechanism in place for an expense and the
3 amount of that expense is increasing while the
4 tracker's in place.

5 A. Uh-huh.

6 Q. Would you agree that the existence of the
7 tracker would protect the Company's earnings from the
8 impact of the increased expense until its next general
9 rate case?

10 A. Yes.

11 Q. But the existence of a tracker would not
12 mean any increase in cash received from customers to
13 cover the greater amount of expense until the next
14 general rate case?

15 A. That's correct, uh-huh.

16 Q. So let's assume that the non-utility
17 alternate proposal is approved that would provide for
18 deeming two-thirds of Ameren Missouri's throughput
19 disincentive but allow current recovery of the entire
20 amount of projected throughput disincentive in this
21 proceeding.

22 If, in fact, Ameren Missouri incurs more
23 than two-thirds of its estimated amount of throughput
24 disincentive, under the non-utility proposal your
25 contention is that Ameren Missouri's earnings would

1 not be protected against the impact of this loss in
2 sales above the deemed level; is that --

3 A. That's correct, uh-huh.

4 Q. However, Ameren Missouri would receive
5 cash from customers on a concurrent basis to offset
6 the cash impact of the shortfall in sales; isn't that
7 right?

8 A. If those were built into the rider,
9 because we collect under the rider mechanism. But
10 collecting the revenues from the customers is not
11 equal to recording the revenues.

12 Q. Okay. Thank you. Can you refer to
13 page 6 of your Rebuttal Testimony to -- sorry,
14 Rebuttal to the Non-utility Stipulation, just so that
15 we're clear. And please refer to lines 8 and 9. So
16 here you said -- sorry. Before I go, are you there?

17 A. Uh-huh.

18 Q. Okay. You said, Subjecting the
19 throughput disincentive to after-the-fact change
20 entirely precludes recognizing the revenues.

21 A. That's correct. Uh-huh.

22 Q. Okay. Now let's turn to page 8 and look
23 at lines 5 and -- 5 and 6. And here you said,
24 One-third of the unrealized revenues cannot be
25 recognized; is that correct?

1 A. Yes.

2 Q. Okay. So isn't it true that under either
3 proposal laid out in the Non-utility Stipulation, the
4 two-thirds or the 100 percent with the --

5 A. Uh-huh.

6 Q. -- one-third subject to refund --

7 A. Uh-huh.

8 Q. -- Ameren would be able to recognize the
9 two-thirds unrealized revenues in the same way it
10 would recognize the TDNSB revenues laid out in the
11 Utility Stipulation?

12 A. Yes. Because they are deemed, uh-huh.

13 Q. Okay. Isn't it also true that under
14 either non-utility proposal, Ameren would be able to
15 recognize the additional one-third of unrealized
16 revenues after EM&V is complete?

17 A. That's right. Which would be well after
18 we actually incurred the losses.

19 Q. All right. Looking at the Non-utility
20 Stipulation proposal in which Ameren would collect
21 100 percent of its throughput disincentive with the
22 top third subject to potential refund, would you agree
23 that GAAP, G-A-A-P, at the very least would allow
24 Ameren to bill for the throughput disincentive, book
25 the top one-third as a liability, offer a potential

1 **refund after EM&V and transfer the non-refunded money**
2 **to a revenue account?**

3 A. Yeah. That's exactly how it would work.
4 But again, it's out of period because the EM&V would
5 be happening after the calendar year in which -- under
6 which the losses were incurred.

7 **Q. Okay. But in this manner Ameren would**
8 **actually recognize the revenues?**

9 A. No. We would only recognize two-thirds
10 of the revenue and we could only recognize that
11 one-third after the Ameren in the subsequent period.

12 **Q. Okay. Thank you.**

13 A. Uh-huh.

14 MS. MUETH: Your Honor, may I approach?

15 JUDGE PRIDGIN: You may.

16 BY MS. MUETH:

17 **Q. Okay. I just handed you certain pages**
18 **from the 2014 Ameren 10-K filing with the SEC. Are**
19 **you familiar with that document?**

20 A. Yes.

21 **Q. Okay. Sorry. I've now got myself**
22 **disorganized up here.**

23 **This schedule shows all regulatory assets**
24 **booked by Ameren Corporation, Ameren Illinois and**
25 **Ameren Missouri; is that correct?**

1 A. In its entirety, yes.

2 Q. And would you agree that Ameren Missouri
3 is referred to as Union Electric Company on these
4 pages?

5 A. Yes. Because that's our registrant name.

6 Q. Looking at the regulatory assets listed
7 for Union Electric, can you tell me which assets are
8 associated with MEEIA rate recovery?

9 A. Figure out what page you have your list
10 of assets.

11 Q. It's near the back of the document. I --
12 one moment. I'll help you find it. Page 94, if you
13 can find that. And actually 94 is kind of a
14 continuation of two pages, so it's behind 93.

15 A. Okay. On the first page, if you want to
16 call it that --

17 Q. Sure. First of page 94?

18 A. Of these two pages, of page 94, it would
19 be the fourth line -- one, two, three, four -- fifth
20 line down and there's an Ameren Missouri column. It
21 says Energy Efficiency Riders and the number -- the
22 balance in 2014 was \$3 million.

23 Q. Can you explain why this regulatory asset
24 was booked?

25 A. Sure. What that regulatory asset

1 represents is the difference between what we collect
2 from customers in the rider that we adjust once a year
3 and what we're actually able to record either as a
4 program cost or as a lost revenue.

5 So we record the program costs based on
6 what we spend. And if we collect more from customers
7 than what we spent, then we -- we have a liability
8 because we refund it back to customers. If we spend
9 more than we collect from customers, then we record an
10 asset because we're going to collect it at a later
11 date.

12 Similarly with the -- the throughput
13 disincentive, we actually record revenues on the
14 actual number of units that we deliver from an energy
15 efficiency perspective. And that may be different and
16 usually is different than what we actually collect
17 from customers through the rider. So any differences
18 between what we can record as revenue based on what
19 actually happened and what we collect from customers
20 shows up in this regulatory asset.

21 **Q. Okay. Thank you.**

22 MS. MUETH: Your Honor, I would like to
23 have this exhibit marked.

24 JUDGE PRIDGIN: I show this as number
25 715.

1 (Staff Exhibit 715 was marked for
2 identification.)

3 MS. MUETH: And I would offer this into
4 the record.

5 JUDGE PRIDGIN: Exhibit 715 has been
6 offered. Any objection?

7 Hearing none --

8 MR. LOWERY: No -- no -- I'm sorry, Your
9 Honor. No objection for Ameren Missouri. And I don't
10 think this will be necessary, but since it's just part
11 of the 10-K, if we, upon review, felt that some other
12 part for completeness needed to be offered, we might
13 do that at a later time.

14 JUDGE PRIDGIN: Okay. Thank you.

15 All right. 715 is admitted into
16 evidence.

17 (Staff Exhibit 715 was received into
18 evidence.)

19 BY MS. MUETH:

20 **Q. Ms. Barnes, is it your testimony that any**
21 **retrospective true-up of the value regarding assumed**
22 **kilowatt hour savings per DSM measure installed for**
23 **purposes of setting the rate amount of your throughput**
24 **disincentive recovery would effectively preclude**
25 **Ameren Missouri from recognizing throughput**

1 **disincentive revenues until after the true-up had been**
2 **completed?**

3 A. Yes.

4 **Q. Okay. Is it your testimony that any**
5 **retrospective true-up of the value regarding the**
6 **assumed net-to-gross ratio for purposes of setting the**
7 **rate amount of your throughput disincentive recovery**
8 **would effectively preclude Ameren Missouri from**
9 **recognizing throughput disincentive revenues until**
10 **after the true-up had been completed?**

11 A. Yes.

12 **Q. Is it your testimony that any**
13 **retrospective true-up of the value regarding assumed**
14 **avoided costs for purposes of setting the rate amount**
15 **of your throughput disincentive recovery would**
16 **effectively preclude Ameren Missouri from recognizing**
17 **throughput disincentives until after the true-up is**
18 **completed?**

19 A. I'm not sure I know the calculation well
20 enough to know how avoided costs actually fit into
21 that mechanism. What I can tell you is that the
22 standard's very clear that the amount that we record
23 in revenues has to be objectively determinable, which
24 means we need to know what it's worth or what the
25 value is prior to recording the revenue.

1 And if any part -- part of that
2 calculation is something that is subject to a review
3 after the fact, then I do not have an objectively
4 determinable ability to determine that amount, so I
5 can't record it.

6 **Q. Okay. Thank you. Is it your testimony**
7 **that compliance with ASC 980-605-25 in the manner it**
8 **is interpreted by Ameren Missouri is mandatory on the**
9 **Company if the non-utility throughput disincentive**
10 **proposal is adopted?**

11 A. Yes.

12 **Q. Would such accounting treatment also be**
13 **mandatory on other utilities implementing DSM**
14 **programs?**

15 A. Yes. That is the accounting standard
16 that we all have to follow.

17 **Q. Okay. So if another utility's recovering**
18 **throughput disincentive amounts in rates that are**
19 **subject to retrospective true-up -- restatement. Your**
20 **testimony is that such utilities would be precluded**
21 **from recognizing those revenues at the time of rate**
22 **recovery?**

23 MR. LOWERY: I'm going to object that
24 that assumes facts not in evidence.

25 JUDGE PRIDGIN: I'll overrule. She

1 already -- I mean I think she's going to the prior
2 question, which was isn't this the way everyone has to
3 do it. And I think that's what she's getting at, so
4 I'll overrule.

5 MR. LOWERY: As long as it's clear that
6 it's being posed as a hypothetical, then I would
7 withdraw my objection.

8 THE WITNESS: So I obviously cannot speak
9 for other companies because I only work at Ameren, but
10 if they are following GAAP, and that is the guidance
11 that is required, then they would not be able to
12 record revenues in the current period if they have
13 retrospective or retroactive review.

14 BY MS. MUETH:

15 **Q. Do you know if other utilities in a**
16 **similar situation are accounting for that in a manner**
17 **that Ameren Missouri claims they're required to?**

18 A. I have not spoken with specific companies
19 on that. What I have done is talked with three of the
20 four national accounting firms who do audits of
21 utility companies and have gotten their advice around
22 how they audit those companies and whether or not
23 we're all following the same GAAP.

24 **Q. Okay. Can you tell me who PWC is?**

25 A. They're our auditors. That's

1 PricewaterhouseCoopers.

2 **Q. Okay. Has PWC put out a document called**
3 **Guide to Accounting for Utilities and Power Companies?**

4 A. Yes.

5 **Q. And are you familiar with that document?**

6 A. Yes. I refer to it often.

7 **Q. Okay. I believe you referred to this**
8 **document in a response to a Staff Data Request?**

9 A. Uh-huh.

10 MS. MUETH: Your Honor, may I approach?

11 JUDGE PRIDGIN: You may.

12 BY MS. MUETH:

13 **Q. Okay. So what I've handed you is Staff's**
14 **Data Request Number 8 and the Company's response to**
15 **it. Does that look familiar to you?**

16 A. Yes. Uh-huh.

17 **Q. Okay. In this data request response you**
18 **reference that Guide to Accounting Principles, did you**
19 **not?**

20 A. Yes.

21 **Q. Okay. Among the topics covered in this**
22 **guide is accounting for alternative revenue programs,**
23 **is it not?**

24 A. Yes.

25 **Q. And did you and Mr. Hoffman provide those**

1 **pages of the document dealing with that accounting for**
2 **alternative revenue programs to Staff as part of that**
3 **data request?**

4 A. Absolutely we did.

5 Q. Okay. Do you have your Surrebuttal
6 Testimony with you?

7 A. I do.

8 Q. Can you turn to page 17, please. And
9 would you read that first sentence that's lines 1
10 through 5, please?

11 A. In addition, the Company's external
12 auditors, PricewaterhouseCoopers, LLC, agree that any
13 approach that could cause any part of the revenues
14 received under the TDNSB component of the DSIM to be
15 retroactively changed based on EM&V, which is exactly
16 what a true-up would do, is not objectively
17 determinable within the meaning of the standard.

18 Q. And can you -- I'm sorry. Can you read
19 the following sentence that ends on line 6 as well,
20 please?

21 A. PWC partner and auditor, Stephen Ditman,
22 so testified in the MEEIA 1 case and PWC's opinion has
23 not changed.

24 Q. Okay. Are you familiar with the
25 Surrebuttal Testimony filed by Mr. Ditman in Case

1 **Number E0-2012-142?**

2 A. Yes.

3 **Q. Okay.**

4 MS. MUETH: Your Honor, one more time,
5 may I approach?

6 JUDGE PRIDGIN: You may.

7 MS. MUETH: Your Honor, actually I don't
8 recall. Did I offer the last -- the Staff data
9 request to be marked as an exhibit and to be offered
10 into evidence?

11 JUDGE PRIDGIN: You did not.

12 MS. MUETH: Can I do that now?

13 JUDGE PRIDGIN: You may. That would be
14 Exhibit Number 716.

15 (Staff Exhibit 716 was marked for
16 identification.)

17 JUDGE PRIDGIN: And I'm sorry. You had
18 moved that to be admitted into evidence?

19 MS. MUETH: Yes, your Honor.

20 JUDGE PRIDGIN: All right. Any
21 objections?

22 MR. LOWERY: No objection.

23 JUDGE PRIDGIN: Hearing no objection,
24 Exhibit 716 is admitted into evidence.

25 (Staff Exhibit 716 was received into

1 evidence.)

2 MS. MUETH: And can I have what I just
3 handed out marked.

4 JUDGE PRIDGIN: This will be Exhibit 717.
5 Mr. Dittman's Surrebuttal in E0-2012-0142. And are you
6 moving for that to be admitted yet?

7 MS. MUETH: Sure. I'll go ahead and move
8 now.

9 JUDGE PRIDGIN: Any objection?

10 MR. LOWERY: No objection.

11 JUDGE PRIDGIN: 717 is admitted.

12 (Staff Exhibit 717 was marked for
13 identification and received into evidence.)

14 BY MS. MUETH:

15 Q. Okay. Ms. Barnes, can you refer to your
16 Rebuttal to the Non-utility Stipulation, line -- or
17 page 4? And what I'd like you to quickly review is
18 lines 1 through 13. And once you've had the chance to
19 look over it, please let me know.

20 A. Okay.

21 Q. Okay. Let's narrow this down a little
22 bit more to lines 5 through 9 where you state, The
23 purpose of any mechanism implemented to address the
24 throughput disincentive should be to neutralize the
25 Company's financial losses associated with foregone

1 sales due to successful energy efficiency measures.
2 This is absolutely a prerequisite for the alignment of
3 utility interests with achieving energy efficiency
4 savings for customers.

5 Did I read that correctly?

6 A. Yes, you did.

7 Q. In that context when you use the word
8 "alignment," you're referring to Missouri Revised
9 Statute Section 393.1075.3, Section 2, which states,
10 The Commission shall ensure that utility financial
11 incentives are aligned with helping customers use
12 energy more efficiently and in a manner that sustains
13 or enhances utility customers' incentives to use
14 energy more efficiently; is that correct?

15 A. Yes.

16 Q. Okay. What specifically is your
17 definition of alignment in this context?

18 A. The way I think about alignment is
19 that -- you know, in the energy efficiency space, the
20 way I think about it is, you know, from a traditional
21 regulatory model, our -- our business is to make
22 investments which we earn on those investments and to
23 sell electricity to our customers.

24 And if we're in a situation where we are
25 now posed with a request to ask customers to use less

1 of our product, then alignment to me means that we're
2 balancing customer interests with shareholder
3 interests. And so we need to design a mechanism --
4 which I believe the statute recognized -- to give a
5 departure from a traditional regulatory framework in
6 order to allow the utilities and the shareholder of
7 those utilities to not be harmed by offer-- by
8 offering programs to our customers that are going to
9 encourage them to use less of our product, which is
10 how we earn money in our regulatory environment.

11 **Q. Okay. In your Rebuttal to the**
12 **Non-utility Stipulation you testified to the**
13 **meaningfulness of the earnings opportunity under the**
14 **Non-utility Stipulation. Correct?**

15 A. Yes. The earnings opportunity meaning
16 the performance incentive, not the --

17 **Q. Yes.**

18 A. -- not the throughput disincentive.

19 **Q. Yes.**

20 A. Uh-huh.

21 **Q. So when you provide Ameren Missouri's**
22 **position on the suitability of the various performance**
23 **incentives under the MEEIA statute, you're referring**
24 **to Missouri Revised Statutes Section 393.1075.3,**
25 **Section 3. Correct?**

1 A. Yes.

2 Q. **Okay. I have nothing further.**

3 JUDGE PRIDGIN: Ms. Mueth, thank you.

4 Let me see if we have any Bench

5 questions. Mr. Chairman?

6 QUESTIONS BY CHAIR R. KENNEY:

7 Q. **Good afternoon, Ms. Barnes. How are you?**

8 A. I'm fine. How are you, Chairman Kenney?

9 Q. **I'm doing well. Thanks. I just have a**
10 **few questions.**

11 **Were you in the room when Mr. Woolf**
12 **testified for Sierra Club?**

13 A. No, I was not. Sorry.

14 Q. **Okay. Well, he talked about -- well, let**
15 **me back up then. Never mind that question. I'll come**
16 **back to Mr. Woolf.**

17 **If the Commission doesn't approve the**
18 **June 30th stipulation and approves either the July**
19 **stipulation or the June stipulation with some**
20 **modifications, is it Ameren's position that it won't**
21 **offer any energy efficiency programs at all?**

22 A. So I believe in my testimony what I say
23 is that if the Commission does not adopt the
24 Non-utility Stipulation, that we most certainly can't
25 move forward with that particular plan. I think, you

1 know, other than that stipulation and the one that
2 we've offered, I can't address what any kind of
3 modification between the two of those might look like
4 to be able to say affirmatively yes or no that we
5 could move forward.

6 **Q. Okay. So let me be clear then. So if we**
7 **adopted the Non-utility Stipulation, Ameren will not**
8 **offer any energy efficiency programs at all?**

9 A. Not under that particular plan. I mean
10 we'd be open to having to start over and try to come
11 up with some other plan perhaps, but that delays the
12 ability to move forward with the programs.

13 **Q. And if we were to make modifications to**
14 **the Utility Stipulation, you can't definitively say**
15 **one way or the other without knowing what those**
16 **modifications were?**

17 A. That's right.

18 **Q. Okay. Mr. Woolf testified -- and I'm**
19 **going to paraphrase him -- but essentially that**
20 **promoting energy efficiency was essentially a part of**
21 **the utility's obligation to provide reliable service**
22 **at just and reasonable rates and that it's unlikely**
23 **that Ameren would discontinue offering energy**
24 **efficiency programs entirely if we were to adopt some**
25 **other stipulation or some other modified version of**

1 **the June stipulation. Do you agree with that**
2 **statement?**

3 A. No. I don't think I totally agree with
4 that. I guess -- as I mentioned before, I mean
5 traditional regulation doesn't -- doesn't promote us
6 to or encourage us to sell less of our product to our
7 customers. In fact, the way we earn money in our
8 business is to sell electricity to customers. As
9 you're well aware, even to recover all of our costs,
10 we have to sell more of our product because of the way
11 the rate design works. So I think if --

12 **Q. Sure.**

13 A. -- truly this was an obligation to serve,
14 then there wouldn't be a separate MEEIA statute that
15 was offering a different way of regulation for these
16 types of programs. So I guess I don't agree with
17 Mr. Woolf in that regard.

18 **Q. Do you agree that energy efficiency as a**
19 **resource is a least cost resource?**

20 A. Yes. I believe our Integrated Resource
21 Plan suggests that.

22 **Q. And that's irrespective of any**
23 **alternative regulatory regime that MEEIA contemplates.**
24 **Right?**

25 A. Yes. But I also believe that

1 regulation's not designed to harm one stakeholder to
2 the benefit of another. So again, I think we always
3 have to be balancing the different stakeholders'
4 interests.

5 And in this case, part of why we designed
6 the plan the way we designed it is because we are
7 trying to achieve that balance. That, you know, we
8 want to do customer -- energy efficiency for our
9 customers, our customers want it. Our customer
10 satisfaction scores are higher -- higher than they've
11 ever been. It's clear that they are accepting of
12 those programs.

13 But we can't continue to deliver those
14 programs at the risk or detriment to our shareholders
15 who are very important to us as well in funding the
16 work that we have to do.

17 **Q. No, I agree with that and I appreciate**
18 **that. But I guess what I'm saying is that separate**
19 **and apart from the MEEIA statute, Ameren has**
20 **independently identified energy efficiency as a least**
21 **cost resource under its integrated resource planning**
22 **process?**

23 A. Well, I think that -- that seems very
24 logical to me.

25 **Q. Right?**

1 A. Yes. It -- logically that would make
2 sense. Encouraging people not to use our product is
3 going to be cheaper than having to spend money to
4 invest in generating more electricity. So that does
5 make sense to me.

6 **Q. So really what MEEIA does is provide --**
7 **it provides the Commission the ability to incent the**
8 **utility separate and apart from its obligation to**
9 **provide least cost service?**

10 A. Yes. I'd agree with that. Uh-huh.

11 **Q. Okay. So it's a supplement to the**
12 **utility's existing duty which exists separate and**
13 **apart from MEEIA; is that fair?**

14 A. Yes. I think so.

15 **Q. Okay. So let me ask another question,**
16 **and this is kind of a continuation of some of the**
17 **questions that Staff counsel asked, but I just want to**
18 **make sure I understand. Is it -- is it Ameren's**
19 **position that GAAP accounting prohibits the ability to**
20 **true-up actual savings as compared to the deemed**
21 **savings?**

22 A. It -- it prohibits us recognizing revenue
23 in the period under which the losses were incurred if
24 we retroactively can restate those revenues. I have
25 to be able to objectively determine what the revenue's

1 going to be that I'm recognizing in my financial
2 statements without the ability that that revenue can
3 be changed at a future point. And so that's the
4 issue.

5 And if I have to wait to record the
6 revenues until after some sort of retroactive review
7 is completed, then I'm misaligning my incentives
8 because I'm incurring the losses in one year and I'm
9 not able to record those revenues that were supposedly
10 offsetting those losses until a subsequent period.

11 **Q. But don't we do that in other contexts,**
12 **I like with the FAS true-up and with Accounting**
13 **Authority Orders?**

14 A. Accounting Authority Orders fall under a
15 different GAAP guidance. There is -- this -- this
16 GAAP thing is a little bit confusing, so I -- I would
17 just say that --

18 **Q. Imagine how I feel --**

19 A. Yeah, I know.

20 **Q. -- if it's confusing for you.**

21 A. I know. Well, it's -- let me try and
22 clarify it for you. There's accounting guidance for
23 regulated utilities. It used to be called FAS 71, now
24 it's called ASC 980. And under that guidance there
25 are regulations in GAAP around how we account for

1 regulatory orders that we receive when it's in the
2 form of an AAO or a cost tracker or some other kind of
3 mechanism that you think about under a traditional
4 accounting model.

5 Within that standard, there's actually a
6 separate and unique portion of it, that's this
7 980-605-25 standard that we've been talking about.
8 And it's a carve-out that was originally designed --
9 and I think the accountants actually figured this out
10 too, that we're not able to record this revenue under
11 a traditional regulatory model or under the
12 traditional regulatory GAAP.

13 So they actually wrote guidance that's
14 specific to alternative regulation programs, like a
15 DSIM and it actually mentions DSIM in the standard,
16 and says if you have that situation, then you account
17 for that things differently. And that's the standard
18 that we're trying to follow for these programs. And
19 it is different than how we would account for things
20 under the traditional regulatory model.

21 **Q. And is it your testimony that that's the**
22 **only way that you would be allowed to account for**
23 **these types of lost revenues or to account for the**
24 **lost revenues associated with energy efficiency**
25 **programs?**

1 A. Yes. Again, with the accounting
2 guidance, the way the guidance GAAP works in general
3 is if there is a standard that is on point and
4 specific to your situation, you have to use it. If
5 there isn't anything that's that direct, then you have
6 some other interpretations or you can look at how
7 similar transactions are recorded.

8 But in this case, we have guidance that
9 very specifically says this is how you record DSIM and
10 so we have to follow that guidance.

11 **Q. So -- and this is maybe hypothetical ,**
12 **but -- and I don't think it actually is, but given**
13 **what you just said then, logically there cannot be any**
14 **other utility that if they're doing this, that's doing**
15 **it any other way other than the way Ameren's doing it?**

16 A. That's the right conclusion to reach.
17 Again, I can't definitively say that because I don't
18 work for every other company, but --

19 **Q. Sure. You don't know.**

20 A. That's right.

21 **Q. But if there is some other company out**
22 **there doing it differently, they're doing it wrong?**

23 A. That's right. Or the numbers are so
24 small it's immaterial and it's not misstating or
25 distorting their financial statements. That's not the

1 case for us.

2 **Q. Okay. Thank you.**

3 A. Welcome.

4 JUDGE PRIDGIN: Mr. Chairman, thank you.

5 Commissioner Stoll?

6 QUESTIONS BY COMMISSIONER STOLL:

7 **Q. Okay. I do have one question. Good**
8 **afternoon.**

9 A. Good afternoon.

10 **Q. In reading your Rebuttal Testimony to the**
11 **Non-utility Stipulation --**

12 A. Uh-huh.

13 **Q. -- on page 15 -- and the Chairman touched**
14 **on this and I believe others have throughout the**
15 **course of the hearing. You state at the end of line 2**
16 **and begin -- and then on line 3 it is a -- well,**
17 **starting on line 1, that if the Commission were to**
18 **adopt -- to opt to issue a MEEIA plan approval order**
19 **conditioned on making the modifications reflected in**
20 **the Non-utility Stipulation, it is a certainty that**
21 **the Company would not proceed to implement such a**
22 **plan. Then you go on in line 6 and 7 to say that I**
23 **guess there are conditions under which the plan**
24 **wouldn't continue.**

25 **And I think -- could you just maybe**

1 **explain why the Commission shouldn't take this as an**
2 **ultimatum that the Commission take the utility plan or**
3 **there will be no energy efficiency program at Ameren?**

4 A. Well, I guess I don't see it as an
5 ultimatum. And I'm not an interpreter of statutes.
6 I'm not a lawyer by trade. But as I understand the
7 interpretation of the MEEIA statute, ultimately the
8 utility gets to decide if they can implement a plan
9 once the Commission regards that. So I think we do
10 have the last word.

11 But having said that, to at this point
12 suggest that this plan that the Utility Stipulation's
13 adopted is only the utility's plan is a bit
14 misleading. We've been -- you know, we issued --
15 filed something different in December. And then we
16 heard from stakeholders and we worked with them
17 through settlement discussions and we reached, with
18 several parties, a consensus that resulted in this
19 Utility Stipulation. So I believe it is a
20 collaborative effort that we attempted to do.

21 And what we were trying to do in that
22 statute was -- or in that stipulation was under--
23 interpret the statute and -- and figure out a way to
24 be able to implement energy efficiency plans for our
25 customers that met the standards of the statute and

1 also allowed us to align those interests and that we
2 wouldn't be harmful to our shareholders. And so we
3 believe that's what we've done.

4 And so that's different than what the
5 Non-utility Stipulation has done. And as we interpret
6 that one, we just believe that if we were implementing
7 that one, it would not align our interests, it would
8 not meet the standards of the statute and so that's
9 why we're saying we really couldn't go forward and
10 implement that.

11 **Q. So if the Commission were to approve some**
12 **modifications that we felt met the language in the**
13 **statutes, that those -- those may be accepted and**
14 **implemented?**

15 A. They may be. I cannot say that sitting
16 here today without knowing what they are, but we would
17 certainly look at it and we would try to make a
18 determination. Again, we don't wish to discontinue
19 energy efficiency, but we do have to achieve that
20 balance between what we provide to our customers and
21 what we, you know, do to our shareholders.

22 **Q. Okay. Thank you.**

23 A. Uh-huh.

24 JUDGE PRIDGIN: Commissioner Stoll, thank
25 you. Commissioner Kenney, thank you.

1 Any recross based on Bench questions?
2 United for Missouri?

3 MR. LINTON: Yes, I have a couple.

4 JUDGE PRIDGIN: Mr. Linton.

5 RE-CROSS-EXAMINATION BY MR. LINTON:

6 Q. Good afternoon, Ms. Barnes.

7 A. Good afternoon.

8 Q. Your discussion with the Chairman and
9 Staff regarding the regulatory structure I think is
10 the term you used was kind of intriguing to me. Let
11 me just kind of put it in some -- a little bit other
12 terms and see if you can agree with me.

13 You have an obligation to make a profit
14 for your shareholders. Correct?

15 A. Yes.

16 Q. Okay. And in our free market, you are
17 free to do that, and that's what your shareholders
18 want. Correct?

19 A. I'm not sure I know what you mean by
20 "free market."

21 Q. If we had a free market without
22 regulation.

23 A. Oh, yeah. If I could set the price for
24 my product, yeah, absolutely.

25 Q. You could set the price and you could

1 **provide a service and you --**

2 A. Uh-huh.

3 **Q. -- have the motivation to make a profit**
4 **for your shareholders?**

5 A. Yes.

6 **Q. Okay.**

7 A. Uh-huh.

8 **Q. So you are currently under rate**
9 **regulation by this Commission by state law?**

10 A. That's correct.

11 **Q. So is it your contention then that**
12 **regulation prevents you from modifying your services**
13 **and modifying your rates to do the things that you**
14 **want to do for energy efficiency?**

15 A. Yeah, I think that's what I am saying. I
16 mean my rates are set based on a assumption about how
17 much generation I'm going to sell and the rate design
18 is very much slanted to volumetric. So my fixed costs
19 are not recovered under the customer charge.

20 And so if we do anything subsequent to
21 setting those rates that reduces the sales to
22 customers, then I'm not going to make a profit. I
23 won't be able to earn that allowed return that under a
24 traditional regulatory framework, I'm -- I'm offered
25 the opportunity to earn.

1 **Q. Okay. So then the conclusion that --**
2 **that I would ask is, is MEEIA then a mechanism whereby**
3 **you can actually -- it allows you to get compensation**
4 **for a service that the regulatory structure wouldn't**
5 **allow you to have?**

6 A. Yeah. That's a good way to look at it.
7 I think so.

8 MR. LINTON: Thank you. No further
9 questions.

10 JUDGE PRIDGIN: Mr. Linton, thank you.
11 NRDC, questions?

12 MR. ROBERTSON: No.

13 JUDGE PRIDGIN: Division of Energy?

14 MR. ANTAL: Just a few.

15 RE-CROSS-EXAMINATION BY MR. ANTAL:

16 **Q. Hello, Ms. Barnes.**

17 A. Hi. Over there.

18 **Q. Right here. You were talking with**
19 **Chairman Kenney and Commissioner Stoll about some**
20 **hypothetical scenarios if the Commission were to**
21 **approve a plan other than the one that Ameren Missouri**
22 **has signed onto.**

23 A. Uh-huh.

24 **Q. Is it your understanding that Ameren's**
25 **current programs under Cycle 1 will expire at the end**

1 **of this calendar year?**

2 A. Yes. That is my understanding.

3 **Q. Okay. And if -- under this hypothetical,**
4 **if the Commission were to approve a energy efficiency**
5 **plan other than the one the Company has agreed to, is**
6 **there the possibility that there will be a lapse of**
7 **energy efficiency programming at the end of this**
8 **cycle?**

9 A. Oh, I believe so. In fact, frankly,
10 depending on how long the process takes to get an
11 order from this, if it is successful and they do sign
12 onto our program, it still may be a risk given how
13 late in the year that we are, to be able to get
14 everything in place by January the 1st.

15 **Q. And if that happens, if there is a lapse**
16 **in programming, would the -- will there be detrimental**
17 **effects to Ameren's ratepayers?**

18 A. I believe so in this -- in the -- in
19 the -- I don't get as heavily involved in the details
20 of all of these programs, but if there's a
21 discontinuance or a stoppage, obviously we've got
22 vendors that we have relationships with that we would
23 have to sever ties and then re-establish. It would --
24 there would be delay in when we could actually get the
25 programs delivered. It wouldn't be a smooth

1 transition from one MEEIA plan to the next MEEIA plan.
2 And those could be more costly, both from a lack of
3 programs for folks to participate in as well as what
4 the ultimate cost of the programs might be.

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

6 MR. ANTAL: No further questions.

7 JUDGE PRIDGIN: Thank you.

8 Renew Missouri?

9 MR. LINHARES: No questions.

10 JUDGE PRIDGIN: Tower Grove, National
11 Housing Trust?

12 MR. LINHARES: No questions.

13 JUDGE PRIDGIN: Thank you. Sierra Club?

14 MS. TAUBER: No questions.

15 JUDGE PRIDGIN: Brightergy?

16 MR. ZELLERS: No questions.

17 JUDGE PRIDGIN: I don't believe MIEC or
18 MECG are here.

19 Public Counsel?

20 MR. OPITZ: No questions, Judge.

21 JUDGE PRIDGIN: Thank you. Staff?

22 MS. MUETH: No questions.

23 JUDGE PRIDGIN: Thank you.

24 Any redirect?

25 MR. LOWERY: Yes, Your Honor.

1 JUDGE PRIDGIN: Mr. Lowery, when you're
2 ready.

3 REDIRECT EXAMINATION BY MR. LOWERY:

4 Q. Ms. Barnes, I'm going to try to work
5 backwards just because that happens to be where the
6 page is on my legal pad.

7 Commissioner Stoll was asking you some
8 questions. And I think the questions dealt with what
9 if there were modifications to the plan, that there's
10 a possibility there might be a modification that's
11 somewhere between the Non-utility Stipulation and
12 the -- I'll call it the Staff-led stipulation. Do you
13 remember those questions?

14 A. I do.

15 Q. Can you just explain briefly what must
16 any MEEIA plan have in order for the Company's
17 incentives to be aligned properly with helping its
18 customers use energy more efficiently and so that it
19 can value demand- and supply-side investments equally?
20 What -- what are the essentials?

21 A. I believe that the probably biggest bone
22 of contention and probably the biggest difference
23 between these two stipulations is relating to this
24 throughput disincentive and the ability to record it.
25 So it's the -- the -- meeting the conditions of the

1 accounting standards that say I have to objectively
2 determine the -- the revenues before I can record
3 them. And so I think that has been the biggest issue.

4 And if I can't record the lost revenues
5 during the time when I'm experiencing the lost
6 revenues and I then have negative earnings as a result
7 of energy efficiency programs, then that is a problem
8 from a shareholder perspective. And so really what
9 we're trying to do is just balance and match those
10 things as closely as possible in order to get that to
11 happen.

12 And then I'd say the other thing is
13 really just having a performance incentive or an
14 earnings opportunity that's not just patronizing us,
15 but more closely related to what the real losses could
16 be if we were to delay supply-side resource
17 investment. Because clearly the way the traditional
18 regulatory model works, we're incented to build things
19 and to earn money on those things. And if we're not
20 going to build those things, then we have to have an
21 incentive that at least has some semblance of
22 relationship to what that foregone opportunity would
23 be.

24 **Q. Now, the Chairman asked you some**
25 **questions and you and he were having a discussion**

1 about accounting. And I think you had mentioned
2 something along the lines of it tends to be complex
3 and he said, you know, wonder how I feel -- imagine
4 how I feel if you think it's complex.

5 But one of the things he asked you about
6 is he asked about other contexts. And I think he
7 might have mentioned an AAO, for example --

8 A. Uh-huh.

9 Q. -- trackers have been brought up in some
10 of the questioning this afternoon.

11 A. Yes.

12 Q. Just so you can try to maybe de-complex
13 the topic, could you explain why -- can you explain
14 what it takes to recognize revenue in that AAO tracker
15 kind of context and the accounting that applies to
16 that --

17 A. Uh-huh.

18 Q. -- versus what it takes to recognize
19 revenues that didn't show up, this lost revenues
20 concept? Just sort of imagine you're at a seminar for
21 beginners and you're going to explain it. Can you
22 just explain that for the Commission?

23 A. Sure. So traditional regulatory guidance
24 talks about AAOs and trackers typically in the context
25 of an expense that's already been incurred. So we've

1 already spent the money. And what we're seeking at
2 that point is recovery of those dollars in a different
3 period. Because of the way the rate-making process
4 works, it's nearly impossible to recover them in the
5 same period. I guess if you have a rider you can, but
6 if you have a tracker or an AAO, you're -- by
7 definition, you're recovering them outside the period
8 of when you incurred them.

9 But it's an expense that's been already
10 incurred. And so when the authority is given, because
11 of past history in some cases and also the regulatory
12 models that we all operate under, when I get an order
13 that gives me the ability to track expenses, I have
14 pretty high level of assurance that I'm going to be
15 able to recover those revenues in a subsequent -- or
16 those expenses in a subsequent period.

17 On the other hand, when you're looking at
18 revenue recognition -- and there's a lot of guidance
19 out in the accounting space around this. You can
20 imagine there have been some instances in the past
21 where companies have abused revenues and those have
22 gotten them into trouble, some people have gone to
23 jail.

24 And so the accounting standards are a
25 very, very high bar and will not let you record

1 revenue until you have utmost certainty that you're
2 going to recover it. And there just isn't a whole lot
3 of past practice. And the rules are a little bit
4 different in how you recognize that revenue than they
5 are when you're tracking an expense and you're just
6 holding those up on the balance sheet for recovery in
7 a future period.

8 **Q. So, for example, I think you mentioned**
9 **vegetation and infrastructure trackers --**

10 A. Uh-huh.

11 **Q. -- as one example.**

12 A. Uh-huh.

13 **Q. And there was actually -- or there is a**
14 **rule at the Commission that actually contemplated**
15 **tracking mechanisms could be employed by the**
16 **Commission for those. Right?**

17 A. Yes.

18 **Q. And then AAO -- storm AAO is kind of a**
19 **classic example, is it not?**

20 A. Uh-huh. Uh-huh.

21 **Q. And so in those circumstances -- let me**
22 **see if I'm understanding what you're saying. What**
23 **you're saying is that because we have this regulatory**
24 **history --**

25 A. Uh-huh.

1 **Q. -- it's a cost that you've actually paid**
2 **cash for --**

3 A. Uh-huh.

4 **Q. -- the accounting standard that applies**
5 **to that is different than the one that applies to**
6 **revenues that never showed up; is that true?**

7 A. That's true. And to be real techie, ASC
8 983-40 is the standard that we apply when we're
9 looking at trackers and AAOs and those traditional
10 regulatory-type things, which is a little bit
11 different than the ASC 980-605-25 that we've been
12 talking about in the context of alternative regulation
13 programs.

14 **Q. Let me ask you a question. So this 90--**
15 **what is it, 980-605-25?**

16 A. Uh-huh.

17 **Q. What if that standard didn't exist and**
18 **you had demand-side programs and lost revenues**
19 **involved? Could you record revenues at all?**

20 A. No. I mean without that standard, we
21 would be using the traditional regulatory model, which
22 would mean that we couldn't record any revenues until
23 we actually incurred them -- or earned them, frankly,
24 is the right term.

25 **Q. Now I'm going to shift gears on you. I'm**

1 actually going to go back -- I'm going to go the wrong
2 direction on you. But Mr. Antal asked you a question
3 about concerns about whether or not there would be
4 programs on January 1. Do you remember that?

5 A. Yes.

6 Q. And I think you expressed that you had
7 some concern about if there was too much of a delay in
8 getting approval in this case of a plan that would
9 allow the Company to go forward, whether -- whether
10 the Company would be able to have programs on
11 January 1. Is that what you said?

12 A. Yes, I did. Uh-huh.

13 Q. But just to be clear, is it your
14 expectation if an order were issued, let's say it
15 approved the Company's and the other parties --
16 Natural Resources Defense Council and Division of
17 Energy's stipulation -- reasonably soon after the
18 briefing would be expected to be due in this case, is
19 it your expectation the Company can get the job done
20 and keep the programs going?

21 A. Yeah. I mean we're operating under the
22 assumption if we can get an order -- a timely order
23 from this proceeding, that we will do our best
24 efforts, and we have high confidence that we could get
25 something in place by January the 1st.

1 Q. I just wanted to clarify something about
2 Exhibit 716. And this was this data request response
3 where you had produced excerpts from the PWC manual.

4 A. Uh-huh.

5 Q. Ms. Mueth I don't think did this on
6 purpose or to mislead in any way, shape or form, but
7 she asked about whether you and Mr. Hoffman had
8 produced that manual. And I think if you look at the
9 data request, your -- your -- this response was
10 bifurcated and you produced what you had looked at and
11 relied upon and Mr. Hoffman produced what he had
12 looked at and relied upon; is that right?

13 A. Yeah. Yes. That's why it was dually
14 prepared.

15 Q. So it's actually you that had looked and
16 relied upon the PWC manual? I just wanted the record
17 to be clear about that.

18 A. That's right. Yeah. I have a copy of
19 the PWC manual. I don't know that Mr. Hoffman has
20 one, but I have one because we're a PWC client.

21 Q. Now, there were questions about -- sort
22 of about, you know, how do you know -- how do you know
23 980-605-25 applies and it's the only one that applies.
24 And I think you gave responses about consultation with
25 the national accounting firms --

1 A. Uh-huh.

2 **Q. -- is that right?**

3 A. Yes.

4 **Q. Do you know what national accounting**
5 **firms provide public utility accounting services?**

6 A. Well, I think all of the national firms
7 do some work in that space. The primary ones that
8 provide that service, I'd say Deloitte has the lion's
9 share of utility clients. I think they cover about
10 70 percent of the industry. PWC is probably second,
11 but it's a distant second. And then Ernst & Young has
12 a few and I think KPMG has a few, as I understand.

13 **Q. But based on your understanding of the**
14 **public utility accounting space, the three that you've**
15 **consulted with, Ernst & Young, PWC and Deloitte, have**
16 **well north of 90 percent of all the public utility**
17 **clients in the country?**

18 A. That's my understanding, yes.

19 **Q. Do you recall getting questions from**
20 **Ms. Mueth about the excerpts from the 10-K -- the**
21 **Ameren 10-K which I believe was marked as Exhibit 715?**

22 A. Yes.

23 **Q. And in particular, you were asked**
24 **questions about the regulatory asset listing in that**
25 **10-K?**

1 A. Yes.

2 Q. And it's typical, all 10-Ks are going to
3 list regulatory assets on a public utility's books.
4 Right?

5 A. Yeah, that's usually a requirement --
6 disclosure requirement.

7 Q. Do the regulatory -- does the regulatory
8 asset for energy efficiency that you pointed to on
9 this 10-K, does it arise in any way from
10 after-the-fact -- after-the-fact changes to
11 assumptions about deemed savings, net-to-gross, rate
12 case assumptions?

13 A. No.

14 Q. Why does that reg asset arise?

15 A. That reg asset's strictly a difference
16 between what we're able to record based on our actual
17 experience and what we've collected from customers
18 through the rider.

19 Q. And when you say your actual experience,
20 that actual experience is actual experience that's
21 occurring month after month in the year for which
22 you're recording. Right?

23 A. Yes. Every month we determine the number
24 of units so the number of light bulbs or the number of
25 refrigerators or whatever the measure is for that

1 particular program and we use that volume times the
2 deemed value of the savings from the TRM and that is
3 used to calculate what the revenue is. So that's the
4 lost revenue is related to those.

5 And we record that as the revenue piece.
6 And if that's different than what we've actually
7 collected in the rider, then the difference is
8 recorded either as an asset or a liability -- reg
9 asset or a reg liability, depending on whether we've
10 collected too much or not enough.

11 **Q. So if you are closing your books for the**
12 **first program year of MEEIA 2, 2016 --**

13 A. Uh-huh.

14 **Q. -- at the time you're closing the books,**
15 **will you know all the figures that you need to know to**
16 **make that calculation?**

17 A. If everything is -- if those things are
18 deemed and it's objectively determinable, then yes, I
19 will.

20 **Q. And I guess that's the problem under the**
21 **Non-utility Stipulation is that you won't know until a**
22 **year or two or whatever it is later --**

23 A. Correct.

24 **Q. -- that the EM&V is done?**

25 A. Yes. That's correct.

1 **Q. I just wanted to clarify something. And**
2 **I think your testimony was clear on this, but I don't**
3 **believe Staff counsel thought that it was. On page 6**
4 **of your Rebuttal in the Non-utility Stipulation --**

5 A. Uh-huh.

6 **Q. -- I'm not sure I can get to the right**
7 **question that she asked you. Well, let me see if I**
8 **can do it without finding the right testimony. I**
9 **might have made the wrong note.**

10 **Your Rebuttal to the Non-utility**
11 **Stipulation testimony, let's -- just to be clear, you**
12 **never intended or -- to imply that the two-thirds of**
13 **their proposal for throughput disincentive that would**
14 **be based on deemed values could not be recorded; is**
15 **that correct?**

16 A. That's correct.

17 **Q. The issue is the one-third?**

18 A. That's right. And it doesn't matter
19 whether I collect the cash for the one-third or not.
20 If there is a after-the-fact requirement to review
21 that one-third, then I can't record it as revenue no
22 matter when I collect it.

23 **Q. And why does -- why does not being able**
24 **to recognize that one-third of revenue fail to remove**
25 **the throughput disincentive that I think everybody in**

1 **the room -- we might not agree on everything, but**
2 **everybody in the room would agree exists when you ask**
3 **your customers to use less of your product?**

4 A. Well, because, again, I end up
5 experiencing negative earnings because when I can
6 actually record that revenue is in a different and a
7 subsequent period than when I actually experienced the
8 losses. And my shareholders are looking at my
9 earnings numbers and saying why are you incenting
10 people to use less of your product? That makes no
11 sense. And if you're not being compensated or if
12 there's no incentive given to us to do that, then why
13 are we doing that?

14 **Q. And just one other -- I think just one**
15 **other point of clarification. I think the Chairman**
16 **might have asked you about -- you know, we have FACs**
17 **as well. And there are, quote, true-ups done in FACs.**
18 **Are they in the nature of the same kind of true-ups we**
19 **are describing about the way the MEEIA rider works,**
20 **that that year you take the variance between**
21 **forecasted sales, for example, and actually true it up**
22 **for that year?**

23 A. No. I mean, what we do -- we actually
24 have true-ups already in the MEEIA. What we true-up
25 is we settle up this regulatory asset or regulatory

1 liability, whatever it turns out to be, when we
2 re-establish the rider every year. And we also, you
3 know, true-up quantities. Again, that's part of that
4 regulatory asset and liability true-up. I mean, you
5 can do that sort of thing.

6 But I guess I equate it to, you know, I
7 agree to buy 100 widgets for \$10. If somebody
8 subsequently comes back to me and says, well, no, no,
9 now they're going to cost \$11, well, maybe I wouldn't
10 have bought those widgets if I'd known later -- you
11 know, if I'd known when I bought them that the price
12 was going to change, I maybe wouldn't have bought
13 them.

14 And so that's kind of the issue with this
15 revenue. If the value of the savings is going to
16 change subsequently, then I can't record the revenue
17 based on an estimate. And that's essentially what
18 we're doing.

19 **Q. And I apologize, but I -- I actually do**
20 **have one more question. I want to go back to one more**
21 **question that -- maybe a couple questions, but one**
22 **more topic. It's a question the Chairman asked you**
23 **about Mr. Woolf's testimony, which you weren't here**
24 **for, but he sort of described what he -- his take on**
25 **what Mr. Woolf had to say. Do you remember that?**

1 A. Uh-huh.

2 Q. And he asked you a question about energy
3 efficiency being a least cost resource. Do you
4 remember that?

5 A. Yes.

6 Q. And I think the -- I think the
7 implication of the question or at least one could take
8 the implication of the question -- I don't know what
9 the Chairman intended, I won't ascribe intent to him.
10 But I think one could take the question to suggest
11 that if there is something a utility can do that leads
12 to lower rates, that the utility automatically has to
13 do that in order to discharge its service obligation.
14 Would you agree with that?

15 A. I don't think so. I don't think I would
16 agree with that. I mean, I -- we have an obligation
17 to serve, but we also have an obligation to our
18 shareholders and we have to balance both of those
19 interests.

20 Q. For example, a utility could, I
21 suppose -- even if the cost of equity was 10 percent,
22 a utility could say, you know, my customer rates would
23 be lower if I accept 5 percent. But the utility
24 doesn't have an obligation to do that, does it?

25 A. No. No. We're not a not-for-profit,

1 we're not a government agency. We have shareholders
2 and we compete for those shareholders with other
3 utility companies and we need the equity. I think you
4 don't want us to be over-leveraged. I think there's a
5 danger in having us borrow all the money that we need
6 to make investments. We need those equity investors
7 and in order to keep -- to attract them, we have to
8 offer them a return.

9 **Q. So if a utility knowingly asks its**
10 **customers to use less of its product but doesn't have**
11 **a mechanism in place that makes it whole, that's sort**
12 **of like accepting an ROE that everybody might agree is**
13 **unfair just for the sake of lowering customer rates,**
14 **wouldn't it be?**

15 A. Yeah. Again, we can't have an imbalance
16 either way. We can't -- we cannot benefit
17 shareholders at the detriment of customers nor can we
18 benefit customers at the detriment of shareholders.
19 They have to balance.

20 MR. LOWERY: Your Honor, that's all I
21 have. Thank you very much.

22 JUDGE PRIDGIN: Mr. Lowery, thank you
23 very much.

24 And Ms. Barnes, you thank you. You may
25 step down.

1 I would like to go on to Mr. Hyman.
2 Depending on the length his cross-examination, we may
3 break in the middle of his cross. I don't like to do
4 that, but it depends on how long the cross goes.

5 And let me ask counsel, is it everyone's
6 understanding we're going to try to catch up today to
7 get all of the Tuesday witnesses in before we adjourn
8 for the day? Is that counsel's understanding?

9 MS. TATRO: Yes, Your Honor.

10 JUDGE PRIDGIN: All right. Let's move
11 ahead then. If Mr. Hyman could come forward and be
12 sworn, please. All right. Mr. Hyman, thank you. I
13 see your right hand is raised.

14 (Witness sworn.)

15 JUDGE PRIDGIN: Thank you very much, sir.
16 Please have a seat.

17 Mr. Antal, when you're ready, sir.

18 MARTIN HYMAN testified as follows:

19 DIRECT EXAMINATION BY MR. ANTAL:

20 **Q. Mr. Hyman, could you please state your**
21 **name and spell it for the court reporter?**

22 A. Martin Hyman, H-y-m-a-n.

23 **Q. Mr. Hyman, where are you employed and in**
24 **what capacity?**

25 A. I am employed at the Missouri Division of

1 Energy as a planner two.

2 **Q. Okay. And have you adopted the testimony**
3 **of Dr. Alex Schroeder in this case?**

4 A. I have. He's moved on to the Federal
5 Energy Regulatory Commission.

6 **Q. Okay. And have you also prepared**
7 **Surrebuttal Testimony and Supplemental Rebuttal**
8 **Testimony in this proceeding?**

9 A. Yes, I have.

10 **Q. Okay. And do you have any corrections to**
11 **any of the three testimonies which you are sponsoring?**

12 A. Yes. I do have correction to just my
13 Supplemental Rebuttal.

14 **Q. Okay. Please state those corrections.**

15 A. Okay. On page 2 at the end of line 5, I
16 want to add in just before the comma, but after the
17 word "with," Lower added savings over the original
18 Cycle 2 filing. Let's see. Bear with me one second.
19 Okay. And then on page 8 the lines 20 and 21, I want
20 to change "a public sector program" to "and public
21 sector building eligibility."

22 And then page 9, line 11, I want to
23 change "lost marginal revenues" to "lost revenue" --
24 try that again -- to "marginal lost revenues." And
25 then let's see. Page 11, line 15 there's an

1 extraneous dash after "fact." And let's see. Page
2 12; I want to -- or on line 5 I want to delete the
3 word "energy."

4 And last one on page 14, line 4, I just
5 want to add the word "savings" to the end of that
6 sentence.

7 **Q. Okay. And do any of those changes change**
8 **the conclusions in your testimony?**

9 A. No.

10 **Q. Okay. And with those changes in mind, if**
11 **I were to ask you the same questions today, would your**
12 **answers be the same or similar?**

13 A. They would.

14 **Q. Okay. And were your answers in those**
15 **testimonies true and accurate to the best of your**
16 **belief?**

17 A. Yes.

18 **Q. Okay.**

19 MR. ANTAL: Your Honor, we -- I would
20 move to offer Exhibits 200, 201 and 202 into the
21 record.

22 JUDGE PRIDGIN: Mr. Antal, thank you.
23 Any objections?

24 Hearing none, Exhibits 200, 201, 202 are
25 admitted.

1 (DE Exhibi ts 200, 201 and 202 were
2 received into evi dence.)

3 MR. ANTAL: And we'll tender the witness
4 for cross-exami nati on.

5 JUDGE PRIDGIN: Mr. Antal , thank you.

6 United for Mi ssouri , any cross?

7 MR. LINTON: I have no questi ons.

8 JUDGE PRIDGIN: NRDC?

9 MR. ROBERTSON: No questi ons.

10 JUDGE PRIDGIN: Ameren Mi ssouri ?

11 MR. TOMC: No questi ons, Your Honor.

12 JUDGE PRIDGIN: Renew Mi ssouri ?

13 MR. LINHARES: Yes, Judge. I have a few
14 questi ons.

15 JUDGE PRIDGIN: When you're ready.

16 CROSS-EXAMI NATION BY MR. LINHARES:

17 **Q. Afternoon.**

18 A. Afternoon.

19 **Q. Mr. Hyman, you're not an attorney; is**
20 **that correct?**

21 A. No, but I do work with policy on a dai ly
22 basi s.

23 **Q. Okay. So you would agree that you're not**
24 **equipped to make conclusions or interpretations of law**
25 **beyond your general understanding of the law's**

1 **meaning?**

2 A. No, I would not.

3 **Q. Okay. Would you like to correct my**
4 **statement?**

5 A. Yes. As I just said, I work with policy
6 on a daily basis.

7 **Q. Okay. Perhaps I can rephrase. You'd**
8 **agree that in your capacity as an expert, you are not**
9 **making statements about interpretations of law as an**
10 **attorney might?**

11 A. I'm not making interpretations as an
12 attorney, no.

13 **Q. And is it your understanding that the**
14 **Commission -- the Public Service Commission is the**
15 **agency tasked with interpreting the meaning of the**
16 **MEEIA statute and its own rules at 4 CSR 240-20.093**
17 **and 094?**

18 A. I would agree, yes, that they are tasked
19 with interpreting the MEEIA law.

20 **Q. And do you happen to have a copy of the**
21 **Commission's rules at 093 and 094 with you today?**

22 A. Yes. And I have a copy of the law as
23 well.

24 **Q. And do you have a copy of your**
25 **Supplemental Rebuttal Testimony with you?**

1 A. Yes, I do.

2 Q. Okay. Mr. Hyman, I'm wondering if I can
3 ask you to read from Section 4 CSR 240-20.093,
4 Subsection 2?

5 A. Are you referring to Section 2A or 2B?

6 Q. This would be Section 2B.

7 A. Okay.

8 Q. I'm wondering if you can read the last
9 sentence of Section 2B.

10 A. Okay. And this is 093. Correct?

11 Q. Yes, sir.

12 A. All right. please give me a second. Any
13 party to the application for a utility's filing for
14 demand-side program approval may support or oppose the
15 establishment, contin--

16 Q. I'm sorry, Mr. Hyman. I'm sorry to
17 interrupt you. Perhaps I have the wrong section here.

18 A. That's all right.

19 Q. So I'm looking at Subsection 2 of 093.
20 Starts with -- the section -- the subsection of 2B
21 starts with, Any party, but I'm asking for the last
22 sentence.

23 A. Okay.

24 Q. Just want to read that.

25 A. Both the utility and the Commission

1 retain the authority to approve, accept or reject any
2 proposed establishment, continuation or modification
3 of a DSIM or any proposed alternative DSIM.

4 **Q. And would you mind reading Section 2E as**
5 **well?**

6 A. All right. In determining to approve,
7 modify or continue a DSIM, the Commission may
8 consider, but is not limited to only considering the
9 expected magnitude of the impact of the utility's
10 approved demand-side programs on the utility's costs,
11 revenues and earnings, the ability of the utility to
12 manage all aspects of the approved demand-side
13 programs, the ability to measure and verify the
14 approved program's impacts, any interaction among the
15 various components of the DSIM that the utility may
16 propose and the incentives or disincentives provided
17 to the utility as a result of the inclusion or
18 exclusion of cost recovery component, utility lost
19 revenue component and/or utility incentive component
20 in the DSIM.

21 In this context, the word "disincentives"
22 means any barrier to the implementation of a DSIM.
23 There is no penalty authorized in this section.

24 **Q. Thank you. Now, Mr. Hyman, I'd like to**
25 **turn you to your Supplemental Rebuttal Testimony in**

1 **this case.**

2 A. Okay.

3 **Q. I'd like to ask you to read from your**
4 **testimony starting at line 20 of page 2 and through**
5 **the end of that question.**

6 A. Sure. So you said line 20 of page 2.
7 Correct?

8 **Q. Line 20 of page 2, yes.**

9 A. And that was Supplemental Rebuttal?

10 **Q. Yes, sir.**

11 A. All right. Because it does not start
12 with a question.

13 **Q. I'm sorry. That would be line 19. My**
14 **mistake.**

15 A. Okay. That also doesn't start with a
16 question.

17 **Q. Your answer to that question.**

18 A. Okay. As previously indicated, Staff,
19 OPC, MIEC, MECG and Renew Missouri signed a
20 Non-company Agreement. Regardless of any differences
21 or similarities between the language of the two
22 competing agreements, the language of the MEEIA rules
23 at 4 CSR 240-20.094.3 is clear. The Commission may
24 only approve the Company's original filing, approve it
25 with modifications accepted by the Company, i.e., as

1 contemplated in the Company Agreement, or entirely
2 reject the Company's proposal.

3 Since the Company already indicated its
4 objection to the Non-company Agreement, footnote 4,
5 the Company agreement is the only set of modifications
6 which Ameren Missouri is willing to accept in which
7 the Commission may approve if certainty is to be
8 provided regarding a timely second cycle of Ameren
9 Missouri MEEIA programs.

10 And footnote 4 cites Ameren Missouri's
11 objection to the Non-unanimous Stipulation as amended,
12 which was filed by several parties which I just
13 mentioned and that objection was filed on July 10th.

14 **Q. Mr. Hyman, in your statement -- and I'm**
15 **paraphrasing here where you say the Company has**
16 **objected to the Non-company Agreement and this**
17 **represents the only set of modifications which Ameren**
18 **Missouri is willing to accept, what is that statement**
19 **based on in your experience?**

20 A. Well, as you stated it, I don't think
21 that means that the Company only supports the
22 Non-utility Agreement. That means that they only
23 support the Utility Agreement.

24 **Q. Do you consider the Company's objection**
25 **to the Non-utility Stipulation that you referenced to**

1 **be a permanent and irrevocable objection to each**
2 **individual provision in the non--**

3 MR. ANTAL: Objection, calls for a legal
4 conclusion.

5 JUDGE PRIDGIN: I'll sustain.

6 MR. LINHARES: Okay. I'll move on.

7 BY MR. LINHARES:

8 Q. Now, Mr. Hyman, I'm going to ask you to
9 entertain a few hypotheticals that I'm going to take
10 you through. First of all, you are familiar -- you're
11 familiar with the two stipulations that have been
12 filed in this case I'm assuming. Yes?

13 A. I am.

14 Q. Are you familiar with the details of the
15 competing DSIM proposals found in each stipulation?

16 A. To the best of my ability, yes.

17 Q. Is it your understanding that the
18 Non-utility Stipulation requires evaluation,
19 measurement and verification, or EM&V, to be done to
20 determine the amount of net shared benefits to be
21 ultimately collected to address the Company's
22 throughout disincentive?

23 A. Can you point me to a specific paragraph?

24 Q. I can. I apologize. I do not have the
25 stipulation with me.

1 A. That's -- that's all right.

2 MR. OPITZ: Which one?

3 MR. LINHARES: The Non-utility
4 Stipulation.

5 THE WITNESS: Now, if I may ask a point
6 of clarification, are you referring to just the TDNSB
7 or the PI?

8 BY MR. LINHARES:

9 Q. I'm just referring to the TDNSB portion.
10 Would you like me to rephrase?

11 A. No. I still do wish to know which
12 paragraph you're referring to.

13 Q. Sure. This would be found in paragraph
14 6.

15 A. Okay.

16 Q. On page 7 and 8.

17 A. Okay. Yes, I do see some mention of
18 EM&V.

19 Q. Okay. So the hypothetical I'm interested
20 in here is -- I'd like you to suppose that the
21 Commission uses its authority that you have read for
22 us to determine that EM&V be used to calculate the
23 amount to be ultimately recovered to address the
24 Company's throughput disincentive.

25 A. Now, is this the authority under 093 or

1 094?

2 Q. I'm referring generally to the
3 Commission's authority here, so in both cases.

4 A. Okay.

5 Q. Let's assume the Commission uses that
6 authority to determine that EM&V should be used to
7 calculate the amount to be recovered to address the
8 Company's throughput disincentive. And that
9 determination comes in the form of an order approving
10 and modifying -- and modifying the Company's Cycle 2
11 MEEIA plan.

12 Would you agree the Company would then
13 have the opportunity to accept or reject the plan as
14 approved when deciding whether to proceed with its
15 Cycle 2 MEEIA plan?

16 A. I suppose it depends which set of
17 modifications they ordered.

18 Q. But would you agree the Company would
19 then have the opportunity to -- to accept or reject?

20 A. Well, like I say, it depends which set of
21 modifications, but --

22 Q. I'm not asking about the Company's
23 preference or the Company's policy position. I'm
24 asking would the opportunity be present for the
25 Company to decide to proceed given the Commission's

1 **decision?**

2 A. Well, there is always an opportunity for
3 the Company to accept or reject the modifications if
4 the Commission makes them. That's based on the
5 voluntary nature of MEEIA as stated in the statute
6 itself.

7 **Q. And do you see a conflict with your**
8 **statement in your testimony saying that the Company**
9 **agreement is the only set of modifications which**
10 **Ameren Missouri is willing to accept?**

11 A. No. That's what they stated. And that
12 is based on acceptable to the Company.

13 **Q. Can you point me to where they stated**
14 **this?**

15 A. Well, I believe I cited it as the July --
16 sorry, as the July 10th objection. That since they
17 are only amenable to their own -- to what they signed
18 and what we signed and several other diverse parties
19 signed, including NRDC, that's what they're amenable
20 to and they're not amenable to the Non-utility Stip.

21 **Q. Okay. Thank you. So in a similar**
22 **hypothetical, suppose the Commission decided to**
23 **approve and modify the Company's plan with respect to**
24 **the performance incentive that's been proposed in the**
25 **Non-utility Stipulation. Would you also agree that**

1 **the Company would then have the opportunity to accept**
2 **or reject that modification after the Commission**
3 **issued an order?**

4 A. So I guess I'm not quite sure I
5 understand. Are you saying if they approved the
6 performance incentive that the Company agreed to?

7 **Q. No.**

8 A. Okay.

9 **Q. Let me rephrase. Suppose the Commission**
10 **approved and modified the Company's plan with the**
11 **performance incentive found in the Non-utility**
12 **Stipulation. Similar to the last hypothetical, would**
13 **the Company then have the opportunity to accept or**
14 **reject that proposal when deciding whether to go ahead**
15 **with a Cycle 2 MEEIA plan?**

16 A. Thank you. That helps. I think you'd
17 have to ask the Company. But they had indicated that,
18 you know, they might be amenable, but again, that's --
19 that's -- that's something you'd have to ask the
20 Company specifically.

21 **Q. And again, I'm not asking about the**
22 **Company's preference. I'm asking about whether they**
23 **would have the opportunity -- the choice -- the**
24 **opportunity to make a choice to accept or reject that**
25 **proposal?**

1 A. Well, I think that's the same answer as I
2 gave before. It's always their choice.

3 Q. Okay.

4 A. It's a voluntary statute.

5 Q. So that's a yes?

6 A. It's the same answer I gave before.

7 Q. Okay. Now, suppose basically the same
8 hypothetical. The Commission decided to approve and
9 modify the Company's original plan to include the
10 expert panel process that we've heard talked about in
11 this hearing. Would the Company also then -- I assume
12 the Company also would have the opportunity to accept
13 and reject -- accept or reject that expert panel
14 provision when deciding whether to proceed?

15 A. I suppose. But, you know, again, that's
16 part of something that they -- you know, part of an
17 agreement that they pretty clearly indicated they were
18 opposed to.

19 Q. But that opportunity would exist for the
20 Company following the Commission's order?

21 A. It would. But, you know --

22 Q. Okay. Thank you.

23 A. -- that adds another delay.

24 Q. Are you familiar with the differing
25 provisions having to do with the multi-family

1 **low-income program as set out in the two stipulations**
2 **in this case?**

3 A. I don't think they're terribly different,
4 but I am.

5 Q. **So you're not -- are you not familiar**
6 **then with the differences between the two provisions?**

7 A. I don't think that's what I said.

8 Q. **Would you like to restate?**

9 A. No. I think that I am familiar.

10 Q. **You are familiar?**

11 A. Yes.

12 Q. **So you're familiar then that -- with the**
13 **facts that the Non-utility Stipulation provides extra**
14 **clarity on eligibility for measures for the 1M**
15 **customer class for the 25 percent bonus incentive; is**
16 **that correct?**

17 A. I think that's the only extra thing that
18 it states in that provision.

19 Q. **If I were to represent to you that the**
20 **Non-utility Stipulation also clarifies that -- it also**
21 **clarifies that program costs and estimated costs be**
22 **included in auditing reports in addition, would you**
23 **trust me on that?**

24 A. I would trust you on that because I've
25 read it.

1 **Q. Okay. So if the Commission -- this is**
2 **the last hypothetical I'll give you here. Assuming**
3 **the Commission decided to approve the language in the**
4 **Non-utility Stipulation regarding the multi-family and**
5 **low-income over the language in the Company's**
6 **Stipulation and Agreement, would the Company then also**
7 **be given the opportunity to accept or reject that**
8 **provision after the Commission's order?**

9 **A. Same as before. It's a voluntary**
10 **statute.**

11 **Q. Thanks. In other words, you agree that**
12 **Ameren Missouri has the ability to change its mind**
13 **with respect to the provisions of the Non-utility**
14 **Stipulation either taken together or separately after**
15 **the Commission has issued an order approving and**
16 **modifying the Company's Cycle 2 MEEIA plan?**

17 **A. To the extent that it's likely to change**
18 **what it's already filed, I suppose.**

19 **Q. So that's a yes?**

20 **A. To the extent that it's changed what it's**
21 **already filed.**

22 **Q. This is my last question. Is it your**
23 **understanding that the Commission can use its**
24 **authority to alter or tailor any of the provisions**
25 **proposed in either stipulation in this case when it**

1 **approves and modifies Ameren's Cycle 2 MEEIA plan,**
2 **assuming it elects to do that?**

3 A. Well, I'm not an attorney so I don't
4 think I can give an opinion on what the Commission can
5 do to a specific stipulation.

6 **Q. I'm just asking for your general**
7 **understanding. You stated earlier that you deal with**
8 **energy efficiency policy in your job and I'm wondering**
9 **what your general understanding of the Commission's**
10 **authority is here?**

11 A. Well, like I said, my understanding of
12 their authority is that they can certainly, you know,
13 issue something accept-- with acceptable
14 modifications, but I can't say whether or not they can
15 make tweaks to a specific legal stipulation.

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

17 MR. LINHARES: No further questions, Your
18 Honor.

19 JUDGE PRIDGIN: All right. Thank you.
20 Any questions for Tower Grove or National Housing
21 Trust?

22 MR. LINHARES: No, sir.

23 JUDGE PRIDGIN: Thank you. Sierra Club?

24 MS. TAUBER: No questions, Your Honor.

25 JUDGE PRIDGIN: Brightergy?

1 MR. ZELLERS: No questions, Your Honor.

2 JUDGE PRIDGIN: I don't believe I see
3 MIEC or MECG.

4 Public Counsel?

5 MR. OPITZ: A few, Your Honor.

6 JUDGE PRIDGIN: When you're ready,
7 Mr. Opitz.

8 CROSS-EXAMINATION BY MR. OPITZ:

9 Q. Good afternoon, Mr. Hyman.

10 A. Good afternoon.

11 Q. Do you happen to have a copy of the
12 Non-unanimous Stipulation and Agreement, the June 30th
13 stipulation --

14 A. I do.

15 Q. -- with you?

16 Okay. And this is the one that has the
17 agreement between Division of Energy and the Company
18 and a few other parties. Correct?

19 A. Yes.

20 Q. Okay. Would you agree that this
21 stipulation includes CFL lighting?

22 A. Yes.

23 Q. And you've been in the hearing room all
24 of today. Correct?

25 A. Yes.

1 **Q. And so were you here when there was**
2 **discussion that residential lighting may not**
3 **necessarily result in peak demand reductions?**

4 A. I was here for that discussion.

5 **Q. Do you agree with that statement?**

6 A. Not entirely.

7 **Q. And what is your disagreement with that**
8 **statement?**

9 A. I think it can lead to demand reductions,
10 particularly if light bulbs happen to be turned on
11 during those peak demand periods. But again, I am --
12 you know, I'm not an evaluator so --

13 **Q. So with, I guess, residential lighting**
14 **where people are at home at night, it might be more**
15 **likely that the demand savings from a residential**
16 **light bulb are smaller. Correct?**

17 A. Smaller, but not -- you know, not
18 nonexistent.

19 **Q. Not nonexistent. Okay. So what if that**
20 **lighting was in a commercial or industrial building or**
21 **a -- you know, an office building where the lights are**
22 **on during the day? Would that have an impact on**
23 **demand -- energy demand savings?**

24 A. Yeah, probably. Which is why it would
25 fall under, I would assume, one of the Company's other

1 programs.

2 **Q. And so you would agree that that -- that**
3 **lighting would cause a -- I guess would you say that**
4 **that lighting would cause a significant reduction to**
5 **peak demand?**

6 A. Well, it depends on what period of the
7 day it was under and the shape of the Company's load.

8 **Q. Well, what period -- do you have any**
9 **understanding about what period of the day peak demand**
10 **is for Ameren Missouri?**

11 A. Well, peak demand would most logically
12 occur sometime around night. Typically the load shape
13 for a Company, including Ameren Missouri, is around
14 morning and night.

15 **Q. So you're saying that it would be at**
16 **night. So maybe --**

17 A. Around night, yeah.

18 **Q. -- these residential bulbs might have**
19 **more demand savings actually if the peak demand is at**
20 **night. Correct?**

21 A. Subject to check, yes.

22 **Q. Okay. Do you agree that energy**
23 **efficiency includes both kilowatt hour and kilowatt**
24 **energy savings?**

25 A. Technically, no. Energy efficiency

1 includes kilowatt hour savings; whereas, kilowatt
2 savings are included under load reduction.

3 **Q. And on what basis do you make that --**
4 **come to that conclusion?**

5 A. It's not a conclusion. It's a fact.
6 Technical knowledge.

7 **Q. Okay. Although you made clear that**
8 **you're not offering any legal opinions but have**
9 **referenced statutes and rules in terms of policy.**
10 **Would you agree with that?**

11 A. Well --

12 **Q. Mr. Linhares was asking you if you had**
13 **offered a legal opinion and you said no, you were**
14 **offering a policy opinion.**

15 A. Yes. Much as other witnesses to this
16 case have done, including Dr. Marke.

17 **Q. Okay. So do you have a policy opinion**
18 **about whether the MEEIA statute requires evaluation,**
19 **measurement and verification, EM&V?**

20 A. I don't believe we've taken an opinion on
21 that in this case.

22 **Q. Do you think that the Company should**
23 **perform evaluation, measurement and verification of**
24 **its energy savings?**

25 A. I don't believe we've taken an opinion on

1 that in this case either.

2 **Q. So it doesn't matter to Division of**
3 **Energy whether this energy is measured or verified?**

4 A. Well, I wouldn't say that, you know, with
5 the same answer as before. But I would note that
6 there is EM&V for the performance incentive in the
7 Utility Stipulation and Agreement.

8 **Q. Okay. And that's -- you have the**
9 **stipulation with you?**

10 A. Oh, yes, I do.

11 **Q. And so that is on Appendix B. Am I**
12 **correct on that?**

13 A. Not sure if that would be in Appendix B.
14 If you'll give me a second. I think that's -- let's
15 see. That's actually page 13, paragraph 19. It's
16 possible it's in Appen-- yeah, no, that's true. It is
17 in Appendix B. I'm sorry. I was thinking Appendix A.

18 **Q. Okay.**

19 A. Appendix B does have the EM&V provisions
20 as well, so my apologies.

21 **Q. So if I can point you to paragraph 5 of**
22 **Appendix B.**

23 A. Sure.

24 **Q. And are you there?**

25 A. I'm sorry. I'm looking -- there we go.

1 Yeah.

2 **Q. Okay. And are you familiar with how EM--**
3 **the EM&V process would occur within that paragraph?**

4 A. Yeah. The way it works -- well, yeah, I
5 am.

6 **Q. Would you please explain how you -- how**
7 **you believe it would work?**

8 A. I mean the basic principle is exactly
9 what's stated there. You know, I don't want to put
10 words in the Company's mouth or in any of the other
11 signatories' mouth, but our understanding is basically
12 that it does allow for EM&V with a little bit more
13 certainty between values that, you know, might be
14 fought over under other circumstances, but are
15 basically around one.

16 **Q. Do you have an opinion of whether it**
17 **would be likely that after EM&V using this method, any**
18 **measured value would not be deemed at 1?**

19 A. Well, I don't know without seeing any
20 results that show whether it's .9 or 1.1 or anything
21 between.

22 **Q. So without knowing, what was the basis**
23 **for Division of Energy agreeing to do EM&V in this**
24 **manner?**

25 A. Well, like I said, you know, we recognize

1 that there's a value to certainty for the Company, but
2 at the same time there's a value to EM&V. So it's
3 good to, you know, not have too much fighting over,
4 you know, values that are between 1.1 and 0.9. We've
5 seen what happens before. We -- we've seen this movie
6 before, if you will, with all the debate we've had in
7 Cycle 1 about some of these EM&V values and
8 net-to-gross. But you know, at the same time we don't
9 want to just completely deem all of the PI values.

10 **Q. Do you think that that -- and I'm not**
11 **asking for a legal opinion, but you've said you've**
12 **examined the rules and the law and have offered policy**
13 **opinions. Do you believe that that provision in**
14 **paragraph 5 of Appendix B minimizes the role of the**
15 **evaluator and the auditor?**

16 A. I mean, from what I can see here -- and
17 as you said, not a legal opinion -- I think it
18 provides a role for both the -- let's see -- yeah, it
19 provides a role for both the evaluator and the
20 auditor.

21 **Q. Thank you. If you look at -- well, let**
22 **me ask you, do you think that this agreement between**
23 **Division of Energy -- or the -- what is it -- the**
24 **June 30th Stipulation and Agreement achieves all cost**
25 **effective energy efficiency savings in Ameren**

1 **Missouri's service territory?**

2 A. I think the agreement, like both
3 agreements, is a compromise. But it represents
4 progress towards that goal and that's the key under
5 MEEIA.

6 **Q. And what is the progress towards the goal
7 that it represents?**

8 A. Well, there are a number of things. It
9 represents an increase in the energy savings target
10 and it includes a number of programs that Division of
11 Energy has been working for. Not just programs, but I
12 should say initiatives more broadly such as combined
13 heat and power; putting CFLs back in for 2016, but
14 not, you know, in perpetuity and not in unlimited
15 number; add-- expanding the multi-family initiatives
16 that the Company is offering; and putting in a
17 collaborative process to look at what other things the
18 Company is willing to do.

19 **Q. Let's talk about the collaborative
20 process.**

21 A. Sure.

22 **Q. So that's at paragraph 15 --**

23 A. Sure.

24 **Q. -- of this stipulation on page 9; is that
25 correct?**

1 A. Let's see. Yeah, that -- that looks
2 right, 9 and 10.

3 Q. Okay. And so this -- this you've said is
4 a collaborative process. And do you have a copy of
5 your Supplemental Rebuttal Testimony with you?

6 A. Yeah, I do. I'm going to have to flip
7 back and forth, but that's all right.

8 Q. So if you would look at page 7 of your
9 Supplemental Rebuttal.

10 A. Okay.

11 Q. And I believe beginning at line 6. Are
12 you there?

13 A. Yes, I am.

14 Q. So not the last part of -- not the
15 beginning of that, but the first sentence on line 6
16 says, Moreover, the Company Agreement provides an
17 additional path to improve the cost effectiveness of
18 both these programs in the entire portfolio over the
19 course of the second cycle through a collaborative
20 process.

21 A. Sure.

22 Q. Did I read that correctly?

23 A. Yes.

24 Q. So based on your testimony and then again
25 the stipulation in 15, what is the path forward? Can

1 **you describe what that path would look like?**

2 A. Well, the path is what's outlined in
3 paragraph 15, which is this collaborative process to,
4 quote, ide-- well, quote, identification of additional
5 cost effective energy savings. It can include a wide
6 variety of things, which is, you know, not just
7 limited to what's in here, but, you know, programs
8 that were, you know, previous -- that the Company
9 previously had, but, you know, there might have been
10 some implementation issues such as whole home
11 approaches, increasing participation rates. Any
12 number of things are on the table.

13 **Q. So if you -- if the -- I guess as you're**
14 **envisioning it, it's sitting down at a table and**
15 **talking with the utility. Is that what you're**
16 **envisioning or are you envisioning something else?**

17 A. Well, it's not just what I'm envisioning.
18 It's basically what's in here. It's -- it's exactly
19 what it is. It's a collaborative process with the
20 utility and with, you know, any other parties that
21 want to come on in.

22 **Q. So does that collaborative process within**
23 **this June 30th stipulation include any requirement**
24 **that the Company implement these identified programs?**

25 A. Well, since this is MEEIA, you know, I

1 don't think there's really a way to require the
2 Company to do anything. I mean this is a voluntary
3 statute.

4 **Q. So that said, there is no requirement**
5 **within the stipulation?**

6 A. Right. Like I said, this is MEEIA.

7 **Q. And you would agree that the Company has**
8 **said that when it's looking at the cost effectiveness**
9 **of a program, it's going to use the TRC test.**

10 **Correct?**

11 A. That's generally what they use since it's
12 a preferred cost effectiveness test.

13 **Q. And is it your understanding that if**
14 **something is not greater than 1.0 on the TRC test,**
15 **then the Company doesn't view it as cost effective?**

16 A. Right. I mean, we do take some -- that's
17 not to say we don't take some issue with that, as I've
18 talked about in my testimony, but yeah.

19 **Q. Okay. So if you'd look again at the**
20 **Stipulation and Agreement or the Non-- or the Utility**
21 **Stipulation and Agreement, I should say, page 8.**

22 A. Okay. Sure.

23 **Q. Paragraph 13.**

24 A. Okay.

25 **Q. So in that paragraph you describe a -- I**

1 **guess a process for determining cost effectiveness of**
2 **a CHP program --**

3 A. Uh-huh.

4 **Q. -- is that correct?**

5 A. Yeah.

6 **Q. Can you, I guess, explain for me how**
7 **that -- how you're determining the cost effectiveness**
8 **with this calculation that you've got listed there?**

9 A. Yeah. And I'll also qualify that that
10 came, you know, not just from me or from Ameren, but
11 working with one of the experts on our Staff who's
12 worked on -- who's an engineer.

13 But the basic idea is that the fuel
14 savings from CHP come from the electricity savings,
15 the non-electricity savings and then from the capacity
16 savings, you know, just sort of, you know, without
17 getting into all of the gory details, if you will,
18 that are involved in that calculation.

19 And so when it says that it's expressed
20 in terms of BTUs, that's not to say that, you know, we
21 just completely ignore the electricity savings. If
22 anything, that's to account for the fact that the
23 electricity savings do occur and that there are energy
24 efficiency savings, but there are also some energy
25 efficiency savings that occur outside of the electr--

1 outside of the electricity part of the equation.

2 **Q. Okay. So in your Supplemental Rebuttal**
3 **Testimony, you've included multiple references to the**
4 **rules. And I believe you have the rules with you; is**
5 **that correct?**

6 A. Yes, I do.

7 **Q. Do you have 4 CSR 240-3.164 with you?**

8 A. Do I have 3.164? That's a good question.
9 I don't think I have the filing requirements with me.
10 If you have those, that would be --

11 **Q. Okay.**

12 A. Wait. I do. Sorry.

13 **Q. You do have them?**

14 A. Yeah.

15 **Q. Okay. Can you find 240-3.164(1)(x)?**

16 A. X. Yes.

17 **Q. And would you agree that that is a**
18 **definition for the total resource cost test?**

19 A. Yes.

20 **Q. And so you've just described this --**
21 **well, can you go ahead and read that definition for**
22 **me?**

23 A. Sure. Total resource cost test, or TRC,
24 means the test of the cost effectiveness of
25 demand-side programs that compares the avoided utility

1 costs to the sum of all incremental costs of end-use
2 measures that are implemented due to the program,
3 including both utility and participant contributions,
4 plus utility cost to administer, deliver and evaluate
5 each demand-side program.

6 **Q. So that -- to me, that sounds different**
7 **than what is described in paragraph 13 of the**
8 **Stipulation and Agreement regard-- that defines how**
9 **CHP will be evaluated for cost effectiveness. Can you**
10 **describe how your CHP cost effectiveness calculation**
11 **complies with the total resource cost test definition?**

12 MR. ANTAL: Objection, calls for a legal
13 conclusion.

14 JUDGE PRIDGIN: Counsel?

15 MR. OPITZ: Well, he's said -- I don't
16 mean to ask for a legal conclusion. He's said that
17 he's got -- he's looked at these -- the statute and
18 these rules and he has made policy determinations and
19 he offers policy opinions on these. And I guess do
20 you -- I'll rephrase. I'll rephrase

21 JUDGE PRIDGIN: Thank you.

22 BY MR. OPITZ:

23 **Q. Do you consider the cost effectiveness**
24 **calculation for combined heat and power to be done**
25 **using the total resource cost test?**

1 A. Absolutel y.

2 Q. **And why is it that you believe that it's**
3 **done using the total resource cost test?**

4 A. Well, the electricity savings would be
5 using the utility's -- could be done using the
6 utility's avoided electricity cost. The other fuel
7 savings could certainly be done using the utility's
8 avoided fuel costs and so could the transmission
9 avoided -- or avoided capacity generally.

10 Q. **But you're including in this cost avoided**
11 **fuel use from an onsite thermal production?**

12 A. Right.

13 Q. **Is that -- is that natural gas?**

14 A. Well, if it is natural gas or it could be
15 anything else. You don't just have to use natural gas
16 in the CHP system. But whatever fuel you were to use,
17 you compare that to whatever fuel would have been used
18 by the utility on a comparable basis and then you
19 figure out what the avoided cost would have been to
20 the utility.

21 Q. **But I suppose aside from customers who**
22 **use Ameren Missouri gas and Ameren electric gas -- or**
23 **Ameren electric service and then Ameren natural gas,**
24 **that would be an avoided fuel cost for another**
25 **utility. Correct? It wouldn't be based on the --**

1 **Ameren's avoided cost. Correct?**

2 A. No. So the issue is not that it's an
3 avoided cost if they use the fuel from Ameren when
4 they use CHP. It's an avoided cost if they don't use
5 the fuel from Ameren; hence, the word "avoided."

6 **Q. Are you aware of any other energy**
7 **efficiency programs in the Company's proposed MEEIA**
8 **program that use the same, I guess, cost effectiveness**
9 **methodology used in -- described in paragraph 13?**

10 A. Well, since there aren't any other CHP
11 programs in the Company's energy efficiency portfolio,
12 no.

13 **Q. In your Supplemental Rebuttal Testimony**
14 **you mention several times, and I believe on the stand**
15 **here, that it's your position that MEEIA is optional.**
16 **So -- so the Company -- and I think it's -- that's**
17 **what the law says, that the Company has the choice**
18 **whether to offer it?**

19 A. Right.

20 **Q. In other words, it's all carrot and no**
21 **stick. Right?**

22 A. Yes.

23 **Q. Is there a limit to I guess what Division**
24 **of Energy would agree to allow Ameren Missouri to**
25 **recover in terms of costs?**

1 A. Well, I think the limit's written into
2 the statute. The statute says -- and let me see if I
3 can find it. Aligned with helping customers use
4 energy more efficiently and in a manner that sustains
5 or enhances a utility customers' incentives to use
6 more efficiently.

7 If we didn't see that alignment, we
8 wouldn't sign. We saw that there was still that
9 alignment so we signed.

10 **Q. That's all I have. Thank you.**

11 JUDGE PRIDGIN: Mr. Opitz, thank you.

12 I normally don't like to break in the
13 middle of a witness, but we've been going for the
14 better part of two hours and I'd like to give everyone
15 a break. When we come back on the record, we'll have
16 cross from Staff, then Bench questions.

17 Anything further from counsel before we
18 take a break? All right. We stand in recess until
19 3:45. Thank you. We're off the record.

20 (A recess was taken.)

21 JUDGE PRIDGIN: Good afternoon. We are
22 back on the record. I believe Staff is next to
23 cross-examine Mr. Hyman. Mr. Hyman, you're still
24 under oath.

25 Anything further before we resume

1 cross-examination? All right. Staff, any questions
2 for this witness?

3 MR. BERLIN: Yes, Judge.

4 CROSS-EXAMINATION BY MR. BERLIN:

5 **Q. Mr. Hyman, Ameren -- Ameren's Cycle 2**
6 **plan, which is marked as Exhibit 100, on page 15 on**
7 **Table 2.1 states that the plan is expected to save**
8 **114 megawatts of cumulative annual demand savings. Do**
9 **you still contend that there are no demand savings**
10 **from energy efficiency programs?**

11 A. I don't think I ever contended that there
12 were no demand sav-- extra demand savings to be
13 gained. That said, energy efficiency programs aren't
14 designed specifically to gain demand savings, but they
15 do gain demand savings incidentally.

16 MR. BERLIN: All right. Thank you. No
17 further questions.

18 JUDGE PRIDGIN: All right. Thank you. I
19 don't have any Bench questions. Any redirect?

20 MR. ANTAL: Yes, just a few questions.

21 REDIRECT EXAMINATION BY MR. ANTAL:

22 **Q. Mr. Hyman, counsel for Renew Missouri**
23 **asked you a series of hypotheticals in which the**
24 **Commission would approve a MEEIA plan other than the**
25 **one the Company has specific -- expressly signed onto.**

1 **And I was wondering if you could say what the concerns**
2 **would be from Division of Energy's perspective in the**
3 **Commission approving a plan other than the one that**
4 **the Company has expressly signed onto?**

5 A. Well, there would be a number of
6 concerns. As I noted in my response to -- I'm trying
7 to remember who it was. It might have been -- it
8 might have been OPC or Renew Missouri.

9 We signed onto this stipulation for a
10 number of re-- number of reasons, including, you know,
11 while it was a compromise, it was an improvement over
12 the original filing and over the alternative of not
13 having a MEEIA. And, in fact, now that I recall, I
14 think it was OPC to whom I said this.

15 And I think one of the key things to
16 consider is that, you know, while it's a compromise,
17 it certainly an improvement over not having a MEEIA at
18 least for the foreseeable future. Company witnesses
19 have testified to the fact that if the Commission
20 perfor-- modifies this too much, including as -- as
21 the Non-utility Agreement contemplates, then there
22 will not be a MEEIA in the immediate future, and even
23 with certain modifications, it will take a while for
24 the Company to, you know, have -- go through the RFP
25 process, get everything in place and there will be a

1 gap.

2 And that will lead to uncertainty, a lack
3 of efficiency savings in the immediate future and
4 issues with compliance with possible future
5 environmental regulations. And in DE's view, that is
6 not a good outcome for customers, for Company
7 shareholders and for Missourians as a whole.

8 **Q. Okay. Thanks for that answer. Counsel**
9 **for the Office of Public Counsel was asking you**
10 **whether there was any limit to what DE could accept**
11 **from the Company. And I wanted to ask you in regards**
12 **to that question whether Division of Energy agreed**
13 **with the Company's initial plan that was filed?**

14 A. We didn't agree with the initial plan at
15 all. I mean we expressed our concerns. We definitely
16 expressed our concerns in the initial rounds of
17 testimony and Rebuttal and Surrebuttal.

18 Alex Schroeder expressed his concerns
19 prior to leaving for the Federal Energy Regulatory
20 Commission with how the savings were too low, you
21 know, in exchange for what the Company was asking for
22 for its TDNSB and performance incentives. I
23 reiterated those concerns, you know. Despite some
24 disagreement with other parties, I was in general
25 agreement that those savings targets were too low.

1 And I think what we saw, even though it
2 was a compromise with this -- with this next filing --
3 or sorry, my apologies -- not with the filing, but
4 with the Company Agreement was that there was
5 improvement and so this -- this moved closer to the
6 statutory goals.

7 **Q. Okay. Counsel for the Office of Public**
8 **Counsel also was asking you about the CFL incentives**
9 **included in the Company Agreement. And he asked you**
10 **whether or not lighting could -- a lighting program**
11 **could have an effect on peak demand. He asked you**
12 **about the Company's daily demand curves. I was**
13 **wondering if you could clarify when you believe the**
14 **Company's peak demand is?**

15 A. So, yeah, I -- I believe I said night,
16 but that's probably a bit of a mischaracterization
17 because I -- I was thinking of the evening hours. So
18 I should have said evening. And I definitely had the
19 hours maybe starting around 4:00 or 5:00 in the p.m.
20 when people start to come home from work, you know,
21 that their AC units, if it's the summer, cycle --
22 start to cycle up again, they turn on the lights, et
23 cetera.

24 **Q. Okay. Thank you. And the last question,**
25 **you were asked about the collaborative process**

1 contained in the Company Agreements and whether or not
2 there was any requirements that the Company implement
3 any of the recommendations of the collaborative. And
4 I wanted to ask you, based on that question,
5 whether -- with your understanding of the voluntary
6 nature of the MEEIA statute, whether if the Commission
7 were to approve the Non-utility Agreement, whether
8 there would be any real requirement for the Company to
9 implement any of the recommendations of the expert
10 panel?

11 A. Well, the only way that the Comp-- that
12 that would happen is, again, the Company would have to
13 agree to the Non-company Agreement. So really there's
14 no way to make that mandatory either. The Company
15 Agreement talks a lot about ordering the -- sorry, the
16 Non-company Agreement talks a lot about ordering the
17 Company to do certain things and having the
18 third-party mediator issue a report, which then the
19 Commission will approve.

20 But the -- the issue there again, in my
21 expert not -- or my opinion, not as a lawyer, but just
22 as someone who works with policy is that, you know,
23 this is under a voluntary framework.

24 Q. Okay. Thank you very much.

25 MR. ANTAL: No further questions.

1 JUDGE PRIDGIN: All right. Thank you
2 very much. And we've -- Mr. Hyman, you can step down.
3 Thank you very much.

4 THE WITNESS: Thank you.

5 JUDGE PRIDGIN: And next witness is
6 Mr. Gupta; is that correct?

7 MR. ROBERTSON: Yes.

8 JUDGE PRIDGIN: If you will raise your
9 right hand to be sworn, please.

10 (Witness sworn.)

11 ASHOK GUPTA testified as follows:

12 DIRECT EXAMINATION BY MR. ROBERTSON:

13 Q. **Would you state your name and job title,**
14 **please.**

15 A. My name is Ashok Gupta, which is spelled
16 A-s-h-o-k G-u-p-t-a. And I'm a senior energy
17 economist at the Natural Resources Defense Council.

18 Q. **Did you prepare pre-filed Rebuttal**
19 **Testimony that's been marked Exhibit 300?**

20 A. Yes, I did.

21 Q. **Do you have a copy of that testimony**
22 **before you?**

23 A. Yes, I do.

24 Q. **Do you have any corrections to make to**
25 **the testimony at this time?**

1 A. No, I do not.

2 Q. If I were to ask you the same questions
3 today, would your answers be the same?

4 A. Yes.

5 Q. And are those answers true and accurate
6 to the best of your knowledge and belief?

7 A. Yes.

8 MR. ROBERTSON: Your Honor, I offer into
9 evidence Exhibit 300.

10 JUDGE PRIDGIN: All right. 300 has been
11 offered. Any objections?

12 Hearing none, Exhibit 300 is admitted
13 into evidence.

14 (NRDC Exhibit 300 was received into
15 evidence.)

16 MR. ROBERTSON: I deliver the witness
17 over to cross-examination.

18 JUDGE PRIDGIN: Mr. Robertson, thank you.
19 Cross-examination, United for Missouri?

20 MR. LINTON: I have no questions.

21 JUDGE PRIDGIN: Ameren Missouri?

22 MS. TATRO: Thank you, Your Honor.

23 CROSS-EXAMINATION BY MS. TATRO:

24 Q. Good afternoon, sir.

25 A. Hi there.

1 **Q. You were present for opening statements;**
2 **is that correct?**

3 A. Yes.

4 **Q. I just want to ask if NRDC feels that it**
5 **was tricked, duped, forced, whatever into signing this**
6 **stipulation?**

7 A. No, we were not.

8 MS. TATRO: Thank you.

9 JUDGE PRIDGIN: No further questions?

10 MS. TATRO: That's it.

11 JUDGE PRIDGIN: Division of Energy?

12 MR. ANTAL: No questions. Thank you very
13 much.

14 JUDGE PRIDGIN: Renew Missouri?

15 MR. LINHARES: Yes. Just a few
16 questions, Judge.

17 JUDGE PRIDGIN: Mr. Linhares, when you're
18 ready.

19 CROSS-EXAMINATION BY MR. LINHARES:

20 **Q. Good afternoon, Mr. Gupta.**

21 A. Good afternoon.

22 **Q. Mr. Gupta, in your Rebuttal Testimony in**
23 **this case, you proposed an alternative mechanism to**
24 **the Company's proposed mechanism for addressing the**
25 **throughput disincentive; is this correct?**

1 A. Yes, it is.

2 Q. **And do you have a copy of your Rebuttal**
3 **Testimony with you today?**

4 A. Yes, I do.

5 Q. **And what was that alternative mechanism**
6 **you proposed?**

7 A. Well, what I proposed and what we
8 normally talk about is revenue decoupling, but in
9 specific terms it is a revenue adjustment mechanism
10 that allows the Company to achieve its revenue
11 requirements, you know, between rate cases. So it's
12 basically a true-up mechanism to adjust for the
13 differences between forecasts and actual sales.

14 Q. **Okay. And is it accurate to say that you**
15 **prefer such an annual revenue adjustment mechanism to**
16 **the two DSIM proposals put forth in the two**
17 **stipulations in this case insofar as addressing the**
18 **throughput disincentive?**

19 A. Absolutely. And think that based on the
20 conversation that's taken place over the last two
21 days, even more so, given how difficult and complex
22 the throughput disincentive mechanism is.

23 Q. **And in your opinion, would this**
24 **proposed -- would the proposed lost revenue mechanisms**
25 **in either of the stipulations fail to make the Company**

1 **neutral as it -- as to its sales volumes?**

2 A. I've not looked at those issues in
3 detail. Our -- NRDC witness Phil Mosenthal has paid
4 more attention to that and would be available tomorrow
5 to answer some of those questions that deal with the
6 specifics of the throughput disincentive mechanisms in
7 the two different stipulations.

8 **Q. Okay. Can I turn you to page 5 of your**
9 **Rebuttal Testimony?**

10 A. Sure.

11 **Q. I guess I'm referring to your -- let me**
12 **know when you're there.**

13 A. Yes.

14 **Q. I guess I'm referring to the answer**
15 **starting on line 1 going through the rest of that page**
16 **and the next, and specifically the first bullet point**
17 **there. If you could read that and then let me know**
18 **when you're finished.**

19 A. Okay. I have finished reading.

20 **Q. Okay. So concerning -- so would it be**
21 **accurate to say that while -- while the lost revenue**
22 **mechanisms, either the company's or the one in the**
23 **Non-utility Stipulation would address lost revenues**
24 **due to energy efficiency, is it accurate, in your**
25 **opinion, to say that these lost revenue mechanisms**

1 **would not fully keep -- make the utility neutral with**
2 **respect to its sales volumes?**

3 A. Okay. That -- I think I understand the
4 question --

5 **Q. Okay.**

6 A. -- which goes to -- really what the
7 throughput disincentive mechanism that we've been
8 talking about does is really put a lot of emphasis, of
9 course, on the energy efficiency actually achieved as
10 a result of the programs that are run by the Company
11 versus energy efficiency that will happen more
12 broadly.

13 And what I've talked about in the
14 testimony was obviously energy efficiency that happens
15 because of codes and standards and lots of other ways
16 that efficiency can happen in the marketplace
17 delivered by energy service companies and so on. In
18 terms of what that -- revenue impact of that energy
19 efficiency is to, it's much better to deal with that
20 through some sort of a revenue adjustment mechanism
21 rather than through a lost revenue or a throughput
22 disincentive mechanism such as that being done here.

23 **Q. Okay. Well, Mr. Gupta, given your role**
24 **with NRDC as senior energy economist and as the**
25 **Director of the Air and Energy Program and most**

1 recently as the Director of Programs, would you say
2 you're fairly conversant with the general levels of
3 achievable energy efficiency potential throughout the
4 country?

5 A. Generally. I mean I've been working on
6 this topic for 30 years.

7 Q. Uh-huh. And given your knowledge of
8 Missouri and its energy efficiency programs to date,
9 what would you say is a reasonable rough estimate of
10 the cost effective achievable potential in Ameren
11 Missouri's service territory?

12 A. We lay that out in our testimony that
13 Phil Mosenthal provided. I also tend to agree with
14 almost everything Tim Woolf said earlier today in
15 terms of the potential. I think we are really
16 underestimating the potential for efficiency and that
17 we have huge opportunities to do a lot more.

18 Maryland just, you know, agreed to a
19 2 percent revenue levels in terms of energy
20 efficiency. I think that 2 percent is even doable
21 here, even with our avoided costs. And I'm committed
22 to really working with all parties and the Company to
23 identify more measures in 2017 and '18 and beyond to
24 get us at the levels I think are possible in terms of
25 energy efficiency based on what's been done in other

1 states.

2 **Q. Okay. Thank you.**

3 MR. LINHARES: No further questions, Your
4 Honor.

5 JUDGE PRIDGIN: Any questions from Tower
6 Grove, National Housing Trust?

7 MR. LINHARES: No, thank you.

8 JUDGE PRIDGIN: All right. Thank you.
9 Sierra Club?

10 MS. TAUBER: No questions, Your Honor.

11 JUDGE PRIDGIN: Brightergy?

12 MR. ZELLERS: No questions, Your Honor.

13 JUDGE PRIDGIN: I don't see MIEC or MECG.
14 Public Counsel?

15 MR. OPITZ: Just a few, Your Honor.

16 CROSS-EXAMINATION BY MR. OPITZ:

17 **Q. Good afternoon, Mr. Gupta.**

18 A. Hello.

19 **Q. So you testified that NRDC was not duped
20 or tricked into signing this June 30th agreement; is
21 that correct?**

22 A. I did testify to that fact.

23 **Q. Do you have a copy of that Non-unanimous
24 Stipulation and Agreement with you? If you don't, I
25 have a whole stack of them here.**

1 A. Sure. I'll take a copy from you.

2 MR. OPITZ: Does anybody else need --
3 Judge, may I approach?

4 JUDGE PRIDGIN: You may.

5 THE WITNESS: Thank you.

6 BY MR. OPITZ:

7 **Q. And this stipulation contains all of the,**
8 **you know, agreements and understandings between NRDC**
9 **and Ameren in this case. Correct?**

10 A. Yes.

11 **Q. Do you believe that this agreement**
12 **reflects all available cost effective energy savings?**

13 A. No.

14 **Q. Are you familiar with -- what is your**
15 **familiarity with potential studies in the energy**
16 **efficiency area?**

17 A. Broadly and generally. I mean, not to
18 the level of detail Tim Woolf had, but I agree with
19 his conclusions and I'm generally aware and have been
20 involved with potential studies around the country.

21 **Q. This stipulation that NRDC signed on to**
22 **includes CFL light bulbs. Correct?**

23 A. I think it does. I haven't paid
24 attention to that provision.

25 **Q. Would you agree that light bulbs can**

1 **create kilowatt hour savings?**

2 A. Kilowatt hour savings, absolutely.

3 **Q. Do you agree that they can also create**
4 **kilowatt savings?**

5 A. Yes. And depends on obviously the
6 sector. I mean commerci -- I mean if you're talking
7 about CFL specifically or lighting more broadly?

8 **Q. CFL specifically first.**

9 A. CFL specifically.

10 **Q. Yes.**

11 A. Yes. I mean I wouldn't look to CFLs as a
12 demand-saving measure compared to others, but CFL, as
13 people have testified, can provide some demand savings
14 because they can avoid some peak -- probably difficult
15 to measure, but clearly some can -- you know, some
16 demand savings can be associated with CFLs.

17 **Q. Are there types of light bulbs that would**
18 **create more kilowatt savings?**

19 A. It's more in the commercial sector is
20 where I know that lighting strategies, especially
21 around perimeter lighting in office buildings during
22 peak times, with the new occupancy sensors, can have
23 huge benefits in terms of peak demand.

24 So if we're looking at lighting and peak
25 demand savings, I would look in the commercial office

1 sector, I would also look obviously at the grocery
2 stores and obviously where are the lights on most of
3 the time and how are they coincident with peak demand
4 is more in the commercial lighting space is my
5 experience and we've sponsored studies on those
6 issues.

7 **Q. Okay. Thank you. Did you do any**
8 **calculations before signing onto this study relating**
9 **to, I guess, program costs per kilowatt hour saving?**

10 A. Yeah. Just generally with my -- you
11 know, just to kind of get a sense of what the Company
12 had originally proposed, what happened in Cycle 1,
13 what we had proposed as part of our original response
14 in testimony and then looking at what people were
15 talking about.

16 So I just wanted to get a sense of what
17 the overall savings were and what the costs per
18 kilowatt hour savings were, but that was just for my
19 own understanding of what was going on and try to
20 understand all the different conversations.

21 **Q. And have you done, I guess, calculations**
22 **like that at other times in your career?**

23 A. Just generally, yeah. Just for me to
24 kind of engage the process and understand what's going
25 on. I kind of do that at a level for me to just get

1 comfortable with the ball park.

2 **Q. When you examined the, I guess, program**
3 **costs per kilowatt hour of the stipulation that NRDC**
4 **signed, did you do it on a portfolio basis or did you**
5 **look program by program?**

6 A. More portfolio basis, I did. But Phil
7 Mosenthal look at it program by program and has done a
8 much more analysis in terms of how -- if we were going
9 to adjust the overall portfolio and what would you do
10 with individual programs in terms of some of that
11 analysis and so Phil can get -- go into more details.

12 I was just generally aware and have a
13 view that we can actually get more savings at a lower
14 cost. And I think the stipulation in paragraph 15
15 talks about, you know, the extra savings and some
16 costs, you know, per kilowatt hours where we think we
17 can, in the range, identify those savings.

18 **Q. Have you examined other electric**
19 **utilities in Missouri that have MEEIA programs, I**
20 **guess, their program costs per kilowatt hour?**

21 A. Just generally.

22 **Q. Are the program costs per kilowatt hour**
23 **reflected in the Ameren Missouri's NRDC stipulation --**
24 **how do they compare to the other Missouri utilities?**

25 A. I -- my guess is they're probably a

1 little higher than we would like, but that -- that's
2 my understanding, they're a little higher.

3 **Q. Okay. But you don't have a specific**
4 **figure --**

5 A. No.

6 **Q. -- that's higher? Okay. Thank you.**
7 **In your career have you been involved in**
8 **evaluation, measurement and verification processes?**

9 A. Not in the level of detail people get
10 into, but setting the policy for EM&V and how much you
11 should spend and whether it's worth spending as much
12 as we spend and what the value of EM&V is are the
13 convers-- so at that level of just saying, you know,
14 how much is worth spending and what level of
15 specificity and detail do you want to get into with
16 EM&V.

17 So that -- but not in terms of actually
18 the protocols and how evaluators do their work, except
19 I would say on one area where New York State did a lot
20 of upstream market transformation programs, which are
21 very hard to evaluate and can be quite beneficial as
22 we know, how you do evaluation of upstream programs
23 and assign credit to what utilities invest in and then
24 transform the market become especially hard.

25 So I'm generally aware that EM&V for

1 certain types of programs that can have huge savings
2 can be -- you know, have a very challenging way to
3 measure those impacts.

4 **Q. So when you -- it sounds like you have**
5 **some experience with an upstream market transformation**
6 **program?**

7 A. Sure.

8 **Q. When you looked into that, were you able**
9 **to determine the point at which a market was**
10 **transformed?**

11 A. My view on that is that markets are
12 always evolving and technologists are always evolving.
13 So when you look at the lighting market, what we
14 thought five years ago and the role of CFLs and now
15 LEDs and the role of occupancy sensors and how
16 wireless technology keeps changing. So the
17 transformation to us is like -- it's an ongoing effort
18 and you never transform the market.

19 And codes and standards are a piece of
20 the transformation. So codes and standards you come
21 in with when you have enough market share. And the
22 market codes and standards lift the floor, utility and
23 incentive programs get new technologists and new
24 strategies into the market and then you raise the
25 floor again. And then you bring in more

1 incentives to -- so this is kind of an ongoing
2 circular process of how markets work and --

3 **Q. So --**

4 A. -- and we are optimistic that the
5 technologies will keep coming in like they have in
6 lighting and like they have in wireless technology.

7 **Q. If I may. So that's I guess lighting**
8 **generally or you might say something else like air**
9 **conditioning?**

10 A. Yeah.

11 **Q. But what about for a particular lighting**
12 **product, like a CFL? How would you determine when the**
13 **market for CFLs has been transformed?**

14 A. I don't think of it as a tech-- a
15 technology and a product. I believe this is a -- you
16 know, if you're thinking of electricity service and
17 lighting and cooling and heating and these are things
18 we're trying to -- that's what we want. That's not
19 CFL we want. It's lighting we want. So the -- the
20 way you should -- we should think about market
21 transformation is to think about lighting, not CFLs,
22 in my view.

23 **Q. So in the study in New York you didn't**
24 **actually look at a particular bulb product? You just**
25 **talked about lighting?**

1 A. For the commercial lighting study we did
2 on the role of -- not occupancy sensor, but daylight
3 sensors around perimeters. And New York City could
4 avoid 200 megawatts of peak demand by putting in the
5 latest sensors for perimeter lighting. So when you
6 have the hottest summer peak days and -- you know, and
7 you have all this sunlight coming in the windows and
8 the lights are all on. Those should be dimmed or off.

9 **Q. Do you have any sense of the Ameren**
10 **Missouri service territory, how much peak demand could**
11 **be avoided by a similar program?**

12 A. That's a good study to do and we should
13 definitely look into it and it should -- will be one
14 of the things I'd like to see a study done on the role
15 that perimeter lighting in office buildings could play
16 in reducing both peak demand and energy efficiency. I
17 mean, clearly this is one where you can get a lot of
18 peak demand, which is cost effective, and you can get
19 energy savings because it doesn't have make sense to
20 have all these lights on on these hot summer peak days
21 in perimeter office buildings.

22 **Q. So I kind of went down a tangent on EM&V,**
23 **but to bring you back to, I guess EM&V generally --**

24 A. I love talking about programs.

25 **Q. You mentioned the policy. And you're**

1 familiar with the policy. If you would look at
2 Appendix B of the Stipulation and Agreement that NRDC
3 signed with Ameren Missouri and other parties. And
4 would you agree that this, I guess, describes
5 evaluation, measurement and verification procedures?

6 A. That's what it says.

7 Q. And if you would look at paragraph 5 on
8 the back page. And have you -- will you take a second
9 to read through that?

10 A. Okay.

11 Q. In your experience with EM&V policy, do
12 you believe that a, I guess, methodology to average
13 the evaluator and the auditor and then just deem
14 everything if they're within a certain range, is that
15 the preferred method to perform EM&V?

16 A. That's a level of detail I think better
17 asked Phil Mosenthal.

18 Q. Okay. That's all the questions I have.

19 MR. OPITZ: Thank you.

20 JUDGE PRIDGIN: Mr. Opitz, thank you.
21 Staff, any questions?

22 MR. BERLIN: No questions. Thank you.

23 JUDGE PRIDGIN: See if we have any Bench
24 questions. Commissioner Stoll?

25 COMMISSIONER STOLL: No questions.

1 JUDGE PRIDGIN: Thank you. Commissioner
2 Kenney?

3 COMMISSIONER KENNEY: No. Thank you.

4 JUDGE PRIDGIN: Thank you. Any redirect?

5 MR. ROBERTSON: Just a little, Your
6 Honor.

7 REDIRECT EXAMINATION BY MR. ROBERTSON:

8 **Q. What was your primary motivation in**
9 **signing the stipulation of June 30th with Ameren?**

10 A. That's a tough question. It's always a
11 judgment call. I mean, I think it's a question of
12 really for NRDC how do we make progress not just in
13 this case IN the next few months but over the next few
14 years to get the savings to be much, much, much
15 higher. I mean our goal as energy efficiency
16 advocates is to get all cost effective efficiency and
17 to have really good program designs with high
18 participation rates.

19 And it was our judgment that signing this
20 stipulation and trying to work with the Company, given
21 the way the MEEIA law works, was our best way to get
22 to that outcome. And so we were motivated by
23 maximizing energy efficiency and getting at all cost
24 effective efficiency and see this as a step in that
25 process.

1 **Q. And in pursuing that goal you were**
2 **willing to compromise on other issues; is that**
3 **correct?**

4 A. Absolutely. I mean again, you know, for
5 us paragraph 15 was such a key part of this and we
6 know that it isn't a guarantee and we know we don't
7 know what -- but it's a step. I mean, having worked
8 on these issues for a long time, you never get
9 everything you want and you have to go step by step
10 and understand -- especially in Missouri with MEEIA
11 the way it is -- that working with utilities and
12 getting utilities to agree and buy into the energy
13 saving levels we think are doable and designing
14 programs in a way that really work was our best
15 approach.

16 So it was a judgment call. It's a
17 strategy call and we feel comfortable that we will
18 over time get to where we need to get to.

19 **Q. And the stipulation, is that still NRDC's**
20 **position in this case?**

21 A. Yes, it is.

22 **Q. Are you giving up your advocacy for**
23 **annual revenue requirement true-ups as an alternative**
24 **to the TDNSB?**

25 A. Absolutely not. We're looking forward to

1 the Commission's agenda session tomorrow to help, in
2 part, move the decoupling conversation forward. We
3 will be working with all and -- all interested parties
4 to help figure out how to move away from this
5 throughput disincentive challenge we're dealing with
6 in this case to something that is easier, better,
7 simpler for everybody to, you know, work on.

8 And that's something I have worked on in
9 many other states and NRDC has been a big proponent of
10 and we look forward to moving in that direction.

11 **Q. Thank you.**

12 MR. ROBERTSON: That's all I have.

13 JUDGE PRIDGIN: Mr. Robertson, thank you.
14 Mr. Gupta, thank you very much. You stay step down.

15 Mr. Snider would be the next witness; is
16 that correct?

17 (NRDC Exhibit 300 was marked for
18 identification.)

19 (Witness sworn.)

20 JUDGE PRIDGIN: Mr. Zellers, when you're
21 ready.

22 MR. ZELLERS: Thank you, Your Honor.

23 PAUL SNIDER testified as follows:

24 DIRECT EXAMINATION BY MR. ZELLERS:

25 **Q. Good afternoon.**

1 A. Good afternoon.

2 Q. **Would you please state your name and**
3 **spell it for the court reporter.**

4 A. Paul Snider, S-n-i-d-e-r.

5 Q. **And who is your employer?**

6 A. Brightergy.

7 Q. **Could you please state your title.**

8 A. I'm the vice president of Policy and
9 Government Affairs.

10 Q. **And are you the same Paul Snider who**
11 **caused to be filed Rebuttal Testimony in this case**
12 **dated July 15th, 2015 and marked as Exhibit 1501?**

13 A. I am.

14 Q. **And in that testimony did you adopt the**
15 **Rebuttal Testimony of Adam Blake filed on April 27th,**
16 **2015 and marked as Exhibit 1500?**

17 A. I did.

18 Q. **For both of those pieces of testimony, do**
19 **you have any corrections?**

20 A. I do not.

21 Q. **For both of those pieces of testimony,**
22 **would your answers change if I asked you the same**
23 **questions today?**

24 A. No.

25 Q. **And are the answers to those questions**

1 **true and correct, to the best of your knowledge?**

2 A. Yes.

3 MR. ZELLERS: Your Honor, I'd offer
4 Exhibits 1500 and 1501 into evidence.

5 JUDGE PRIDGIN: Any objections?

6 Hearing none, 1500 is admitted into
7 evidence, 1501 is admitted into evidence.

8 (Brightergy Exhibits 1500 and 1501 were
9 received into evidence.)

10 MR. ZELLERS: And nothing further. I
11 tender the witness for cross-examination.

12 JUDGE PRIDGIN: Mr. Zellers, thank you.

13 United for Missouri, any cross?

14 MR. LINTON: I have no questions.

15 JUDGE PRIDGIN: Renew Missouri?

16 MR. LINHARES: No questions, Your Honor.

17 JUDGE PRIDGIN: Tower Grove, National
18 Housing Trust?

19 MR. LINHARES: No questions, sir.

20 JUDGE PRIDGIN: Sierra Club?

21 MS. TAUBER: No questions, Judge.

22 JUDGE PRIDGIN: MIEC and MECG I don't
23 believe are here. Public Counsel?

24 MR. OPITZ: No questions, Judge.

25 JUDGE PRIDGIN: Staff of the Commission?

1 MS. MUETH: No questions.

2 JUDGE PRIDGIN: Division of Energy?

3 MR. ANTAL: Just a few.

4 CROSS-EXAMINATION BY MR. ANTAL:

5 Q. Hello, Mr. Snider --

6 A. Good afternoon.

7 Q. -- how are you today?

8 In the Rebuttal Testimony of Brightergy
9 CEO Adam Blake, he indicates that it was important
10 that Ameren Missouri provide contractors such as
11 Brightergy with continuity, certainty and
12 transparency; is that correct?

13 A. That's correct.

14 Q. Okay. Would the discontinuation of
15 Ameren Missouri's MEEIA portfolio in the immediate
16 future provide certainty for MEEIA program partners
17 like Brightergy?

18 A. It would not.

19 Q. Okay. Do you support the inclusion of
20 combined heat and power in MEEIA programs?

21 A. Yes.

22 Q. Okay. Does the Non-utility Agreement
23 include CHP?

24 A. Not to my knowledge.

25 Q. Okay. And to your knowledge does the

1 **Utility Agreement include CHP?**

2 A. Yes.

3 **Q. Do you agree with the position of Staff**
4 **that if the Non-utility Stipulation and Agreement is**
5 **rejected by the Commission, that the Company's plan**
6 **should be entirely rejected?**

7 A. I do not.

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

9 MR. ANTAL: No further questions.

10 JUDGE PRIDGIN: Mr. Antal, thank you.

11 NRDC, any questions?

12 MR. ROBERTSON: No questions.

13 JUDGE PRIDGIN: Ameren Missouri?

14 MR. TOMC: No questions, Your Honor.

15 JUDGE PRIDGIN: Thank you. Any Bench
16 questions?

17 COMMISSIONER STOLL: No questions, thank
18 you.

19 JUDGE PRIDGIN: Commissioner Kenney?

20 COMMISSIONER KENNEY: Yes, sir. I have
21 one.

22 QUESTIONS BY COMMISSIONER KENNEY:

23 **Q. Thank you, Mr. Snider. I think it was**
24 **yesterday your counsel, Mr. Zellers, gave a**
25 **description of the pay-back period. And you mention**

1 in your testimony under Rebuttal Testimony -- you talk
2 about free riders on page 3 and those individuals that
3 are going to do energy efficiency measures
4 regardless --

5 A. That's correct.

6 Q. -- right? I put in a whole bunch of can
7 lights and, you know, can get them pretty cheap at
8 Home Depot, the LEDs.

9 But can you explain to me the KCP&L
10 program? Because you said that's what you -- you've
11 experienced it from the Kansas City area. Can you
12 explain that program?

13 A. Yeah. You know, as -- as Mr. Laurent
14 mentioned this morning, you know, the goal of MEEIA
15 and energy efficiency generally is to provide an
16 incentive to customers to do something above the level
17 they would already normally do. So for you, you might
18 go to Home Depot and buy can lights. If you had an
19 incentive to do something more valuable, whether it's
20 an LED or some other technology, you might take
21 advantage of that.

22 So that's, in our view, what Kansas City
23 Power & Light's program does. It provides a -- for
24 custom programs -- so the way programs generally are
25 set up by utilities, they have prescriptive rebates

1 for, you know, certain items. You know, perhaps a CFL
2 is worth \$5 a bulb, whatnot. They also have custom
3 programs where a contractor might work with a customer
4 to come up with a custom solution that might involve a
5 building management system or LED lighting or any
6 number of items and those are usually incented
7 differently.

8 What Kansas City Power & Light's program
9 does and what we are recommending that Ameren adopt is
10 a program that would provide a customer a 50 percent
11 incentive for their -- for their project. So if
12 they're -- I have an example in my testimony that lays
13 out some certain parameters and an example of how that
14 might work.

15 But in general, we have found that
16 customers are not willing to deploy discretionary
17 capital unless they can get to a two- to three-year
18 pay-back. I believe that the Kansas City Power &
19 Light's program contemplated that when they set it up
20 with that in mind and so they designed a program that
21 would buy down someone's project to that two- to
22 three-year period or 50 percent, whichever is less.

23 **Q. Is there a cap in those funds?**

24 A. There is. In Kansas City Power & Light's
25 program it's \$250,000 per year per customer. There's

1 also a slight adjustment. It's also up to two times
2 your DSIM charge. So -- so a large customer that --
3 that might have a -- you know, a half million dollar
4 DSIM, they could get a million dollars per year. But
5 in general, most customers would have a cap of
6 \$250,000.

7 **Q. And does it cover all -- several**
8 **different products? You mentioned LEDs, lighting.**
9 **Does it cover furnace, heating?**

10 A. It does. Their -- their commercial
11 custom rebate would -- could incent someone for
12 lighting, building management system, various --
13 variable speed motor upgrades. It's a large universe
14 of energy efficiency products.

15 **Q. Okay. Great. Thank you.**

16 JUDGE PRIDGIN: All right. Thank you.
17 Any recross, United for Missouri?

18 MR. LINTON: No.

19 JUDGE PRIDGIN: Very good.

20 Renew Missouri?

21 MR. LINHARES: No, Your Honor.

22 JUDGE PRIDGIN: Tower Grove, National
23 Housing Trust?

24 MR. LINHARES: No questions.

25 JUDGE PRIDGIN: Sierra Club?

1 MS. TAUBER: No questions, Judge.

2 JUDGE PRIDGIN: Thank you. I don't see
3 MIEC or MECG. Public Counsel?

4 MR. OPITZ: No questions, Judge.

5 JUDGE PRIDGIN: Staff?

6 MS. MUETH: No questions.

7 JUDGE PRIDGIN: Division of Energy?

8 MR. ANTAL: No questions.

9 JUDGE PRIDGIN: NRDC?

10 MR. ROBERTSON: No.

11 JUDGE PRIDGIN: Ameren Missouri?

12 MR. TOMC: No, Your Honor.

13 JUDGE PRIDGIN: All right. Any redirect?

14 MR. ZELLERS: No redirect, Your Honor.

15 JUDGE PRIDGIN: Mr. Zellers, thank you.

16 Mr. Snider, thank you very much. You may
17 step down.

18 It looks like Dr. Marke is going to be
19 our last witness for the day; is that correct?

20 MR. OPITZ: I believe so, Judge.

21 JUDGE PRIDGIN: Dr. Marke, when you're
22 ready, sir.

23 (OPC Exhibits 800-NP, 800-HC, 801-NP,
24 801-HC, 802 and 803 were marked for identification.)

25 (Witness sworn.)

1 JUDGE PRIDGIN: Thank you very much.

2 Mr. Opitz, when you're ready, sir.

3 GEOFF MARKE testified as follows:

4 DIRECT EXAMINATION BY MR. OPITZ:

5 Q. Dr. Marke, can you state and spell your
6 name for the court reporter, please.

7 A. Geoff, G-e-o-f-f, Marke, M-a-r-k-e.

8 Q. And where are you employed and in what
9 capacity?

10 A. I work for the Office of Public Counsel.
11 I'm an economist.

12 Q. Did you prepare Rebuttal -- the Rebuttal
13 Testimony of Geoff Marke HC and NP marked as Exhibit
14 800, the Surrebuttal Testimony of Geoff Marke HC and
15 NP marked as Exhibit 801, the Supplemental Direct
16 Testimony of Geoff Marke marked as Exhibit 802, the
17 Supplemental Rebuttal Testimony of Geoff Marke
18 pre-marked as Exhibit 803 in this case?

19 A. I did.

20 Q. Do you have any corrections and
21 deletions?

22 A. I do not.

23 Q. If I asked you the questions in that
24 testimony today, would your answers be the same?

25 A. They would.

1 **Q. And to the best of your knowledge and**
2 **belief, are the answers in that testimony true and**
3 **correct?**

4 A. They are.

5 MR. OPITZ: Your Honor, at this time I
6 would offer Exhibits 800-HC and NP, 801-HC and NP, 802
7 and 803.

8 JUDGE PRIDGIN: Mr. Opitz. Thank you.
9 Any objections?

10 Hearing none, Exhibit 800-HC and NP are
11 admitted, Exhibit 801-HC and NP are admitted, Exhibit
12 802 is admitted, Exhibit 803 is admitted.

13 (OPC Exhibits 800-NP, 800-HC, 801-NP,
14 801-HC, 802 and 803 were received into evidence.)

15 MR. OPITZ: Thank you, Judge. I tender
16 the witness for cross.

17 JUDGE PRIDGIN: Thank you. Any
18 cross-examination, Staff?

19 MS. PAYNE: Just one, Your Honor.

20 CROSS-EXAMINATION BY MS. PAYNE:

21 **Q. Dr. Marke, throughout the course of this**
22 **proceeding you've heard several of the witnesses asked**
23 **whether they believe that it is better to have no**
24 **MEEIA program than the program presented in the**
25 **Utility Stipulation. What is your opinion on this**

1 **matter?**

2 A. So the question is whether I believe that
3 no program would be preferable versus the Utility
4 Stipulation?

5 **Q. Correct.**

6 A. No program.

7 **Q. Okay. Thank you.**

8 MS. PAYNE: That's all, Your Honor.

9 JUDGE PRIDGIN: Thank you.

10 Renew Missouri?

11 MR. LINHARES: Yeah. Just a few
12 questions, Your Honor.

13 CROSS-EXAMINATION BY MR. LINHARES:

14 **Q. Good afternoon, Dr. Marke, or almost**
15 **evening, I suppose.**

16 A. Good evening.

17 **Q. Dr. Marke, your Rebuttal Testimony and to**
18 **some extent your Surrebuttal Testimony discusses**
19 **Ameren Missouri's potential study; is that correct?**

20 A. That's correct.

21 **Q. Could you explain OPC's primary issue**
22 **with Ameren Missouri's potential study?**

23 A. Yes. OPC's primary position or issue
24 with the potential study centers on methodology. Just
25 so the record's clear, OPC believes that the potential

1 study itself was a good study. It was a million
2 dollar study. The -- EnerNOC, everything that Ingrid
3 Rohmund testified to, excellent primary data.

4 The issue that we took -- the issue that
5 we had was one of her methodology, and specifically
6 over the YouGov insert. There's a secondary issue
7 that's a temporal issue, it's a timing issue. And if
8 I could, I'd just like to explain just a little bit
9 about that.

10 The YouGov study is a 2010 study. It's a
11 2010 study. To the best of my knowledge, was a phone
12 study conducted over a period of several months to a
13 year asking questions that may or may not have
14 included energy efficiency products or services.

15 Out of that -- out of that 2010 study
16 that hasn't been published, hasn't been substantiated
17 by anybody that the Company has provided, they used
18 that to alter the primary market potential study.
19 That's where we took issue.

20 As a secondary issue, there was a
21 temporal timing issue that we've addressed. And this
22 is sort of the nature of the beast. In the market
23 potential study they used a 2011 baseline. In 2012,
24 they entered into a contract with EnerNOC and began
25 doing the study. That took place for two years; 2012,

1 2013. During that period -- and in 2013 Ameren
2 started their MEEIA program, it's the first year of
3 their program. Prior to that, they had some on and
4 off programs.

5 The study concluded at the end of 2013.
6 Stakeholders were given results early 2014. About a
7 month after that, we were given results of the first
8 year EM&V of Ameren Missouri. That first year EM&V
9 results that we got back showed that the Ameren
10 Missouri MEEIA had been widely successful, which
11 contradicted the results that we saw as far as the
12 potential.

13 Now, prior to that, for -- up until
14 December of 2013, when we first were made aware that
15 the YouGov study hadn't been substantiated by anybody
16 and hadn't involved any market research or data that
17 was appropriate to Ameren Missouri's service -- to
18 ratepayers, we began taking issue with it. It was
19 another ten months before we were able to go ahead and
20 file anything in opposition to that, and that was the
21 Ameren IRP in October of 2013. It was another two
22 months before then -- before we could take issue with
23 it the second time, and that was the Ameren
24 Missouri -- Ameren MEEIA application.

25 It's now today, July 20th, 21st, 2015,

1 that -- this is the first time our office has been
2 able to go ahead and express our issues with the
3 methodology that was employed in that study. That's
4 where we take issue with. Not only the methodology,
5 but the fact that it's taken this long to get to this
6 issue today at a cost of one million dollars to
7 ratepayers.

8 And the fact -- and I can't stress this
9 enough -- the small targets that we're talking about
10 here are going to be in effect for 2016, 2017, 2018.
11 So as much as I would agree with the sentiment of
12 Docto-- or Mr. Gupta in regards to achieving higher
13 savings targets, we're locked in. We're going to be
14 locked in for the next three years at these targets.

15 **Q. Thank you, Dr. Marke. And on the basis**
16 **of what you just said, can you speak to the panel of**
17 **experts and the third-party mediator process that's**
18 **found in paragraph 2D of the Non-utility Stipulation,**
19 **especially with respect to what you were just saying**
20 **about the YouGov study and the participation rates**
21 **issue that's been subject to controversy in this case?**

22 MR. MITTEN: Your Honor, I'm going to
23 object to the question. You've previously ruled that
24 friendly cross is not going to be allowed in this
25 proceeding. The client that is represented by counsel

1 is a signatory to the same stipulation that OPC has
2 signed. This is clearly not cross-examination. The
3 form of the questions are narrative, giving Dr. Marke
4 an opportunity to expound at length on issues that are
5 already covered in the Supplemental Direct Testimony
6 that he filed.

7 So I would object to the line of
8 questioning and ask that you rule in the same fashion
9 here that you ruled earlier today that friendly cross
10 is not going to be allowed.

11 JUDGE PRIDGIN: Mr. Linhares?

12 MR. LINHARES: Your Honor, I'm simply
13 asking the witness to state his client's -- the Public
14 Counsel's position in this case, which has been
15 expressed in the terms of the Non-utility Stipulation.
16 One of those positions has to do with the expert panel
17 and I'm simply asking the witness to explain his
18 party's position on that issue.

19 JUDGE PRIDGIN: I'm going to sustain.
20 This is friendly cross. And he's had four, you know,
21 attempts to file testimony. I think he's been able to
22 explain and can certainly explain on redirect if his
23 counsel wants to redirect him.

24 MR. LINHARES: Okay. I'll move on.
25 Thank you.

1 BY MR. LINHARES:

2 Q. Dr. Marke, do you believe there are any
3 problems with Ameren's proposed net shared benefits
4 business model?

5 A. It's the position of Public Counsel that
6 we oppose that business model. We feel that the net
7 shared benefits model that's been designed by Ameren
8 Missouri is misleading in the best of lights.

9 Now, there's a number of reasons why the
10 net shared benefits model is bad, but I just want to
11 point one in particular to the Commission's attention.
12 It's the utility performance incentive. Right now
13 that's not an input into the net shared benefits
14 model. Right now the utility's proposing a 60 percent
15 increase into their performance incentive.

16 Now, there's a lot of -- there's been a
17 lot of testimony talking about a concern from the
18 Company that they wouldn't be rewarded for something
19 less than 70 percent. And Staff's submitted testimony
20 that's talked about what their projections would be
21 under 100 percent. It's Public Counsel's concern what
22 would be the problem if this was a 130 percent,
23 because it will be. At these targets, being as low as
24 they are, they will hit the 130 mark. They're going
25 to hit it in Cycle 1. And these targets are

1 considerably smaller. That's \$48 million at a
2 threshold level. Beyond that, it can continue
3 indefinitely.

4 Right now the net shared benefit model
5 assumes that customers -- this is not an input. This
6 is not a cost. So when we say net shared benefits,
7 it's got a very positive name -- connotation to it.

8 The reality of it is, is when Ameren
9 ratepayers look at their bills when they get that EEIC
10 charge, that 48 million-plus is going to come from
11 that charge. That's a lot of money. And that issue
12 in particular is not being addressed. There's other
13 issues in terms of the net shared benefits, but to the
14 extent our office is primarily concerned, that's one.

15 In contrast, the Non-utility Stipulation
16 proposes an alternative method from this net shared
17 benefits model.

18 **Q. Dr. Marke, OPC is a signatory and also**
19 **one of the primary authors to the Non-utility**
20 **Stipulation filed in this case. Is that a fair**
21 **statement?**

22 A. It is.

23 **Q. Why does the Non-utility Stipulation**
24 **place a greater emphasis on demand savings as opposed**
25 **to energy savings?**

1 MR. MITTEN: Your Honor, I'm going to
2 object to any further questions of this witness by
3 Mr. Linhares. As I pointed out earlier, these two
4 parties are not adversaries. They're both signatories
5 to the same stipulation. They have both adopted the
6 same joint position in this case.

7 The nature of the questions of
8 Mr. Linhares are not in the nature of
9 cross-examination. He's simply offering up questions
10 to allow this witness to give long narrative answers
11 on matters that have already been discussed in his
12 Supplemental Direct and Supplemental Rebuttal
13 Testimonies.

14 So I would ask that you cut off any
15 further questioning by this counsel because, again,
16 it's friendly cross-examination and you previously
17 indicated that that's not appropriate in this
18 proceeding.

19 JUDGE PRIDGIN: Mr. Linhares?

20 MR. LINHARES: Your Honor, I would
21 withdraw the question. I just have one further
22 question for the witness that does not have to do with
23 either Rebuttal or Surrebuttal Testimony.

24 JUDGE PRIDGIN: Very good.

25 BY MR. LINHARES:

1 **Q. Dr. Marke, we've heard your counsel**
2 **yesterday refer to the possibility or threat that**
3 **Ameren Missouri could walk away if its stipulation is**
4 **not approved. In your opinion, will the Company walk**
5 **away if the Commission decides to approve with some or**
6 **all of the modifications in the Non-utility**
7 **Stipulation?**

8 A. I don't think they'll walk away. I think
9 there's too much money here, I think given all the
10 constraints and all the issues that are -- that are
11 present here --

12 **Q. Okay. Thank you.**

13 MR. LINHARES: No further questions, Your
14 Honor.

15 JUDGE PRIDGIN: All right. Thank you.
16 Tower Grove, National Housing Trust?

17 MR. LINHARES: No questions. Thank you.

18 JUDGE PRIDGIN: MIEC, MECC, Brightergy,
19 any cross?

20 MR. ZELLERS: No cross for this witness,
21 Your Honor.

22 JUDGE PRIDGIN: Thank you.
23 Sierra Club?

24 MS. OSUALA: No questions, Your Honor.

25 JUDGE PRIDGIN: I don't see KCP&L or GMO.

1 United for Missouri?

2 MR. LINTON: I have no questions.

3 JUDGE PRIDGIN: Thank you. Division of
4 Energy?

5 MR. ANTAL: Yes, just a few.

6 JUDGE PRIDGIN: When you're ready.

7 CROSS-EXAMINATION BY MR. ANTAL:

8 Q. Good evening, Dr. Marke. Is it a fair
9 characterization of your Supplemental Testimony that
10 the Utility Agreement ignores demand savings?

11 A. It is.

12 Q. Okay. You believe that programs such as
13 HVAC programs under the Non-utility Agreement would
14 lead to demand savings for --

15 A. They would.

16 Q. Okay. And would programs that incent
17 customers to install insulation result in demand
18 savings?

19 A. It would.

20 Q. Okay. Is it a fair representation that
21 programs designed for energy savings will incidentally
22 have demand savings as well?

23 A. Will measures that produce energy
24 efficiency measures produce demand savings?

25 Q. Yes.

1 A. Yes.

2 Q. Okay. You've also, in your testimony and
3 here today, expressed some concern in the Company's
4 requested increase in the performance -- performance
5 incentive; is that correct?

6 A. That is correct.

7 Q. Okay. Are you aware of any other tariffs
8 that provide for sharing percentages to companies,
9 utilities?

10 A. So other utilities that have sharing
11 percentages?

12 Q. Yes.

13 A. In a general sense, yes.

14 Q. Okay. What are those, in a general
15 sense?

16 A. In my review of performance incentives
17 that are typical for energy efficiency programs, I
18 looked at a report produced by Edison Electric.

19 Q. Okay.

20 A. And it's been filed as a footnote in both
21 my testimony and I believe it -- I know the -- I want
22 to say it's in Ameren Missouri's application. Their
23 application has it as an earlier version. I've got a
24 little bit more of an updated version. But within
25 that testimony itself, within that report, it lists

1 all the states that have energy efficiency programs.
2 Some of those states have a net shared benefit
3 mechanism.

4 **Q. Okay. Are you aware of any Missouri**
5 **utilities that have shared percentages -- sharing**
6 **percentages included in their tariffs?**

7 A. For a MEEIA program?

8 **Q. Not necessarily for a MEEIA program.**

9 A. I only know them for a MEEIA program, but
10 yes.

11 **Q. Okay. So you're not aware of any**
12 **Missouri utilities that have sharing percentages say**
13 **as part of a off-system sales, capacity release**
14 **revenues?**

15 A. I'm sorry. I think we're a little mixed
16 up.

17 **Q. Sure.**

18 A. Is the question do I know of any Missouri
19 utilities that have a net share benefits mechanism in
20 place?

21 **Q. No.**

22 A. Okay. I'm sorry. Could you rephrase
23 that?

24 **Q. You know what? We can strike that**
25 **question.**

1 **On page 12 of your Surrebuttal Testimony,**
2 **you indicated your agreement with Staff witness John**
3 **Rogers regarding his statement that Ameren Missouri's**
4 **originally filed plan would not be beneficial to all**
5 **customers in customer classes to which it would**
6 **apply -- yeah, to which those programs would apply; is**
7 **that correct?**

8 A. That's correct.

9 **Q. Okay.**

10 A. If I may --

11 **Q. No, not at this time.**

12 **Does your agreement with Mr. Rogers**
13 **indicate that you support a rate impact analysis?**

14 A. No.

15 **Q. Okay. And did you also state in your**
16 **testimony that -- that TRC should be used throughout**
17 **the MEEIA process?**

18 A. I do say that.

19 **Q. Okay. And would you agree that many of**
20 **the issues that you've highlighted in your testimony,**
21 **including potential studies, EM&V, as well as others**
22 **are, in part, due to issues with the MEEIA rules**
23 **themselves?**

24 A. I'm not sure I understand the question
25 so --

1 Q. Well, let me rephrase.

2 A. Okay.

3 Q. You've highlighted many issues that you
4 have with the Company's proposal --

5 A. Yes.

6 Q. -- and the process that has taken place.
7 Correct?

8 A. Yes.

9 Q. Okay. Are many of those concerns that
10 you've raised due in part to the MEEIA rules
11 themselves?

12 A. I think the rules could pre-- could
13 provide more guidance in this, yes.

14 Q. Okay. And is the Office of Public
15 Counsel a stakeholder in a workshop to revise the
16 MEEIA rules?

17 A. We are.

18 Q. Okay. And that's all I have. Thank you
19 very much.

20 JUDGE PRIDGIN: Mr. Antal, thank you.

21 NRDC, questions?

22 Ameren Missouri

23 MR. MITTEN: Thank you, Your Honor.

24 CROSS-EXAMINATION BY MR. MITTEN:

25 Q. Good afternoon, Dr. Marke.

1 A. Good afternoon, Mr. Mitten.

2 Q. In response to some questions from
3 Mr. Linhares, you indicated that the 2010 market
4 potential study that Ms. Rohmund and her group
5 performed had not been substantiated by anyone; is
6 that correct?

7 A. No.

8 Q. That's not what you said?

9 A. That's not what I said.

10 Q. What did you say in response to his
11 questions?

12 A. That the secondary -- the subcontractor,
13 YouGov, their study hadn't been substantiated.

14 Q. Is that also true of the 2013 study?

15 A. I'm sorry. I don't think I spoke to the
16 2010 study. I wasn't a party to that.

17 Q. I thought Miss-- or excuse me, I thought
18 Mr. Linhares asked you about the 2010 study.

19 A. I don't believe so. If he did, correct
20 that and say replied to the 2013 study.

21 Q. So it's the YouGov portion of the 2013
22 study that you don't believe has been substantiated?

23 A. Yes.

24 Q. Now, what did you mean by
25 "substantiated"?

1 A. At the very least, just being able to go
2 ahead and reproduce it to look at it to look at the
3 methodology behind it. Substantiated might be be
4 verified by an authority.

5 **Q. Who would do the verification, Dr. Marke?**
6 **Would you? Would you do the verification?**

7 A. Would I do the verification?

8 **Q. Yes.**

9 A. It would -- you know, Mr. Mitten --

10 **Q. That's a yes or no question. Would you**
11 **do the verification?**

12 A. It would be nice.

13 **Q. Is that a yes or a no? Would you do the**
14 **verification?**

15 A. I would put it into the hands of more
16 experienced professionals than myself.

17 **Q. And who would that be?**

18 A. Who would that be? Peer-review journals.

19 **Q. Peer-review journals would review the**
20 **results of the YouGov study? How does a journal**
21 **review the results --**

22 A. Of a study?

23 **Q. -- of a study?**

24 A. How does a journal review the results of
25 a study?

1 **Q. Yes. You would submit the study to a**
2 **journal and ask them to assign authors to review the**
3 **study. Is that what you're talking about?**

4 A. Usually the submission process for an
5 academic journal or for something else, researchers
6 will come together, they'll produce a study and submit
7 the results to this journal to be reviewed. That
8 would be a blind review test where other researchers,
9 other professionals would go ahead and verify it.

10 **Q. Dr. Marke --**

11 A. You'd get some level of substance to it
12 to go ahead and then be presented and approved to the
13 general public.

14 **Q. Dr. Marke, not all studies are peer**
15 **reviewed. Do you agree with that?**

16 A. I'm -- sure. There's a general -- if
17 we're saying to study is a blanket term, I think
18 you're -- probably encompass a lot of things,
19 Mr. Mitten.

20 **Q. Well, not all YouGov studies are peer**
21 **reviewed. Do you agree with that?**

22 A. I -- I can't speak beyond YouGov
23 specific.

24 **Q. Would an expert like Ms. Rohmund be**
25 **qualified to determine whether or not the results of**

1 **the YouGov study were useful?**

2 A. It would definitely help.

3 **Q. And she apparently made that**
4 **determination. Don't you agree?**

5 A. I'm more confused today than I was prior
6 to this case based off Ms. Rohmund's testimony. As I
7 understand it, she couldn't tell us any, you know, of
8 my counsel's qu-- answer any of my counsel's question
9 regarding that study.

10 **Q. I think the record will reflect what she**
11 **was able to answer. Let me move on.**

12 **I want to focus some questions on the**
13 **portion of your Supplemental Direct Testimony**
14 **beginning at page 8 entitled Third-Party Mediator. Do**
15 **you have a copy of that testimony in front of you,**
16 **Dr. Marke?**

17 A. Yes, sir.

18 **Q. And on page 8, beginning on line 19, you**
19 **state, Third-party mediators are often deployed to**
20 **help resolve disputes over highly contentious issues.**
21 **And you go on to say that, In the energy efficiency**
22 **context, mediators have often been utilized as an**
23 **approach that relies on a panel of experts to arrive**
24 **at consensus.**

25 **Is that correct?**

1 A. That's what I'm reading, yes.

2 Q. Now, the highly contentious issue that
3 you want the third-party mediator process to resolve
4 with regard to Ameren Missouri's MEEIA Cycle 2
5 application are the energy savings targets based on
6 the Company's market potential study; is that right?

7 A. That's right.

8 Q. Now, the definition of a mediator, a
9 mediator is a neutral who works with parties with
10 opposing or different viewpoints and attempts to bring
11 those parties to consensus; is that right?

12 A. I would agree with that.

13 Q. Now, at page 9 of your testimony you cite
14 eight reports or documents or articles where you say
15 commissions or energy efficiency advisory groups have
16 utilized a mediator and expert panel process; is that
17 correct?

18 A. Ten reports actually, but yes.

19 Q. Now, I read each one of the reports that
20 is cited in your testimony and I also did a computer
21 word search of each of those reports and I didn't find
22 the word "mediator" used once in any of them. Did I
23 miss something? Is the word "mediator" used in any of
24 the documents that you cited in your testimony?

25 A. No. It --

1 Q. That's a yes or no question.

2 A. No.

3 Q. So your testimony that all of those
4 articles that you cited reflect recent usage of a
5 mediator panel of expert methodology is not accurate.
6 Would you agree?

7 A. I would not.

8 Q. Well, if the word "mediator" is not in
9 any of those articles, could it really -- could any of
10 the articles really have supported a mediator and
11 panel of expert methodology?

12 A. Yes.

13 Q. And how would that happen, Dr. Marke?

14 A. We can use the word "mediator." There's
15 synonyms for that. For a panel of experts, there's
16 synonyms.

17 Q. So what would the synonym for mediator
18 be?

19 A. Thanks for helping me clear this up,
20 because I could see where the testimony can be a
21 little confusing.

22 Q. I asked you a very direct question. What
23 would the synonym for mediator be that are used in the
24 articles that are cited at page 9 of your Supplemental
25 Direct Testimony?

1 A. Right. It's been referred in this case
2 before, but I would say Delphi panel would be more of
3 the technical term within this literature.

4 **Q. Well, the Delphi panel is the entire**
5 **group. Wouldn't you agree?**

6 A. The expert panel.

7 **Q. It's the expert panel and the mediator;**
8 **is that correct?**

9 A. Sure.

10 **Q. So what is the synonym for mediator that**
11 **I would find in any of the articles that are cited at**
12 **page 9 of your testimony?**

13 A. Facilitator.

14 **Q. Facilitator. And you think a facilitator**
15 **and a mediator are the same thing?**

16 A. Mr. Mitten, I think --

17 **Q. That was a yes or no question.**

18 A. I think they're in the general ball park,
19 yes.

20 **Q. In the general ball park. So to the**
21 **extent any of those articles use the word**
22 **"facilitator," that would support the mediator panel**
23 **of expert proposal that you've made in your**
24 **Supplemental Direct Testimony?**

25 A. I think what I've got listed there are

1 ten examples --

2 Q. Is that a yes or no?

3 A. Yes.

4 Q. So is it a facilitator and panel of
5 experts that you're proposing in paragraph 2D of the
6 stipulation that OPC has signed on to in this case?

7 A. Yes.

8 Q. Okay. For the next few questions I'd
9 like to focus on the specifics of that particular
10 proposal. Paragraph 2D of the stipulation indicates
11 that by October 31st of 2015, Ameren Missouri would
12 issue a request for a proposal or an RFP for a
13 facilitator who would then select a panel of experts,
14 and that ultimately that facilitator would make a
15 recommendation regarding kilowatt hour energy savings
16 targets; is that correct?

17 A. Yes, it is.

18 Q. Do you agree, Dr. Marke, that neither the
19 stipulation nor your testimony in support of the
20 stipulation specify any qualifications for the
21 facilitator?

22 A. I would agree.

23 Q. And you did also tell me during your
24 deposition last Friday --

25 MR. OPITZ: Judge, I would at this time

1 renew the motion that I made at the beginning of this
2 hearing to suppress that deposition for any use.

3 JUDGE PRIDGIN: Mr. Mitten?

4 MR. MITTEN: Your Honor, as I indicated
5 when Mr. Opitz first raised this -- may I approach the
6 Bench?

7 JUDGE PRIDGIN: You may.

8 MR. MITTEN: Last Friday, about
9 four o'clock I received the e-mail that I've just
10 handed to you from the court reporter transmitting to
11 me a copy of the deposition transcript. As you can
12 see, that same e-mail was addressed to Mr. Opitz.

13 MR. OPITZ: Judge --

14 MR. MITTEN: So Mr. Opitz got a copy of
15 the deposition transcript the same time I did.

16 MR. OPITZ: Judge, I would point out that
17 my e-mail address is listed incorrectly on this
18 document. My e-mail address is
19 Timothy.Opitz@OPC.mo.gov. This lists
20 Tim.Opitz@OPC.mo.gov.

21 MR. MITTEN: May I also say that
22 Mr. Opitz -- if that was an error, then he should have
23 brought that to the attention of the court reporter
24 immediately or at least he could have called or sent
25 me an e-mail and I would have been happy to forward

1 him a copy of the deposition transcript.

2 But from four o'clock when I got a copy
3 of the transcript myself until we arrived here at the
4 hearing Monday morning, I haven't heard a peep from
5 Mr. Opitz about where is the deposition transcript.

6 MR. OPITZ: Judge, do you understand how
7 I guess -- may I offer that I would not have known
8 that I should have received it since the e-mail never
9 reached me.

10 JUDGE PRIDGIN: I understand. I'm -- I'm
11 going to have to defer ruling on the objection. I'll
12 take -- I'll go ahead and allow Mr. Mitten to ask
13 questions, but your objection is still standing. I'll
14 simply have to rule on it later.

15 MR. MITTEN: Your Honor, could I add one
16 more thing?

17 JUDGE PRIDGIN: You may.

18 MR. MITTEN: At the deposition on Friday,
19 the court reporter indicated that she would be sending
20 out a transcript before the end of the day on Friday.

21 JUDGE PRIDGIN: All right. Thank you.

22 BY MR. MITTEN:

23 **Q. Dr. Marke, do you have a copy of your**
24 **deposition transcript from last Friday?**

25 A. And this is the second deposition, not

1 the first deposition; is that right?

2 **Q. The one from last Friday, yes.**

3 A. Okay.

4 **Q. During that deposition you told me that**
5 **the person who would serve as a facilitator of this**
6 **Delphi panel would not have to be an expert in energy**
7 **efficiency; is that correct?**

8 MR. OPITZ: Judge, I would object to this
9 question. Using that deposition is hearsay. It's an
10 out-of-court statement that he's offering here.
11 Dr. Marke is available. If he wants to ask the same
12 questions, he can ask those questions to Dr. Marke.
13 Otherwise, that deposition can only -- well, pending
14 my motion that you're taking under advisement, I
15 believe that this deposition can only be used for
16 impeachment purposes. And right now I do not -- based
17 on that question, do not believe he's using it for
18 impeachment.

19 MR. MITTEN: Let me rephrase the
20 question, Your Honor.

21 JUDGE PRIDGIN: Thank you.

22 BY MR. MITTEN:

23 **Q. Would the person who serves as a**
24 **facilitator of the Delphi panel that you propose have**
25 **to be an expert in energy efficiency?**

1 A. Would the person that would serve as the
2 expert or would --

3 **Q. As the facilitator --**

4 A. As the facilitator.

5 **Q. -- of the Delphi panel that you're**
6 **recommending have to be an expert in energy**
7 **efficiency?**

8 A. Right. I think in -- I believe my answer
9 was along the lines of that the stipulation envisioned
10 a facilitator that didn't necessarily have to have an
11 energy efficiency background. However, it would be
12 part of a larger contract potentially.

13 **Q. Dr. Marke, let's look and see exactly**
14 **what you said during the deposition. Could you please**
15 **turn to page 15.**

16 A. That works. Okay.

17 **Q. Line 23, the question, Would the mediator**
18 **have to be an expert in energy efficiency?**

19 **Could you please read the first sentence**
20 **of your answer there.**

21 A. It would enhance the process. And it
22 wouldn't necess-- I wouldn't necessarily say that
23 would be a prerequisite.

24 **Q. Okay. Thank you.**

25 MR. OPITZ: Judge, I would renew my

1 objection. I don't believe that that was actually
2 impeachment at all. I believe that that was
3 consistent with the answer that he gave prior to
4 Mr. Mitten referring to the deposition.

5 JUDGE PRIDGIN: I'll let you have the
6 standing objection, Mr. Opitz. I'll simply rule on it
7 in the Report and Order.

8 MR. OPITZ: Thank you.

9 BY MR. MITTEN:

10 **Q. Would knowledge of Ameren Missouri and**
11 **its Missouri service area be a requirement for someone**
12 **to serve as facilitator of the Delphi panel you've**
13 **proposed?**

14 A. I'm going to just jump to it. Could you
15 tell me what page I should go to for my answer?

16 **Q. Your counsel has objected to -- can you**
17 **answer the question first and we'll see if we need to**
18 **go to the deposition transcript.**

19 A. Okay. Do they need to be an Ameren
20 ratepayer? I don't --

21 **Q. No, that wasn't my question. Does the**
22 **person who serves as a facilitator of this panel have**
23 **to be someone with knowledge of Ameren Missouri and**
24 **its Missouri service area?**

25 A. I think it was along the lines of it

1 would enhance the process. The idea behind the panel
2 too is --

3 **Q. Let's look at your deposition transcript.**
4 **Could you turn to page 19, question beginning on line**
5 **21: Would knowledge of Ameren Missouri and its**
6 **Missouri service area be a requirement in order for**
7 **someone to be hired as the mediator under the**
8 **third-party process that's described in the**
9 **Non-utility Stipulation and in your testimony?**

10 **And the answer appears on line 7. And**
11 **that answer is what, Dr. Marke?**

12 **A. No, with -- with qualifications.**

13 **And I think the qualifications was --**

14 **Q. Thank you. Thank you. Under your**
15 **proposed Delphi panel, Ameren Missouri would have**
16 **complete discretion to decide who would serve as the**
17 **facilitator. Correct?**

18 **A. Ultimately, yes.**

19 **Q. And Ameren Missouri also would have**
20 **complete discretion to determine the process the**
21 **facilitator would use and how many experts would serve**
22 **on the panel. Also correct?**

23 **A. Ultimately, yes.**

24 **Q. Now, as we discussed earlier, the**
25 **facilitator and the panel of experts would be tasked**

1 with reviewing Ameren Missouri's market potential
2 study to determine if the energy savings opportunities
3 in that study are reasonable. And would the starting
4 point for that inquiry be the customer survey results
5 that were gathered by Ms. Rohmund and her team as part
6 of the 2013 market potential study?

7 A. I can't speak to that, Mr. Mitten.

8 Q. Well, could you turn to page 42 of your
9 deposition, please.

10 A. I'm there.

11 Q. Question beginning at 18: Stipulation
12 says the expert panel would rely on primary data from
13 Ameren Missouri's market potential study. Is that the
14 2013 that was performed by EnerNOC, and that's the
15 Company that Ms. Rohmund worked for at the time?

16 And what was your answer to that
17 question?

18 A. And I'm not trying to be argumentative
19 here, Mr. Mitten --

20 Q. What was your answer to the question
21 first?

22 A. My answer is yes, but --

23 Q. Thank you.

24 A. -- the question you asked me was
25 different.

1 **Q. Could the facilitator and the panel of**
2 **experts, the Delphi panel, could they perform an**
3 **original market study, market potential study?**

4 A. Could they?

5 **Q. Yes.**

6 A. That wasn't our intention.

7 **Q. Your Supplemental Direct Testimony says**
8 **that Public Counsel and several parties to this case**
9 **believe Ms. Rohmund's team improperly adjusted its raw**
10 **survey -- customer survey data using propriety data**
11 **from her consulting firm; is that correct?**

12 A. Yes, it is.

13 **Q. And you further claim the primary data**
14 **Ms. Rohmund's team collected were also improperly**
15 **altered by which you call unsubstantiated secondary**
16 **data. Is that also correct?**

17 A. It is. I --

18 **Q. Were you in the room when Ms. Rohmund**
19 **testified earlier --**

20 A. I was.

21 **Q. -- in this proceeding?**

22 **Did she state during that testimony that**
23 **the customer survey primary data were not adjusted by**
24 **any proprietary data from her consulting firm?**

25 A. Just so we're clear, what you're saying

1 is that Ms. Rohmund said that the Ameren Missouri
2 primary data was not adjusted?

3 **Q. Was not adjusted by any propriety data**
4 **from her firm?**

5 A. I do not recall that.

6 **Q. Did any of the parties in this case who**
7 **have criticized Ameren Missouri's market potential**
8 **study conduct a market potential study of their own**
9 **that produced results that were different than Ameren**
10 **Missouri's?**

11 A. Yes. And if I may --

12 **Q. Let me rephrase the question.**

13 A. Okay.

14 **Q. Did any of the parties in the case who**
15 **criticized Ameren Missouri's market potential study**
16 **conduct a study of their own based upon information**
17 **from Ameren Missouri's service area?**

18 A. Just Ameren Missouri specific?

19 **Q. Yes.**

20 A. No.

21 **Q. To your knowledge, have any of the**
22 **critics of Ameren Missouri study ever conducted a**
23 **market opportunity study or market potential study**
24 **based on primary data from a utility's own customers?**

25 A. I can't speak to what other parties have

1 done or not done.

2 **Q. Now, there's a difference between primary**
3 **and secondary data; is that correct?**

4 A. Yes.

5 **Q. And secondary data is information that's**
6 **been collected for a purpose other than the research**
7 **project for which it's used, but which still may have**
8 **some relevance for that project; is that correct?**

9 A. That's correct.

10 **Q. And primary data is data that has been**
11 **specifically collected for that research project; is**
12 **that correct?**

13 A. That is correct.

14 **Q. Paragraph 2D, single i, of the**
15 **stipulation to which OPC is a party to this case says**
16 **that, In addition to the customer survey data**
17 **Ms. Rohmund's team prepared, the proposed panel of**
18 **experts would also consider industry trends and best**
19 **practices from similar or comparable jurisdictions; is**
20 **that correct?**

21 A. Yes, I see that.

22 **Q. What kind of industry trend information**
23 **would the Delphi panel consider and where would that**
24 **information come from?**

25 A. So there were I believe three general

1 examples I gave in my deposition.

2 **Q. Yes.**

3 A. I think I reference codes and standards,
4 new technology or new regulation that would be coming
5 online.

6 **Q. Well, let's look at page -- at your**
7 **deposition and see exactly what you said. Page 44.**

8 A. Okay.

9 **Q. Beginning on line 5 the question: What**
10 **kind of information would be used to determine**
11 **industry trends?**

12 **Could you read your answer to that**
13 **question into the record?**

14 A. At a high level, it would be information
15 that pertains to federal EISA standards, industry
16 trends could include emerging new technology that
17 wasn't considered, prices, fluctuation of prices in
18 different measures, all of these things.

19 **Q. And the next question: Is there -- is**
20 **there any other kind of industry data regarding**
21 **industry trends that you believe that the panel of**
22 **experts should consider?**

23 **And what was your response?**

24 A. The demographic information.

25 **Q. And where would the panel of experts get**

1 **this industry trend information, Dr. Marke?**

2 A. Mr. Mitten, can I move ahead on the
3 question or are we going to go -- I do answer it just
4 later.

5 **Q. If you'd like to refer to your deposition**
6 **for purposes of answering the question, that's fine.**

7 A. Okay. So the examples, the demographic
8 information that I gave included regional information
9 from Chamber of Commerce, St. Louis Fed, East-West
10 Gateway all would have more relevant census data to
11 rely on.

12 I mean keep in mind the potential study's
13 utilizing 2011 data. To the extent that we're going
14 to look at this and use this as a target moving
15 forward, we probably want to have the most fresh data
16 that we can get.

17 **Q. Dr. Marke, information regarding -- that**
18 **pertains to the federal EISA, regarding emerging new**
19 **technology and prices and information that you get**
20 **from Chambers of Commerce and the East-West Gateway**
21 **Center, that's all secondary data, isn't it?**

22 A. Yes.

23 **Q. Would it be difficult, if not impossible,**
24 **for the proposed panel of experts to substantiate**
25 **information that it gets from those secondary sources?**

1 A. Would it be difficult or impossible to
2 substantiate data from an institution like the Federal
3 Reserve?

4 **Q. Well, let me go about this a different**
5 **way. You said the way to substantiate information**
6 **would be to submit it to a peer-review panel. Would**
7 **the information that they get from the East-West**
8 **Gateway Center and the Chamber of Commerce and the**
9 **St. Louis Fed, would any or all of that be submitted**
10 **to a peer-review panel?**

11 A. I would say that all of this would be --
12 well, first of all, the examples that I gave --

13 **Q. That's a yes or no question.**

14 A. -- are all public. I think that's the
15 that distinction we're talking about here. This is
16 all public information.

17 **Q. And as long as it's public, it's -- it's**
18 **substantiated. Is that what you're telling me?**

19 A. From authoritative sources, yes.

20 **Q. And the St. Louis Chamber of Commerce is**
21 **an authoritative source?**

22 A. They're going to use secondary data to
23 support some of their findings. St. Louis Chamber of
24 Commerce produces data themselves. This is not an
25 unusual thing.

1 **Q. I also -- where would the panel of**
2 **experts get information regarding best practices from**
3 **other jurisdictions?**

4 A. Is this a response that I made in my
5 deposition as well?

6 **Q. What response did you make in your**
7 **deposition, Dr. Marke?**

8 A. I'm not sure. That's why I'm asking.

9 **Q. Well, turn --**

10 MR. OPITZ: Dr. Marke --

11 BY MR. MITTEN:

12 **Q. -- turn to page 47. And the question on**
13 **line 16: Where would they look to collect that**
14 **information? And that refers to information regarding**
15 **best practices in other jurisdictions.**

16 **And what was your response to that?**

17 A. I said the internet's a good place to
18 start.

19 **Q. Data from the internet. That's secondary**
20 **data too, isn't it, Dr. Marke?**

21 A. It is. I'm not proposing that the
22 potential --

23 **Q. I don't have a question --**

24 A. -- the panel conducts primary data.

25 **Q. I don't have a question on the table**

1 right now, Dr. Marke.

2 A. I apologize.

3 Q. After the panel of experts finishes its
4 work, would the members make recommendations to the
5 facilitator regarding what the kilowatt hour savings
6 targets ought to be?

7 A. If that's how the facilitator sets up the
8 methodology, yes.

9 Q. Whatever methodology the facilitator sets
10 up, ultimately it's going to be the facilitator that
11 determines what energy savings targets should be
12 recommended for 2017 and 2018. Correct?

13 A. For the report, yes.

14 Q. Now, as proposed in paragraph 2Dii of the
15 stipulation to which OPC is a party in this case,
16 after the facilitator makes his decision about
17 appropriate energy savings targets, the facilitator's
18 supposed to file a written report with the Commission;
19 is that right?

20 A. That's correct.

21 Q. And according to the OPC stipulation,
22 following that filing, interested parties would be
23 allowed to file comments to the facilitator's
24 recommendation; is that right?

25 A. That's correct.

1 Q. Would those be written comments?

2 A. They could, yes.

3 Q. Could they be in the form of written
4 testimony?

5 A. They could.

6 Q. And after the Commission receives those
7 comments, either written comments or in the form of
8 testimony, the Commission's ultimately going to
9 approve kilowatt hour savings targets for 2017 and
10 2018; is that right?

11 A. That's right.

12 Q. So if I was to summarize the steps of
13 the -- the Delphi process that you've just described
14 and that is proposed in your -- in the stipulation
15 that OPC supports, step one would be Ameren Missouri
16 hires a facilitator and a panel of experts to
17 recommend kilowatt hour savings targets for 2017 and
18 2018; is that right?

19 A. Step one is that they hire a facilitator
20 to come up with the numbers?

21 Q. Well, they hire a --

22 A. Step one --

23 Q. Ameren Missouri is hiring the
24 facilitator?

25 A. Sure. RFP --

1 **Q. The facilitator is hiring a panel of**
2 **experts?**

3 A. Yes.

4 **Q. And the -- that panel of experts is going**
5 **to consider original data from Ameren Missouri's**
6 **market potential study; is that correct?**

7 A. That's correct.

8 **Q. And also secondary data regarding**
9 **industry trends and best practices from comparable**
10 **jurisdictions; is that right?**

11 A. That's correct.

12 **Q. And after they finish considering all of**
13 **that information and give that information to the**
14 **facilitator, the facilitator that Ameren Missouri**
15 **hires is going to file a recommendation regarding**
16 **kilowatt hour savings targets with the Commission; is**
17 **that right?**

18 A. That's right.

19 **Q. And then the Commission is going to ask**
20 **for comments from interested parties which might be in**
21 **the form of written comments or might be in the form**
22 **of testimony. Right?**

23 A. That's correct.

24 **Q. And finally, the Commission is going to**
25 **issue a decision as to what those kilowatt hour**

1 savings targets for 2017 and 2018 ought to be; is that
2 right?

3 A. That's correct.

4 Q. I wonder if we could compare those four
5 steps to the steps that we've gone through and will go
6 through in this 20-- this MEEIA Cycle 2 filing.

7 Ameren Missouri hired an outside expert
8 to prepare a market potential study; is that correct?

9 A. That's correct.

10 Q. And that expert used primary data and
11 some secondary data; is that right?

12 A. That's correct.

13 Q. And they provided that information to
14 Ameren Missouri. In step two, Ameren Missouri filed a
15 MEEIA Cycle 2 report that included kilowatt hour
16 savings targets based upon the information provided by
17 its expert; is that correct?

18 A. That's correct.

19 Q. And after that filing, the Commission
20 opened a proceeding and allowed interested parties to
21 file comments in the form of written testimony on
22 those recommended savings targets; is that correct?

23 A. That's correct.

24 Q. And ultimately the Commission's going to
25 issue a decision in this case; is that right?

1 A. That's correct.

2 Q. So it seems like your Delphi panel is
3 going to duplicate what we're doing right now. Would
4 you agree?

5 A. It seems like it's an awfully good deal
6 for the Company, yes. I think there's some important
7 differences.

8 Q. There's no question in front of you right
9 now, Dr. Marke.

10 Before we leave your page 9 of your
11 Supplemental Direct Testimony, you state at line 4 --

12 A. I'm sorry, Mr. Mitten --

13 Q. I'm on page 9 of your Supplemental Direct
14 Testimony.

15 A. Are we done with the deposition?

16 Q. Hang onto it. We made need it in a
17 minute.

18 A. Okay. I'm there.

19 Q. You cite two articles in footnotes 12 and
20 13 on that page. And you indicate that those two
21 articles had identified this Delphi panel process as a
22 best practice. Is that a fair characterization --

23 A. Yes.

24 Q. -- of your testimony?

25 MR. MITTEN: Your Honor, may I approach

1 the witness?

2 JUDGE PRIDGIN: You may.

3 BY MR. MITTEN:

4 Q. Dr. Marke, is that a copy of the document
5 or report that you cite in footnote 12 on page 9 of
6 your Supplemental Direct Testimony?

7 A. Yes, sir.

8 Q. Could you show me where in that document
9 anywhere it says that the structured expert judgment
10 approach, which is discussed in that particular
11 article, uses the term "best practice"?

12 A. So the uniform methods project --

13 Q. Again, could you respond to my specific
14 question? Is the phrase "best practice" used anywhere
15 in the document that you cite in footnote 12 on page 9
16 of your Supplemental Direct Testimony?

17 A. And if I recall from our deposition, it
18 does not.

19 Q. Do you need to double check today?

20 A. No. I think I'm good.

21 MR. MITTEN: Your Honor, may I approach
22 the witness again?

23 JUDGE PRIDGIN: You may.

24 BY MR. MITTEN:

25 Q. Dr. Marke, I've handed you a document.

1 **Is that the document that is cited in footnote 13 on**
2 **page 9 of your Supplemental Direct Testimony?**

3 A. Yes, it is.

4 **Q. Could you show me anywhere in that**
5 **document where it indicates that the Delphi panel**
6 **approach that you -- excuse me -- have recommended is**
7 **identified as a best practice?**

8 A. So Mr. Voytas's article Enter the
9 Human --

10 **Q. Again, my -- very specific question.**
11 **Could you show me anywhere in there where that phrase**
12 **"best practice" is used to describe the Delphi panel**
13 **process?**

14 A. Page 4 of Mr. Voytas's article Enter the
15 Human says, The Delphi approach survey of experts.

16 **Q. But does it ascribe it as a best**
17 **practice? That was my question.**

18 A. It's implied.

19 **Q. Well --**

20 A. I'm sorry. No, the words -- I don't --
21 I -- without reading it right here, I'm going to take
22 your word for it.

23 **Q. Would you like to take a moment to read**
24 **it?**

25 A. I trust you.

1 Q. So the word -- the phrase "best practice"
2 doesn't appear anywhere in that article to describe
3 the best -- the Delphi approach?

4 A. Delphi approach is listed as one of three
5 approaches that Mr. Voytas offered up as approaches
6 utilized for participation -- or a potential study.

7 Q. And, in fact, if you turn to the fifth
8 page of that, the article specifically says, Perhaps
9 the most direct way to develop estimates of customer
10 participation rates is to ask customers themselves; is
11 that correct?

12 A. That is correct.

13 Q. Now, I've just got a few more questions,
14 Dr. Marke. And I would like to focus for a moment on
15 the performance incentives that are recommended in the
16 stipulation to which OPC is a party in this case. Do
17 you agree that under that stipulation, Ameren Missouri
18 has no opportunity to earn performance incentives for
19 kilowatt hour savings it achieves during 2016?

20 A. That's right. The third-party process
21 offers that up for 2017 and 2018.

22 Q. And the only opportunity that Ameren
23 Missouri has to earn performance incentives for
24 kilowatt hour savings in 2017 and 2018 would be if a
25 Delphi panel is convened and they make recommendations

1 **for kilowatt hour savings targets; is that correct?**

2 A. That's correct, yes.

3 **Q. But the stipulation to which OPC is a**
4 **party does provide for what it calls a customer**
5 **participation performance incentive; is that correct?**

6 A. That is correct.

7 **Q. And that's equal to 25 percent of the**
8 **program budget for the multi-family low-income**
9 **program; is that correct?**

10 A. That's not correct. You've got the
11 percentage off, Mr. Mitten.

12 **Q. What is the percentage?**

13 A. 5 percent.

14 **Q. 5 percent. Stand corrected. It's**
15 **5 percent of the program budget for the MFLI program;**
16 **is that right?**

17 A. Yes, sir.

18 **Q. And to earn that particular performance**
19 **incentive, Ameren Missouri has to spend 100 percent of**
20 **the MFLI budget; is that right?**

21 A. That's correct.

22 **Q. And, in fact, that's the only way Ameren**
23 **Missouri can earn that particular performance**
24 **incentive; is that right?**

25 A. Yes.

1 **Q. And the three-year budget for that**
2 **program, as specified in your stipulation, is**
3 **\$10.75 million; is that right?**

4 A. I believe so, yes.

5 **Q. I'm going to ask you a question based on**
6 **a hypothetical.**

7 A. Okay.

8 **Q. Assume for purposes of my question that**
9 **the stipulation is approved and that there's a budget**
10 **for the MFLI program that is \$10.75 million over the**
11 **three years of MEEIA Cycle 2. And assume secondly,**
12 **that Ameren Missouri spends program costs for the MFLI**
13 **program ratably over that three-year period at the**
14 **rate of approximately \$3.6 million a year.**

15 A. Okay.

16 **Q. Do you understand those assumptions?**

17 **And finally, assume that at the end of**
18 **2017, after the program's been in effect for two**
19 **years, Ameren Missouri and others conclude that the**
20 **multi-family low-income program is not producing hoped**
21 **for energy savings and those savings are not likely to**
22 **be achieved if the program is continued through 2018.**

23 **Based on that hypothetical, as the**
24 **representative of the Office of the Public Counsel,**
25 **which is the agency which is charged by statute with**

1 representing the interests of the public, is it a good
2 use of customer funds to incentivize Ameren Missouri
3 to continue to spend more than \$3.5 million in program
4 costs in a program that the Company and others doesn't
5 believe is producing significant energy efficiency
6 results?

7 A. So for this hypothetical, am I restrained
8 to a close-ended answer?

9 Q. Yes.

10 A. For this hypothetical, if there was a
11 situation where multi-family low-income efforts
12 increase energy, then I think our office would say
13 that would not be successful.

14 Q. That wasn't my question. My question is
15 it a good use of customer funds to incentivize Ameren
16 Missouri to continue to spend program funds on a
17 program that the Company and others doesn't believe is
18 producing significant energy efficiency benefits?

19 A. I think the devil's in the details there.

20 Q. You can't answer that question yes or no?

21 A. Honestly, that's a -- that's a struggle
22 for me.

23 Q. Okay. That's fine, Dr. Marke.

24 A. Okay.

25 MR. MITTEN: I don't have any further

1 questions for Dr. Marke. Thank you.

2 JUDGE PRIDGIN: Mr. Mitten, thank you.

3 Any Bench questions, Commissioner Stoll?

4 COMMISSIONER STOLL: No questions. Thank
5 you.

6 JUDGE PRIDGIN: Commissioner Kenney?

7 COMMISSIONER KENNEY: Yeah, just a couple
8 of small ones.

9 QUESTIONS BY COMMISSIONER KENNEY:

10 Q. Good evening, Dr. Marke. How are you?

11 A. Good evening.

12 Q. I think just two questions. Do you
13 believe the Company deserves the right for
14 dollar-to-dollar payback on every energy efficiency
15 program it initiates through MEEIA?

16 A. So a dollar-for-dollar payback for every
17 program?

18 Q. I mean if it's 100 percent payback
19 minimum. Or do you think -- I mean, do -- do you
20 think that's proper?

21 A. I think the Company is entitled to fair
22 return.

23 Q. That's not my question though.

24 A. Right.

25 Q. I mean, do you -- I'm just curious as to

1 **how you look at it. I'm not even asking you**
2 **representing OPC, but if -- you know, I know the**
3 **Company wants 100 percent payback minimum. Do you**
4 **think that they deserve that under the MEEIA program?**

5 A. As you frame it, no.

6 **Q. No. So you think their shareholders**
7 **should be responsible for absorbing some lost revenue**
8 **that the Company takes on because they're initiating**
9 **the MEEIA program?**

10 A. So if I may --

11 **Q. Yeah. You can elaborate.**

12 A. I think -- I think, you know, what we
13 struggle with here and it's been talked about as far
14 as the deemed averages and -- versus what actually
15 happened here. The big concern from our office is
16 that there's a lot of naturally occurring stuff.

17 If this program doesn't happen, Meramec's
18 still getting shut down in 2020 -- or 2022, sorry. If
19 this program doesn't happen, people are still going to
20 buy CFL light bulbs. They're still going to go ahead
21 and get efficient HVACs. Maybe not at the same rate,
22 but the stuff is still going to happen.

23 It's been our experience in the first
24 cycle that 87 percent of what was sold were light
25 bulbs. One of the issues that we took with the light

1 bulb issue was that we had a lot of people that
2 weren't Ameren ratepayers buying these light bulbs.
3 But under Ameren's proposal, they get full credit for
4 that, and even more so because of the way the EM&V
5 is -- operates. They got a market effects adder.

6 So as I see it --

7 **Q. My problem -- you're kind of going off of**
8 **what I was trying -- I understand your -- I can**
9 **understand your position. But so the ratepayers -- I**
10 **mean the stockholders, the investors, you think should**
11 **be responsible for some of the MEEIA energy efficiency**
12 **programs? I'm just looking at that.**

13 A. Sure.

14 **Q. Just on its own, based on because you**
15 **think they might overearn and --**

16 A. Well, yeah. Because it's a least cost
17 resource, yes. Yeah.

18 **Q. All right. So because you -- and then**
19 **you said something earlier when -- I think it was**
20 **Mr. Linhares was talking, asked you a question. Why**
21 **would you prefer that the program disappear completely**
22 **versus the Utility Stipulation?**

23 A. As it's set up right now, we feel like it
24 does more harm than good.

25 **Q. The Utility Stipulation does more harm**

1 **than good?**

2 A. Yes, sir.

3 **Q. Elaborate on that. Why?**

4 A. Because of overgenerous throughput
5 disincentive, the 60 percent increase on the
6 performance incentive and the fact that these targets
7 are so low that the utility's able to hit the targets
8 at a very accelerated pace and then just keep
9 collecting, keep collecting.

10 **Q. You think that they will over-recover?**

11 A. Yes, sir.

12 **Q. So that's why OPC would say they'd just**
13 **rather not have a program versus --**

14 A. Right.

15 **Q. -- the Utility Stipulation?**

16 A. Yes. Put in those, yes.

17 **Q. Okay. Great. Thank you very much.**

18 JUDGE PRIDGIN: All right. Thank you.

19 Let me see if we have any recross based on Bench
20 questions. Staff?

21 MS. PAYNE: No questions, Your Honor.

22 JUDGE PRIDGIN: Renew Missouri.

23 MR. LINHARES: No questions, your Honor.

24 JUDGE PRIDGIN: Tower Grove, National
25 Housing Trust?

1 MR. LINHARES: No questions.

2 JUDGE PRIDGIN: Thank you. MIEC, MECG,
3 Brightergy?

4 MR. ZELLERS: No questions.

5 JUDGE PRIDGIN: Sierra Club?

6 MS. OSUALA: No questions, Your Honor.

7 JUDGE PRIDGIN: I don't believe KCPL, GMO
8 are participating. United for Missouri?

9 MR. LINTON: No questions.

10 JUDGE PRIDGIN: Division of Energy?

11 MR. ANTAL: No questions.

12 JUDGE PRIDGIN: NRDC?

13 MR. ROBERTSON: No questions.

14 JUDGE PRIDGIN: Ameren Missouri?

15 MR. MITTEN: Briefly, Your Honor.

16 BY MR. MITTEN:

17 **Q. Dr. Marke, you indicated that Ameren**
18 **Missouri's shareholders should bear a portion of the**
19 **program costs for energy efficiency programs. Did I**
20 **understand you correctly?**

21 A. That I believe that Ameren Missouri
22 shareholders should bear some risk in this.

23 **Q. That wasn't my question. Did you**
24 **state --**

25 A. Yes.

1 **Q. -- in response to Commissioner Kenney's**
2 **question that you believe Ameren Missouri's**
3 **shareholders should bear a portion of the costs for**
4 **energy efficiency programs?**

5 A. Well, I think that when we're saying
6 costs in particular, I think that might be taken a bit
7 out of context.

8 **Q. How do you define costs? Program costs**
9 **is what I'm talking about, and I think that's what**
10 **Commissioner Kenney was talking about. Do you believe**
11 **Ameren Missouri's shareholders should be forced to**
12 **bear a portion of the program costs for energy**
13 **efficiency programs?**

14 A. No. No, I do not. I think it should be
15 a risk.

16 **Q. Thank you. No further questions.**

17 A. Sorry if I wasn't clear on that.

18 JUDGE PRIDGIN: Thank you. Redirect?

19 MR. OPITZ: Yes, Judge.

20 REDIRECT EXAMINATION BY MR. OPITZ:

21 **Q. I'll work backwards. Dr. Marke,**
22 **Commissioner Kenney asked you about the shareholders**
23 **bearing a portion of the program costs. It sounded**
24 **like there was some confusion. Do you care to clarify**
25 **your answer?**

1 A. I think what we're trying to do with
2 MEEIA is to value supply -- or demand side on the same
3 foot as supply side. So to the extent that the
4 utility's pursuing any sort of resource, there's a
5 degree of risk that's inherent in that. The utility
6 bears with energy efficiency very, very, very little
7 risk.

8 As we see it -- as our office sees it --
9 and I think this is one of the reasons why we've taken
10 the position that we have, is that with the MEEIA
11 statute, that's all carrot and no stick. We really --
12 we honestly believe the utility will come back. That
13 they have every incentive to take advantage of this
14 least cost resource moving forward.

15 **Q. Dr. Marke, Mr. Mitten earlier asked you**
16 **about a hypothetical relating to the multi-family**
17 **low-income performance incentive. Do you believe that**
18 **that hypothetical will happen?**

19 A. No. The multi-family low-income program
20 between the two stipulations is essentially the same
21 thing. It's -- we worked with National Housing Trust
22 and Tower Grove. We designed pretty much the exact
23 same template for the program.

24 There's a key difference between the two
25 and this is to Mr. Mitten's point actually.

1 Low-income programs don't need to be cost effective.
2 Under the Utility Stipulation, the utility doesn't
3 need to go -- they actually have an out. They don't
4 the have to go -- it won't be hurt against them in
5 terms of their net shared benefit model. So any cost
6 that goes into the low-income family, it's not going
7 to adversely affect them.

8 We take it a step further in our model.
9 The -- and understand the concern for us is that all
10 things being equal, the utility has a lot more
11 incentive just to go ahead and sell light bulbs at
12 Wal-Mart or Home Depot than it is to try to move
13 landlords to put in projects. We understand that's an
14 issue. Ameren understands that's an issue. That's in
15 their testimony. Ms. Dolly has got 36 pages about the
16 trouble she's had getting landlords to adopt these
17 measures.

18 We offer up the participation incentive
19 to incentivize the Company to hit this hard-to-reach
20 demographic. We feel like absent that, it won't
21 happen. And under, you know, the terms that we're
22 talking about here, I can't understand why the utility
23 wouldn't be amenable to more of a performance
24 incentive.

25 Q. Dr. Marke, there were two documents that

1 **Mr. Mitten had you look at and asked you about. And**
2 **the second document I believe was the Enter the Human,**
3 **Estimating Customer Participation Rates.**

4 A. Yes.

5 **Q. Do you have that document with you still?**

6 A. Enter the Human, yes.

7 **Q. And do you believe it matters that the**
8 **words "best practices" are not included in that**
9 **document?**

10 A. No.

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

12 A. You know, we changed some of our language
13 in testimony or in the stipulation to give an idea of
14 what we're talking about here. Enter the Human, it's
15 a white paper. A white paper starts off with
16 literature review. Literature review is that. It
17 tells you this is what's going on in the industry
18 right now. These are different practices. By
19 default, these are the best practices.

20 They identify it. Ameren Missouri
21 identified it. EnerNOC identified it. Though it
22 doesn't explicitly say those words, that's the
23 nomenclature and that's the process and how these
24 things work.

25 **Q. And who was the author of that study or**

1 **that document?**

2 A. There's four authors, but for our
3 purposes the two -- we've had two that have testified
4 in this case and that's Mr. Voytas and Ms. Rohmund.

5 **Q. Do you still have the first document that**
6 **Mr. Mitten handed you? I believe it was the -- I have**
7 **an NREL -- it looks like a web page.**

8 A. Yes. The National Renewable Energy Lab.

9 **Q. And what is that document?**

10 A. This is an open source document. An open
11 source means they -- it's open to select parties. In
12 this case it's -- they got the best of the best EM&V
13 people from around the world to go ahead and
14 collaborate to come up with some sort of best
15 practice.

16 One of the big issues we've had in this
17 case is that nobody can agree on how to do this stuff,
18 because each jurisdiction does it differently. To the
19 extent that this industry needs to move forward, there
20 needs to be a common language and common theme.

21 That's the idea behind the Uniform
22 Methods Project, it's uniform. This open source
23 document is a depository of best practices. I go
24 there to look -- you know, for my information. I
25 look -- in this specific example says Structured

1 Expert Judgment Approaches. It's essentially an
2 approach where we have situations like this where
3 parties can't agree on things. An easy out is to go
4 ahead and look for the experts and how they would go
5 ahead and determine it.

6 **Q. Does it matter that this document does**
7 **not include the words "best practices"?**

8 A. No, it does not.

9 **Q. Do you still believe that this is a**
10 **best -- reflects best practices?**

11 A. I do.

12 **Q. Mr. Mitten asked you about some questions**
13 **about the Delphi panel and I think -- I don't want to**
14 **misrepresent what he asked, but I think he was talking**
15 **about how it may have been duplicative of the hearing.**
16 **Do you recall those questions?**

17 A. Yes, I do.

18 **Q. And I believe you started to talk about**
19 **some important differences. What are those important**
20 **differences?**

21 A. So if I may, when we first came up with
22 this idea when we were working with the parties to
23 this stipulation and trying to come up with a way to
24 get kilowatt hours as part of this MEEIA application,
25 I suggested the idea of a Delphi panel or a structured

1 expert judgment.

2 We went through all the questions that
3 Mr. Mitten did with me, you know, who's going to go
4 ahead and perform it, who's going to ultimately sign
5 off on it, who's going to charge with it. We came
6 back because of the way the rules are set up because
7 of everything that's structured that it's ultimately
8 Ameren's decision. Ameren has to sign off on it.

9 I went ahead and contacted a lot of
10 outsiders parties. I called up ACEEE, I called up the
11 Regulatory Assistance Project, I called up anybody I
12 could to go ahead and give me some advice on this.
13 Uniformly, every one of them said this is great, but
14 you can't have the utility go ahead and be the sole
15 owner of this process.

16 I understand, you know, their concern,
17 but as the statute's set up, as the rules are set up,
18 this is the way it is and this is how it operates in
19 Missouri. And we recognize that. The stipulation
20 recognizes that. And it recognizes that by focusing
21 on demand savings -- demand savings over the energy
22 savings. And again, the idea behind that is, is that
23 the demand savings help all participants --
24 participants and non-participants.

25 So the programs that we're talking about

1 here, they're the exact same programs. When Ameren
2 says that, you know, we've got -- this can't be done,
3 everything that's in our stipulation has been supplied
4 by Ameren. These are their estimates, these are their
5 programs. We're focusing on the demand savings aspect
6 of that.

7 **Q. Dr. Marke, who -- us mentioned AC-- I**
8 **think you said EEE?**

9 A. Yes.

10 **Q. What is ACEEE?**

11 A. The American Council for Energy
12 Efficiency and -- I'm -- the other E is drawing a
13 blank for me. I'm sorry.

14 **Q. Okay. Mr. Mitten asked -- was asking you**
15 **earlier about where the panel of experts would find**
16 **information and your response was something along the**
17 **lines of the internet is a good place to start. You**
18 **started to explain further. What was that further**
19 **explanation?**

20 A. They're a panel of experts, they're
21 bringing their expertise. They've done that. There's
22 some institutional knowledge, so to speak, that comes
23 with being an expert. That's what they're bringing to
24 the table. That's why they would be hired and
25 selected.

1 **Q. Further back still, Mr. Mitten was asking**
2 **you about secondary data from I believe it was Chamber**
3 **of Counsel and a few other groups. How is this data**
4 **different than the YouGov study -- study secondary**
5 **data?**

6 A. So the big key difference here is that
7 the YouGov study took all the primary data on a real
8 simple level on a scale of one to ten; ten being you
9 would absolutely do a project, you'd buy this light
10 bulb; one being you wouldn't in a one-year payback
11 period.

12 If you said ten, I would absolutely buy
13 this light bulb, the YouGov study took that number and
14 adjusted it downward. Which means if you said ten out
15 of ten I would do this, YouGov -- the downward
16 adjustment would come out to 44 percent chance that
17 you would actually do that. So if you said nine, if
18 you said eight, it got lower and lower and lower, but
19 that ceiling was 44 percent.

20 And I'm not saying that the sadue
21 (phonetic) bias or take rates can't happen. The
22 problem that we had was we were never able to look at
23 this methodology, we were never able to actually look
24 at the document that supported this.

25 **Q. Mr. Mitten asked you about market**

1 **potential -- if any of the critics of the Ameren**
2 **Missouri market potential study had conducted a market**
3 **potential study of their own based on Ameren service**
4 **territory. And you began to offer an explanation I**
5 **think before he rephrased the question. Do you recall**
6 **what that explanation was going to be?**

7 A. There -- National Re-- National Housing
8 Trust and National Resource Defense Council contracted
9 out to Optimal Energy, who is a consultant,
10 Mr. Mosenthal in this case. They did a meta analysis
11 on five states, including Missouri and the St. Louis
12 service territory on multi-family low-income market
13 potential. So there was a study done on top of this.

14 **Q. Mr. Mitten asked you about the ten**
15 **examples that you listed in your testimony I believe**
16 **as footnotes. And I believe -- and I don't want to**
17 **mischaracterize it, but I believe it was that those**
18 **don't contain some reference to a mediator. Do you**
19 **recall those questions?**

20 A. I do.

21 **Q. What do those ten examples list?**

22 A. They're all examples -- they're all
23 recent examples of situations like this where we had a
24 difficult decision to make, where parties didn't
25 necessarily agree on something and they brought in

1 expert help, expert opinion to go ahead and weigh in
2 and make an informed decision moving forward.

3 **Q. Division of Energy asked you a question**
4 **way back about your Surrebuttal Testimony. And I**
5 **believe it was talking about agreement with John**
6 **Rogers that the plan would not be beneficial to all**
7 **customer classes. And you, I believe, indicated you**
8 **wanted to say more before Mr. Antal cut you off. Do**
9 **you recall that question?**

10 A. I do.

11 **Q. And I guess what is the additional**
12 **information that you wanted to provide at that time?**

13 A. Cycle 2 overwhelmingly focuses on the
14 commercial and industrial sector. We -- there's a lot
15 of talk about residential lighting, but residential
16 lighting was Cycle 1. You're not going to be able to
17 hit the same amount of level of lighting that you did
18 in Cycle 2 that you did in Cycle 1.

19 If you look at the numbers, everything is
20 coming from the CNI sector. We -- we've said this a
21 lot, but we've got issues with people that don't
22 participate in this. Mr. Rogers' testimony shows the
23 numbers and how low -- how minimal or next to nothing
24 in terms of value non-participants get.

25 The demand savings helps everybody. So

1 you don't need to participate. You're going to see
2 your bills lowered. Right now, just focusing on
3 kilowatt hours at the expense of avoiding demand
4 savings entirely is only going to help participants.
5 Their bills will lower. Their rates will go up, but
6 their bills will be lower. Focusing on the demand
7 savings, you're going to have the effect of not only
8 lowering your bill for participants, but for
9 non-participants as well.

10 **Q. That's all the redirect I have. Thank**
11 **you, Dr. Marke.**

12 JUDGE PRIDGIN: Thank you, Dr. Marke.
13 You can step down.

14 Looks to be our last witness for the day.
15 Looks like we will start with Mr. Mosenthal as our
16 first witness in the morning. Does counsel have
17 anything else before we go off the record?

18 All right. Hearing nothing, we will
19 stand adjourned until 8:30 tomorrow morning. Thank
20 you very much. We're off the record.

21 (Whereupon, the hearing was adjourned
22 until July 22, 2015 at 8:30 a.m.)
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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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