

**In the Matter of Kansas City Power & Light Company's Notice of Intent**

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**EO-2019-0132 & EO-2019-0133 VOL 1**

*September 23, 2019*

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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

September 23, 2019

Jefferson City, Missouri

Volume 1

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In The Matter Of Kansas City	)	
Power & Light Company's Notice	)	
of Intent to File an	)	File No. EO-2019-0132
Application for Authority to	)	
Establish a Demand-Side	)	
Programs Investment Mechanism	)	
	)	
In The Matter Of KCP&L Greater	)	
Missouri Operations Notice of	)	
Intent to File an Application	)	File No. EO-2019-0133
for Authority to Establish a	)	
Demand-Side Programs	)	
Investment Mechanism	)	

JOHN T. CLARK, Presiding  
REGULATORY LAW JUDGE  
WILLIAM P. KENNEY,  
DANIEL Y. HALL,  
SCOTT T. RUPP,  
COMMISSIONERS

REPORTED BY:  
Tracy Taylor, CCR No. 939  
TIGER COURT REPORTING, LLC

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1 (Exhibits 1-C, 2-C, 3, 4, 5, 100, 101,  
2 101-C, 101-P, 102, 200-P, 200-C, 201, 202, 350, 351  
3 were marked for identification.)

4 JUDGE CLARK: Morning. Today is  
5 September 23rd, 2019 and the current time is  
6 9:03 a.m. We are in Room 310 of the Governor Office  
7 Building in Jefferson City, Missouri.

8 The Commission has set aside this time  
9 for an evidentiary hearing in the case captioned as In  
10 The Matter of Kansas City Power & Light Company's  
11 Notice of Intent to File an Application for Authority  
12 to Establish a Demand-Side Programs Investment  
13 Mechanism, and that is File number EO-2019-0132, and  
14 In The Matter of KCP&L Greater Missouri Operation  
15 Company's Notice of Intent to File an Application for  
16 Authority to Establish a Demand-Side Programs  
17 Investment Mechanism, and that is File Number  
18 EO-2019-0133.

19 Both of those cases were consolidated  
20 under the EO-2019-0132 number. And if we're referring  
21 to numbers for file or case numbers, that's the one I  
22 want to refer to unless there's some reason to refer  
23 to the other one.

24 Now, just as a point of clarification for  
25 the record, it's my understanding these applications

1 are under the Missouri Energy Efficiency Investment  
2 Act or MEEIA, and that's 393.1075 RSMo; is that  
3 correct?

4 MR. FISCHER: Yes, sir.

5 JUDGE CLARK: Okay. Thank you. My name  
6 is John Clark and I'm the Regulatory Law Judge  
7 presiding over this hearing. And at this time I'd  
8 like to have counsel for the parties enter their  
9 appearance for the record starting with Kansas City  
10 Power & Light Company and Kansas City Power & Light  
11 Company -- or KCP&L Greater Missouri Operations.

12 MR. FISCHER: Thank you, Judge. On  
13 behalf of both of those companies, let the record  
14 reflect the appearance of Roger W. Steiner and  
15 James M. Fischer. The contact information has been  
16 provided in our written entry of appearance.

17 JUDGE CLARK: Okay. Thank you. For the  
18 Commission Staff.

19 MS. MERS: Nicole Mers and Travis Pringle  
20 on behalf of the Commission Staff. And our  
21 information has been provided to the court reporter.  
22 Thank you.

23 JUDGE CLARK: Thank you. From the Office  
24 of the Public Counsel.

25 MR. HALL: Caleb Hall appearing on behalf

1 of the Office of Public Counsel. Our contact  
2 information has previously been provided to the court  
3 reporter.

4 JUDGE CLARK: Thank you. Renew Missouri.

5 MR. OPITZ: Tim Opitz on behalf of Renew  
6 Missouri. And I've provided my contact information to  
7 the court reporter.

8 JUDGE CLARK: Thank you. I moved you up  
9 so I don't skip you.

10 MR. OPITZ: Thank you.

11 JUDGE CLARK: The City of St. Joseph  
12 requested to be excused from the hearing, and have  
13 been. Midwest Energy Consumers Group.

14 MR. WOODSMALL: Good morning, Your Honor.  
15 David Woodsmall on behalf of MECG.

16 JUDGE CLARK: Thank you. The Missouri  
17 Division of Energy.

18 MR. WESTEN: Thank you, Judge. Good  
19 morning. Jacob Westen, appearing on behalf of The  
20 Division of Energy. My contact information has  
21 already been provided to the court reporter.

22 JUDGE CLARK: Thank you. The National  
23 Housing Trust.

24 MR. LINHARES: Thank you. Good morning,  
25 judge. Andrew Linhares for The National Housing

1 Trust, and I've provided my information to the court  
2 reporter.

3 JUDGE CLARK: And you're also  
4 representing Westside Housing Organization; is that  
5 correct?

6 MR. LINHARES: Yes. And they -- they do  
7 not have -- we don't have a witness for them. They're  
8 not present here today, so.

9 JUDGE CLARK: Okay. I did notice,  
10 however, that they're slated to have a round of  
11 cross-examination.

12 MR. LINHARES: Yes. And we haven't  
13 entered any testimony on their behalf so if -- I  
14 can -- we can arrange something different. I actually  
15 didn't arrange to have them waive. We haven't offered  
16 any testimony from them.

17 JUDGE CLARK: Okay. I'm just -- I'm just  
18 entering your appearance for the record.

19 MR. LINHARES: Yeah. Wonderful. Thank  
20 you.

21 JUDGE CLARK: National Resources Defense  
22 Council.

23 MR. ROBERTSON: Henry Robertson on behalf  
24 of NRDC. I've given the court reporter my  
25 information.



1 JUDGE CLARK: And Spire Missouri asked to  
2 be excused from the hearing, and that also was  
3 granted.

4 If you haven't silenced your cell phones,  
5 I would ask that you do; anybody in the audience  
6 included. In regards to preliminary matters, do any  
7 of the parties have any preliminary matters to address  
8 at this time?

9 MR. WOODSMALL: Your Honor, MECG's  
10 interest in this case is pretty limited and I expect  
11 to be done today. May I be excused once my  
12 cross-examination's done?

13 JUDGE CLARK: Yeah. I think that would  
14 be appropriate unless there's an objection. Are there  
15 any objections to excusing the Missouri -- or Midwest  
16 Energy Consumers Group after they've completed their  
17 cross?

18 I see no hands, so that will be granted.

19 MR. WOODSMALL: Thank you.

20 JUDGE CLARK: Are there any other  
21 preliminary matters to address? Seeing none.

22 Now -- and I'm just going to refer to  
23 Kansas City Power & Light Company and KCP&L GMO as --  
24 as KCP&L and GMO together, so.

25 MR. FISCHER: Judge, I'll probably just

1 call them the Company, if that's all right with you.

2 JUDGE CLARK: That would be just fine  
3 with me. The Company submitted on behalf of the  
4 parties jointly an issues list containing five issues  
5 and two sub-issues for the Commission's determination  
6 at this hearing.

7 With a couple of exceptions, I'm a little  
8 disappointed with the list of issues, which while  
9 concise, are not necessarily clear in that they don't  
10 really give the Commission a good idea, with any  
11 specificity, of what needs to be determined in this  
12 hearing. Most of the issues are so broad that, in  
13 fact, it's nearly impossible to tell if there's  
14 anything in this hearing that is, in fact, not in  
15 dispute.

16 So I would suspect that when it comes  
17 time to order briefs, in addition to the five issues  
18 and two sub-issues that have been laid out in this  
19 case, there may be some additional Commission  
20 questions that will need to be briefed.

21 At this time I'd like to go over the  
22 witness list in order and see if there's any changes  
23 to that. Starting out -- and this is -- this will  
24 also be -- just to be concise, this will also be, as I  
25 understand it, the order in which the parties will be

1 doing opening as well.

2 So for the Company I've got Charles  
3 Caisley, Burton Crawford, Brian File, Tim Nelson, Mark  
4 Foltz, and Darrin Ives; is that correct?

5 MR. FISCHER: That's correct.

6 JUDGE CLARK: For Staff I've got Natelle  
7 Dietrich, J Luebbert, John Rogers, Tammy Huber, Brad  
8 Fortson, Kory Boustead, Dana Eaves, Byron Murray,  
9 Robin Kliethermes and Seoung Joun Won; is that  
10 correct?

11 MS. MERS: That's correct.

12 JUDGE CLARK: For OPC I've got Dr. Geoff  
13 Marke; is that correct?

14 MR. HALL: That is correct.

15 JUDGE CLARK: For the Department -- or  
16 Division of Energy I have Martin Hyman. There's been  
17 a request to excuse him. I don't know yet whether  
18 there are going to be some Commission questions for  
19 him or not. I haven't heard back from all the  
20 Commissioners in regard to that. And Jane Epperson;  
21 is that correct?

22 MR. WESTEN: That's correct, Judge.

23 Thank you.

24 JUDGE CLARK: For the National -- Natural  
25 Resources Defense Council I've got Philip Mosenthal?

1 MR. ROBERTSON: Yes. All parties have  
2 waived cross, but I don't know if Commissioners have  
3 questions.

4 JUDGE CLARK: All parties have waived  
5 cross.

6 MR. ROBERTSON: Yes.

7 JUDGE CLARK: Okay. It's my  
8 understanding that Renew -- Renew Missouri might have  
9 some questions and that Mr. Mosenthal will be  
10 available via phone if we need him.

11 MR. ROBERTSON: Tomorrow.

12 JUDGE CLARK: Tomorrow. Okay. And we've  
13 got quite a few -- I think we've got 23 witnesses, not  
14 including those that have not -- that been excused.

15 For Renew Missouri I've got James Owen,  
16 Mark Cayce, and Philip Fracica; is that correct?

17 MR. OPITZ: Fracica.

18 JUDGE CLARK: Fracica, thank you.

19 MR. OPITZ: Yes. And I'd just note that  
20 Mr. Cayce is available today and the parties agreed  
21 that we would take him out of order at some point to  
22 accommodate his -- he drove up from Arkansas for this  
23 hearing. So he'll be here -- he is here now and  
24 available to testify today hopefully.

25 JUDGE CLARK: Okay. I'd like to at least

1 get into this a little ways, but if you see an  
2 appropriate time, if you'll just interject and let me  
3 know, I --

4 MR. OPITZ: Yes, of course. Thank you.

5 JUDGE CLARK: Thank you. And for The  
6 National Housing Trust, I have witness Annika Brink,  
7 whose appearance has been excused today.

8 MR. OPITZ: Yes, that's correct, Judge.

9 JUDGE CLARK: Is it Annika?

10 MR. OPITZ: Annika, yes. Thank you.

11 JUDGE CLARK: All right. Exhibits should  
12 be premarked and continue sequentially. Is there  
13 anybody who hasn't marked their exhibits? I see no  
14 hands.

15 Okay. With that in mind, let's -- let's  
16 commence with opening statements. So the Company  
17 would like to go first.

18 MR. FISCHER: Thank you very much, Judge.  
19 Good morning. Glad you're here. We're looking  
20 forward to a couple days of interesting testimony, I  
21 think.

22 In this MEEIA 3 cycle proceeding the  
23 Company is building upon its past successes and is  
24 proposing a robust portfolio of programs that will go  
25 through the period --

1 JUDGE CLARK: Do -- do you want this up  
2 on --

3 MR. FISCHER: I'll put this up, yeah.  
4 And it doesn't -- as far as I'm concerned, you can  
5 leave it on the board or whatever you'd like to do.

6 JUDGE CLARK: Okay. If you can hold on  
7 just a second.

8 MR. FISCHER: Sure.

9 JUDGE CLARK: I think I'd like to put it  
10 up so everybody has an opportunity to see it.

11 MR. FISCHER: I have provided the  
12 Commissioners with a copy of these slides so you can  
13 see it closely there.

14 JUDGE CLARK: Okay. Go ahead.

15 MR. FISCHER: As you can see from this  
16 slide, the period that we're talking about is from  
17 January 1st, 2020 through December 31st of 2022. The  
18 Company is planning to invest approximately  
19 96.3 million dollars to achieve 185.9 megawatts of  
20 capacity reduction or 343.7 gigawatt hours of  
21 first-year energy savings.

22 The Company has presented a MEEIA Cycle 3  
23 portfolio that is very, very similar to the ones that  
24 have already been approved in Cycle 2 -- Cycle 1 and  
25 Cycle 2. In presenting the MEEIA 3 portfolio, the

1 Company sought to have continuity for its customers,  
2 putting forward similar programs with a very similar  
3 overall budget.

4 In addition, we are proposing that the  
5 Income-Eligible Multi-Family Program span over a  
6 six-year period through March of 2025. So that one  
7 would go longer than the other programs, which would  
8 be three years.

9 We seek to optimize our customers'  
10 ability to use less energy and save more. Our  
11 initiatives will continue to increase awareness of --  
12 of both energy and demand-side programs generally and  
13 ultimately will drive our customers to be more  
14 efficient. We expect the portfolio will generate an  
15 anticipated 234 million dollars of net present value  
16 of energy savings for participating customers at  
17 current rates. Customers will see more choice,  
18 including more engagement options and technology  
19 rebates.

20 Now, this isn't our first venture into  
21 demand reduction and energy efficiency programs. In  
22 fact, this Company was probably the first company in  
23 Missouri to make a strong commitment toward energy  
24 efficiency. And we've helped over 270,000 residents  
25 and 6,000 businesses save during our first two cycles

1 for MEEIA Cycle 1 and 2.

2 But this is the first case where we faced  
3 opposition from the Staff and the Public Counsel  
4 suggesting that we no longer need demand response or  
5 energy efficiency programs.

6 The current MEEIA 3 programs are  
7 consistent with the MEEIA statute and the rules of the  
8 Commission which support the state policy to value  
9 demand-side investments equal to traditional  
10 investments in supply and delivery infrastructure,  
11 allow recovery of all reasonable and prudent costs for  
12 delivery of cost-effective demand-side programs and  
13 gives the Company a reasonable earnings opportunity  
14 when it achieves this projected savings for customers.

15 Now, contrary to the arguments of the  
16 Public Counsel and the Staff in this case, our  
17 customers still need and they still want MEEIA  
18 programs. With or without plant retirements,  
19 demand-side management and energy efficiency provide  
20 the lowest present value options on revenue  
21 requirements for our -- for our customers.

22 And let me say that more directly. Our  
23 MEEIA programs are the most cost-effective way for us  
24 to meet our future energy needs of our customers. Our  
25 integrated resource plans have been showing that DSM



1 plans are the most cost-effective for a long time,  
2 most cost way to go -- cost-effective way to go.  
3 And -- and that's what the IRPs are showing and we  
4 believe that's very much to be the case.

5           The PSC should soundly reject the  
6 recommendations of the Staff and the Public Counsel  
7 and instead, stay the course to a future of greater  
8 efficiency and less reliance on the older fossil fuel  
9 plants.

10           Now, the Commission has already approved  
11 our Cycle 1 and Cycle 2 programs. And more recently,  
12 you've approved the Cycle 3 programs for Ameren  
13 Missouri in Case Number EO-2018-0211. The programs  
14 that are being proposed in this proceeding are very  
15 similar to the ones that we've already had approved in  
16 Cycle 1 and 2. Now, no party to this case has  
17 suggested that the MEEIA Cycle 1 and 2 programs  
18 weren't successful. And we believe the Commission  
19 should stay the course and approve the Cycle 3.

20           At its foundation, MEEIA became law on  
21 the principle that greater implementation of  
22 cost-effective energy efficiency programs will be  
23 beneficial to all Missourians. And the act includes  
24 provisions designed to align the interest of the  
25 electric service providers and their customers in

1 pursuing demand-side programs.

2           According to -- to the MEEIA statute,  
3 it's the policy of the State to value demand-side  
4 investments equal to traditional investments in supply  
5 and delivery infrastructure, and allow recovery of all  
6 reasonable and prudent costs of delivering  
7 cost-effective demand-side programs.

8           Now, in your order approving the  
9 Non-Unanimous Stipulation and Agreement in our MEEIA 2  
10 case -- in the GMO MEEIA 2 case, the Commission  
11 described the MEEIA purposes as I've got on the board.  
12 MEEIA's designed to encourage Missouri investor  
13 electric utilities to wholeheartedly offer energy  
14 efficiency programs and projects designed to reduce  
15 the amount of electricity used by the utility's  
16 customers.

17           The law recognizes that under traditional  
18 regulation, a utility has a strong financial incentive  
19 to sell as much electricity to its customers as  
20 possible, because more sales result in a great --  
21 greater profits. MEEIA creates an opportunity to  
22 change that financial incentive to better align  
23 utility's financial interests with the public interest  
24 in encouraging the efficient use of energy.

25           The MEEIA act also directed the

1 Commission to adopt rules which would provide a timely  
2 cost recovery, ensure the utility financial incentives  
3 are aligned with helping customers use energy more  
4 efficiently and in a manner that sustains or enhances  
5 utility customers' incentives to use energy more  
6 efficiently and provides timely earnings opportunities  
7 associated with cost-effective, measurable and  
8 verifiable savings.

9           Besides having the potential to lower  
10 costs, DSM programs have other benefits. DSM programs  
11 invest in the Company's customers and make the  
12 customers more competitive. The programs provide a  
13 stimulus to the local economy and they provide  
14 environmental benefits to the region.

15           There are other ways -- and I've got some  
16 of those on the board -- that DSM programs are  
17 beneficial. To list just a few, DSM keeps -- helps  
18 keep energy costs low for everyone, regardless of  
19 direct participation in the MEEIA programs. DSM  
20 contributes to a more sustainable energy future,  
21 ensuring reliable electricity for generations to come.

22           These programs spur economic activity in  
23 our service territories which, of course, we believe  
24 is very important. Installing energy efficiency  
25 measures provide benefits for non-electric consumption

1 such as water and natural gas savings. And finally,  
2 they generate positive economic impact for our local  
3 trade allies and implementers.

4 Now, as I understand the position of the  
5 Staff and the Public Counsel in this proceeding, they  
6 are recommending that the Commission reject the  
7 Company's portfolio of DSM programs. Staff is  
8 recommending that the earnings opportunity for the  
9 Company should be zero. This would be a very  
10 unfortunate result from our perspective and from the  
11 perspective of all consumers that would otherwise  
12 benefit from these programs.

13 Now, when you look at the issues, Judge,  
14 we can get more granular, but there are two major  
15 issues that need to be decided by the Commission. The  
16 first one is avoided cost and the second is earnings  
17 opportunity.

18 Staff has taken the position that for  
19 purposes of assessing the cost-effectiveness of  
20 demand-side programs, avoided costs for the Company  
21 should be valued at zero until the Company has  
22 identified a future need for additional supply-side  
23 capacity.

24 Now, as I'll discuss in a moment, this is  
25 inconsistent with the Staff's approach in the Ameren

1 MEEIA 3 case and in Staff's approach to previous MEEIA  
2 1 and 2 cases for our company. In fact, if the Staff  
3 had taken their current approach in the previous MEEIA  
4 cases, MEEIA 1 and 2 for KCPL and GMO, frankly, it  
5 would not have happened. It would have never  
6 happened.

7           Staff asserts that the avoided cost  
8 should be zero for all years except the year 2032.  
9 That's because Staff believes the Company will not  
10 need to add new capacity for about 13 years. But  
11 Staff's analysis is very short-sighted. And as I'll  
12 explain in a moment, it's inconsistent with the  
13 approach that they're taken in the Ameren MEEIA 3 case  
14 and -- because in Ameren's case, they don't need  
15 capacity for 16 years.

16           Staff's use of a value of zero for  
17 avoided costs, capacity costs virtually guarantees  
18 that no demand-side measures targeting demand savings  
19 will pass the cost-effectiveness test. And Staff's  
20 requirement that non-utility -- or excuse me,  
21 non-participants on an individual basis must benefit  
22 from a program under MEEIA would virtually guarantee  
23 that demand-side programs targeting energy savings  
24 wouldn't pass either.

25           Staff's use of zero for avoided capacity

1 costs to value DSM is simply at odds with MEEIA.  
2 Section 393.1075.3 provides in relevant part, It shall  
3 be the policy of the State to value the demand-side  
4 investments equal to traditional investments in supply  
5 and delivery infrastructure.

6 Now, this statute requires a long-term  
7 perspective. It's a long-term program that requires a  
8 long-term perspective, not the short-term perspective  
9 that we're hearing from Staff.

10 The avoided cost of capacity is normally  
11 represented by a price in dollars per kW year, which  
12 is a levelized, fixed charge of cost of capacity of  
13 one unit of capacity or one kW for a single year over  
14 the life of the resource. But using one single year's  
15 price is not equivalent to a supply-side resource  
16 because the supply-side resource does not have a  
17 one-year life. It probably has a 30-year life or  
18 more.

19 In other words, the MEEIA statute  
20 requires a long-term view of the benefits of  
21 demand-side investments if it's to be equivalent to  
22 the supply-side option and not just the point of -- in  
23 time -- of one year.

24 With this argument, the Staff falls into  
25 what is sometimes dubbed as the cycle of denial. The

1 cycle of denial illustrates how Staff's way of  
2 thinking will prevent energy efficiency programs from  
3 ever happening.

4           And it goes something like this: Let's  
5 assume the Company is not currently short of capacity  
6 and will not need new capacity for several years,  
7 which is what our situation is. Therefore, DSM  
8 programs are not needed. Sometimes in the future  
9 there will be a capacity need, however, but at that  
10 point in time it's too late to implement new  
11 demand-side programs in time to meet the capacity  
12 need.

13           So therefore, a new supply-side resource  
14 will be constructed to meet that capacity need. But  
15 after the supply-side resource is constructed, there's  
16 no longer a need for demand-side programs. And so as  
17 a result, there's never a need for energy efficiency  
18 or demand-side programs using this short-term  
19 thinking.

20           I think that's pretty straightforward and  
21 it results from a short-term view of the world of  
22 energy. In other words, under Staff's approach, the  
23 cycle of denial means that energy efficiency and  
24 demand-side programs will never be needed. This is  
25 simply not consistent with our State's policies to

1 promote energy efficiency and demand-side programs.

2           Now, in our original filing, the Company  
3 used the cost of its next combustion turbine as its  
4 avoided costs for capacity costs. While Staff has  
5 expressed some concerns over the use of a levelized  
6 cost of a CT for avoided capacity costs, it's  
7 important, I think -- and this is something I really  
8 want to stress. It's important to remember that the  
9 primary test for DSM cost-effectiveness is based upon  
10 the long-term revenue requirements of the Company  
11 using those programs. And that comes from your IRP  
12 rules.

13           And I think I'm just going to read that  
14 to you. It's Section 22.010, Section 2B. The  
15 fundamental objective -- and this is of the IRP  
16 process -- requires that the utility shall use  
17 minimization of the present worth of long-term utility  
18 costs as a primary selection criteria in choosing the  
19 preferred resource plan.

20           That's where this comparison of  
21 long-term -- well, of supply-side and demand-side  
22 occurs. It's in the IRP process. And we're finding  
23 that the demand-side and energy efficiency plants  
24 produce the lowest net present value of long-term  
25 revenue requirements, which is what's required by your



1 rules.

2 Now, as a part of the 2018 IRP analysis,  
3 the Company evaluated several alternative resource  
4 plans that varied the amount of DSM to be implemented.  
5 The results demonstrated that plans at the levels  
6 which are consistent with the Company's MEEIA 3 plans  
7 resulted in the lowest 20-year net present value of  
8 revenue requirements.

9 Let me say that again. The DSM levels  
10 being proposed by the Company in this case results in  
11 the lowest net present value of revenue requirements,  
12 which should translate into the lowest revenue  
13 requirements for customers in the long term. And this  
14 is the appropriate test for cost-effectiveness of a  
15 demand-side program.

16 In other words, DSM programs are  
17 obviously good for the customer that takes advantage  
18 of the program. And DSM programs are also good for  
19 non-participating customers because the revenue  
20 requirements they support will be lower if the Company  
21 does DSM.

22 Now, from a laymen's perspective, that's  
23 the bottom line. Revenue requirements will be lower  
24 over the long term with DSM programs being proposed by  
25 the Company. Now, from my perspective, that's --

1 that's the end of the story. But we can also look at  
2 avoided costs from another perspective.

3 If DSM programs are to be viewed on an  
4 equivalent basis as generation, at a minimum, the  
5 avoided cost value should reflect the actual market  
6 cost for capacity. This is acknowledged by the  
7 Commission's IRP rules in Section 22.050 (5)(A)(1),  
8 which reads as follows: Utility's avoided demand  
9 costs shall include the capacity costs of generation,  
10 transmission and distribution facilities or the  
11 corresponding market-based equivalent of those costs.

12 Now, in -- in late 2017, GMO issued a  
13 Request for Proposal for a generating capacity.  
14 Responses to that IRP are an indication of what our  
15 short-term or near-term capacity values in the area  
16 and can be used as an indicator of what should be the  
17 avoided cost of capacity.

18 GMO received seven offers to supply  
19 capacity with terms ranging from four years to ten  
20 years. And again, these -- these confidential bid  
21 prices you can find in our Surrebuttal Report at page  
22 18 and our position statement on page 10. And they  
23 indicated that market-based costs of short-term  
24 capacity -- they've got what those numbers are.

25 Now, if you use those -- those bids as an

1 indicator of what our avoided costs for capacity, it  
2 pro-- well, if we were trying to do that, we probably  
3 would have been better if we had long-term bids  
4 because we have long-term DSM programs. But we can  
5 use these shorter-term or nearer-term bids as an  
6 indicator of what are avoided capacity costs.

7           Nevertheless, the near-term capacity  
8 costs can still be conservatively used as an indicator  
9 of avoided capacity costs for evaluating our DSM  
10 programs. It's important to reiterate again that this  
11 is a consideration for DSM program cost-effectiveness  
12 screening only, not whether the program will lower  
13 revenue requirements.

14           In other words, avoided cost is only  
15 important to assess if a DSM passes a -- what's called  
16 a T-- TRC, a Total Resource Cost test. For a given  
17 set of DSM programs, the avoided cost used for  
18 screening has no bearing on whether the DSM programs  
19 will lower revenue requirements.

20           Whether that avoided cost in the TRC is  
21 zero or whether it's the cost of a combustion turbine,  
22 the net present value of revenue requirements to  
23 customers is the same as -- as all programs were -- at  
24 least if the programs are implemented as designed.  
25 And, you know, if you have questions about that, one

1 of my best places for you to go I think is probably  
2 Burton Crawford. He's our IRP guru and he'll be our  
3 second witness today. But let me go on here. We've  
4 talked about cir-- cycle of denial.

5 Let's go to avoided costs. While the  
6 Company believes using the value of a combustion  
7 turbine is appropriate, if the Commission used this  
8 alternative approach of using the near-term capacity  
9 market values to value avoided capacity costs when  
10 screening the Company's programs, all of the Company's  
11 proposed programs but one would pass.

12 And the only one that wouldn't pass is  
13 the business thermostat program. It's -- and we are  
14 willing to make some changes to that program to -- to  
15 modify it to make it cost-effective.

16 My witnesses will be able to explain  
17 other benefits of DSM programs, including lower prices  
18 flowed through the fuel adjustment clause, potential  
19 revenues from capacity sales, avoided environmental  
20 costs, and the reductions in Southwest Power Pool  
21 fees. But I don't think I'm going to lengthen this  
22 opening to -- to talk about those.

23 But I do want to talk about the last  
24 major issue, and that's the earnings opportunity.  
25 It's the second major issue that the Commission's

1 going to have to decide. The Company has proposed an  
2 earnings opportunity that would be based upon a  
3 verified retrospective EM&V I think it's evaluation,  
4 measurement and verification.

5 And we've proposed an earnings  
6 opportunity that is at a level that's consistent with  
7 prior Commission-approved earnings opportunities.  
8 It's also -- it was also approved by the Commission  
9 under similar capacity needs that existed back in the  
10 Cycle 1 and Cycle 2 days.

11 Now, there are multiple ways to look at  
12 and to calculate acceptable earnings opportunities.  
13 The level of earnings that the Company's requesting is  
14 consistent with prior Commission-approved earnings  
15 opportunities for both our Company and for Ameren.  
16 For example, Ameren's earnings opportunity in the  
17 MEEIA 3 case that you just completed at 100 percent  
18 target is 30 million dollars. Ameren's approved  
19 earnings opportunity at that level is 15 percent of  
20 their total program budget.

21 Now, this is consistent with our  
22 Company's MEEIA Cycle 2 earnings opportunity target,  
23 which was 14.7 percent of the total program costs or  
24 19.7 percent in the GMO case. Now, in this case, the  
25 Company's requested EO target is 18 percent for KCPL

1 and 19.2 percent for GMO when compared to program --  
2 total program costs.

3           A second way to look at the earnings  
4 opportunity request is by comparing the earnings  
5 opportunity to net shared benefits produced by the  
6 MEEIA programs. Ameren's MEEIA 3 earnings opportunity  
7 that was just approved was 13.7 percent of the  
8 expected net shared benefits.

9           In the Company's direct filing, they're  
10 requesting an earnings opportunity of 10.6 percent of  
11 net shared benefits for KCPL and 12.8 percent for GMO.

12           Now, as I mentioned earlier, Staff is  
13 recommending that the earnings opportunity should be  
14 zero. This zero would preclude the Company from going  
15 forward with investing in MEEIA. Staff claims that  
16 the Company should not be allowed to receive an  
17 earnings opportunity if any -- if at any time a  
18 program was not deemed to be 100 percent  
19 cost-effective.

20           Of course, under Staff's avoided cost  
21 analysis, the -- none of the programs would pass and  
22 never -- would not be cost-effective. This would,  
23 again, preclude the Company from investing in MEEIA.

24           Staff claims that -- well, let me just  
25 say this would not meet MEEIA's stated policy of

1 ensuring the utility's financial incentives are  
2 aligned with helping customers to use energy more  
3 efficiently. It's just -- it's just not consistent.  
4 Zero earnings opportunity doesn't give us a financial  
5 reason to do it.

6           From our perspective, it should be  
7 consistent with what the Commission has already  
8 authorized for Ameren in -- in MEEIA Cycle 3 and what  
9 it's already authorized for our Company in MEEIA Cycle  
10 1 and 2.

11           Staff is measuring KCPL's programs with a  
12 different measuring stick than Ameren's. The Company  
13 has identified several places where there are major  
14 inconsistencies. The first is Ameren did not identify  
15 any specific investments that would be avoided through  
16 implementation of their MEEIA Cycle 3 programs, but  
17 Staff seems to be faulting KCPL and GMO for not doing  
18 so.

19           Staff supports Ameren's offering of a  
20 Home Energy Report Program that has very similar  
21 characteristics to the home energy program that  
22 we're -- Home Energy Report Program that the Company  
23 is requesting in this case.

24           Staff is recommending, as a condition for  
25 approval by the Commission, that the Commission only

1 allow the recovery of program costs, throughput  
2 disincentive and earnings opportunities for the  
3 programs that are ultimately determined and verified  
4 as cost-effective based on the EM&V. Staff didn't  
5 require the same of Ameren in support of its -- of its  
6 MEEIA 3 programs.

7           Staff recommends a very different level  
8 of earnings for the Company compared to what was  
9 supported by -- for the Ameren case. Staff is  
10 recommending zero earnings opportunity for KCPL;  
11 whereas, the Company is requesting an earnings  
12 opportunity that's consistent with the prior Cycle 1  
13 and 2 programs for KCPL and GMO and MEEIA 3 for  
14 Ameren.

15           Staff is recommending that the Commission  
16 utilize zero avoided capacity costs for valuation of  
17 its proposed MEEIA programs because of the Company's  
18 need for capacity only exists in the year 2032, which  
19 is 13 years away. And as I already mentioned,  
20 Ameren's didn't need any capacity for 16 years. So  
21 Staff takes a very different position with Ameren and  
22 supports the positive avoided costs for Ameren for the  
23 period 2019 through 2034.

24           As stated in the Staff's Rebuttal  
25 Testimony in the Ameren case, Ameren Missouri has no



1 current capacity needs and will not need capacity for  
2 16 years. Nevertheless, Staff recommends approval of  
3 the avoided costs in the Ameren Stipulation and  
4 Agreement, which indicated that Ameren's MEEIA 3  
5 programs would be cost-effective.

6 From our perspective, utilities operating  
7 in the same state with similar circumstances should  
8 have similar incentives for investing in their  
9 customers.

10 Okay. That's the major part of the case.  
11 But let me go to a couple other smaller issues to wrap  
12 up. There's an opt-out issue, which I know  
13 Mr. Woodsmall is going to be speaking about. Staff is  
14 recommending that if the Commission approves the  
15 Business Demand Response Program, that only those  
16 customers who have not opted out of MEEIA should be  
17 eligible to receive incentives.

18 We disagree with that position. The  
19 Company believes that since opt-out customers have  
20 been allowed to participate in demand response MEEIA  
21 programs in the past and they've represented a  
22 significant share of the demand response capacity and  
23 have performed strongly under past MEEIA cycles, we  
24 think they should be allowed to continue to  
25 participate in the current MEEIA 3 programs.

1           There's also a second issue called -- I  
2 call it the PAYS issue. Public Counsel and Renew  
3 Missouri are supporting a PAYS model, which is, as you  
4 probably know, Pay As You Save, for inclusion in MEEIA  
5 3 for all single-family and multi-housing family  
6 units. As the Commission probably knows, this is a  
7 program to help consumers finance their energy  
8 efficiency projects.

9           Now, the position of the Company in -- on  
10 this issue is that it doesn't have an interest in  
11 being a financial institution that holds loans or  
12 liens on equipment on the customer's side of the  
13 meter. But the Company is willing to explore other  
14 alternative paths for helping customers overcome  
15 financial hurdles and has provided some alternatives  
16 that are off-bill financing.

17           An example of that would be the property  
18 assessed clean energy loans that can be used by  
19 residential and commercial facilities to finance  
20 energy efficiency and demand-side programs other -- or  
21 excuse me, other clean energy programs.

22           Then there's another very interesting  
23 issue that Public Counsel is raising. Public Counsel  
24 suggests exploring a concept called the Urban Heat  
25 Island. Now, as I understand it, it would be ways to

1 reduce the heat effects in urban centers. The Company  
2 is open to exploring the value of Urban Heat Island  
3 concepts and is willing to proceed with this item as  
4 one of its R and D concepts.

5           However, Public Counsel is recommending  
6 spending 2 million dollars for the program, which is  
7 nearly the total of the Company's filed MEEIA budget  
8 for R and D, leaving only 160,000 dollars for the  
9 other Company vetted concepts. We think that's just  
10 too significant for an investment in that -- in that  
11 concept at this time.

12           There are several other, Judge, technical  
13 issues and -- and tariff issues that are being raised  
14 in the case, but I think I'd be better off to leave  
15 those for the brief.

16           So in conclusion, the Company requests  
17 that the Commission order in this case approve the  
18 plans that we have to invest in energy efficiency and  
19 demand res-- demand response programs that have been  
20 successful over the last 12 years and expands into  
21 some new programs with added quick cost recovery.

22           However, if the Commission chooses to  
23 accept the recommendations of the Staff and the Public  
24 Counsel in this case, KCPL and GMO will not be in a  
25 position to pro-- to proceed as planned. And even if

1 the Commission approved the Company's portfolio of DSM  
2 and energy efficiency programs but failed to provide  
3 an adequate earnings opportunity, the Company would  
4 find it necessary to stop offering these beneficial  
5 programs. With that, I'm happy to take your  
6 questions.

7 COMMISSIONER KENNEY: I have no  
8 questions. Thank you.

9 JUDGE CLARK: Any questions from the  
10 Commission?

11 COMMISSIONER HALL: I have one.

12 QUESTIONS BY COMMISSIONER HALL:

13 Q. Good morning.

14 A. Good morning.

15 Q. My memory was that with -- with  
16 Ameren's -- well, I can't remember now if it was the  
17 MEEIA 3 or the MEEIA 2. The Commission rejected  
18 Ameren's MEEIA plan. And one of the reasons was  
19 Ameren's failure to identify supply-side savings. Is  
20 that inconsistent with your understanding?

21 A. Commissioner, I remember something along  
22 that line. They eventually got to a settlement.

23 Q. I -- and my memory is that, in part, they  
24 were able to identify some supply-side savings as part  
25 of that settlement, but maybe I'm misremembering.

1           A.     I think there -- there may have been a  
2 situation where they -- they looked out and they saw  
3 deferral maybe two years, if that's what you're  
4 referring to, of those particular supply-side  
5 capacity.

6                     But in this last case, initially the  
7 Staff started I think where they're at here in this  
8 case where they weren't -- they weren't -- their  
9 avoided cost number was going to be zero or very close  
10 to it. And in the settlement -- and we'll go into  
11 this in cross-examination.

12                    If you look at your -- I think it's  
13 Appendix C of settlement, it has very positive avoided  
14 costs, capacity costs along with distribution  
15 transmission costs that get to a level where the --  
16 the Ameren programs were determined to be  
17 cost-effective using those avoided cost numbers.  
18 Those are very different from the numbers that are  
19 being used at -- in zero in this case by the Staff.

20           Q.     Who would be the Company's best witness  
21 on that issue?

22           A.     You could probably ask several of them.  
23 Chuck Caisley will be addressing it at a high level.

24                    Comm-- Burton Crawford will be the  
25 witness that can address the IRP process and -- and

1 what is going to be the situation with supply-side  
2 versus demand-side resources and what's cost-effective  
3 and what's not over the long term.

4 And then Darrin Ives will be addressing  
5 the overall perspective especially on earnings  
6 opportunity. And those are the three that I would  
7 suggest that you go to.

8 But I think they can all address the  
9 question of why a zero avoided cost on capacity does  
10 not work and -- as the Staff has suggested using that  
11 for every year but one year whenever there is a  
12 capacity need in 2032.

13 Q. Isn't it also possible that by -- by  
14 reducing consumption through -- through MEEIA, you --  
15 you could speed up the retirement of a coal plant?

16 A. You could speed up the retirement. You  
17 could also -- if you look at your rules, they also  
18 talked about lowering existing use of -- of existing  
19 supply-side resources. Certainly if we're not  
20 producing as much electricity, we don't need to use  
21 our existing supply-side resources as much.

22 Lowering the maintenance cost and  
23 everything else associated with our existing supply --  
24 not just new supply, but our existing supply is going  
25 to be less use, less maintenance and it's -- we're

1 going to be saving on that. And that's -- we think  
2 that's a benefit.

3 Q. Right. But putting that aside, couldn't  
4 you also speed up the retirement of a coal plant if  
5 the -- if -- if the demand was not there?

6 A. I think that would -- that makes sense  
7 from -- from my standpoint. Why don't you ask Burton  
8 Crawford that question because he's the expert on  
9 that?

10 Q. Okay. Thank you.

11 QUESTIONS BY COMMISSIONER RUPP:

12 Q. Good morning.

13 A. Good morning, Commissioner.

14 Q. So you laid out a -- a belief that your  
15 organization is being held to a different standard  
16 than -- than your peers in this state.

17 A. And -- and the peers of -- or in our  
18 previous Cycle 1 and 2.

19 Q. And Cycle 1 and 2. So in your  
20 perception, in your opinion -- I'll have a chance to  
21 ask other -- why do you believe that is the case?

22 A. I, frankly, don't know. We un-- don't  
23 have any understanding of why we should be treated to  
24 a zero avoided cost when that didn't happen in the  
25 past cycles and it didn't happen in Ameren's --

1 Ameren 3. And our -- our -- our programs,  
2 Commissioner, are very, very similar to what we've  
3 already had approved and were successful. And why  
4 Staff is taking this position now from what they've  
5 done in the past, we don't understand. But that would  
6 be a good question for Staff.

7 Q. Thank you.

8 QUESTIONS BY JUDGE CLARK:

9 Q. Okay. I've got one brief question. And  
10 I really don't want to get into what any of the  
11 negotiations have been between the parties. This is  
12 really just a yes or no question. But back in April  
13 the Company and --

14 A. Staff.

15 Q. Sorry. Got distracted by an e-mail.  
16 -- the Company and Staff filed with the  
17 Commission a joint notice indicating that they'd  
18 resolved the avoided cost issue. Is that no longer  
19 the case?

20 A. That's no longer the case. We had  
21 resolved it, but it was contingent on getting to a  
22 settlement.

23 Q. Okay. Thank you.

24 A. Thank you very much. Appreciate it.

25 JUDGE CLARK: Bear with me for just a



1 moment. I'm having a little bit of a problem with the  
2 camera. Okay. We've got that resolved.

3           Opening statement from Staff. And I'm  
4 going to ask this real quick, just because it seems  
5 like we've done a general opening statement now. Were  
6 the -- were the parties anticipating doing an opening  
7 statement for each issue or just one general opening  
8 statement?

9           MR. FISCHER: The Company was not.  
10 Our -- our -- our witnesses will be just addressing  
11 the areas of the report that they sponsored.  
12 Mr. Caisley actually has some overall policy, but we  
13 aren't planning to break it up by an issue by issue in  
14 that way like a rate case.

15           JUDGE CLARK: So your understanding is  
16 just one opening statement. Is that everybody's  
17 understanding? Okay. I see a lot of nods.

18           So with that, Staff if you want to begin  
19 your opening statement.

20           MR. PRINGLE: May it please the  
21 Commission.

22           JUDGE CLARK: Go ahead.

23           MR. PRINGLE: Good morning, Judge Clark,  
24 Commissioners. My name is Travis Pringle and I will  
25 be speaking to you today about Staff's position

1 regarding KCPL GMO's MEEIA Cycle 3 application.

2           It is Staff's recommendation that the  
3 application as filed be rejected because KCPL GMO's  
4 MEEIA Cycle 3 application does not meet the MEEIA  
5 statutory requirements. The proposed programs do not  
6 meet the statutory requirements to provide benefits to  
7 all customers, including those that do not  
8 participate. When utilizing appropriate avoided cost  
9 data, many of the programs are not cost-effective.  
10 And the Company is not valuing demand-side investments  
11 equal to traditional investments in supply and  
12 delivery infrastructure.

13           I will explain Staff's position by  
14 following the outline of the issues you are to hear  
15 over the next two days. There are five issues before  
16 you. The first issue is should the Commission  
17 approve, reject or modify the Company's MEEIA Cycle 3  
18 plans, along with the waivers in the Company's  
19 application intended to enable its implementation.

20           Secondly, when it developed MEEIA 3, did  
21 the Company value demand-side investments equal to  
22 traditional investments in supply and delivery  
23 infrastructure?

24           Issue three, is the proposed MEEIA 3 that  
25 is designed by the Company expected to provide

1 benefits to all customers in the customer class in  
2 which the programs are proposed, regardless of whether  
3 the programs are utilized by those customers.

4 Issue four, if the Commission approves or  
5 modifies MEEIA 3, what demand-side investment  
6 mechanism provisions should be approved to align  
7 recovery with the MEEIA statute.

8 And finally, should opt-out customers be  
9 eligible to participate in business demand response  
10 programs.

11 I would also like to stress that Staff  
12 supports Missouri utilities in carrying out the  
13 statutory mandates of MEEIA. Well-designed and  
14 quality programs can go a long way in promoting energy  
15 efficiency throughout the state of Missouri.

16 However, MEEIA is a voluntary program.  
17 No utility is entitled to a MEEIA. That is why an  
18 application must be well crafted and clearly meet the  
19 statutory requirements of MEEIA.

20 KCPL GMO's application as proposed is  
21 simply a bad application. MEEIA benefits are  
22 collected up front in return for future benefits and  
23 the costs of these programs in this application are  
24 simply not worth those benefits.

25 Addressing the first issue, Staff

1 recommends the Commission reject the Company's  
2 application as-is. When MEEIA was enacted in 2009, it  
3 set forth, and I quote, It shall be the policy of the  
4 State to value demand-side investments equal to  
5 traditional investments in supply and delivery  
6 infrastructure and allow recovery of all reasonable  
7 and prudent costs of delivering cost-effective  
8 demand-side programs, end quote.

9           The Company's MEEIA 3 come with a host of  
10 problems, including a failure to produce meaningful  
11 avoided costs, programs not being cost-effective, not  
12 deferring investments and supply-side resources and  
13 posing a net cost to all customers of 5.7 million  
14 dollars.

15           Staff's recommendation of rejection is  
16 based on the Company's MEEIA 3 failure to produce  
17 meaningful avoided costs. An avoided cost is value  
18 based on the notion that due to actions and  
19 investments made, in this case MEEIA 3, the utility  
20 can avoid costs it would otherwise actually incur.

21           Staff has assumed zero avoided capacity  
22 costs for evaluation of the proposed MEEIA programs  
23 because the combined Company, recognized as a single  
24 load-serving entity by SPP, has no need for capacity  
25 until 2032 at the earliest. And even then, the market

1 prices for capacity are likely far less expensive than  
2 the Company's proposed avoided capacity costs. And  
3 the proposed programs are not guaranteed or designed  
4 to minimize any SPP fees.

5 The Company relied upon an analysis that  
6 grossly overstated any potential savings, violating  
7 the fundamental objective of long-term resource  
8 planning. Staff Witness J Luebbert will be taking the  
9 stand to describe in further detail Staff's analysis  
10 of avoided costs and the fundamental flaw that the  
11 lack of any avoided capacity costs play in Staff's  
12 recommended rejection of the Company's MEEIA 3.

13 Further, because the Company's MEEIA 3  
14 fails to produce any avoided capacity costs and  
15 avoided capacity costs are a major component of the  
16 benefits used in the benefit-cost analysis, the  
17 portfolio does not pass the Total Resource Cost test.  
18 That means it is not cost-effective. Staff Witness  
19 Brad Fortson will address any questions you have  
20 concerning the cost-effectiveness of those programs  
21 and the failure to pass that test.

22 And the net cost of 5.7 million dollars  
23 to all customer highlights the striking lack of  
24 benefits to all, which is contrary to the statutory  
25 mandate and spirit of MEEIA.

1 As for the variance requests, should the  
2 Commission approve MEEIA 3, Staff recommends that they  
3 partially reject the fifth variance request regarding  
4 Commission Rule 20 CSR 4240-20.092(1)(c) with the  
5 exception of the variance regarding the integrated  
6 resource plan, which the Company and Staff agreed to  
7 waive on August 7th, 2019.

8 Despite our recommendation of rejection,  
9 Staff does recognize and acknowledge the inherent  
10 public policy reasons to support continuation of MEEIA  
11 programs. If the Commission were to indicate it would  
12 be open to further review of the Company's application  
13 following a restructuring and modification to address  
14 Staff's concerns, Staff would support such an  
15 approach.

16 Staff would stress that the Company only  
17 include low-income programs, education programs that  
18 exclude Home Energy Reports and a restructured demand  
19 response program portfolio. Staff Director Natelle  
20 Dietrich will be taking the stand today and go into  
21 further detail as to what those modifications and  
22 conditions are.

23 Moving on to issue two, Staff has  
24 concluded the Company has not met the statutory  
25 requirement to value demand-side investments equal to

1 traditional investments in supply and delivery  
2 infrastructure.

3           Staff analyzed KCPL GMO's capacity  
4 requirements on a combined basis, similar to the way  
5 SPP treats the Company. Staff found the Company will  
6 not be avoiding any supply-side investments during the  
7 20-year planning horizon under MEEIA 3. And because  
8 of the flaws in program design, the Company would be  
9 avoiding minimal SPP fees at best and not take  
10 advantage of any avenues that could potentially make  
11 these MEEIA investments cost-effective.

12           In addition, due to the lack of any loss  
13 supply-side investment opportunities, the Company is  
14 not foregoing an earning opportunity, which is part of  
15 MEEIA that compensates the utility for the lost return  
16 on plan supply-side investment when the Company  
17 chooses to invest in demand-side resources instead.

18           This approach, not foregoing that  
19 earnings opportunity, is directly against the  
20 Commission's Report and Order in Case Number  
21 EO-2015-0055, which regarded Ameren's MEEIA 2. In  
22 that order the Commission stated that unless a  
23 utility's MEEIA portfolio results in energy and demand  
24 reductions such that construction of a power plant  
25 would be cancelled or materially postponed, the

1 shareholders will not have experienced a foregone  
2 supply-side earnings opportunity.

3           As the Commission in that case stated,  
4 this is a matter of building in a double recovery  
5 windfall. That double recovery comes from ratepayers  
6 paying depreciation and return on equity on  
7 supply-side investments and then paying again for  
8 performance incentives on demand-side programs.

9           Staff Witness J Luebbert provided  
10 extensive analysis and testimony on this issue in  
11 Staff's report and can take any questions you may have  
12 concerning Staff's conclusions on issue two or explain  
13 how to appropriately value avoided costs to prevent an  
14 inequitable double recovery issue.

15           Moving on to issue three, Staff's  
16 analysis has demonstrated that the Company's proposed  
17 MEEIA 3 will not provide benefits to customers that do  
18 not participate in programs, which again goes directly  
19 against the statutory mandate of MEEIA. This also  
20 connects back to the lack of avoided costs.

21           Going back to Case Number EO-2015-0055,  
22 the Commission has stated that the justification  
23 behind approval of MEEIA depends on if  
24 non-participating ratepayers would be better off  
25 paying to help some ratepayers reduce usage than they



1 would be for paying for construction of a new power  
2 plant. The Company's MEEIA 3 fails that standard.  
3 Rather, the evidence in this case will show the  
4 Company's customers will likely receive very little,  
5 if any, overall benefits.

6           Staff's analysis includes a chart on  
7 page 35 on Staff's report that best explains the lack  
8 of benefits to all customers. Using Staff's estimated  
9 avoided costs of zero, the Company's MEEIA Cycle 3 is  
10 expected to have a maximum cumulative net customer  
11 cost of 71 million dollars in 2022, to never break  
12 even, and to have a cumulative net customer cost of  
13 5.7 million dollars in 2038.

14           It is Staff's position that it makes  
15 little sense for KCPL GMO customers to pay 71 million  
16 dollars from 2019 through 2022, to never break even,  
17 and to have a cumulative net cost of 5.7 million  
18 dollars by 2038.

19           While Staff did conclude that GMO alone  
20 would represent a MEEIA that could provide benefits to  
21 all customers, because of the joint network  
22 integration transmission service, as well as KCPL  
23 GMO's treatment in SPP, the two companies have  
24 reviewed as one. It is here that one of the key ways  
25 that advocacy fails to meet the statutory

1 requirements of MEEIA is best seen and Staff must  
2 recommend a rejection.

3           Staff Witness John Rogers, one of the  
4 architects behind the Commission's MEEIA and IRP  
5 rules, has performed extensive analysis on this issue  
6 and is available to explain clearly why customers in  
7 the aggregate do not benefit from the Company's  
8 proposal.

9           Regarding issue four, Staff recommends  
10 the Commission not approve an earnings opportunity for  
11 the application as proposed. However, Staff has made  
12 four recommendations concerning DSM provisions to  
13 align recovery with the MEEIA statute that the Company  
14 in their Surrebuttal Report indicated they could agree  
15 to.

16           Those recommendations include, one, using  
17 an NTG factor of .8 in calculating the MEEIA 3  
18 throughput disincentive; two, modifying the tariff  
19 sheets to retain the MEEIA 2 tariff sheets for both  
20 utilities until they are no longer necessary; three,  
21 modifying the tariff sheets to include provisions  
22 relating to any remaining reconciliations related to  
23 MEEIA 1, and that those reconciliations are fully  
24 reconciled during the initial period of MEEIA 3; and  
25 four, the Companies use the same margin rates that

1 took effect on December 6th, 2018 for the initial  
2 MEEIA 3 period subject to update and future general  
3 rate cases.

4 Staff Witnesses Robin Kliethermes and  
5 Seoung Joun Won are available to answer any questions  
6 you may have over these recommendations. Staff  
7 Witness Dana Eaves is also available to answer any  
8 questions you may have concerning the earnings  
9 opportunity.

10 Finally, regarding the opt-outs. Since  
11 program design has not been finali-- finalized, Staff  
12 is unclear on whether business demand response  
13 programs are interruptible or curtailable rate  
14 schedules or tariffs. If they are interruptible or  
15 curtailable, Staff recommends that the Commission  
16 allow opt-out participation. If they are not  
17 interruptible or curtailable, Staff recommends the  
18 Commission not allow opt-out participation.

19 Staff Witness J Luebbert can also answer  
20 any questions you may have regarding Staff's position  
21 on opt-outs.

22 In closing, as explained in Staff's  
23 report and will be explained over the course of this  
24 hearing, Staff's analysis of the Company's MEEIA 3  
25 application demonstrates that it does not meet the

1 MEEIA statutory requirements. Specifically, the  
2 requirements that the programs provide benefits to all  
3 customers, regardless of participation, and that the  
4 utility value demand-side investments equal to  
5 traditional investments in supply and delivery  
6 infrastructure in delivering cost-effective  
7 demand-side programs.

8           This analysis is consistent with Staff's  
9 position in prior MEEIA -- MEEIA cases which were  
10 settled with Stipulations and Agreements. The Ameren  
11 MEEIA 2 program, that was rejected by this Commission  
12 and sent back for talks to the parties. Staff will  
13 simply be fleshing out in more detail those positions  
14 over the next two days that we have held since the  
15 very beginning of MEEIA.

16           Again, Staff is not against energy  
17 efficiency programs. Staff is against bad  
18 applications. When a company is successful in  
19 promoting energy efficiency in a responsible manner  
20 that provides benefits to all customers within a  
21 class, regardless of participation, the company should  
22 absolutely be rewarded for such an accomplishment.  
23 However, the opposite is also true.

24           The application as proposed by KCPL GMO,  
25 is simply a bad application that needs substantial

1 work in order to successfully promote energy  
2 efficiency and provide benefits to all customers.

3 Staff is open to the Commission ordering  
4 further review of the application if the Company were  
5 to restructure its application to better address  
6 Staff's concerns. And if the Commission were to  
7 approve the application, Staff would recommend the  
8 Commission order a series of modifications and  
9 conditions outlined in Staff's Rebuttal Report that  
10 would better help the Company comply with the  
11 statutory mandate of MEEIA.

12 With that, I'm happy to take any  
13 questions you may have.

14 JUDGE CLARK: Any questions from the  
15 Commission?

16 COMMISSIONER KENNEY: I have none.

17 COMMISSIONER HALL: No questions, thank  
18 you.

19 QUESTIONS BY JUDGE CLARK:

20 Q. I actually have one. You had indicated  
21 in regard to the demand response business program that  
22 Staff could not determine whether it was an  
23 interruptible or curtailable program. Is that  
24 something you're asking the Commission to decide?

25 A. Yes.

1 Q. Thank you.

2 JUDGE CLARK: Opening statement From the  
3 Office of the Public Counsel.

4 MR. HALL: Good morning, and may it  
5 please the Commission. My name is Caleb Hall,  
6 appearing on behalf of the Office of Public Counsel.

7 I'll preface by stating that when I say  
8 KCPL or the Company, I'm referring to the joint  
9 parties. If I want to refer to a specific company,  
10 I'll refer to KCPL Missouri or KCPL GMO. And that  
11 when I say MEEIA, of course we're all talking about  
12 the Missouri Energy Efficiency Investment Act.

13 Public Counsel joins Staff in asking this  
14 Commission to either reject the Company's proposed  
15 energy efficiency program outright under their MEEIA  
16 application or to signal to the Company what steps  
17 need to be taken to move forward as you send us back  
18 into the negotiating room. OPC does so because our  
19 office supports energy efficiency.

20 Energy efficiency and demand-side  
21 management programs benefit both utilities and their  
22 customers when there -- when there are identifiable  
23 avoided costs that defer supply-side investments in  
24 the future and when those deferrals are caused by  
25 programs that are cost-effective. KCPL's proposal

1 does none of those things.

2 Without deferring any supply-side  
3 investments or avoiding any specific costs, KCPL is  
4 simply asking to spend their customers' money for the  
5 hope of maybe seeing a benefit. The only way for  
6 KCPL's proposal to make sense for ratepayers is if the  
7 Company uses their avoided cost estimates. Those  
8 estimates are based on 2015 data.

9 Consider that KCPL's MEEIA 3 application  
10 wouldn't start until nearly 2020. Using five-year-old  
11 data to suppose what avoided costs the utility may  
12 incur is circumspect at best. The Company's reliance  
13 on data other than reality is crucial for  
14 understanding why the Kansas Commission has repeatedly  
15 denied the Company's energy efficiency requests in  
16 that state.

17 KCPL Witness Charles Caisley's testimony  
18 highlights the problems with the Company's requests.  
19 He justifies approval on the grounds that approval was  
20 given in other previous applications. He disregards  
21 the fact that no investments are being deferred in  
22 this application and ignores OPC Witness Geoff Marke's  
23 point as to JD Power customer reports.

24 JD Power -- based on JD Power analysis,  
25 KCPL's customers believe that their cost-of-service is

1 being higher than what it should be. KCPL's customers  
2 feel like they're paying more for what the service  
3 they get and this MEEIA application will do nothing to  
4 exacerbate that feeling.

5 He also unironically describes KCPL's  
6 MEEIA 1 and -- he unironically describes KCPL's MEEIA  
7 1 and 2 programs as similar to MEEIA 3. And that is  
8 precisely the problem. Contrary to the old adage,  
9 good enough is not good enough for government work.

10 Proposing a MEEIA program that simply  
11 replaces the same light bulbs and targets the same low  
12 hanging fruit will not achieve anything meaningful,  
13 other than an earnings opportunity for the Company and  
14 the lost potential now to achieve real avoided costs  
15 and truly invert it to benefits.

16 KCPL is also simply not equally valuing  
17 demand-side and supply-side investments, contrary to  
18 the statute at issue. Rather than using energy  
19 efficiency to defer any identified supply-side  
20 investments, some -- over the next 20 years, KCPL is  
21 actively undermining its energy efficiency efforts.

22 Not only are there zero true avoided  
23 costs in this application, but you have a company that  
24 is investing over a billion dollars of spending under  
25 a plant in-service accounting program that it elected.



1 It has also another pending application before this  
2 Commission where it's seeking a PPA to power its  
3 new -- to receive energy to power its newest customer,  
4 Nucor in Sedalia, with a new wind farm. Doing both  
5 ends of increasing supply-side and demand-side is  
6 burning both ends of the customer's candle.

7           This problem notwithstanding, OPC is not  
8 leaving you with a non-answer. We are offering you a  
9 better answer far from being contrary. And OPC is not  
10 proposing that demand-side management programs be  
11 cease -- ceased in their entirety. OPC Witness Geoff  
12 Marke provides a detailed proposal that is far more  
13 generous than any utility in Missouri not named Ameren  
14 in its default proposal.

15           A default MEEIA program would enable the  
16 Company to maintain an energy efficiency framework to  
17 keep those -- keep those programs in place so that in  
18 the future they could be ramped up once avoided cost  
19 assumptions can be more premised on reality. He also  
20 provides specific portfolio recommendations to further  
21 ensure future benefits for all ratepayers as MEEIA's  
22 statute intends.

23           Dr. Geoff Marke's testimony also speaks  
24 to at least four options the Company could take now to  
25 modify its application to start targeting actual

1 avoided costs and real demand-side benefits. A MEEIA  
2 program with no deferred -- with no deferred  
3 supply-side investment is the opportune time to be --  
4 launch a program into the on-bill tariff program for  
5 energy efficiency.

6 This is what is otherwise known as PAYS,  
7 Pay As You Save. This trademark on-tariff program has  
8 the potential to expand energy efficiency programs to  
9 underserved populations, including low-income, as well  
10 as other non-participant customers and thus, greatly  
11 expand the amount of benefits possible.

12 Rather than simply providing more  
13 programs for people who are already likely to take  
14 advantage of energy efficiency programs from MEEIA 1  
15 and 2, PAYS can tap into an otherwise unseen  
16 potential.

17 The Company should also consider the  
18 Equitable Energy Efficiency Study's Baseline Report  
19 that Dr. Geoff Marke highlights in his testimony.  
20 This builds on the research of Michigan Professor Tony  
21 Reames, the KC native who also did research into  
22 Kansas City's green impact zone, which Kansas City  
23 Power & Light I believe also has experience with.  
24 Dr. Marke has also testified to the unique potential  
25 that KCPL has to use MEEIA to address the Urban Heat

1 Island in the Kansas City Metro area.

2 As an office, we struggled to find what  
3 avoided costs and what benefits could be had through a  
4 MEEIA program. Dr. Geoff Marke then looked at what  
5 resources are available, and sometimes problems can be  
6 the best resources. Kansas City one of the top ten  
7 cities to experience an Urban Heat Island.

8 That is where the built environment  
9 actually causes a noticeable and real higher  
10 temperature relative to the surrounding area. That's  
11 caused not only by the different materials surrounding  
12 the city, but also the albedo change. Think about how  
13 much hotter it is to stand on black tar versus white  
14 sand.

15 Using a MEEIA program to target an Urban  
16 Heat Island would be -- this could turn this --  
17 Missouri from a show-me state into a watch-me state.  
18 Furthermore, thankfully most of the work has already  
19 been done. We have existing research already from  
20 Lawrence Berkeley National Labs and the Mid-America  
21 Regional Net-- I actually forget the acronym, but it's  
22 pronounced MARC based in Kansas City. I would posit  
23 you should just ask Dr. Marke -- or Dr. Geoff --  
24 Dr. Marke on that.

25 As well as those two actors, we also have

1 input from the City of Kansas City, University of  
2 Missouri-Kansas City, the EPA, and the Department of  
3 Energy.

4 KCPL's MEEIA could also reach otherwise  
5 untapped benefits for all its customers by  
6 incorporating WattTime, an automated software feature  
7 with measurable emissions reduction potential. This  
8 software is not being currently employed by the  
9 Company and thus, would be a new offering for its  
10 customer with new benefits springing there from.

11 We've given you a pretty good basket of  
12 goodies. And what did KCPL say in response to that?  
13 KCPL said no. And it demand that it get what it  
14 wanted from its initial application. I think we  
15 should consider the actions that were taken.

16 It filed an application and then as soon  
17 as there was any sign of antagonism or notice of  
18 rejection in the Ameren docket, they suddenly had no  
19 more confidence in their conclusions. KCPL noticed  
20 that it was going to delay its application until  
21 Ameren's case got settled. Then Ameren's got settled  
22 and KCPL brought this case up again. But then there  
23 were further delays, further consternation.

24 If KCPL was confident in its conclusions  
25 that there were true avoided costs and true benefits,

1 there would be no lead -- there would be no need  
2 rather to delay its proceeding now unless it wanted  
3 the benefit of saying well, Ameren got it and we  
4 should get it because, reasons.

5           At the risk of sounding like a broken  
6 record, just like week I brought up to the Commission  
7 the issue of opportunity costs. And I want to do so  
8 again. The unfortunate point here is that there is a  
9 lost opportunity cost whenever one path is chosen over  
10 another. And our ability to receive the benefits of  
11 one path is forever curtailed once we go in an  
12 opposite trajectory.

13           When we try to straddle both paths of an  
14 option, what ends up happening is we ultimately  
15 undernine -- undermine our progress on both ends.  
16 This is why you can't say yes to everything. If we  
17 say yes to more generation and yes to more energy  
18 efficiency and yes to more distributed energy  
19 resources and all without deliberating on a focused  
20 goal, all of those efforts ultimately undermine each  
21 other and otherwise deplete what little be-- what  
22 limited benefits -- or not -- limited resources we  
23 have.

24           That's why KCPL's proposal of simply  
25 doing more of the same now prevents our ability to see

1 the maximum amount of benefits possible for both the  
2 Company and its customers. If we are not targeting  
3 specific avoided costs or deferring identifiable  
4 supply-side investments, we are simply walking down  
5 the path of continuing to waste ratepayer money for  
6 the hope of seeing benefits. And we can't do that  
7 forever. There's only so much ratepayer money  
8 available.

9 I urge the Commission to ask questions.  
10 Ask questions of all the witnesses. Challenge their  
11 assumptions and challenge the rationale behind their  
12 positions. OPC is confident in our position and  
13 Staff's analysis and I would encourage you to  
14 especially ask questions of OPC's witness, Dr. Marke.  
15 He has invested a great deal in finding a way to make  
16 a case for MEEIA Cycle 3 where there is no avoided  
17 cost.

18 I especially encourage the Commission to  
19 ask questions about PAYS, the Urban Heat Island  
20 mitigation proposal and the equitable energy  
21 efficiency study and WattTime's automated reduction  
22 emissions software tool and how those four programs  
23 together can provide a framework for a future MEEIA  
24 Cycle 3 going forward. OPC believes these  
25 recommendations can serve as a bridge to move forward

1 into a future with actual benefits.

2           Finally, I would just take a brief moment  
3 to consider the opt-out issue in this case. There are  
4 contrary positions being posited by the parties as to  
5 whether or not a customer that has opted out of paying  
6 into the MEEIA programs can still get the MEEIA  
7 benefits.

8           There's one sentence at issue in that  
9 statute. Section 10. What the statute says is that  
10 those opt-out customers, quote, Shall still be allowed  
11 to participate in interruptible or curtailable rate  
12 schedules or tariffs.

13           I think the fact that the text  
14 specifically highlights tariffs is key on point here.  
15 There is nothing in that language that specifically  
16 states that an opt-out customer still gets to be --  
17 get to enjoy the MEEIA benefits and then be carried on  
18 the backs of those other customers that can't opt out.  
19 That conclusion can only be inferred.

20           What is in the text is that if you opt  
21 out of the MEEIA program, that doesn't otherwise  
22 disqualify you from other curtailable ta-- curtailable  
23 rate and other tariff programs that existed before  
24 MEEIA.

25           And that actually makes sense from a

1 drafting standpoint. When drafting a new MEEIA  
2 statute, the legislature knew that other curtailable  
3 rate programs and tariffs existed and they didn't want  
4 to otherwise present the implication that those tariff  
5 programs were foreclosed for opt-out customers.

6 Thank you for your time and I am  
7 available for other questions. I will posit though  
8 that if you want a more coherent response based on  
9 my -- based on my approach of the abbreviation mark,  
10 you should ask my question -- you should direct your  
11 questions to my witness, Dr. Marke.

12 COMMISSIONER KENNEY: I have no  
13 questions.

14 COMMISSIONER HALL: No questions. Thank  
15 you.

16 BY JUDGE CLARK:

17 Q. I have a similar question to you as I did  
18 for Staff. Did -- Staff indicated they weren't able  
19 to make a determination as to whether the business  
20 manned response program was curtailable or an  
21 interruptible program or not. Has OPC made a  
22 determination regarding that?

23 A. I cannot personally speak to that. And  
24 I've not actually been able to confer with my witness  
25 on that point. So I don't know what -- how he would



1 respond to that question.

2           How I will respond to you is that the  
3 applicant has the burden of proof. If Staff is not  
4 convinced as to what type of program that is, then in  
5 the face of doubt, you should defer against the  
6 applicant. If the applicant can't show that it's  
7 interruptible, then it should be presumed that it's  
8 not eruptible -- interruptible.

9           Q.     Would you agree that if it was determined  
10 to be curtailable or interruptible, that they would  
11 have the statutory right to participate even if they  
12 opted out of MEEIA programs?

13           A.     I would have -- can I ask for some spec--  
14 a bit more specificity in that question? Are you  
15 asking -- if your question is if the Commission  
16 determines the program to be an interruptible program,  
17 that an opt-out customer for MEEIA can otherwise  
18 participate in the MEEIA benefits, our office has  
19 taken the legal position of no.

20                     Our position is that once you opt out,  
21 you opt out. You can still receive the benefits of  
22 other tariffs that exist outside of MEEIA, but you  
23 can't be carried on the backs of other customers who  
24 don't have that luxury of opting out.

25           Q.     I'm just trying to reconcile that with

1 what you said about the -- the statute indicating that  
2 those customers could still participate in a program  
3 if it was interruptible or curtailable.

4 A. Yes. And that's why I specifically  
5 highlighted that second word "tariffs." So there's a  
6 can of construction that the listing of the specific  
7 is going to list the general. The legislature took  
8 the effort to write out schedules or tariffs. Keep in  
9 mind schedules does not necessarily refer to the  
10 schedules within MEEIA.

11 I don't read the statute to mean that  
12 opt-out customers have a granted right or an  
13 entitlement to the MEEIA programs. What I read it to  
14 mean as notwithstanding all the MEEIA programs that  
15 we're going to authorize and notwithstanding what the  
16 Commission may approve, customers can opt out and  
17 still maintain eligibility for other tariff programs  
18 that exist.

19 And I believe that the listing of tariffs  
20 and not just schedules as well limits that schedules  
21 are not just limited to MEEIA tariffs or not -- rather  
22 not -- sorry, not limited to MEEIA tariffs, but rather  
23 the schedules do not refer to the MEEIA schedules.

24 Q. Okay. So when you read that section of  
25 the tariff talking about curtailable or interruptible,

1 you read it as applying to programs already in  
2 existence, but not any new programs that would be  
3 interruptible or curtailable?

4 A. Section of the statute?

5 Q. Yes.

6 A. I read that to -- when you say new  
7 programs, if -- if another tariff was created outside  
8 of MEEIA, I believe an opt-out customer would be  
9 available for that as well. I see that as simply as a  
10 distinction between MEEIA programs and other programs  
11 that exist or may be created in the future outside of  
12 the MEEIA program.

13 Q. Okay. So it wouldn't apply to MEEIA?

14 A. Correct.

15 Q. Okay. Thank you.

16 JUDGE CLARK: Opening statements from The  
17 Division of Energy.

18 MR. WESTEN: Good morning. May it please  
19 the Commission.

20 JUDGE CLARK: Go ahead.

21 MR. WESTEN: Good morning. My name is  
22 Jacob Westen. I am an attorney with the Department of  
23 Natural Resources and today I am representing the  
24 Missouri Division of Energy.

25 In the particular case before you, the

1 Division of Energy's positions are very limited in  
2 scope. I will not be touching on the issues --  
3 important issues jus-- just discussed by the Company  
4 and Staff and OPC. Instead, I'm going to focus on  
5 three particular issues that Energy is interested in  
6 and would like to see further support on.

7 Two of those issues were raised by our  
8 first witness, Mr. Martin Hyman. We don't believe  
9 that there's been any contest to those issues.  
10 They're relatively straightforward. Wanting to have  
11 simple clarification of the program name, language so  
12 that there's no confusion for customers, and a  
13 proposed revision to the tariff language to make sure  
14 that the tariffs proposed by KCPL match with the  
15 current statutory language of MEEIA.

16 The third topic is a topic where we're  
17 making a recommendation on combined heat and power,  
18 CHP for short. CHPS provides a great opportunity for  
19 the utility and for a state agency to cooperate on  
20 outreach to customers and making them aware of this  
21 potential very beneficial energy efficiency measure.

22 We were excited to hear that in reading  
23 their application, KCPL and GMO wanted to keep -- keep  
24 CHP as an eligible business measure for the custom  
25 business program and we're hoping that they will keep

1 doing that and we're excited to help assist them with  
2 their customer outreach and market actor outreach for  
3 additional education and additional opportunities to  
4 find CHP and assist with the development of CHP in  
5 their service area.

6 We want to align our outreach efforts and  
7 the Company's outreach efforts to make sure it is  
8 practical and reasonable for both the Company and  
9 customers.

10 CHP is a benefit to Missouri's customers  
11 and companies. It's a benefit to KCPL. And we  
12 don't -- we understand that installation of CHP is not  
13 a simple measure, that can -- the complexity of it can  
14 be discouraging. That's part of the reason why we are  
15 proposing to work with the Company on how to do some  
16 outreach to encourage customers not to be discouraged.

17 To that end, we made a few broad  
18 recommendations. Our witness, Ms. Jane Epperson, will  
19 be able to provide some explanation as to those  
20 positions. And we think that our positions are going  
21 to be reasonable and practical and we can work with  
22 the Company to help develop those should the  
23 Commission approve their MEEIA Cycle 3 proposal.

24 And that's all I have. I'm happy to take  
25 any questions.

1 COMMISSIONER KENNEY: No questions.

2 Thank you.

3 BY JUDGE CLARK:

4 Q. A rather naive one. Can you explain what  
5 CHP is?

6 A. Yes. So what CHP is, is it takes one  
7 fuel source and it allows a -- an ap-- a customer  
8 where that kind of -- implement that equipment work --  
9 so what am I talking about? I'm talking about  
10 generation onsite for -- that is developed and  
11 engineered to match that particular customer's energy  
12 and heat needs.

13 So you would see that it would generate  
14 both electricity, using a single fuel source for that  
15 location. And the waste heat would then be used to  
16 also provide heat for like a boiler system or  
17 refrigeration system.

18 Ms. Epperson is very educated on this and  
19 can provide lots of details, but the idea is that it's  
20 a more efficient use of energy input for that  
21 particular customer. It reduces load on the system,  
22 allowing to directly dovetail with the purpose of  
23 demand-side management, which is to reduce demand and  
24 encourage efficiency.

25 It is a very complex system which

1 requires specific engineering, but even that is  
2 beginning to change where we have new essentially  
3 factory models that can be pre-made and then with a  
4 little bit of work installed for various customers.  
5 We're really excited about this technology.

6 Q. Okay. Thank you.

7 A. Thank you.

8 JUDGE CLARK: Opening statement from the  
9 Natural Resources Defense Council.

10 MR. ROBERTSON: May it please the  
11 Commission. I'm Henry Robertson for NRDC.

12 The big issue in the case, of course, is  
13 Staff and OPC's insistence that avoided cost here is  
14 zero, that the programs have -- are not cost-effective  
15 and that non-participating customers cannot benefit.  
16 The only avoided cost that counts in their view is the  
17 full capital cost of a near-term capacity addition.

18 Now, the statute is replete with  
19 references to efficiency savings and demand savings,  
20 but demand savings doesn't only mean the entire  
21 capital cost of a combustion turbine. Avoided cost is  
22 not even a term that's used in the statute. It only  
23 enters the statute through the Total Resource Cost  
24 Test where the avoided costs are the net benefits.  
25 Net benefits you compare it to the program costs.

1 Now, the cost of -- the concept of equal  
2 valuation of demand-side and supply-side resources is  
3 familiar from the IRP rule where the metric for  
4 comparison is revenue requirements. And as we know,  
5 revenue requirements favor demand-side resources.  
6 Avoided energy costs, T and D costs, and environmental  
7 costs lower revenue requirements and, therefore,  
8 benefit all customers. So I think you should reject  
9 Staff and OPC's insistence on the meaning of avoided  
10 cost.

11 We have two recommendations to make  
12 regarding low-income programs. The Company's  
13 low-income multi-family programs have much lower  
14 savings and benefit targets than they did in Cycle 2.  
15 And we propose a more comprehensive package of  
16 retrofit measures and a ramp up in budgets over the  
17 six-year cycle of the program, very much in line with  
18 what National Housing Trust is recommending.

19 The Company used to offer single-family  
20 income-eligible programs in Cycle 1 and to a lesser  
21 degree in Cycle 2. We would like to see these brought  
22 back at a minimum and the Company adopt a one-stop  
23 shop approach to delivery. And ideally we'd like to  
24 see more comprehensive packages of cost-effective and  
25 appropriate measures at no cost -- direct to install



1 at no cost to customers.

2 Now, the Company's surrebuttal says  
3 essentially that they're working along the same lines  
4 that we're pointing out, but not willing to embrace  
5 the programs that we recommend. We think there are  
6 too many -- too much in the way of savings that's  
7 being left on the table over a six-year program with  
8 the weak low-income programs that they recommend.

9 So we ask the Commission to approve the  
10 application, but also to direct the Company to improve  
11 their low-income portfolio. And that's all I have  
12 unless there are questions.

13 JUDGE CLARK: Any questions from the  
14 Commission?

15 COMMISSIONER KENNEY: No questions.  
16 Thank you.

17 JUDGE CLARK: Thank you.

18 Opening statement from Renew Missouri.

19 MR. OPITZ: Good morning and may it  
20 please the Commission. My name is Tim Opitz and I'm  
21 appearing on behalf of Renew Missouri.

22 It should come as no surprise that Renew  
23 supports this program and our recommendation is that  
24 the Commission approve, to a large extent, the  
25 Company, KCPL and GMO's portfolio of programs.

1 However, you have heard concerns from some of the  
2 other parties about how this portfolio does not offer  
3 enough benefits to non-participating customers.

4 I don't think anyone has questioned that  
5 if a customer participates in these MEEIA programs,  
6 they're going to see benefits. So Renew Missouri has  
7 been aware that non-participating customers benefiting  
8 has been a concern. So rather than taking an approach  
9 of saying here is something that we need to  
10 drastically change about the program, we think it's a  
11 good program, we think these programs are designed  
12 well, but we want to lean into it and increase  
13 customer participation.

14 One way that we have proposed to do that  
15 is through a on-tariff financing called Pay As You  
16 Save. The Commission has some familiarity with this  
17 due to the feasibility studies conducted by all of our  
18 investor-owned electric utilities in Missouri.

19 Renew Missouri offers the testimony of  
20 three witnesses. Today we have Mr. Mark Cayce. He is  
21 the general manager for Ouachita Electric Cooperative  
22 down in Camden, Arkansas; James Owen, our executive  
23 director, offered testimony; and Philip Fracica, our  
24 regional director of our Kansas City office, also  
25 filed testimony.

1           What we did in our testimony related to  
2 PAYS is layout a plan of how the Company can implement  
3 it and why the Commission should order them to do so  
4 in three steps. First, Mr. Owen talks about how  
5 Missouri utilities have conducted these feasibility  
6 studies. He talks about how having a PAYS program  
7 will allow deeper participation of customers and how  
8 it will benefit those customers and the utility  
9 itself.

10           Second, Mr. Fracica offers testimony  
11 discussing the specifics of how a PAYS program works,  
12 including discussing how PAYS can work in conjunction  
13 with a MEEIA program and the other programs offered by  
14 the utility. Lastly, Philip also sponsors a exemplar  
15 tariff for a PAYS system that could be adopted by the  
16 utilities in this case to move forward.

17           And third, Mr. Cayce is here and he is,  
18 in his testimony, talking about how Ouachita Electric  
19 has implemented a PAYS-type program in Arkansas and  
20 how it's been a success for customers and how the  
21 program has continued to grow.

22           Finally, in surrebuttal James Owen talks  
23 about our continued support for this program and he  
24 also mentions Renew Missouri's support for other  
25 opportunities to explore benefits for all customers,

1 including Dr. Marke's proposed Urban Heat Island  
2 Mitigation Pilot.

3 So with that, we urge the Commission to  
4 approve the Company's portfolio, modified to include a  
5 PAYS component in order to increase participation and  
6 help customers save money and save energy. And I'm  
7 happy to answer any questions.

8 COMMISSIONER KENNEY: I don't have any  
9 questions. Thank you.

10 JUDGE CLARK: Thank you.

11 MR. OPITZ: Thank you.

12 JUDGE CLARK: Opening statement National  
13 Housing Trust.

14 MR. LINHARES: Morning. May it -- may it  
15 please the Commission. My name's Andrew Linhares.  
16 I'm representing the National Housing Trust, or NHT,  
17 in this case.

18 NHT Witness Annika Brink submitted  
19 rebuttal and surrebuttal testimony. Because all the  
20 parties have agreed to waive her testimony and, Judge  
21 Clark, you indicated the Commission had no questions  
22 for her, she's not present for this hearing today.  
23 But I'd like to briefly summarize Ms. Brink's  
24 testimony and clarify what NHT is asking for in this  
25 case.

1           So NHT has been working with KCP&L, the  
2 Company, since about spring of 2018. This has been a  
3 long case. We've been focusing on improving the  
4 Company's Income-Eligible Multi-Family program  
5 primarily, which was initially approved as part of the  
6 Company's MEEIA Cycle 2 portfolio.

7           So based on months of input leading up to  
8 this case from NHT and others, the Company proposed a  
9 new and improved Income-Eligible Multi-Family program.  
10 It seeks to help customers achieve deep savings both  
11 in common areas and in individual tenant units. The  
12 program provides no cost to direct install measures to  
13 create some immediate savings.

14           It also provides building owners a free  
15 whole building energy analysis. This is complete with  
16 recommendations for improvements and measures to  
17 pursue, technical and process assistance and strong  
18 incentives and rebates to motivate owner action.

19           Through -- through its implementer, the  
20 Company will establish relationships with multi-family  
21 building owners and utilize direct outreach and  
22 marketing and focus on LIHTC award recipients by  
23 working closely with Missouri Housing Development  
24 Commission or MHDC. The Company will also continue  
25 partnering with Spire to co-deliver measures so

1 building owners and tenants can realize both electric  
2 and gas savings.

3           So from working with the Company through  
4 Cycle 2, the lead-up to Cycle 3, and the subsequent  
5 extensions and delays in this case, it's clear to NHT  
6 that the Company's delivery of this Income-Eligible  
7 Multi-Family program has improved markedly. The  
8 program's pipeline has filled in significantly over  
9 the last year and a half. We've seen real progress.

10           However, NHT sees clear opportunities to  
11 improve the program beyond what the Company has  
12 proposed back in November 2018, I believe. We've been  
13 working steadily with the Company to address some of  
14 these opportunities and we've reached agreements in  
15 many areas.

16           For example, the Company has agreed to  
17 add common area laundry room measures to its TRM in  
18 its list of eligible measures, among -- among other  
19 measures. The Company has committed to reporting  
20 specific metrics to the low-income work group, which  
21 is part of MEAC. The Company will consider  
22 opportunities to target new job creation opportunities  
23 in low-income and minority communities.

24           There are many other points of agreement  
25 that exist and need to be reflected in updated tariffs

1 and program descriptions.

2           Furthermore, NHT, the Company and other  
3 parties are working on an agreement to address the  
4 program's budget and savings goals, as well as an  
5 earnings opportunity target specifically for the  
6 program.

7           Annika Brink's Rebuttal Testimony  
8 provides details for some of these improvements to the  
9 proposed program. Ms. Brink's testimony specifically  
10 reviews a 2015 Energy Efficiency for All Potential  
11 Study that was performed by Optimal Energy. That  
12 shows an achievable savings goal significantly higher  
13 than KCPL's proposed target and shows that a budget of  
14 between 2.8 and about 4.9 million dollars annually  
15 would -- would be needed to achieve that -- that  
16 achievable goal.

17           Ms. Brink's testimony also proposes to  
18 set an average savings per property goal to inform the  
19 earnings opportunity for that program. We've had many  
20 discussions about this, but we support a low target,  
21 near zero percent savings for the first year,  
22 escalating across several years. This is the same  
23 approach that the Commission approved in Ameren  
24 Missouri's case, MEEIA Cycle 3 case.

25           So this is all to say that very soon we

1 hope to memorialize an agreement between the parties  
2 on the Income-Eligible Multi-Family program and  
3 present that to the Commission very soon, before  
4 post-hearing briefs most likely.

5           So we request that the Commission approve  
6 the Income-Eligible Multi-Family program as modified  
7 by that agreement and any related amended tariffs or  
8 other documents.

9           Now briefly I'd like to address a few  
10 issues apart from the Income-Eligible Multi-Family  
11 program. Ms. Brink's testimony in this case has  
12 addressed some of those issues. The first one being  
13 whether the Commission should approve or reject the  
14 full portfolio.

15           Now, central to this issue is the  
16 question of avoided costs and the value of benefits  
17 created by the proposed portfolio. NHT does agree  
18 with the testimony of NRDC Witness Phil Mosenthal. We  
19 believe that the full portfolio of efficiency programs  
20 will deliver benefits to all customers, including  
21 non-participants as detailed by Mr. Robertson for  
22 NRDC. All of these programs have met the TRC test I  
23 believe, with the exception of the low-income programs  
24 or those are -- those are close as well.

25           Crucially, efficiently carries



1 substantial non-energy benefits that aren't reflected  
2 in a simple TRC analysis. And the -- the Commission's  
3 rule now allows for that, but just -- we'd just like  
4 to point that those -- we'd like to observe that those  
5 benefits will accrue to all customers in several ways.

6 In addition, NHT supports the proposal  
7 for a Pay As You Save program in this case, provided  
8 that there's opportunity for stakeholders to be at the  
9 table to ensure that there are sufficient consumer  
10 protections in place.

11 And we do understand that the PAYS model  
12 that Renew Missouri and OPC are favoring in this case,  
13 the one that's employed by eUtility and EEI that we've  
14 heard about, we understand that this model does  
15 include those consumer protections ensuring that low  
16 to moderate income renters are protected.

17 It's critical that PAYS not be used as a  
18 replacement for low-income rebate and incentive  
19 measures, but rather as a way to cover the additional  
20 capital costs for customers. So again, we -- we would  
21 respectfully request that the Commission approve PAYS,  
22 along with the Company's whole portfolio.

23 Finally, we do support OPC's proposal for  
24 an academic study to establish an equitable --  
25 equitable energy efficiency baseline. We recommend

1 the low-income workgroup that exists as a potential  
2 venue for collecting input from low-income  
3 communities, regulators and advocates.

4 So just to quickly sum up, Ener-- NHT  
5 requests that the Company -- I'm sorry, that the  
6 Commission approve the Income-Eligible Multi-Family  
7 program as amended, hopefully by a forthcoming  
8 agreement from the parties and replacement tariff --  
9 tariffs that the Company can file.

10 NHT would vastly prefer that the  
11 Commission approve the program, along with the  
12 Company's full portfolio, as we believe energy  
13 efficiency carries substantial benefits for all  
14 customers.

15 We support a PAYS program as proposed by  
16 Renew Missouri and OPC, along with OPC's proposed  
17 academic study for establishing an equity energy  
18 efficiency baseline.

19 So that is all for me and I'm happy to  
20 take questions, if you have any.

21 COMMISSIONER KENNEY: No questions.  
22 Thank you.

23 JUDGE CLARK: Thank you.

24 MR. LINHARES: Thank you.

25 JUDGE CLARK: Opening statements from

1 Midwest Energy Consumers Group.

2 MR. WOODSMALL: Good morning. David  
3 Woodsmall on behalf of the Midwest Energy Consumers  
4 Group.

5 MECG has a very specific interest in  
6 these proceedings. Many of the MECG members have  
7 opted out of KCP&L and GMO's energy efficiency  
8 programs and costs. That said, however, many of these  
9 members still participate in KCP&L and GMO's  
10 interruptible program known as business demand  
11 response. Because KCP&L has proposed to include its  
12 interruptible program as a MEEIA program, these  
13 opt-out customers have an interest in what happens to  
14 that program in this case.

15 It has been suggested that since opt-out  
16 customers have elected to -- since these customers  
17 have elected to opt out of the MEEIA programs and  
18 costs, they should not be able to participate in the  
19 business demand response program.

20 I guess intuitively that makes some  
21 sense. But if you go deeper, you will see that these  
22 large opt-out customers must be permitted to  
23 participate in the business demand response program  
24 while still being permitted to opt out of energy  
25 efficiency costs. This is mandated not just by

1 statute, but also should be required in order to  
2 ensure the success of the program.

3           Section 393.1075 (10) provides the legal  
4 basis for allowing these opt-out customers to  
5 participate in the business demand response program.  
6 That section provides, quote, Customers electing not  
7 to participate in an electric corporation demand-side  
8 programs under this section shall still be allowed to  
9 participate in interruptible or curtailable rate  
10 schedules or tariffs offered by the electric  
11 corporation, end quote.

12           In a data request, KCPL has agreed that  
13 the business demand response program is, quote, an  
14 interruptible or curtailable rate schedule, end quote.

15           Given this, MECG suggests that there is  
16 an absolute legal right for opt-out customers to still  
17 participate within the business demand response  
18 program.

19           Now, OPC suggests that this statutory  
20 section means that opt-out customers could still --  
21 cannot participate in MEEIA curtailable programs, but  
22 could participate in non-MEEIA curtailable programs.  
23 I would suggest they're trying to rewrite the statute  
24 on the fly.

25           If the General Assembly meant to say you

1 can participate in non-MEEIA curtailable programs, it  
2 would have been very easy to insert the words  
3 "non-MEEIA." They didn't do it. The statute is  
4 broader than OPC suggests.

5 Now, if you make customers choose between  
6 being allowed to participate in business demand  
7 response and keeping their opt-out status, they will  
8 always choose the opt-out status. It's a matter of  
9 easy economics. KCP&L's energy efficiency charge  
10 currently is more than a quarter of a cent per  
11 kilowatt hour. As I suggested in my position  
12 statement then, the economics are easy.

13 Take a 10 megawatt customer with a  
14 50 percent load factor. That customer uses  
15 approximately 44 million kWh per year. Given the  
16 .25 cents per kWh energy efficiency charge, this  
17 customer saves a little over 110,000 dollars a year by  
18 opting out. If that same customer's willing to  
19 interrupt 60 percent of its load, 6 megawatts, it will  
20 only recoup about 21,000 dollars by participating in  
21 the demand -- business demand response program.

22 As you can see, it's an easy choice. You  
23 can opt out and save 110,000 or you can stay in and  
24 lose that 110,000 but make up 21,000 in business  
25 demand response interruptible credits. It's an easy

1 choice. These customers will always maintain their  
2 opt-out status and will leave the business demand  
3 response program. That basically, in my mind, means  
4 that the program will not succeed.

5           As I said, there's more than a legal  
6 right. MEGC suggests that the success of the business  
7 demand response program is tied to the participation  
8 of these customers. Imagine trying to administer this  
9 interruptible program. Would it be easier to meet an  
10 interruptible goal by relying on a few large opt-out  
11 customers or trying to cobble together the  
12 participation of many smaller customers?

13           I'm not going to mention any customer  
14 name so as to avoid any confidentiality concern, but  
15 KCP&L's largest interruptible customer is willing to  
16 interrupt approximately 7 megawatts of load. Needless  
17 to say, that's an opt-out customer. By contrast,  
18 KCP&L's smallest interruptible customer is only  
19 willing to interrupt 25 kW of load.

20           In other words, if KCP&L wants to  
21 interrupt 7 megawatts of load on a particular day, it  
22 can rely on one single customer to interrupt that  
23 7 megawatts of load, or it can attempt to cobble  
24 together 280 of these smaller customers. As you can  
25 see from a logistics standpoint, the success of this

1 program needs opt-out customers involved.

2           The other issue is a smaller issue, is  
3 whether KCP&L should be required to include the  
4 business demand response compensation payments in its  
5 tariffs. There are many statutes that affect this  
6 decision and I will get into that more in my  
7 post-hearing briefs. For instance, 393.140(11) states  
8 that the utility has to publish its charges in rates.  
9 Later, it makes clear that that refers to refunds and  
10 discounts.

11           Finally, Section 393.140(5) requires that  
12 a utility not treat its customers in a discriminatory  
13 fashion. For over a decade, KCP&L's demand response  
14 program was known as MPower. In that tariff, KCP&L  
15 published a table of its compensation to its  
16 customers. Suddenly a couple years ago, that table  
17 fell out and the compensation levels are no longer  
18 public.

19           My concern comes about from a  
20 discrimination standpoint. How can a customer assure  
21 that it is being treated the same as other customers?  
22 If a customer is participating in the business demand  
23 response program, unless that compensation is  
24 published somewhere, how does it know it's getting the  
25 same compensation as another customer? That's the

1 purpose of the tariffs, to ensure that everybody's  
2 treated fairly and equally. And that's my concern.  
3 This compensation should be published in some fashion  
4 so all customers know they're being treated the same.

5 I have nothing further unless you have  
6 questions.

7 COMMISSIONER KENNEY: I have no  
8 questions. Thank you.

9 MR. WOODSMALL: Thank you.

10 JUDGE CLARK: Thank you.

11 That concludes opening statements. It's  
12 now about 10:50. I'm going to recess for about  
13 15 minutes. So why don't we come back at about --  
14 right around 11:05.

15 (A recess was taken.)

16 JUDGE CLARK: It's the Company's  
17 opportunity to call their first witness.

18 MR. FISCHER: Yes, Judge. Thank you.  
19 We'd call Charles A. Caisley to the stand.

20 JUDGE CLARK: Mr. Caisley. Would you  
21 stand and raise your right hand, Mr. Caisley.

22 (Witness sworn.)

23 JUDGE CLARK: And would you please state  
24 and spell your name for the record.

25 THE WITNESS: You want me to -- it is



1 Charles A. Caisley. And last name is C-a-i-s-l-e-y.

2 JUDGE CLARK: Thank you. And you may  
3 continue.

4 CHARLES A. CAISLEY, being first duly sworn, testified  
5 as follows:

6 DIRECT EXAMINATION BY MR. FISCHER:

7 Q. Mr. Caisley, did you cause in this case  
8 to be filed certain testimony entitled KCPL GMO  
9 Surrebuttal Testimony of Charles A. Caisley?

10 A. I did.

11 Q. And that addresses largely policy issues  
12 related to this case?

13 A. Yes, sir.

14 Q. If I were to ask you the questions that  
15 are contained in that testimony, would your answers be  
16 the same? Do you have any corrections at all that  
17 need to be made to it?

18 A. I think there is a correction or two, but  
19 substantially the same.

20 Q. Okay. Do you want to make those  
21 corrections or are they not material enough to make a  
22 change?

23 A. I don't think there's anything that's  
24 material enough to make a change unless you have  
25 something that you're thinking of.

1 Q. Okay.

2 MR. FISCHER: Judge, with that, I would  
3 tender Mr. Caisley if -- we are going to have his --  
4 his exhibit is marked Number 5. We're having two  
5 other exhibits, a confidential and a public version of  
6 the main filing -- the first direct filing, and then a  
7 confidential and public filing of the Surrebuttal  
8 Report.

9 There are witnesses that have different  
10 sections in those two reports and we'll be calling  
11 them individually and then I'll offer those reports at  
12 the end of the case, whenever we've had all of our  
13 witnesses up and taken those questions.

14 But for this purpose, I would move for  
15 the admission of Mr. Caisley's testimony at this time.

16 JUDGE CLARK: Okay. Two issues. Any  
17 objections to the admission of Mr. Caisley's filed  
18 testimony? I hear no objections.

19 Secondly, is there anybody who would  
20 object to I'm assuming KCP&L GMO offering the  
21 Surrebuttal Report at the end of the relevant  
22 testimony? And again, I see no hands and hear no  
23 objections, so that would be fine.

24 MR. FISCHER: I would tender the witness.

25 JUDGE CLARK: Thank you. And I have

1 first up for cross-examination The Division of Energy.

2 MR. WESTEN: No questions.

3 JUDGE CLARK: Natural Resources Defense  
4 Council.

5 MR. ROBERTSON: No questions.

6 JUDGE CLARK: Renew Missouri.

7 MR. OPITZ: No, thank you, Judge.

8 JUDGE CLARK: Midwest Energy Consumers  
9 Group.

10 CROSS-EXAMINATION BY MR. WOODSMALL:

11 Q. Mr. Caisley, can you tell me which of the  
12 KCP&L witnesses the best one to ask questions about  
13 the business demand response program?

14 A. I would say probably Brian File and you  
15 might also inquire of Darrin Ives. But from a  
16 programmatic standpoint, Brian File will be your  
17 Huckleberry.

18 Q. Great. Thank you, sir.

19 JUDGE CLARK: The National Housing Trust.

20 MR. LINHARES: No questions. Thank you,  
21 Judge.

22 JUDGE CLARK: The Office of the Public  
23 Counsel.

24 MR. HALL: No questions at this time.

25 JUDGE CLARK: The Commission Staff.

1 MR. PRINGLE: Yes, Judge.

2 CROSS-EXAMINATION BY MR. PRINGLE:

3 Q. Good morning, Mr. Caisley.

4 A. Good morning, sir.

5 Q. Do you have a copy of Staff's Rebuttal  
6 Report with you?

7 A. I don't know. Let me look here. I do  
8 not believe so. I've got our Surrebuttal Report, but  
9 not your Rebuttal Report.

10 MR. PRINGLE: Okay. Permission to  
11 approach.

12 JUDGE CLARK: Go ahead.

13 BY MR. PRINGLE:

14 Q. Mr. Caisley, I'm going to direct you to  
15 page 3, lines 9 through 14 of Staff's Rebuttal Report.

16 A. Nine through what?

17 Q. Nine through 14.

18 A. Nine through 14. Okay.

19 Q. Now, did Staff express some of the same  
20 concerns cited in its Rebuttal Report in advance of  
21 the Company's application?

22 A. Can I read it for two seconds here?

23 Q. Yes. Sorry.

24 A. Thanks. Okay.

25 Q. And did Staff express some of those same

1 concerns cited in its Rebuttal Report in advance of  
2 the Company's filing of their application?

3 A. With respect to avoided costs and  
4 earnings opportunity and some things like that.

5 Q. Yes, those were all shared?

6 A. You know, I would direct that question  
7 more comfortably probably to some of the other folks  
8 who were actually involved in the back and forth.

9 But as a general rule, when we started to  
10 propose these -- when we started out the process of  
11 developing these programs, we went through almost a  
12 year's worth of workshops, we went through a -- you  
13 know, continuous evaluation of the former programs  
14 through the DSMAG group. And prior to filing our  
15 initial programs, we did not feel like we received any  
16 substantial concerns from the Missouri Public Service  
17 Commission Staff.

18 Q. So who would be best to ask about the  
19 questions concerning the concerns listed in page 9  
20 through 14 -- or lines 9 through 14?

21 A. I think I would -- again, I would talk to  
22 probably Darrin Ives. I would also speak with Brian  
23 File.

24 Q. But at a minimum, isn't it true that  
25 Staff publicly expressed concern with the Company's

1 avoided cost methodology in cases EO-2018-0268 and  
2 EO-2018-0269?

3 A. Can you tell me what cases those refer  
4 to? I don't have those numbers memorized.

5 Q. One minute. Those are IRP filings,  
6 Mr. Caisley.

7 A. IRP filings. And again, specifically  
8 what -- what concerns are you talking about?

9 Q. Those same concerns listed on lines 9  
10 through 14.

11 A. Yeah. I mean, I -- I would think that if  
12 you go back through a lineage of a number of different  
13 cases an-- whether they be MEEIA or IRP, that the  
14 Staff has expressed multiple concerns. The point I  
15 think is with both of the previous filings, MEEIA 1  
16 and MEEIA 2, as well as previous IRPs, ultimately  
17 settlements have been -- have been agreed to and moved  
18 forward, setting the policy and the course direction  
19 for our company and policy in the state.

20 Q. But --

21 MR. FISCHER: Judge, could I inquire of  
22 counsel what page is he referring to? I don't see  
23 concerns on those lines on page 3.

24 MR. PRINGLE: Page 3.

25 MR. FISCHER: Page 3.

1 MR. PRINGLE: Line through 14 listing.  
2 That's in Staff's report.

3 MR. FISCHER: Your Rebuttal Report?

4 MR. PRINGLE: Yes.

5 MR. FISCHER: Okay. Sorry.

6 MR. PRINGLE: No problem.

7 JUDGE CLARK: Does that resolve that  
8 issue?

9 MR. FISCHER: That's helpful at least.  
10 Thank you.

11 BY MR. PRINGLE:

12 Q. And sorry. Mr. Caisley, so the Company  
13 has been aware of Staff's concerns?

14 A. Well, sure. As part of any case in  
15 controversy, there are always going to be concerns  
16 articulated by both parties. But once you reach a  
17 resolution to those, that is deemed an acceptable way  
18 to go forward.

19 And let me give you -- let me give you an  
20 example.

21 Q. Well, I'll let you give that example on  
22 redirect, Mr. Caisley, but I appreciate it.

23 A. All right.

24 Q. And as to those concerns, there's also  
25 been a lot of talk about benefits for participants and

1 non-participants. And you said -- you've just stated  
2 that the previous two cycles for the Company, they  
3 were both settled -- Stipulation and Agreements; is  
4 that correct?

5 A. They were settled, yes.

6 Q. Now, those were both settled, leading  
7 towards the belief that there were going to be  
8 benefits for participants and non-participants?

9 A. There were benefits for both, yes.

10 Q. But today Staff and OPC have -- from  
11 their analysis that this current application does not  
12 have those benefits?

13 A. Yes. Staff has majorally departed from  
14 the way they analyzed the previous cycles and under  
15 that rubric has determined that there are no longer  
16 benefits for everyone with respect to MEEIA Cycle 3.

17 Q. Do you have a copy of Staff Witness Brad  
18 J. Fortson's Surrebuttal Report?

19 A. No, I don't.

20 MR. PRINGLE: Permission to approach.

21 JUDGE CLARK: Go ahead.

22 BY MR. PRINGLE:

23 Q. This will be page 6, lines 1 through 4.  
24 And after you have a chance to review, just please  
25 look up, Mr. Caisley.



1 MR. HALL: What page?

2 MR. PRINGLE: It is page 6.

3 THE WITNESS: Okay.

4 BY MR. PRINGLE:

5 Q. And like I said earlier, those were  
6 resolved through settlement, the MEEIA Cycle 1 and  
7 Cycle 2?

8 A. That is correct.

9 Q. And because of these settlements, Staff  
10 was able to assist the Company in balancing their DS--  
11 demand-side programs so they were beneficial to all  
12 customers; is that correct?

13 A. I would say that we reached a settlement  
14 and we reached a settlement using a fundamentally  
15 different approach than the Staff is recommending in  
16 this case, which is really the -- the rub here.  
17 Right? Which is avoided cost is zero, according to  
18 you, for these programs. It never has been in the  
19 past.

20 Our capacity situation is the same now as  
21 it was in those two prior cases. Now having an  
22 identifiable supply asset apparently concerns Staff  
23 where it didn't in those previous settlements. And --  
24 and the list goes on and on. Whether it's earnings  
25 opportunity or other issues, in those settlements we

1 reached an agreement. And in this particular case,  
2 the fundamentals of those agreements Staff has had a  
3 major departure.

4 Q. But again, those were settlements?

5 A. I -- I think I already answered that  
6 question. Yes, they were settlements.

7 Q. And Staff has not had a position that  
8 they're changing off of that they've argued before the  
9 Commission?

10 THE COURT REPORTER: I'm sorry?

11 BY MR. PRINGLE:

12 Q. Staff does not have a position that we  
13 are changing off of that we have argued before the  
14 Commission, because those prior two cycles were  
15 resolved by settlement?

16 A. I'm sorry. I don't understand that  
17 question.

18 Q. Those prior two cycles were resolved by  
19 settlement?

20 A. That's correct.

21 Q. And so Staff is not changing a position  
22 they have argued before the Commission, because they  
23 have not argued a position before the Commission.  
24 They settled.

25 A. The way that those -- the -- the rubric

1 for those settlements included a value above zero of  
2 avoided cost; Staff has taken a contrary position  
3 here. They -- they included an earnings opportunity;  
4 Staff has taken a contrary view here.

5           They included -- and presumably the Staff  
6 would not have agreed to them if they didn't think  
7 that both participating and non-participating  
8 customers were able to receive a benefit greater than  
9 the investment made. And the programs in Cycle 3 are  
10 nearly identical in terms of the way they're designed  
11 and in the way they would be executed with associated  
12 savings.

13           So while there may not be a record of  
14 Staff taking a contrary position, there is certainly  
15 two cases that look very similar that were settled and  
16 that the Staff's position in this case is 180 percent  
17 different than that, as well as we feel contrary to  
18 the IRP and MEEIA rules and statutes in this state.

19           Q.     No further questions.

20           JUDGE CLARK: Any questions from the  
21 Commission?

22           COMMISSIONER KENNEY: No.

23           QUESTIONS BY COMMISSIONER RUPP:

24           Q.     Good morning still.

25           A.     Morning.

1 Q. As I understand your position, that that  
2 Staff has departed from its formulation of where  
3 you've gotten from -- from past settlements. You  
4 know, there's -- there's a thought or a mood or a  
5 feeling that's been kind of just percolating that  
6 over time, you know, MEEIA, you know, has gotten the  
7 low hanging fruit and it's going to be continually  
8 harder to -- you know, to -- it's going to be  
9 continually harder to find the benefits over time.

10 So how do you view that as it gets more  
11 difficult to -- to -- to extract that value, should we  
12 continue to look at the way we've structured these in  
13 the past where it was easier to obtain, you know, the  
14 value through, you know, we can change some light  
15 bulbs and get a huge -- huge response? Can you speak  
16 to that?

17 A. So let me -- a couple things I think I  
18 understand from your question. First all, yes, it --  
19 it is going to be increasingly -- it is going to be  
20 harder with just the same measures to get the same  
21 kind of energy savings. As you suggest, once you  
22 reach participants in a program that have taken a  
23 measure, you're going to have to do something  
24 different with them in the future. And the ones that  
25 are later in time in adopting, they're oftentimes

1 harder to reach.

2           So that could imply that the cost would  
3 go up to reach those customers or that the benefit  
4 from reaching folks later in a Cycle 3 after we've  
5 done this for nearly seven years would have less  
6 energy return. We are starting to see that.

7           Now, several things address that. One,  
8 our capability to market, our research segmentation  
9 and the platforms we have to reach customers are  
10 demonstrably improved today from where they were.  
11 Before, we might have sent out say 50,000 direct mail  
12 pieces to a customer -- a set of customers that we  
13 thought it was likely that they would want a  
14 programmable thermostat or it's likely that they might  
15 participate in some kind of a program.

16           Today, with the capabilities that we're  
17 installing, we have much more efficient  
18 micro-targeting of customers and we can use everything  
19 from text messaging to mobile applications to  
20 automated e-mail campaigns to reach customers in a  
21 very cost-effective way. And -- and we're actually  
22 seeing some success doing that. And that capability  
23 is only going to improve over the time period of MEEIA  
24 Cycle 3.

25           A second issue is where do we extract

1 value? And -- and how do you think about that value  
2 from a cost-effectiveness perspective? We have always  
3 used combustion turbine as a proxy for  
4 cost-effectiveness. We've also offered in our  
5 Surrebuttal Testimony looking at the market price  
6 for -- you know, short-term market price as we said in  
7 opening statement as well.

8           But as we go forward, there are  
9 significant other places that will -- that will start  
10 to bring value and I would suggest even as we go  
11 forward to the later parts of MEEIA 3 cycle.

12           For example, we just implemented -- under  
13 MEEIA Cycle 2, began the implementation of a DERMS --  
14 a DERM system which would link up our distribution  
15 operations with off-site generation, distributed  
16 generation, energy efficiency and demand response.

17           Over MEEIA Cycle 3 we will continue to  
18 integrate these programs with the DERMS, which I would  
19 also add is one of the first in the nation to -- to  
20 really start to try and do this. And we would expect  
21 to see towards the end of this cycle and certainly as  
22 we start to position into next cycle, real  
23 transmission and distribution implications from  
24 something like that.

25           We'll also start looking at grid

1 optimization and things of that nature. So you're not  
2 just shaving peak, but you're also starting to move  
3 load around.

4 Over that time period, we would expect to  
5 see the Southwest Power Pool and the markets that we  
6 operate in mature as well, which could lead to --  
7 again, towards the end of this cycle and certainly  
8 into next cycle, a progression where the next time we  
9 come back, we're not just talking about avoided cost  
10 in terms of a proxy using a CT, but a host of other  
11 things.

12 We're not there yet. Neither is Ameren.  
13 Neither are most utilities around the United States.  
14 But as we go forward, that is absolutely where we want  
15 to be, and MEEIA Cycle 3 is a necessary part in that  
16 process to get there.

17 Q. Are there any settlement negotiations  
18 going on on -- and has there been on this?

19 A. There have been.

20 Q. Okay. How would you describe those as --  
21 as in -- are those even -- you've been through in the  
22 past on MEEIA?

23 A. I -- you know, I -- I hate to say this,  
24 but I kind of -- I've had this overwhelming feeling of  
25 being the old fart in the room today because I think

1 I'm one of the few, maybe -- maybe the only one who  
2 has been here from the comprehensive energy plan all  
3 the way through here, which is when we started to  
4 first really look at energy efficiency in the state  
5 and all three of these cycles.

6 Commissioners have changed, Staff has  
7 largely changed, attorneys for Staff and OPC have  
8 changed, but I'm -- I'm still here. So I can -- I can  
9 remember it all from the very, very beginning.

10 And what I would say is before when we  
11 were having conversations with parties, first of all,  
12 you know, previous cycles it was Company is not doing  
13 enough. You need more, more, more, more, more. And  
14 we were sitting there saying more is only good if it  
15 is cost-effective and would lower the net present  
16 value of revenue requirements or utility costs over  
17 the long term. Now we're seeing the exact opposite.

18 But what is different in this negotiation  
19 is the fundamentals of the conversation and the  
20 interpretation of both the MEEIA statute as well as  
21 IRP and established rate-making positions were all  
22 agreed to. It was just the output of that and how  
23 much was right were the major issues in negotiations  
24 before.

25 Here, we're talking about a pretty



1 dramatic departure from previous positions,  
2 particularly that the Staff and OPC have taken.  
3 Meaning if you value avoided cost at zero because  
4 you're not pushing out a combustion turbine, there's  
5 no energy efficiency in Missouri. Nothing will pass.  
6 Not today.

7           Now, maybe five to ten years from now we  
8 get to that point where we're looking at other things,  
9 as you suggested in your -- in your question. At  
10 least I thought that's where you were going. But --  
11 but we're not there today.

12           And so if you say avoided cost is zero,  
13 then we don't pass. That is -- you'll have to forgive  
14 me. I watched the Chiefs game yesterday and I was --  
15 I'm in a Chiefs mood. So it's a little -- as I  
16 listened to opening statement, what I thought was you  
17 put a game plan based upon every 10 yards that you  
18 get, you get a first down. Right? So you put a game  
19 plan together based on that. And you've always played  
20 football that way so that's what you expect.

21           Then you get to the game and you find out  
22 that the opposing team says no-- it's 20 yards now to  
23 get a first down. And by the way, under that  
24 scenario, your game plan doesn't work because none of  
25 these plays are designed to get you every three downs,

1 you know, more than ten yards.

2           It's very hard to negotiate and to come  
3 to a reasonable agreement if the rules have  
4 fundamentally changed. And I think that's what the  
5 hold-up here is. We were -- were very optimistic. In  
6 fact, I sat in front of our Board of Directors just  
7 three or four months ago -- don't remember the exact  
8 timeline, but in front of our Board of Directors and  
9 said we've reached an agreement and filed it on  
10 avoided cost. That's -- that's the biggest issue in  
11 this case.

12           But then that has to be predicated upon a  
13 reasonable opportunity to -- to have an earnings  
14 opportunity. And that and several other things we  
15 could never reach agreement on and hence, we're here  
16 today.

17           Q.     I can't -- I think it was OPC's opening  
18 statement threw a nugget out there about the State of  
19 Kansas denying similar applications. Can you speak to  
20 that?

21           A.     Yeah. I -- I think that is -- that's an  
22 excellent point. One of the things that we have  
23 struggled with as a utility that serves customers in  
24 Missouri and customers in Kansas -- now we have even  
25 more customers in Kansas, but we still have a same

1 core that sits around in the metropolitan area through  
2 the first two cycles of MEEIA, is that it's really  
3 hard to market to one metropolitan area when  
4 50 percent of the customers in that metropolitan area  
5 don't have access to energy efficiency.

6           And so we have -- we have struggled with  
7 that, quite frankly. And it's been one of our largest  
8 goals over the last decade to replicate in Kansas what  
9 we have in Missouri. Interestingly enough, when the  
10 two companies, Westar and KCP&L, were looking at  
11 merging, there were two things we heard from customers  
12 all up and down the Missouri/Kansas border. Two  
13 things repeated time and time again.

14           One was we want access to the economic  
15 development riders and programs that Missouri  
16 customers have and Missouri territory has. And the  
17 second thing -- and this is residential and  
18 business -- was and can you get us that energy  
19 efficiency.

20           And so we have approached Staff, we've  
21 approached their Public Counsel over there, which is  
22 called CURB. We've -- we're contemporaneously  
23 addressing with policymakers and talking about we may  
24 have to go back and take KEEIA, which was modeled off  
25 of MEEIA and passed two years later, we may have to go

1 back and instead of making it permissive like MEEIA,  
2 maybe there's some appetite to make it, you know,  
3 that -- prescriptive, that some things have to be  
4 done.

5           The big issue that Staff has had over  
6 there and continues to have is really the position  
7 that Staff here is taking today, which is if I can't  
8 see generation moving out, there's no value and  
9 there's no benefit.

10           And our position has consistently been  
11 over there that if you take that position, you have  
12 all but eliminated energy efficiency programs in the  
13 state of Kansas, which is why we've applied multiple  
14 times and -- and not seen any -- any progress.

15           One of the things that we're talking to  
16 the legislature about over there is saying for these  
17 things, maybe we need to pass into law some statutory  
18 guidance that says this is how you will look at the  
19 value of energy efficiency.

20           From our way of thinking, it would be a  
21 real shame if Missouri followed the path that has  
22 happened in Kansas, which is to take such a narrow  
23 interpretation of value creation and  
24 cost-effectiveness that you all but eliminate energy  
25 efficiency programs from what the State will do.

1           And let's be clear. Ameren has a set of  
2 energy efficiency programs for the next three years,  
3 but if they were here today, they would tell you that  
4 under the scenario we are faced with, they would not  
5 file for energy efficiency programs under the rubric  
6 that Staff has put forward. And of course, you know,  
7 what we're talking about is wrapping up what we're  
8 doing as well if that's the case.

9 QUESTIONS BY COMMISSIONER KENNEY:

10           Q.     Caught me a little unprepared that first  
11 time because I thought -- I walked in five minutes  
12 late and I thought some people had questions for you,  
13 attorneys. But I disagree with you on the football  
14 analogy of three plays. With Andy Reid and the Chiefs  
15 I think it's how fast can I score.

16           A.     Well, that's true.

17           Q.     A couple things. First off, I will say I  
18 remember in the merger listening to several --  
19 listening to this Commission and everybody praise  
20 KCP&L for their energy efficiency and how you have  
21 operated in this state and been a leader. I'll state  
22 that first.

23                   I had a couple questions. I know  
24 Commissioner Hall mentioned -- in opening to your  
25 counsel, he mentioned that Ameren I believe -- and it

1 was Cycle 2 when this Commission defeated their  
2 request five to nothing. And my comment at the time,  
3 they'll be back because there's so much money on the  
4 table.

5 What do you think about -- how does that  
6 relate to you and Ameren in Cycle 3?

7 A. So I'm not familiar with -- I might have  
8 been at the time, but I'm not --

9 Q. And what happened, they came back about  
10 six months later and we had I think a Non-Unanimous  
11 Stipulation and Agreement.

12 A. Right.

13 Q. Yeah.

14 A. Yeah. So -- so I'm not familiar with the  
15 ins and outs of what they filed the first time around  
16 in their Cycle 2 filing. What I do know is that  
17 the -- the metrics and the way it operated ultimately  
18 in Cycle 2 for them and the way it is now operating in  
19 Cycle 3 is substantially similar, if not nearly  
20 100 percent similar to what our Company is asking for  
21 this time around.

22 So if we were able to get to a reasonable  
23 screen for avoided cost -- and we have offered several  
24 different ways, at least two different ways that we  
25 could approach that, we would absolutely be willing

1 to -- to continue.

2           If the -- if it was determined and we  
3 could get a point with Staff and other parties where  
4 our earnings opportunity isn't zero -- and that's --  
5 that's their position, we should do these programs for  
6 a zero earnings opportunity in all but one year, then  
7 yeah, we would absolutely be back.

8           Q.     It was mentioned earlier I think by OPC  
9 counsel that -- and I'm not going to put words in  
10 counsel's mouth about -- but something about dragging  
11 your feet, the timeline of presenting this to us. And  
12 I know we've had an ever-changing landscape nationally  
13 in energy efficiency going on.

14           Was it the Company's position to wait and  
15 see how the Commission reacted to Ameren and speak--  
16 taking into account this changing landscaping and see  
17 what the decisions were before you guys came  
18 towards -- to us?

19           A.     So -- so I can -- I mean I was involved  
20 in every single one of those conversations. And  
21 originally when Ameren made their filing, Staff's  
22 position was very similar to the position they're  
23 taking here. And we looked at our portfolio of  
24 programs and we huddled about it.

25           And basically what we said is if that is

1 the position that Staff and OPC stay with and if the  
2 Commission ratifies that position, then we don't have  
3 to file. We know as they're currently constructed,  
4 they won't pass. So why file? Why go forward until  
5 we resolve an issue that we know would absolutely have  
6 an impact on the ability for our Company to move  
7 forward with those programs?

8           We also took that time to take a look and  
9 see if we could operate within the -- the constraints  
10 that Staff and OPC were putting out there for Ameren  
11 and were working behind the scenes to try and figure  
12 out can we alter our programs in a way that we could  
13 continue to make a filing and just not have -- and --  
14 and -- and take the indication of where they are. At  
15 the end of the day, their positions are too  
16 dramatically different than they were before for us to  
17 do that.

18           Now, we were given great encouragement,  
19 however, when the Commission said why don't you guys  
20 go back to the table and talk about this a little  
21 more. And then ultimately a set of programs and  
22 values around avoided cost, earnings opportunity came  
23 back and we said okay, well, if this is the framework  
24 that the Commission will approve and this is the  
25 position that Staff is willing to take with Ameren,



1 then we can go ahead and file because we can negotiate  
2 to an agreement under that constraint.

3 That is not the perspective that we have  
4 received during our negotiations and conversations  
5 with Staff. They have been very rigid on some of  
6 these major issues and -- and considerably different  
7 than what was ultimately decided in the Ameren case.

8 And in my testimony I think there's six  
9 places where we show a significant departure in their  
10 position for our filed case versus what they  
11 ultimately agreed to with Ameren.

12 Q. I know maybe others -- parties may  
13 differ -- or have a difference of opinion, but so  
14 your -- your belief is that we're not dealing with  
15 apples and apples right now between KCP&L or Company  
16 and GMO -- and Ameren?

17 A. Not with respect to -- well, with respect  
18 to the programs and the approach, there is a lot of  
19 overlap. With -- with expectations around how you  
20 treat avoided cost, earnings opportunity, it would be  
21 our contention that Ameren's agreed-to portfolio and  
22 ours are very similar. But it is apples and oranges  
23 with respect to the position that particularly Staff  
24 and OPC have -- have taken.

25 And frankly, the thing that surprises me

1 the most about sitting here today is the fact that I  
2 don't know how within the last six months, you know,  
3 stakeholders can agree to the positions they agreed to  
4 with Ameren and then turn around and say but this  
5 filing is radically different and you deserve to be  
6 treated differently than Ameren.

7 Q. Okay. I'll jump to another subject, the  
8 last question regarding multi-family. I think at  
9 least two parties brought that up in their opening  
10 statements. Do you feel the Company's had any success  
11 in the multi-family division?

12 A. We do. And -- and that is -- you know,  
13 honestly that is -- you know, multi-family housing is  
14 one of the more difficult consumer segments to reach.  
15 And so when it comes to those kinds of programs, input  
16 from NHT, NRDC and others are things that -- that we  
17 take seriously. And -- and we have tried to reflect  
18 in what we're offering input from those organizations.  
19 But it -- you know, this is --

20 Q. How do you -- the challenge of getting --  
21 I understand as consumer or renter --

22 A. Uh-huh.

23 Q. -- why I would want those efficiency  
24 opportunities, but how do you get an owner  
25 incentivized enough to implement the plan? Because

1 it's all about -- it's going to be the bottom dollar.

2 A. Yeah, that's right. And so I think  
3 there's a couple things there. One of the things that  
4 we have found is that not in the short term, but over  
5 a five- to ten-year time period, if owners are not  
6 willing to -- to make investments, they're ultimately  
7 priced out of the market from a utility perspective,  
8 whether it is gas, whether it is electricity. It  
9 costs more per square foot to occupy a place.

10 Now, there's -- there's two issues with  
11 that. One, in income eligible or lower income areas,  
12 people may not have a choice. So there's a public  
13 interest in us helping to address that. But if you're  
14 talking about newer or upscale, even moderate housing,  
15 if you are not competitive on an energy per square  
16 foot basis and you can go somewhere else -- or we're  
17 finding more and more with younger workforce --

18 Q. I unders-- I understand. That's not -- I  
19 should have clarified my comments. Low-income.  
20 Because I understand the -- yeah, I mean of course.  
21 That's -- that's -- but there's -- those individuals  
22 have the 13-, 14-, 1,500 dollars to have a one-bedroom  
23 apartment down there on 8th and Main like my  
24 daughter --

25 A. Uh-huh.

1 Q. -- you know. But low-income, how do you  
2 address that? Because that's the problem I see,  
3 retrofitting. And I just don't see how incentives --  
4 unless the Company's just going to pay for it or, you  
5 know, why it's -- how it works.

6 A. Well, so a couple things there. One is  
7 when you do get a bunch of customers -- so, for  
8 example, we have that Connect Center over on the east  
9 side of Kansas City. And we have actually had some  
10 significant success just in the last summertime really  
11 of customers coming in, being aware of these programs  
12 because they come in there and then they kind of ban  
13 together as a tenant group and go approach their  
14 landlord.

15 The other thing though that I think you  
16 will see as cities and the federal government begin to  
17 address where federal dollars go and what qualifies  
18 for housing, you're going to start seeing more  
19 requirements around this. And so that will  
20 ultimately, you know, kind of tie the hands of  
21 landlords and owners if they don't fall within a zone  
22 of reasonableness around that. And we've -- we've  
23 started to hear those conversations on several  
24 different fronts in Kansas City.

25 Q. Okay. Great. Thank you very much.

1 COMMISSIONER KENNEY: Thank you, Judge.

2 JUDGE CLARK: Thank you.

3 QUESTIONS BY JUDGE CLARK:

4 Q. I've got a very brief question and that  
5 is basically who is the witness that I would ask to  
6 explain from the Company's perspective how the MEEIA  
7 mechanism works and what it attempts to do?

8 A. Again, I think I could give you an  
9 answer, but a better detailed answer would either come  
10 from Brian File or from Darrin Ives.

11 Q. And would those be the best witnesses to  
12 ask how the Company is meeting those objectives?

13 A. Sure.

14 Q. Thank you.

15 JUDGE CLARK: Are there any questions  
16 based upon Commission questions?

17 MR. HALL: Yes. Yes, Your Honor.

18 JUDGE CLARK: OPC, go ahead.

19 RECROSS-EXAMINATION BY MR. HALL:

20 Q. Mr. Caisley, good morning still.

21 A. It is. Still morning.

22 Q. In response to a question from  
23 Commissioner Rupp, you talked about the Company's  
24 engagement with customers and experience.

25 A. Yep.

1 Q. Did you review the Rebuttal Testimony of  
2 my witness, Dr. Marke?

3 A. I did.

4 Q. And did you review his discussion of the  
5 Company's JD Power scores?

6 A. I did.

7 Q. Do you recall what the Company's lowest  
8 JD Power score was, category?

9 A. It's price.

10 Q. If customer bills go up, do you believe  
11 that that JD Power score will improve or decrease?

12 A. So I am super happy that you asked this  
13 question because I got two points for you. First of  
14 all, as we've said in -- several times in our  
15 surrebuttal, because this program is similar in size  
16 and budget over a similar amount of time to previous  
17 programs and because the costs of this program,  
18 including throughput disincentive, are largely --  
19 well, they are recovered through a DSIM charge, if the  
20 Commission were to approve this, while you may see  
21 some fluctuation up and down as spending and savings  
22 occurs over the time frame of the program --

23 Q. Mr. Caisley --

24 A. -- you're not going to see a rate  
25 increase as a result.

1 Q. Mr. Caisley, I hate to interrupt, but my  
2 question was if bills go up. My question did not  
3 posit anything about the MEEIA program itself. My  
4 question was if your bills go up, do you think the JD  
5 metric score for th-- for that category would increase  
6 or decrease?

7 A. So let me -- let me make sure. You're  
8 asking a different question now so let me -- let me  
9 make sure I understand your question. You're asking  
10 me to hypothesize if rates go up, will JD Power and  
11 Associates scores in the metric of price go up and  
12 down?

13 Q. Yeah, not rates. Just the flat bill  
14 amount the customers pay. If those numbers -- if  
15 bill -- if bills generally go up, will that metric go  
16 up or down?

17 A. I think it's a really good thing that  
18 under the Company's proposed plan, bills won't go up  
19 under this program.

20 Q. Mr. Caisley, that did not answer my  
21 question either. Yes or no. Do you think the JD  
22 metric score would be negatively or positively  
23 affected if bills increase?

24 A. If bills were to increase, then I would  
25 think that people might be less satisfied with the

1 price of their electricity. It's a good thing that  
2 these programs won't cause bills to do that.

3 Q. Thank you. Mr. Caisley, you talked about  
4 your experience in all the prior MEEIA programs.

5 A. Yep.

6 Q. And you're pretty familiar with my  
7 witness, Dr. Marke. Correct?

8 A. I am.

9 Q. Would you say Dr. Marke's been involved  
10 in several of the other MEEIA cases?

11 A. He absolutely has.

12 Q. Have you ever had a conversation with  
13 Dr. Marke regarding the MEEIA programs that are being  
14 posited in this application?

15 A. Me personally?

16 Q. Yes.

17 A. I don't know if we've talked about the  
18 programs or not. You can ask him. I'm sure we've  
19 probably talked about them over the years, although I  
20 will tell you that in this particular cycle most of  
21 the negotiation and the conversations back and forth  
22 were done by other members of our team.

23 Q. On that point, since you brought it up,  
24 have you been involved in any settlement discussions  
25 in this case?



1 A. Directly in the room?

2 Q. Yes.

3 A. No. But when the settlement discussions  
4 are had, we get back together afterwards and talk  
5 about what we can and can't do, where we can go, what  
6 this means for policy and I've been involved in all of  
7 those conversations.

8 Q. And Mr. Caisley, finally, in response to  
9 questions from both Commissioner Rupp and Kenny, you  
10 remarked on Staff supposedly being inconsistent. Do  
11 you remember a question that Commissioner Hall posited  
12 to Staff counsels during openings about Staff's  
13 prior -- Staff's prior position in Ameren MEEIA Cycle  
14 2?

15 A. Say that again.

16 Q. Maybe I'll just make the question  
17 shorter. Do you --

18 A. Okay. Thank you.

19 Q. Do you happen to remember what Staff's  
20 position was in Ameren MEEIA Cycle 2?

21 A. Well, I mean you're talking about a  
22 wide -- I mean they had multiple positions. So can  
23 you be a little more specific?

24 Q. Of course. What was Staff's position --  
25 up until the hearing, what position did Staff maintain

1 to the Commission at that time for ME-- Ameren MEEIA  
2 Cycle 2?

3 A. You know, subject to verification and  
4 given where I think you're trying to go with the  
5 question, I think they were opposed to MEEIA Cycle 2  
6 up until hearing, if that is the -- the general  
7 position that you would like -- that you're -- that  
8 you're looking at.

9 Q. Yes. And -- and Staff's position now is  
10 to reject the application as proposed. Correct?

11 A. Which application?

12 Q. Sorry. In -- in this case, Staff's  
13 position, as you've maintained, is to reject the  
14 application of the Company. Correct?

15 A. Yes. Staff is opposed to this as they  
16 opened up with and have testified through throughout,  
17 yes.

18 Q. Sorry. Jumping back. For Ameren MEEIA  
19 Cycle 3, that was resolved by stipulations, to the  
20 best of your knowledge --

21 A. Yes.

22 Q. -- would you agree?

23 Staff's initial position though was to  
24 reject. Correct?

25 A. Yes.

1 Q. Does it surprise you to hear that as a  
2 result of that settlement, Ameren's earnings  
3 opportunity is lower in its Cycle 3 than it was in  
4 Cycle 2?

5 A. I -- I don't know what their earnings  
6 opportunity was in either one. If you're asking me  
7 would it surprise me that it went down as a result of  
8 negotiations, no, that wouldn't necessarily surprise  
9 me, but I would add that where it ended up is  
10 substantially similar to what we're asking for in this  
11 case.

12 Q. Does it surprise you to hear that Ameren  
13 is pursuing a PAYS program as a result of the  
14 settlements that settled Ameren's Cycle 3?

15 A. Since I was not involved in those  
16 negotiations, I don't know what the factors were with  
17 respect to what they decided to do and what they  
18 didn't decide to do. I will tell you that in  
19 negotiation with your office and Staff, we have asked  
20 for those things and have yet to really receive a road  
21 map to getting similar treatment on avoided cost or  
22 valuation of these programs.

23 Q. Okay. And let's just review,  
24 Mr. Caisley. Staff is recommending a rejection now,  
25 they've recommended a rejection in Ameren

1 MEEIA Cycle 2, and they have recommended rejection in  
2 Ameren MEEIA Cycle 3 and then settled. And you  
3 believe this is inconsistent?

4 A. Here's what I believe. I was opposed to  
5 my daughter going to the Jonas Brothers concert last  
6 night on a school night. And I opposed up until the  
7 time that she went last night with her mother.

8 And after she went and got back home at  
9 midnight, you know what? It's not okay for people to  
10 turn around and say well, you were opposed to her  
11 going to that concert. No, ultimately I agreed in her  
12 going to that concert. So that's -- that's my  
13 position.

14 We can all -- I mean, I could come back  
15 and say in previous MEEIA negotiations we've asked for  
16 higher earnings opportunities. In previous MEEIA  
17 applications we've asked for a different set of  
18 programs. But ultimately when two parties at will  
19 come to a negotiation and say this is what we're going  
20 to do walking forward, you're endorsing that. You're  
21 embracing that. In fact, a question to get it  
22 approved in front of the Commission is do parties  
23 support that.

24 So for you to come out and say now well,  
25 isn't it true that they've had misgivings at other

1 times, certainly it's true. I had misgivings at other  
2 times about what we settled to in the two previous  
3 cycles as well. But the fact is we reached an  
4 agreement.

5                   And on avoided cost, it was never zero.  
6 It has never been zero for any company on energy  
7 efficiency in this state. That is the position you're  
8 taking now. And if that continues to be the position,  
9 it's not something that we can do.

10           Q.     Mr. Caisley, you just mentioned the  
11 position of all other utilities in the state. Are you  
12 familiar with the Empire Electric District C-- or  
13 Empire Electric District Company?

14           A.     I -- I am familiar with that company,  
15 yes.

16           Q.     Do they have a MEEIA program?

17           A.     I don't know.

18           Q.     No further questions.

19                   JUDGE CLARK: I didn't really go about  
20 this in any systematic way this last time, so I'm just  
21 going to go through and ask. Does The Division of  
22 Energy have any recross based on Commission questions?

23                   MR. WESTEN: No, Judge.

24                   JUDGE CLARK: National Resources Defense  
25 Council.

1 MR. ROBERTSON: No, Judge.

2 JUDGE CLARK: Renew Missouri.

3 MR. OPITZ: No, thank you, Judge.

4 JUDGE CLARK: MECG.

5 MR. WOODSMALL: No questions.

6 JUDGE CLARK: National Housing Trust.

7 MR. LINHARES: No questions. Thank you,  
8 Judge.

9 JUDGE CLARK: And Staff of the  
10 Commission.

11 MR. PRINGLE: Simply ask to retrieve the  
12 report in surrebuttal I passed up earlier.

13 FURTHER QUESTIONS BY JUDGE CLARK:

14 Q. I do have one minor additional question.  
15 And that would be do you know -- I know that -- that  
16 Cycle 2 was extended by agreement in order to allow  
17 for further consideration on Cycle 3. Do you know how  
18 much of MEEIA Cycle 2 expenses are being included in  
19 MEEIA Cycle 3 of the extension?

20 A. I don't. I am sure that Witness File or  
21 Ives probably would.

22 Q. So those would be the people to ask?

23 A. I would think so, yes.

24 Q. Do you know if there is any -- any MEEIA  
25 Cycle 2 expenses included in MEEIA cycle 3?

1           A.     I know there's always a conversation  
2 about where to cut off one and -- and where to begin  
3 the other is. And honestly, I don't know. If that  
4 was covered again in the stipulation, that would  
5 extend Cycle 2, so -- so probably best for me not to  
6 speculate but to just to direct it to either one of  
7 those witnesses.

8           Q.     Okay. Thank you.

9           JUDGE CLARK: Is there any redirect?

10          MR. FISCHER: Yes. Yes, Judge. Briefly.

11 REDIRECT EXAMINATION BY MR. FISCHER:

12          Q.     Mr. Caisley, I'm tempted to ask you how  
13 do you really feel, but I think I should be more  
14 specific.

15                   Let's talk about -- the Public Counsel  
16 asked you some questions about how JD Powers might  
17 react if there was somewhat of an increase on a bill.  
18 How do you think customers will react if they are told  
19 that the Missouri Commission has adopted a position of  
20 Staff and Public Counsel and as a result, there will  
21 be no more energy efficiency and DSM Missouri on the  
22 western side of the state?

23          A.     Well, I can -- I can tell you that one of  
24 the things that Dr. Marke's testimony does not  
25 address -- he does look at the price, but what he does

1 not look at is relative satisfaction of our customers  
2 in JD Power that are involved and engaged with or even  
3 aware of energy efficiency programs versus those who  
4 are not aware or who are not participants.

5           And universally there is a significant  
6 uplift to customers that are aware and even more  
7 uplift in satisfaction, including price -- including  
8 price of those customers who are aware or have taken  
9 part in.

10           So I would surmise if we discontinue  
11 this, all of those customers who see greater value for  
12 the dollars they expend on their bills, I -- I would  
13 anticipate that would go down.

14           And I'm -- you know, frankly, one of the  
15 things we've been spending some time with our  
16 executive team and folks that are facing the customers  
17 and we've actually engaged with an entity called The  
18 Disney Institute. Disney is one of the better  
19 customer-facing entities in the world.

20           And one of the things that they talk  
21 about is price and price versus value. And price  
22 is -- is not something that customers care about as  
23 much as they do price relative to value. So if you  
24 ask Disney, they will tell you yes, we acknowledge  
25 that our price, our cost is a little more than say



1 Worlds of Fun. But we give such a disproportionate  
2 value for that price, which is why customers are very  
3 satisfied and keep coming back.

4 Energy efficiency is an incredible  
5 example of value that customers really, really  
6 appreciate and really and really engage with. Even  
7 just ones that are aware of it but haven't taken  
8 advantage.

9 If you tell them, look, I'm going to give  
10 you power plants, that's -- that's not -- I mean even  
11 though that's where this comes from, that's not where  
12 customers see real value. If you say I'm going to  
13 retrofit your power plants for environmental concerns,  
14 you may get applauded for doing that as a good thing,  
15 but that doesn't increase satisfaction for what you're  
16 receiving relative to the price you're paying.

17 Energy efficiency is one of those things.  
18 It is a dramatic impact on customer satisfaction  
19 across all metrics, including price, because customers  
20 put such a premium on the value that it confers.

21 Q. Is that one of the reasons why you think  
22 the Kansas customers would like to have energy  
23 efficiency programs?

24 A. It is.

25 Q. Well, how do you think the customers in

1 Missouri would feel if they were told that their  
2 revenue requirements were going to be going up because  
3 the Commission turned down DSM and energy efficiency  
4 programs in this -- in this state?

5 A. I don't think customers would be really  
6 happy. And that's one of our largest issues in this  
7 case, which is that if you just look at avoided cost  
8 as ascertaining a supply-side asset and moving it out  
9 a number of years, if that's the only way you look at  
10 it, you are looking at -- you're missing so many other  
11 aspects which are valuable and which are reflected in  
12 the Company's IRP which is designed to minimize the  
13 net present or the -- you know, the value now of  
14 utility costs in the future.

15 Q. Prior to this case, it -- did you ever  
16 hear that the Staff took the position that there  
17 should be zero avoided costs in every year but when  
18 you need a power plant? In any previous GMO and KCPL  
19 MEEIA case up til now?

20 A. I did not, no.

21 Q. Did you hear that that was their position  
22 in the Ameren case? And I believe you filed testimony  
23 in that and expressed some concerns about that; is  
24 that true?

25 A. I did. My testimony in the Ameren case,

1 which is reflective of why we ultimately paused our  
2 filing, was that if that is the standard that is going  
3 to be used in the state of Missouri on a go-forward  
4 basis, at least in terms of the short term, which is  
5 the next cycles for Ameren and for KCP&L, then you're  
6 essentially prohibiting or precluding energy  
7 efficiency as a resource.

8 Q. Is it your understanding that the Ameren  
9 settlement included a zero avoided cost in every year  
10 but the year that they had a power plant needed?

11 A. My understanding is that is not the case.

12 Q. If that is the case in this case, will  
13 you go forward with -- will you be able to show any  
14 cost-effectiveness if you use the -- if you use the  
15 TRC test?

16 A. No.

17 Q. But is that the right test to use for  
18 cost-effectiveness for determining energy efficiency  
19 and DSM in this case?

20 A. It is -- it is the right test and it's  
21 the one that has been applied over the ten-year  
22 history of these programs.

23 Q. How do you feel about the IRP requirement  
24 that we minimize revenue requirements?

25 A. Well, that's -- previous til this case, I

1 thought that was the overriding imperative of most of  
2 the energy and supply-side resource planning that --  
3 that the companies were supposed to do.

4 Q. Prior to this case, had you ever heard  
5 that the Staff had taken the position, or the Public  
6 Counsel, that the Company should be given zero  
7 earnings opportunities if they were successful in  
8 their energy and DSM programs?

9 A. No.

10 Q. If this case goes forward and the  
11 Commission says well, I like your portfolio but you  
12 shouldn't earn anything on it, what would be the  
13 Company's response?

14 A. I don't believe that we could go forward  
15 under that scenario. Because if we are compensated  
16 and earn a return, albeit a different mechanism for  
17 supply-side resources and investment or other  
18 traditional utility investments but were not able to  
19 return a return on this, particularly given that this  
20 is inherently a more risky thing do and -- and  
21 cumbersome in terms of evaluation, measurement and  
22 verification, we could not go forward.

23 Q. I was going to ask you about that. You  
24 had a question from -- I think it was Commissioner  
25 Rupp about the low hanging fruit. If it's harder to

1 get these energy efficiency benefits, does that  
2 impact, in your view, the need for an earnings  
3 opportunity?

4 A. It does.

5 Q. In what way?

6 A. Well, I mean essentially, again, we have  
7 filed programs that are substantially similar in time  
8 frame and in cost in order to achieve the same kind of  
9 energy savings and capacity benefits. But as  
10 Commissioner Rupp suggested, the Cycle 3 ability to  
11 get that, a lot of the low-hanging fruit is gone. So  
12 it's inherently more difficult.

13 That said, the Company's not stepping  
14 away from it. The Company I think has a very tenured  
15 team of folks who know how to do this. They've got  
16 decades worth of experience. And as I mentioned to  
17 Commissioner Rupp, we also have a set of capabilities  
18 now and an ability to go chase that that we did not  
19 before. But that doesn't mean it's easier. And for  
20 the same dollars, we're getting the same or more value  
21 for customers as we did in the previous cycles.

22 Q. You mentioned the old farts in the room,  
23 and I thought you were talking about me for a minute.  
24 But do you remember, as one old fart to the other,  
25 before we ever had market potential studies that were

1 required by the Commission?

2 A. I actually don't, because you're a  
3 slightly different vintage of old fart than I am.

4 Q. Okay. That's -- that's -- that's fair.  
5 But do you -- can you tell the Commission what these  
6 potential -- market potential studies are designed to  
7 do? You are familiar with those. Right?

8 A. Yeah. Absolutely. We have to do a  
9 potential study to see essentially what the  
10 cost-effective potential for demand-side programs is  
11 in the state. It looks at different classes of  
12 customers, different programs. And it's designed so  
13 that we -- we can have a baseline understanding of  
14 what's achievable at a certain cost.

15 Q. And we have controversies about those  
16 sometimes, about whether to use the maximum achievable  
17 level or the realistically achievable level. Right?

18 A. Yes.

19 Q. Is there any purpose to doing a potential  
20 study anymore if the Commission decides that we're  
21 going to have zero avoided costs and zero earnings  
22 opportunity for any energy in DSM program?

23 A. Other than the fact that I believe the  
24 IRP rules require doing a potential study now, there  
25 would be no reason to do a potential study to design

1 programs. Because if avoided cost is zero and that's  
2 the only benefit that state policy will recognize as a  
3 screen for whether you do these programs or not, then  
4 there won't be any programs that will pass that test  
5 and we won't do it.

6 Q. I think you had a question from Staff  
7 counsel about how -- doesn't the Staff assist the  
8 Company in balancing the Company's needs and DSM pr--  
9 regarding DSM programs. Would it be helpful do you  
10 think if they'd come off this position that zero --  
11 avoided costs and a zero earnings opportunity? Would  
12 that assist the Company in going forward with a more  
13 progressive program in Missouri?

14 A. You know, look, we have -- during a  
15 cycle -- we have the DSMAG group, the Demand-Side  
16 Management Advisory Group. And throughout a cycle we  
17 meet with them. That includes Staff, that includes  
18 OPC, and a number of other stakeholders. We present  
19 where we are with these programs, we entertain ideas  
20 to tweak them. Frequently we will introduce tweaks  
21 based on how things are going.

22 And then leading up to this filing, we  
23 had a -- you know, we had workshops where we didn't  
24 receive any su-- what I would call substantial  
25 criticism of our filing.

1           What would be helpful is if we continued  
2 to use those settings and we had an honest and very  
3 robust back and forth about concerns where positions  
4 weren't so extreme and unmovable. And so yes, I mean  
5 if we could move off just a very few things to reflect  
6 what they looked like in the past, we could move  
7 forward.

8           And then of course, we would be willing  
9 to look at how we go forward from here using all the  
10 knowledge that collectively we've put together over  
11 the last decade.

12           Q.     Would it be acceptable to the Company if  
13 you received an earnings opportunity consistent with  
14 MEEIA 1 and 2 from your previous cases?

15           A.     Yes.

16           MR. FISCHER: I think, Judge, that's all  
17 I have. I -- if I didn't move for his -- the  
18 admission of his testimony, I'd do that at this time.  
19 Thank you.

20           JUDGE CLARK: I believe you did move for  
21 the admission of his testimony. I don't believe I  
22 ever made a ruling on it, however. So I think that is  
23 a good thing to do at this time. Last time I believed  
24 I didn't see any objections. Are there any objections  
25 now?



1 Okay. And that is Company Exhibit Number  
2 5. Correct?

3 MR. FISCHER: Yes.

4 JUDGE CLARK: Okay. Company Exhibit 5 is  
5 admitted onto the hearing record.

6 (Exhibit 5 was received into evidence.)

7 JUDGE CLARK: Go right ahead,  
8 Commissioner.

9 COMMISSIONER RUPP: Did you make a bet  
10 with somebody that you could work in the word "fart"  
11 like 20 times in your testimony? Because if so,  
12 that's pretty impressive.

13 THE WITNESS: No. But I did my daughter  
14 about the Jonas Brothers.

15 COMMISSIONER RUPP: That's very good. I  
16 thought it was a natural gas hearing for a while.

17 JUDGE CLARK: I'm not going to ask if  
18 there's any recross based on the Commissioner's  
19 question.

20 Mr. Caisley, you can step down.

21 THE WITNESS: Thank you, Judge.

22 JUDGE CLARK: Before the Company calls  
23 their next witness, I have a brief bit of  
24 housekeeping. The Division of Energy requested to  
25 have one of their witnesses excused and I was waiting

1 to hear back on that. And Mr. Hyman can be excused.

2 MR. WESTEN: Thank you, Judge.

3 JUDGE CLARK: So Mr. Hyman will be  
4 excused from appearance. In regards to that, it's my  
5 intention to take at least one more witness before we  
6 break for lunch. We've got a very short amount of  
7 time, with only two days allotted, and 20 -- 21  
8 remaining witnesses to get through even if the hearing  
9 is front loaded. So with that in mind, the Company  
10 may call their next witness.

11 MR. STEINER: The Company calls Burton  
12 Crawford.

13 JUDGE CLARK: Mr. Crawford, if you'd come  
14 up to the stand. Would you raise your hand to be  
15 sworn.

16 (Witness sworn.)

17 JUDGE CLARK: Please be seated and spell  
18 your name for the record.

19 THE WITNESS: My name is Burton Crawford,  
20 B-u-r-t-o-n C-r-a-w-f-o-r-d.

21 JUDGE CLARK: Mr. Fischer, you can go  
22 ahead.

23 DIRECT EXAMINATION BY MR. STEINER:

24 Q. Mr. Crawford, where do you work and what  
25 do you do?

1           A.       I'm employed by Kansas City Power & Light  
2 as the director of Energy Resource Management, which  
3 means I'm responsible for the integrated resource plan  
4 or IRP.

5           Q.       Thank you.

6           MR. STEINER: Mr. Crawford has certain  
7 sections of the Direct and Surrebuttal Reports that  
8 have been marked as Exhibits 1, 2, 3 and 4 and I would  
9 tender him for cross-examination on that.

10          JUDGE CLARK: Thank you. Any questions  
11 from The Division of Energy?

12          MR. WESTEN: No questions, Judge. Thank  
13 you.

14          JUDGE CLARK: Any cross from the National  
15 Resources Defense Council?

16          MR. ROBERTSON: No, Your Honor.

17          JUDGE CLARK: Any cross from Renew  
18 Missouri?

19          MR. OPITZ: No, thank you, Judge.

20          JUDGE CLARK: Any cross from MECG, who I  
21 do not see in the room so we're skipping over them.

22          Any cross from The National Housing  
23 Trust?

24          MR. LINHARES: Thank you. No, Judge.

25          JUDGE CLARK: Any cross from the Office

1 of the Public Counsel?

2 MR. HALL: No. I think we're good at  
3 this time. Thank you.

4 JUDGE CLARK: Any cross from the  
5 Commission Staff?

6 MR. PRINGLE: Yes.

7 CROSS-EXAMINATION BY MR. PRINGLE:

8 Q. Good morning, Mr. Crawford.

9 A. Or afternoon.

10 Q. Are we afternoon now? All right. The  
11 clock's behind me. I can't -- I have a few IRP  
12 questions for you. I have to -- they connect back to  
13 Appendix 8.11 from the direct filing.

14 A. Okay.

15 Q. In the Company's IRP analysis did the  
16 Company vary the timing of supply-side investments  
17 based upon the Company's capacity position relative to  
18 SPP resource adequacy requirements?

19 A. Yes.

20 Q. And did the Company vary the timing of  
21 demand-side investments based upon the Company's  
22 capacity position relative to SPP resource adequacy  
23 requirements?

24 A. We did not. We modeled the various DSM  
25 scenarios as required by the rule.

1 Q. Okay. But for that question, that was a  
2 no?

3 A. That's a no.

4 Q. Okay. And did the Company provide any  
5 alternative resource plans that delayed demand-side  
6 investments to compare the effects of doing so on the  
7 net present value of revenue requirement?

8 A. We varied the level of programs if you  
9 would consider that timing that we did. But we looked  
10 at different levels of DSM.

11 Q. So that was a yes?

12 A. Why don't you ask me your question again?

13 Q. Okay. Did the Company provide any  
14 alternative resource plans that delayed demand-side  
15 investments to compare the effects of doing so on the  
16 net present value of revenue requirement?

17 A. I guess if you consider doing different  
18 levels in different years, then yes.

19 Q. Well, I guess could we just go a little  
20 bit more detail then in the delaying the DSM? Like  
21 what kind of models did you do for that?

22 A. Well, yeah. We -- we modeled different  
23 levels. And in Appendix 8.11 that you're referring  
24 to, it's not quite as extensive as it is in the  
25 Surrebuttal Report, but we -- we've looked at a couple

1 of different levels of -- of DSM, one that's labeled  
2 MEEIA 3 and one that's labeled as RAP minus. And so  
3 those had different amounts of DMS in different --  
4 different years.

5 Q. And isn't -- is this the one on page 7?  
6 Is that what we're talking about?

7 A. Yes.

8 Q. And the top one, does that have a zero  
9 earnings?

10 A. Yes.

11 MR. PRINGLE: No further questions.

12 JUDGE CLARK: Any questions from the  
13 Commission?

14 COMMISSIONER KENNEY: No. I have no  
15 questions. But thank you.

16 JUDGE CLARK: Any redirect?

17 MR. STEINER: Just one minute, Your  
18 Honor.

19 REDIRECT EXAMINATION BY MR. STEINER:

20 Q. Mr. Crawford, were you required under the  
21 rule to make any of the modifications that Staff asked  
22 you about in their questions?

23 A. We are required by rule to look at  
24 different levels of -- of DSM when we evaluate the  
25 cost-effectiveness of the programs.

1 Q. And that rule requires that the -- that  
2 you look for the lowest net present value of revenue  
3 requirement; is that right?

4 A. That is -- that's the primary objective  
5 function is looking at combinations of supply-side  
6 resources either new additions and retirements in DSM  
7 with the objective -- primary objective of minimizing  
8 revenue requirements.

9 Q. And the Company's MEEIA 3 proposal meets  
10 that rule. Correct?

11 A. Yes. Looking at the 2018 IRP results,  
12 DSM levels that included MEEIA 3 levels and continuing  
13 on for the remainder of the 20-year period resulted in  
14 minimizing revenue requirements.

15 Q. So that -- that -- meeting that test  
16 shows that the MEEIA 3 programs are cost-effective?

17 A. Yes. Yes, it does. In terms of its  
18 reducing revenue requirements.

19 MR. STEINER: That's all I have. Thanks.

20 JUDGE CLARK: Okay. Mr. Crawford, you  
21 can step down.

22 Let's go ahead and see if we can squeeze  
23 another witness in.

24 MR. FISCHER: At this time we'd call  
25 Brian File to the witness stand.

1 JUDGE CLARK: Mr. File, would you raise  
2 your right hand and be sworn.

3 (Witness sworn.)

4 JUDGE CLARK: Please be seated and state  
5 and spell your name for the record.

6 THE WITNESS: Sure. Brian File,  
7 B-r-i-a-n, File, F-i-l-e.

8 JUDGE CLARK: Thank you. Go ahead.

9 BRIAN FILE, having been sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. FISCHER:

11 Q. Mr. File, would you explain to the  
12 Commission your position and role in -- in this case?

13 A. Sure. My title is senior manager of  
14 products and services at KCPL, soon to be Evergy,  
15 which manages all the demand-side management programs.

16 Q. And did you participate in the  
17 preparation of the various filings the Company made,  
18 both the Direct and the Surrebuttal Reports?

19 A. I did.

20 Q. And are you here to sponsor specific  
21 sections of that report that are identified in the  
22 ones that you wrote?

23 A. I am.

24 Q. Just to give the Commission a higher  
25 level, what -- what do those sections generally



1 address? What -- what's your part of the case?

2 A. Oh, sure. Sorry about that. Generally  
3 I'm related to products related questions. So things  
4 related to -- you've heard a little bit about business  
5 demand response, income-eligible programs, energy  
6 efficiency demand response, all in -- how the programs  
7 are implemented and delivered.

8 MR. FISCHER: With that, Judge, I'd --  
9 I'll just tender the witness for cross and move for  
10 the admission of the report at the end of the case.

11 JUDGE CLARK: Okay. Thank you. Any  
12 cross-examination from The Division of Energy?

13 MR. WESTEN: No questions, Judge. Thank  
14 you.

15 JUDGE CLARK: Any cross-examination from  
16 the Natural Resources Defense Council?

17 MR. ROBERTSON: No, thank you.

18 JUDGE CLARK: Any cross-examination from  
19 Renew Missouri?

20 MR. OPITZ: No, thank you, Judge.

21 JUDGE CLARK: Any cross-examination from  
22 MECG, who is still gone?

23 Any cross-examination from The National  
24 Housing Trust?

25 MR. LINHARES: No. Thank you, Judge.

1 JUDGE CLARK: Any cross-examination from  
2 the Office of Public Counsel?

3 MR. HALL: Yes. Briefly.

4 CROSS-EXAMINATION BY MR. HALL:

5 Q. Now good afternoon, Mr. File.

6 A. Hi.

7 Q. Do you have a copy of KCPL's Surrebuttal  
8 Report in front of you?

9 A. I do.

10 Q. Could you turn to pages 74 and 75? or  
11 I'm mostly looking at 74, lines 7 through 10.

12 A. Okay.

13 Q. You've authored this portion of the  
14 report. Correct?

15 A. That is correct.

16 Q. Briefly paraphrasing, this a portion of  
17 KCPL's report responding to the recommendations of  
18 adopting a PAYS program. Correct?

19 A. Correct.

20 Q. And in -- on the lines I'm looking at,  
21 the Company says that, quote, The Company does not  
22 have an interest in being a financial institution that  
23 holds loans or liens on equipment or on the customer's  
24 side of the meter. Am I reading that correctly?

25 A. Line 9, yes, I believe says that.

1 Q. And does it surprise you to hear that  
2 Ameren is moving forward with a PAYS program as a  
3 result of its MEEIA Cycle 3?

4 A. I'm not totally in the deep details of  
5 what they signed in their stipulation, but that could  
6 have been one.

7 Q. Does it surprise you to hear that there  
8 are no liens involved in a PAYS program?

9 A. My -- the knowledge I have about the PAYS  
10 program is that there are some financial  
11 responsibilities for the homeowner if they -- when  
12 they do sell homes. And so the definition of a lien  
13 or not may be where we're trying to get into there,  
14 but that's my impression of how the PAYS program  
15 works.

16 Q. And does it surprise you to hear that  
17 there are no loans involved in the PAYS program?

18 A. So my interpretation of what loans means  
19 and how this wording was worded in my testimony here  
20 is that the money has to come from somewhere. Whether  
21 or not that the utility is -- is actually financing it  
22 through other debt or equity, the money comes from  
23 somewhere. So it could be a loan from a bank that the  
24 utility then uses to fund these investments, but  
25 there's typically some money coming from a loan

1 somewhere.

2 Q. Okay. Moving on to the next subject.  
3 Mr. File, can I ask you questions about the business  
4 demand response program?

5 A. Sure.

6 Q. This involves thermostats that are given  
7 to customers that then the Company is able to call  
8 curtailment events through. Am I understanding that  
9 correctly?

10 A. Did you say -- I'm sorry. Did you say  
11 business or did you say residential?

12 Q. Oh, residential.

13 A. Residential.

14 Q. I said business. I misspoke.

15 A. Okay. Sorry.

16 Q. In 2016, there were eight curtailment  
17 events called -- called -- called by the Company.  
18 Correct?

19 A. Yes.

20 Q. In 2017, three events were called?

21 A. I believe that's correct.

22 Q. In 2018, two events were called?

23 A. I believe that's correct also.

24 Q. And so for the record, let me get this  
25 timeline right. Eight -- you would agree with me that

1 eight is higher than three and three is a higher  
2 number than two. Correct?

3 A. That is correct.

4 Q. You would agree with me then from 2016 to  
5 2018 the number of curtailment events by the Company  
6 has gone down each year?

7 A. Has decreased during that period, yes.

8 Q. Do you agree with me that from 2016 to  
9 2018, the Company has been giving more thermostats  
10 though every year?

11 A. Generally speaking, we have more  
12 thermostats than we did in 2016. I don't know if  
13 we're giving more every year necessarily, but we have  
14 more over the course.

15 Q. No further questions.

16 JUDGE CLARK: Any cross-examination from  
17 the Commission Staff?

18 CROSS-EXAMINATION BY MS. MERS:

19 Q. Good afternoon. How are you doing today?

20 A. Good. Thank you.

21 Q. Are savings from each measure in a given  
22 hour certain from that time the measure is installed?

23 A. Are the savings certain in every hour  
24 that they're installed?

25 Q. Yes.

1 A. For every measure?

2 Q. Uh-huh.

3 A. I would say that what we use in the  
4 process of demand side management is a thorough  
5 evaluation, measurement and verification to find out  
6 what happened with that measure that was installed.  
7 And it's -- we use consultants -- in our case,  
8 Navigant has been over the last couple cycles -- that  
9 do this across the country to figure out their best  
10 case of -- of best knowledge what happens with all the  
11 measures that are installed and report that back.

12 Q. But it's best knowledge; not a certainty  
13 100 percent going forward what will happen. Correct?

14 A. Usually what they do is -- and I talk a  
15 little bit about this in my AMI testimony. But  
16 usually what they'll do is they'll do a sampling.  
17 Right? So they'll take a look at a specific group of  
18 customers and appropriate that they're similar to a  
19 broader range of customers and apply that result  
20 from -- from a very sampled customer. They'll look at  
21 bills, go onsite, do onsite metering and then apply  
22 that to a broader group.

23 Q. Was the portfolio designed to minimize  
24 KCPL and GMO's peak coincident with the SPP -- peak  
25 coincident with the SPP zonal monthly peak hour?

1 A. Yes. In general, all of our programs are  
2 set up with our kW's that we --

3 Q. Yes or no question. Your counsel can  
4 redirect you if there's more you'd like to expand on.

5 A. Okay. Sure. With the exception of  
6 business demand response and residential demand  
7 response, all the programs are peak reduction models  
8 for the -- that occur over the months of the SPP zonal  
9 peaks. Does that make sense?

10 Q. And how did you estimate the appropriate  
11 hour in each month that would be coincident with the  
12 SPP zonal monthly peak?

13 A. Yeah, so that would probably be better  
14 answered by a couple of our other folks who deal with  
15 individual modeling of hours. But we design our  
16 program to -- to -- to ultimately peak reduction. So  
17 our kW that we hit for our targets are designed to do  
18 that on peak hours.

19 Q. Okay. And this was alluded to by counsel  
20 for OPC, but just to clarify, did KCPL or GMO ever  
21 reach the tariffed and agreed-upon maximum number of  
22 demand response for both business or the residential  
23 thermostat events in any of the years in previous  
24 MEEIA cycles?

25 A. Did we have a maximum? Was that the

1 question? Make sure I under--

2 Q. Did you reach that maximum?

3 A. Did we reach the maximum in any previous  
4 years?

5 Q. Uh-huh.

6 A. No, we did not.

7 Q. Okay. And since the Company called I  
8 think it was three events in 2017 and two events in  
9 the -- the prior year and hasn't approached the limit  
10 on maximum events, would you agree that you have  
11 not -- or the Company has not attempted to minimize  
12 SPP fee reduction through demand response in previous  
13 cycles by calling the allowable number of events in  
14 attempts to minimize that, KCPL and GMO's SPP zonal  
15 monthly peak?

16 A. I would say there's some overlap between  
17 reducing our -- our system peak and SPP zonal peak,  
18 but it was not designed to get all the monthly peaks  
19 that maybe you're referring to in your question.

20 MS. MERS: May I approach?

21 JUDGE CLARK: Yes.

22 BY MS. MERS:

23 Q. Would you recognize this as a Staff data  
24 request?

25 A. Yes.



1 Q. And in this request Staff asks for  
2 correspondence between residential customers and the  
3 Company demonstrating demand response customers have  
4 become fatigued by the number or frequency or length  
5 of curtailment -- curtailment events. Would you  
6 agree?

7 A. Yes. That looks like the question.

8 Q. And the Company responded at this time  
9 that no correspondence from customers have -- has been  
10 received. Is that answer still true today?

11 A. What's your definition of correspondence?

12 Q. You've not had any physical documentation  
13 of customer outreach letters that you could hand to  
14 Staff?

15 A. I'd say that is probably true. I don't  
16 know if there's any letters.

17 Q. Okay. How many degrees does an average  
18 thermostat event change the temperature set point?

19 A. It can depend on an individual home.  
20 Part of what our program has come to -- to evolve to  
21 is that we're trying to manage to comfort. Right?  
22 And so when you talk about this particular program,  
23 there's some pre-cooling involved that helps people  
24 get to a certain temperature point that -- that during  
25 an event they can potentially ride through there.

1           So it can be zero or it can be two, it  
2 can be not -- not go up at all or less than up because  
3 you pre-cooled some. Depends on the hou-- the housing  
4 envelope of the home.

5           Q.     Okay. So it sounds like because of the  
6 steps that you guys have taken, it's -- it's not going  
7 to be like a 10-, 15-degree change. You'd agree?

8           A.     We hope not.

9           Q.     Okay.

10          A.     Yeah, we hope not.

11          Q.     And are customers are able to override  
12 thermostat events for any reason?

13          A.     They are, uh-huh.

14          Q.     Okay. Does the cus-- or does the Company  
15 expect that all of the customers that participate in  
16 the residential demand response program to participate  
17 in events beyond 2022 absent monetary incentives to do  
18 so?

19          A.     So our -- our intention is that we'll  
20 continue to have MEEIA programs well past 2022, so  
21 I'll start with that as our sentiment. Mine  
22 specifically because I'm heavily involved in them and  
23 that would be much better.

24                    But we do believe obviously as well for  
25 customers and that we want to have these programs. We

1 haven't set an arrangement of what that offer might  
2 look like past 2022. But yes, our intention would be  
3 to continue to work with them on demand response.

4 Q. Do you have a level of participation that  
5 you would reasonably expect given that customers own  
6 the thermostats after three years and are free to end  
7 participation any year -- any given year thereafter?

8 A. I think we'd get a pretty decent  
9 response. I mean what -- what part of this comes back  
10 to is what's the customer expectation you're setting.  
11 And I think that's partly where some of the questions  
12 have come along here on how many events you call and  
13 what's the customer's fatigue level. I asked for the  
14 definition of correspondence because phone calls are a  
15 type of correspondence and -- and that's maybe  
16 something we could have submitted instead of letters.

17 But ultimately, you know, customers want  
18 to be part of this program because they know they're  
19 helping out. Right? And they're getting some benefit  
20 in that -- in this case from the thermostat as well.  
21 So I think if we phrase that right and communicate it  
22 right, there's -- it would be up for us to have  
23 customers continue -- continue to participate well in  
24 the future if the offer changes.

25 Q. And has the Company provided any support

1 for those predictions or any level of continued  
2 participation that they assumed as part of this  
3 docket?

4 A. They have not.

5 Q. Okay.

6 A. That I'm aware of unless they're --

7 Q. Does KCPL plan to call events beyond 2020  
8 absent the additional MEEIA Cycle 3 and beyond  
9 approvals?

10 A. We have not determined that at this  
11 point.

12 Q. Okay. You've not determined it. Is --  
13 is it something that you guys would be willing to  
14 commit to or discuss?

15 A. I think we're focused on trying to get  
16 this approved. We haven't gotten that far.

17 Q. Can you please turn to page 24 of the  
18 Surr-- Surrebuttal Report?

19 A. The Company's?

20 Q. Yes.

21 A. Okay.

22 Q. I'm sorry. I apologize.

23 A. Sure.

24 MR. HALL: Pardon me. What page?

25 MS. MERS: Page 24.

1 MR. HALL: Thank you.

2 BY MS. MERS:

3 Q. And I'm going to refer to lines 5 through  
4 7 if you're there.

5 A. 24, lines 5 through 7?

6 Q. Yes.

7 A. Okay. Gotcha.

8 Q. Okay. So you claim that Staff excluded  
9 demand response from its calculation of SPP fee  
10 savings; is that correct?

11 A. It appeared they did, yes.

12 Q. Okay. And so to get to that conclusion,  
13 you reviewed Staff's analysis and work papers for this  
14 calculation; is that correct?

15 A. Correct.

16 Q. Then were you aware that Staff relied on  
17 the Company's response to Data Request 134 to estimate  
18 those values?

19 A. I wasn't exactly sure where the -- all  
20 the values came in there. I didn't cross-reference  
21 them back.

22 Q. Okay. If you give me one moment. Here  
23 we go.

24 MS. MERS: If I could approach one more  
25 time.

1 JUDGE CLARK: Go ahead.

2 BY MS. MERS:

3 Q. And does that appear to be a copy of DR  
4 Response 134?

5 A. Appears to be.

6 Q. And does this data request ask for it --  
7 it was supposed to be highlighted, but of course the  
8 printer did not come out in color so it's the gray  
9 blob, you know, to use a professional term.

10 A. Okay.

11 Q. But does that data request ask for the  
12 gross and net peak savings by month from the  
13 implementation of MEEIA Cycle 3?

14 A. Which -- there's 16 questions here, just  
15 to make sure I'm looking at the right one.

16 Q. It would be in the -- the blob of  
17 questions -- again to use a very technical term. It  
18 would be question four, five and -- six and seven of  
19 what was -- KCPL was -- was asked. So in that -- that  
20 paragraph.

21 A. Sure. Okay. Yeah, I see it. There's  
22 gray.

23 Q. And wouldn't that include, since we're  
24 requesting the Company's information, demand response  
25 programs?

1 A. I'm trying to read the question a little  
2 bit closer here.

3 Q. Sure.

4 A. It looks like -- and again, I did not  
5 answer this data request so I want to make sure I'm  
6 reading it properly. It looks like there's a -- was  
7 it with MEEIA and without MEEIA? Was that what the  
8 question was?

9 Q. Yes. There was a with MEEIA and without  
10 MEEIA. But -- but for the -- the portion that would  
11 be with MEEIA.

12 A. Okay. So that's maybe -- that's -- is  
13 that seven?

14 Q. I would say it would be four, five, six,  
15 yeah, and seven. It looks like they're all --

16 A. Well, a couple of them --

17 Q. Oh, no, no. I -- you're right. Yes.  
18 Sorry.

19 A. Okay. Yeah. I was just making sure.  
20 Three of them look like they say absent --

21 Q. Yes.

22 A. -- and one of them says maybe not absent.  
23 I can't -- I think it doesn't say absent, if I look  
24 here correctly.

25 Yes, so it looks like absent and without

1 absent is part of that four through seven questions,  
2 if that was your question.

3 Q. Sure. So if the Company is providing  
4 information that was not absent MEEIA Cycle 3 and was  
5 providing its gross and net demand reductions, would  
6 it not include those attributable in the Company's  
7 view to demand response?

8 A. Yeah. If there's a megawatt reduction,  
9 it would include demand response.

10 Q. Okay.

11 A. Yes.

12 Q. Does the third party EM&V evaluator or  
13 the Commission's auditor review or modify avoided  
14 costs during the course of review of MEEIA cycles?

15 A. I am not aware that they do. I believe  
16 it's a -- I'm not 100 percent sure if it's a rule or a  
17 statute, what they have to use.

18 Q. Okay.

19 A. There's been some discussion around that.

20 Q. And are avoided energy and demand costs  
21 certain over the life of all measures?

22 A. Are avoided costs and demand certain over  
23 the -- what do you mean by avoided cost and demand?

24 Q. Avoided energy and demand.

25 A. Avoided energy and demand. So that's why



1 we go through the EM&V process that was discussed  
2 earlier. Right? To -- to put forth our calculations  
3 to what we believe will be the reduction over the  
4 whole period of those measures.

5 Q. And then -- so you'd agree that the  
6 benefits that are actually received are dependent on  
7 those avoided energy and demand costs?

8 A. The benefits received are based on the  
9 energy and demand avoided cost? Is that what your  
10 question -- say that again. I got -- I'm getting  
11 mixed between energy demand savings and avoided costs.

12 Q. Sure. Aren't the benefits that customers  
13 will actually receive dependent on the avoided energy  
14 and demand costs?

15 A. I think this is maybe a question that  
16 goes back to what I believe Witness Crawford said.  
17 Right? We -- when we put these values and all these  
18 energy demand savings into the integrated resource  
19 plan, it spits out that irrespective of what the  
20 avoided cost is, that there's benefits for customers.

21 Q. Okay. If you could turn to page 8 of the  
22 Company's surrebuttal.

23 A. Sure.

24 Q. And I'm sorry, I don't have a line number  
25 for this. But in talking about the HER energy

1 reports, you stated that over 225,000 customers  
2 received one; is that correct?

3 A. Yes. I believe this -- it might not be  
4 on this page, but we do say that somewhere in here --  
5 in our testimony.

6 Q. And I apologize for having the  
7 cross-reference wrong.

8 A. That's okay. Bottom of eight, yeah.

9 Q. Are HER recipients randomly selected and  
10 sent a report?

11 A. It is a randomized control group that has  
12 these -- there's a -- there's a treatment group and a  
13 control group.

14 Q. So as part of either group, are there  
15 vol-- do they volunteer or choose to participate, or  
16 is it all randomly selected?

17 A. They don't volunteer, no.

18 Q. Okay. Do you think it's likely that many  
19 of these con-- conscripted customers would throw away  
20 utility mail they're not expecting?

21 A. Likely or possible?

22 Q. Possible?

23 A. It's possible.

24 Q. I think also on page 8 of the Company's  
25 surrebuttal it stated that 164,000 customers have

1 interacted with the Home Energy Analyzer; is that  
2 correct?

3 A. I believe that's what the number we used  
4 back here in the other section.

5 Q. Okay. And would you agree that those  
6 customers are actually physically going in and  
7 interacting with the Home Energy Analyzer?

8 A. Yes. They have logged in.

9 Q. Okay. So yes, they're basically like  
10 choosing to utilize and willing -- willingly  
11 volunteering to interact with that tool. Correct?

12 A. Yeah. We are not forcing them to log in,  
13 correct.

14 Q. Good. Would you agree that the Home  
15 Energy Report and the Home Energy Analyzer are  
16 designed to provide very similar information to  
17 customers?

18 A. I would agree that they are designed to  
19 provide results in concert together.

20 Q. Okay.

21 A. If I can use that analogy.

22 Q. Sure. And -- and do you agree that  
23 they're both intended to inform customers of how to  
24 save energy?

25 A. At the highest level, sure.

1 Q. So based off this discussion, we've got  
2 164,000 customers who you know and can verify have  
3 interacted with the Home Energy Analyzer, but we have  
4 225,000 customers who we know receive a report but  
5 it's not voluntarily. And to my understanding, we  
6 don't know how many actually open the reports; is that  
7 correct?

8 A. The paper reports we don't have a  
9 indication of what they -- whether or not they open  
10 the paper report, correct. We do have an indication  
11 whether or not they open up an e-mail report.

12 Q. Okay. Can you turn to page 34 of the  
13 Surrebuttal Report?

14 A. Sure.

15 Q. And lines 13 -- or 3 through 13. You  
16 list some additional costs. Did the Company  
17 identify -- attempt to quantify any of the additional  
18 costs you mention?

19 A. I'm sorry. Can you point me to where  
20 you're looking at? I apologize.

21 Q. Sure.

22 A. What was the page and line again?

23 Q. It was 34, lines 3 through 13. I think  
24 it's in reference to business demand response.

25 A. Okay. Okay. I think we--

1 Q. If that helps narrow it down.

2 A. Sure. I got a little bit off.

3 Q. Sure.

4 A. So we're talking about HOMER reports  
5 still or are we talking about --

6 Q. I'm sorry. About business demand  
7 response --

8 A. Okay.

9 Q. -- and -- yeah -- yes. And in particular  
10 different -- I think the point of that was in your  
11 view, why incentives were needed. Would you say  
12 that's probably a correct summary of your testimony?

13 A. In this section that we're talking about,  
14 D page 33, 34?

15 Q. Uh-huh.

16 A. We were talking about how we categorize  
17 incentive costs --

18 Q. Okay. And did you --

19 A. -- from --

20 Q. -- guys attempt to quantify any of those  
21 costs?

22 A. We don't list any specific cost in -- in  
23 this testimony here.

24 Q. So you don't believe that when you say  
25 participant costs such as employee time, you know,

1 lost production revenue, that those weren't costs?

2 A. I -- I -- maybe I'm misinterpreting, but  
3 I think we've listed that we view them as potential  
4 participant costs. Some of them are opportunity  
5 costs, some are actual hard costs. There's a mix of  
6 both of those.

7 Q. Okay. But you didn't attempt to quantify  
8 a numerical value for any of them?

9 A. Yeah, for every customer they tend to be  
10 quite a bit different. And I think that's where we  
11 talk a little bit about that in this section or a  
12 different one. So we haven't identified the cost of  
13 every single individual customer.

14 Q. Or -- or even a range?

15 A. We did not put a value on that.

16 Q. Okay. Would those costs effectively  
17 reduce the TRC ratio if they're greater than zero?

18 A. Would participant costs lower the TRC  
19 ratio if they're greater than zero? I think I'm going  
20 to have Witness Nelson come a little bit later and  
21 make sure I get the cost-effective test correctly.  
22 But if there's an additional cost, a participant cost,  
23 you can debate whether it's opportunity cost or  
24 participant cost, but those costs I think would make  
25 the TRC go down, yes.

1 Q. Okay. And can you now -- we're going to  
2 keep on demand response, but can you turn to page 55  
3 of the Surrebuttal Report.

4 A. Okay.

5 Q. It would be lines 11 through 16. And  
6 this testimony refers to the removal of non-performing  
7 business demand response participants. Correct?

8 A. Yes.

9 Q. Did the Company inform Staff or other  
10 stakeholders of participants being removed prior to  
11 the Company's Surrebuttal Report?

12 A. I believe we talked a little bit about  
13 this during our DSM Advisory Group, which we allude to  
14 in a couple lines above there, but I don't know that  
15 we gave a specific list, if that's your question. But  
16 we had talked about removing customers as part of this  
17 process during DSMAG.

18 Q. Okay. And then can you turn to page 76  
19 of the Surrebuttal Report?

20 A. Okay.

21 Q. And line 8. So does any portion of the  
22 Company's application, as discussed in the Surrebuttal  
23 Report, contemplate programs extending beyond April  
24 2022 other than the low-income programs?

25 A. I believe the -- the language in the

1 application refers to a three-year cycle.

2 Q. Uh-huh.

3 A. And so the three-year cycle that we're  
4 referring to is -- is how this is being responded to  
5 th-- compared to a two-year cycle.

6 Q. I guess to clarify that, so when you use  
7 three-year cycle, you mean it as maybe a floating  
8 three-year cycle based on start date as opposed to a  
9 hard start and end date?

10 A. Sure. Good clarification. Yeah. I  
11 think what our intention was, this is a three-year  
12 application from whenever approval starts or approval  
13 is given.

14 Q. Okay. Did Staff request for KCPL and GMO  
15 to update their application with any information that  
16 was no longer relevant or had changed?

17 A. Ask us to update the application?

18 Q. Yeah. If you changed program design  
19 or -- or length of the cycle.

20 A. I think at one point in time they asked  
21 in data request if we had filed any updates, but I  
22 don't recall if they were asking us to update anything  
23 specifically. I don't know if that's the nuance of  
24 your question there.

25 Q. I have the DR actually right here, so if



1 you don't mind. We can go ahead and mark an exhibit.  
2 I think this would be maybe Staff 4 -- 3? Staff 103  
3 or 4. 3. Sorry. It's hard to know what number we're  
4 on when we haven't actually entered any of our own  
5 testimony yet so be Staff 3.

6 (Exhibit 103 was marked for  
7 identification.)

8 BY MS. MERS:

9 Q. So in this data request you're listed as  
10 the person responding to it; is that correct?

11 A. That is correct.

12 Q. Okay. And this data request asks for all  
13 known changes and supporting documentation for those  
14 changes; is that correct?

15 A. Correct.

16 Q. And the Company responded that the --  
17 the -- at that date you hadn't made any changes to the  
18 11/29/18 filing. Correct?

19 A. That was the response, yeah.

20 Q. And did KCPL provide any updates to the  
21 application that contemplates the non-low-income  
22 programs being implemented beyond April 2022?

23 A. Did we make any changes to the filing?  
24 We did not, as we answered here.

25 Q. Okay. And did you provide any updates to

1 this data request about programs extending beyond  
2 2022?

3 A. We did not make any changes, like this  
4 says here. Yeah.

5 Q. Did you provide any updated work papers  
6 based on the extended -- or the new program end dates?

7 A. Yeah, so all I'll say to this, I think if  
8 I understand your questions right, this plan we filed  
9 is a three-year plan and we are applying for that in a  
10 three-year plan, assuming that when the date is  
11 approved, it will be a three-year plan. I think if  
12 the -- we did not answer any questions about the  
13 specific dates changing.

14 Q. So you didn't take into calculation any  
15 changes in the circumstances the, you know, IRP  
16 analysis, any factors that relate to the dates of  
17 implementation or -- or when that would have an  
18 impact?

19 A. We did not file anything as such.

20 MS. MERS: Okay. At this time I'd go  
21 ahead and offer Exhibit 103 into the record.

22 JUDGE CLARK: Any objection to admitting  
23 Exhibit 103 onto the record?

24 MR. FISCHER: No objection.

25 BY MS. MERS:

1 Q. Okay. And then --

2 JUDGE CLARK: Staff Exhibit 103 is  
3 admitted onto the hearing record.

4 (Exhibit 103 was received into evidence.)

5 MS. MERS: Thank you. Go ahead and  
6 hopefully finish this up quickly for you guys.

7 BY MS. MERS:

8 Q. On page 76 of the Surrebuttal Report,  
9 that also states the Company opposes Staff's request  
10 to end Cycle 3 on December 2021, as that would require  
11 Cycle 4 planning to overlap with the Cycle 3  
12 implementation; is that correct?

13 A. Yeah, that's what I wrote there.

14 Q. And the Commission -- or the Company,  
15 excuse me, received the Commission's approval to  
16 essentially skip this year's IRP and file in 2020; is  
17 that correct?

18 A. I'm not the expert in that case, but I  
19 think that's correct.

20 Q. Okay. But nothing similar was done with  
21 the due date of the next potential study; is that  
22 correct?

23 A. I'm going to defer on that one.

24 Q. Okay. Then that ends things quicker, so  
25 thank you for your time.

1 A. Yeah.

2 JUDGE CLARK: Any questions from the  
3 Commission?

4 COMMISSIONER KENNEY: I have no  
5 questions, Mr. File. Thank you.

6 QUESTIONS BY JUDGE CLARK:

7 Q. I've got a few. Do you know how many  
8 months of expenses from MEEIA Cycle 2 were included in  
9 the current -- in Cycle 3?

10 A. Yeah, so I want to make sure I  
11 understand -- I'll answer and then think -- make sure  
12 it answers your question.

13 So when we -- we properly account for  
14 when costs occur and what cycles they should be  
15 occurring with. So the things that -- if you're  
16 talking about will there be expenses that go past the  
17 end of this cycle, is that your specific question?

18 Q. Well, the cycle was extended and my  
19 question is, are any of those expenses going to be  
20 included in MEEIA Cycle 3 or are all they all going to  
21 be as part of 2?

22 A. Oh, sure. Good question. So we viewed  
23 MEEIA Cycle 2 as an extension budget. So it's  
24 effectively new and different budget than what Cycle  
25 3's application is for. So not included, no overlap.

1 Q. It's part of 2?

2 A. It's part of 2. The extension is part of  
3 2.

4 Q. Now -- and I'm going to ask some general  
5 overall questions for the record here. The MEEIA  
6 mechanism. Would you say that the purpose of the  
7 MEEIA mechanism is to reduce peak usage?

8 A. In terms of the way I view MEEIA and how  
9 we implement our programs, it's to derive energy and  
10 demand savings, right, of which demand savings  
11 typically are on peak, as you mentioned there. So  
12 energy and demand both.

13 Q. Would it be possible to have a successful  
14 MEEIA program without reducing peak usage?

15 A. I mean maybe. It depends on what your  
16 definition of what success is. Right? We have a lot  
17 of programs that we derive that aren't peak-based  
18 programs -- that aren't as heavily peak-based programs  
19 that customers enjoy.

20 But we know that that's a component of  
21 this -- of energy and demand together that we feel  
22 like is a -- is a synch of -- synchronizes the  
23 programs together that customers can offer all that do  
24 well for us in terms of how we analyze our IRP and  
25 such.

1 Q. To -- to rephrase the question, you say  
2 that depends on how you -- you think of it. How does  
3 the Company think of it? Do you believe that you  
4 could have a successful MEEIA program without reducing  
5 peak usage?

6 A. I think it's important to include.  
7 It's -- it's -- you have to have all sides of the  
8 equation; energy and demand, yes.

9 Q. Could you reduce the overall revenue  
10 requirement without reducing peak usage?

11 A. Probably was a Burton question, but my  
12 general perception is -- Burton Crawford -- Witness  
13 Burton Crawford question. Sorry. My perception is  
14 yes, the answer is yes, you can.

15 Q. And in regard to the business demands  
16 program -- or business demand response program, does  
17 the Company believe that is an interruptible or  
18 curtailable program?

19 A. We do.

20 Q. Those are all the questions I have.

21 JUDGE CLARK: Are there any  
22 cross-examination -- further recross-examination  
23 questions based upon Bench questions? Department --  
24 or Division of Energy?

25 MR. WESTEN: None. Thank you.

1 JUDGE CLARK: Natural Resources Defense  
2 Council?

3 MR. ROBERTSON: No.

4 JUDGE CLARK: Renew Missouri?

5 MR. OPITZ: No, thank you.

6 JUDGE CLARK: National Housing Trust?

7 MR. LINHARES: No, thank you.

8 JUDGE CLARK: Office of the Public  
9 Counsel?

10 MR. HALL: None. Thank you.

11 JUDGE CLARK: And Commission Staff?

12 MS. MERS: No, thank you.

13 JUDGE CLARK: Any redirect?

14 MR. FISCHER: Yes, please.

15 REDIRECT EXAMINATION BY MR. FISCHER:

16 Q. Judge asked you a question just a minute  
17 ago about whether a MEEIA -- a successful MEEIA  
18 program could occur without reducing peak demand. Do  
19 you recall that?

20 A. I do.

21 Q. Do you recall what the megawatt capacity  
22 reduction goal is for our IRP 3 program? I mentioned  
23 it in the opening. Are you familiar with that?

24 A. You'll have to remind me the exact number  
25 probably.

1 Q. Was it about 185.9 megawatts?

2 A. That sounds about right.

3 Q. Okay. And is there also a substantial  
4 energy savings goal of about 343 gigawatt hours --

5 A. Correct.

6 Q. -- for the first year?

7 A. Correct.

8 Q. And there would be a second year and a  
9 third year as well. Right?

10 A. Yes. So that's the first-year energy  
11 savings, correct.

12 Q. Okay. There were also some questions  
13 from Staff counsel about the Home Energy Reports and I  
14 believe the Home Energy Analyzer programs. Do you  
15 recall those?

16 A. I do.

17 Q. Could you explain what the difference  
18 between those programs would be and why you would want  
19 both?

20 A. Sure. So as I -- I think I mentioned in  
21 that answer, that they're meant to work in concert.  
22 Right? So we want to communicate with customers in a  
23 way that they're hearing the same message, they're  
24 seeing the same information, which makes it much more  
25 effective than -- for them ultimately to take action,



1 which is the whole point of what we do in DSM  
2 programs; have customers take action to improve their  
3 energy efficiency and lower their bills.

4           And so a couple ways to do that is when  
5 we proactively send a Home Energy Report -- and I  
6 think that word "proactive" is key. We proactively  
7 send them a letter that then they open that gives them  
8 actionable and interesting information to react on.  
9 They're more apt to then do the next step, which that  
10 next step might be going online to an online analyzer  
11 tool and filling out something that we call a  
12 disaggregation tool, which basically helps them  
13 understand, in laymen's terms, what uses most. Right?

14           So they'll be able to go online and see,  
15 you know, if I entered this kind of information about  
16 my home, it's about this size, it's about -- I have  
17 about this many people that live there, I have this  
18 heating type, this will help them understand what's  
19 using energy in their home, which will then, you know,  
20 raise the awareness to say oh, maybe I should think  
21 about, you know, insulation in my attic. Maybe I  
22 should think about closing my blinds on the sunny side  
23 of the house.

24           Things that probably, you know, us that  
25 live in the energy world are like yeah, duh. You

1 should do that sort of thing. But we try to have  
2 customers see that from multiple angles. And having  
3 the analyzer tool online to engage with is separate  
4 than the proactive report that we send out that drives  
5 energy savings just by itself from behavior that way.

6 Q. Are you suggesting that -- that the  
7 Company has multifaceted strategies for reaching their  
8 customers regarding energy efficiency?

9 A. Very much so. I think Witness Caisley  
10 alluded to this a little bit about some of the tools  
11 that we've been able to implement and are harnessing  
12 better for Cycle 2 than we intended to harness --  
13 continue to harness for Cycle 3 to touch customers in  
14 the ways they want to be communicated with; whether  
15 that's, you know, paper at their -- at their mailbox,  
16 it's an e-mail that they might see or if they're on  
17 social media and those sorts of things, or maybe they  
18 want to log in and see from -- while they're paying  
19 their bill.

20 It's all those, you know, that they --  
21 that we could engage. We have to harness those and  
22 ultimately again try to drive that behavior change.

23 Q. If there's some duplication of  
24 information from these programs, is that a bad thing?

25 A. Again, we hope that they're seeing and

1 hearing the message multiple times. I think if -- if  
2 you look back at marketing studies and things, you'll  
3 see that sometimes people have to hear things up to  
4 six and seven times before action happens. Right?  
5 The same message over and over again.

6           So we believe that's part of what we're  
7 trying to do is, you know, hit customers in multiple  
8 ways with -- with similar information.

9           Q. I believe Staff counsel asked you some  
10 questions about -- I'm not sure what they -- how they  
11 phrased it, thermostat events. Do you recall that?

12           A. I think so.

13           Q. Have -- has the Company modified its  
14 program in MEEIA 3 with regard to those events in any  
15 way to make it possible to do more of those if you  
16 wanted to?

17           A. Yeah. We -- we have the same ability in  
18 the way we filed for Cycle 3 to do as we have in Cycle  
19 2 so that, you know, as we engage with customers and  
20 set that expectations of how they'll be -- you know,  
21 utilize those thermostats to best help us manage our  
22 demand -- peak demand, it's a very similar level in  
23 Cycle 3.

24           Q. I think perhaps it was Public Counsel  
25 that asked you about the PAYS program. Do you recall

1 that?

2 A. I think so.

3 Q. Does the Company -- why -- why wouldn't  
4 the Company want to be involved in the PAYS program?  
5 Can you just tell the Commission that at a high level?

6 A. Sure. For us, it comes down to a few  
7 different things. You know, we -- we very much  
8 appreciate the information that's been provided by a  
9 few of the folks in the case and I've learned a lot  
10 about -- specifically about PAYS.

11 I think what -- as -- as we've evaluated,  
12 there becomes complications in terms of how it's  
13 administered. Right? And so the Company effectively  
14 is owning assets on the customer's side of the meter,  
15 which is a -- is a -- potentially fraught with  
16 challenges.

17 And so what -- we then try to balance  
18 that with what's the benefits that we would maybe  
19 expect to see out of that. And the data that we've  
20 seen from -- from the PAYS folks and the companies  
21 that use those programs, which by the way are  
22 typically all co-ops, municipals and those sorts of  
23 folks. Very rarely investor-owned utilities from what  
24 I've seen.

25 The participation is relatively minimal,

1 I guess if I could put it that way. So it doesn't  
2 seem to move the needle in terms of participation if  
3 that was one of your main objectives.

4 And I tried to dig a little bit more  
5 into -- and what I saw from our customer research.  
6 You know, we turned in 164 pages of customer research  
7 as part of our -- of our filing. And there was a  
8 couple questions in there about how much influence  
9 does these factors have on energy efficiency. I think  
10 I actually even wrote down the -- the -- the exhibit.  
11 It was on page 62 of Appendix 8.8.

12 And when you looked at the factors that  
13 might be efficiency or, you know, model type, those  
14 sorts of things, financing for HVAC was at the bottom  
15 of that list. And so again, that was another signal  
16 to us that this isn't a thing that -- with the  
17 challenges and very lower participation and the fact  
18 that it's lower on the customer preference list --  
19 preference list didn't seem to move the needle for why  
20 we wanted to get involved.

21 Q. I believe you mentioned in answer to one  
22 of the questions something about a DSM Advisory Group.  
23 Would you explain to the Commission what that is, how  
24 often it meets and what you talk about?

25 A. Sure. And I believe it's in the rules,

1 the specifics about what the intention of DSM Advisory  
2 Group. But effectively it's -- we meet with the  
3 stakeholders to the case -- the cases that we get  
4 approved for our MEEIA cycles every quarter. And we  
5 report our values and progress in terms of energy and  
6 demand savings.

7           That's a primary objective, so that  
8 everybody can see that, as well as how that's balanced  
9 with the costs as we are going. We have an approved  
10 budget obviously and targets that we're going after.  
11 So we -- we walk through those sorts of things.

12           Then we talk about program highlights and  
13 things that we think are of interest that -- impacts  
14 that we're making on customers, customers' positive  
15 stories that they share. And then, you know, things  
16 that we want to evolve and tweak. You know, we talk  
17 about EM&V, evaluation, measurement and verification,  
18 that group, quite a bit. And so there's opportunities  
19 for us to continue to evolve with customer feedback  
20 and how do we decide we want to make our programs  
21 better.

22           So again, it's quarterly. Sometimes we  
23 meet in person, sometimes over the -- a webinar, but  
24 ultimately to try to continue to have that feedback  
25 process during the course of a MEEIA cycle.

1 Q. Do you take that stakeholder feedback  
2 into account as you're moving forward?

3 A. Yes. Definitely. You know, one of the  
4 things that we try to do is -- is, you know, draw out  
5 what may be of interest to stakeholders during those.  
6 And, you know, as with any meeting, sometimes there's  
7 more or less feedback, but we try to talk about those  
8 as -- as we're ongoing in the process.

9 Q. In your Surrebuttal port did -- Report,  
10 did you mention several areas that the Company is  
11 willing to consider and to implement that was based  
12 upon comments from Staff or Public Counsel and how to  
13 improve the programs?

14 A. Yeah. We tried to take a look at all the  
15 recommendations that were submitted in testimony  
16 and -- and highlight which ones we felt like were  
17 amenable to the Company, we thought would add value to  
18 the customers and that we would be willing to talk  
19 more about with the various parties.

20 Q. Okay. And I believe you also mentioned  
21 the -- a market potential study in one of the answers  
22 that you gave or --

23 A. Probably.

24 Q. Okay.

25 A. I can't remember for sure. That's my

1 answer.

2 Q. Okay. Well, would you -- except for the  
3 fact that it's part of the Commission's rules, do you  
4 see a reason to do a potential study in the future if  
5 we don't have energy efficiency and DSM program?

6 MR. HALL: If he's not sure and -- I  
7 think this is beyond the scope if the witness doesn't  
8 know --

9 MR. FISCHER: I'll withdraw. I'm getting  
10 hungry too, so I'll -- I'll pass. Thank you. That's  
11 all I have.

12 JUDGE CLARK: Okay. Thank you, Mr. File.  
13 You can step down.

14 At this time we're going to recess for  
15 lunch. Why don't we all come back about two o'clock  
16 and we'll pick up then. We've still got a sizable  
17 number of witnesses to go, so I'm not exactly sure how  
18 late we're going to go tonight. Depends on how many  
19 we get through.

20 If I haven't said so, we're off the  
21 record.

22 (A recess was taken.)

23 (Exhibits 450, 451, 452 and 453 were  
24 marked for identification.)

25 JUDGE CLARK: It's my understanding that



1 the parties have agreed to take a witness out of order  
2 and to take Renew Missouri's witness -- is it Mark  
3 Cayce?

4 MR. OPITZ: Yes, Judge. That's correct.

5 JUDGE CLARK: Okay. Is that correct? Do  
6 I see any objections?

7 Okay. Mr. Cayce. Would you raise your  
8 right hand to be sworn.

9 (Witness sworn.)

10 JUDGE CLARK: Please be seated, speak in  
11 the microphone, and state and spell your name for the  
12 record.

13 THE WITNESS: My name is Mark Cayce,  
14 C-a-y-c-e.

15 MARK CAYCE, having been sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. OPITZ:

17 Q. Mr. Cayce, can you tell the court  
18 reporter where you're employed and in what capacity?

19 A. I'm the general manager for Ouachita  
20 Electric Cooperative, and we are headquartered in  
21 Camden, Arkansas.

22 Q. And you pre-filed testimony in this case  
23 that I've marked as Exhibit 450, your Rebuttal  
24 Testimony on behalf of Renew Missouri; is that  
25 correct?

1 A. That's correct.

2 Q. And do you have any corrections or  
3 changes to that testimony?

4 A. No.

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

8 A. I believe so.

9 Q. And that testimony is true and accurate,  
10 to the best of your knowledge and belief?

11 A. Yes.

12 MR. OPITZ: Judge, at this time I would  
13 offer Exhibit 450 into evidence, which is the Rebuttal  
14 Testimony of Mark Cayce.

15 JUDGE CLARK: Any objection to admitting  
16 Exhibit 450 onto the hearing record? I hear no  
17 objection.

18 Exhibit 450, the Rebuttal Testimony of  
19 Mark Cayce, will be admitted onto the hearing record.

20 (Exhibit 450 was received into evidence.)

21 MR. OPITZ: Thank you. And I tender the  
22 witness for cross-examination.

23 JUDGE CLARK: Any cross-examination by  
24 The Depar-- Division of Energy?

25 MR. WESTEN: None, Judge. Thank you.

1 JUDGE CLARK: Any cross-examination by  
2 the Natural Resources Defense Council?

3 MR. ROBERTSON: No, Judge.

4 JUDGE CLARK: MECG?

5 MR. WOODSMALL: No questions.

6 JUDGE CLARK: National Housing Trust?

7 MR. LINHARES: None. Thank you, Judge.

8 JUDGE CLARK: Office of Public Counsel?

9 MR. HALL: Yes, Your Honor.

10 CROSS-EXAMINATION BY MR. HALL:

11 Q. Mr. Cayce, good afternoon.

12 A. Good afternoon.

13 Q. So Mr. Cayce, you're the general manager  
14 of an electric co-op. Correct?

15 A. That's correct.

16 Q. Now, an electric co-ops here in Missouri  
17 aren't regulated. I'm assuming you're similarly  
18 situated?

19 A. In Arkansas the cooperatives are  
20 regulated by the Public Service Commission.

21 Q. Are they still member-owned though?

22 A. We are still member-owned.

23 Q. When did -- when did the Ouachita  
24 Electric Cooperative, if I'm pronouncing that  
25 correctly, first adopt PAYS?

1           A.     We adopted it -- I'm thinking the  
2 Commission approved it in February of 2016. We  
3 actually had it implemented by April of 2016.

4           Q.     And over the past three years then,  
5 what's your default rate been?

6           A.     Under the PAYS tariff, we've had zero  
7 defaults.

8           Q.     How does -- are you taking any losses  
9 when you operate the PAYS program?

10          A.     We've had zero losses under the PAYS  
11 program. The PAYS program is a tariff-based program  
12 and the tariff is attached to a member's location or  
13 to their -- their meter location.

14          Q.     Are you making a return?

15          A.     We do earn a return on our investments in  
16 PAYS.

17          Q.     How much?

18          A.     We're earning in the 10 to 12 percent  
19 range.

20          Q.     Let's go back to talking about -- you  
21 mentioned it was attached -- it was directed -- or  
22 rather you said something -- something to the effect  
23 of it's attached to the customer. What does a basic  
24 PAYS participant look like?

25          A.     We have invested in single-family homes,

1 multi-family homes. We would go in and do an analysis  
2 of the property, decide what measures that would pay  
3 for themselves, could be implemented; insulation, air  
4 ceiling, duct ceiling, as well as new heating and air,  
5 and upgraded their lighting to LED lighting.

6 Q. How -- can you give us an overview of the  
7 demographics of your service territory?

8 A. Ouachita County and our -- the five  
9 counties we serve in south Arkansas is considered part  
10 of the Delta region. Somewhere over 50 percent of our  
11 members fall below the poverty line. We have a lot of  
12 senior citizen and fixed income.

13 Q. All things being average then, do -- do  
14 the PAYS participants generally reflect the average  
15 demographics of your service territory?

16 A. Yes. Pretty much.

17 Q. Are these people with good credit?

18 A. We do not do credit checks to implement  
19 PAYS because it's not a loan. We're not loaning money  
20 so we don't require a credit check. We are investing  
21 in individual properties. And just like with any  
22 investment, we expect to earn a return.

23 Q. There's been testimony in this case to  
24 the effect of PAYS being -- involving loans or liens.  
25 Can you help me understand how PAYS works?

1           A.     After we evaluate a home, we'll make  
2 recommendations as to the improvements that can be  
3 done to improve the energy efficiency of the home.  
4 And we only recommend improvements that will pay for  
5 themselves; primarily insulation, duct ceiling, air  
6 ceiling, new heating -- like I say, new HVAC. We  
7 include smart thermostats. We're also -- have just  
8 recently started some home zone.

9           Q.     Okay. Does this involve loans though?  
10 Are you loaning to your customers?

11          A.     There are no loans. If we invest in a  
12 property and that individual moves away, because the  
13 tariff is fixed to the location, whoever moves into  
14 that property, they're on that specific tariff. And  
15 the PAYS amount is a line item on their bill that  
16 shows the energy improvements. And they continue to  
17 pay that amount until we've recovered our investment.

18          Q.     Is there a lien then?

19          A.     No lien.

20          Q.     In your opinion as the general manager of  
21 the cooperative, are these -- would these customers be  
22 able to make these improvements without PAYS?

23          A.     Many of them would not. As I said,  
24 most -- many of them are low-income. They probably  
25 couldn't get a loan.

1 Q. Are you aware of any investor-owned  
2 utilities that have adopted PAYS?

3 A. I am aware that Georgia Power is  
4 implementing a PAYS program. I don't know if it's  
5 actually started yet.

6 Q. Going back to the beginning, I asked you  
7 when you adopted it. I guess I didn't follow up and  
8 ask why did Ouachita Electric Cooperative adopt PAYS?

9 A. We initially were doing on-bill financing  
10 with loans. And when the PAYS program was brought to  
11 our attention, we looked at that and we felt like it  
12 was a much less risky investment and that it actually  
13 did a return. We did a financial analysis to estimate  
14 the returns and those have proven out.

15 Q. I believe PAYS has implementers. Do you  
16 have an implementer? Or correct me if I'm wrong.

17 A. We have a program operator. And that  
18 program operator finds qualified home inspectors and  
19 home energy auditors. They also help us find  
20 contractors to do all the work; insulation, HVAC.

21 Q. And where's your implementer located?

22 A. They're actually located in Little Rock.

23 Q. Based on your experience as a general  
24 manager of a Commission-regulated utility, do you  
25 believe PAYS could be successful with an

1 investor-owned utility?

2 A. I believe PAYS could be successful with  
3 any utility. As I've said, we actually earn a return,  
4 which helps us recover any -- any costs associated  
5 with PAYS, but it goes above and beyond. Like any  
6 investment -- like I say, we want to earn a return on  
7 those investments. But it's very beneficial to the  
8 members because we're averaging over 15 percent lower  
9 utility bills for every house that participates in the  
10 PAYS program.

11 Q. But do you have any personal experience  
12 working with an investor-owned utility versus a co-op?

13 A. I spent almost 15 years working in the  
14 Texas Utility System. And I've also worked for  
15 Jackson Electric Co-op, which is a co-op in south  
16 Texas before moving to Arkansas about 18 years ago.

17 Q. You may have already said this, but  
18 refresh me then. How long have you been working for  
19 Ouachita then?

20 A. Almost 18 years.

21 Q. Okay. Eighteen years, three -- past  
22 three years have been with PAY-- you've had PAYS  
23 implemented. How many of your customers have signed  
24 on with PAYS since its implementation?

25 A. We get more every day, but we're just



1 under 600 homes. We have about 5,000 residential  
2 members. So it's over 10 percent of our total  
3 membership.

4 Q. Have you ever been asked to speak on PAYS  
5 before?

6 A. I've been asked numerous times to speak  
7 on PAYS around -- at different places around the  
8 country. I have spoken to the National Association of  
9 Public Utility Regulators, I have spoken to the ACEEE.

10 Q. When did you last speak to -- I believe  
11 you were featured at the National Association of  
12 Regulated Utility Commissioners on -- the past 2018  
13 conference. Am I correct?

14 A. That's correct.

15 Q. Give us a feel for what your talk was.

16 A. Pretty much what I've been describing  
17 here is how it benefits the individual members who  
18 participate by lowering their bill. The fact that it  
19 creates no debt, the fact that every one of our  
20 members is eligible. It's strictly a voluntary  
21 program. Only those that request to participate,  
22 participate. Nothing's mandatory.

23 Q. Were you a keynote or was this a panel?

24 A. I served on a panel.

25 Q. Who was on the panel with you?

1 A. Gosh, I think there were four individuals  
2 on the panel and I can't remember all their names.

3 Q. Was Dr. Marke on the panel with you?

4 A. Yes, he was.

5 Q. Who asked you to be on that panel?

6 A. Specifically I don't remember who -- when  
7 I got the invite. There were a couple responsible,  
8 but I believe some of it was from Missouri.

9 Q. You believe -- to your recollection, was  
10 one of them Commissioner Maida Coleman?

11 A. I believe that's correct.

12 Q. Thank you. No further questions.

13 MR. HALL: I indicated no further  
14 questions, Your Honor.

15 JUDGE CLARK: I'm sorry. I missed that  
16 last part.

17 Any questions from Commission Staff?

18 MS. MERS: No, thank you.

19 JUDGE CLARK: Any cross-examination from  
20 the Company?

21 MR. STEINER: A few, Your Honor.

22 CROSS-EXAMINATION BY MR. STEINER:

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. I think you said you had 5,000 total

1 residential customers; is that right?

2 A. That's correct.

3 Q. And how many total customers?

4 A. We have about 9,400 meters, about 7,000  
5 members.

6 Q. And the program you're talking about has  
7 been taken advantage of by more than residential  
8 customers; is that right?

9 A. That's correct. We have provided  
10 services to most of our school districts, our county  
11 buildings.

12 Q. Okay. Thank you. I think you say in  
13 your testimony you invested 2 million dollars. Is  
14 that money from the cooperative?

15 A. That is money that -- initially it's  
16 money that was borrowed from our -- our lender, which  
17 is CFC, the Cooperative Finance Corporation.

18 Q. So you had to borrow money to start the  
19 program; is that correct?

20 A. That's correct.

21 Q. Did you get a discounted interest rate to  
22 borrow that money?

23 A. We paid our -- our same interest rate.  
24 One of the advantages of --

25 Q. That's --

1 A. -- as a tariff --

2 Q. You answered my question. Thank you.

3 MR. STEINER: That's all I have, Judge.

4 JUDGE CLARK: Thank you. Any questions  
5 from the Commission?

6 COMMISSIONER KENNEY: No, I'm good.

7 Thank you.

8 QUESTIONS BY JUDGE CLARK:

9 Q. I had one question. You had indicated --  
10 you call these investments. Does the cooperative own  
11 property on the customer's side of the meter?

12 A. We don't own property, but we have  
13 invested in new heating and air installation to be  
14 installed on the property.

15 Q. Okay. Well, how would -- how would you  
16 classify these investments then?

17 A. We don't have a certificate of ownership  
18 and we ca-- I'm trying to think how to answer that.  
19 We can't go get it back.

20 Q. And I understand from -- from -- from  
21 your testimony that it's -- that it's in the tariff  
22 and goes with the property.

23 A. And once we've recovered our initial  
24 investment, it stays with the property and becomes the  
25 property of the homeowner or -- or the tenant.

1 Q. But it's not their property until you've  
2 recovered the investment, but it's not your property  
3 either.

4 A. Yeah, I guess that's correct.

5 JUDGE CLARK: Any questions based upon  
6 Commission questions? Just for the sake of running  
7 through the list, Department -- or Division of Energy?

8 MR. WESTEN: No, Judge. Thank you.

9 JUDGE CLARK: NRDC?

10 MR. ROBERTSON: No, thank you.

11 JUDGE CLARK: MECG?

12 MR. WOODSMALL: No, thank you.

13 JUDGE CLARK: National Housing Trust?

14 MR. LINHARES: No. Thank you, Judge.

15 JUDGE CLARK: OPC?

16 MR. HALL: No, thank you.

17 JUDGE CLARK: Staff?

18 MS. MERS: No, thank you.

19 JUDGE CLARK: And anything from the  
20 Company?

21 MR. STEINER: No questions.

22 JUDGE CLARK: Okay. Thank you,

23 Mr. Cayce.

24 THE WITNESS: Thank you.

25 MR. OPITZ: I might have a redirect --

1 JUDGE CLARK: Did you --

2 MR. OPITZ: -- question or two, if that's  
3 okay, Judge.

4 JUDGE CLARK: Let me just ask this  
5 question. I did admit his testimony on the record,  
6 did I not?

7 MR. OPITZ: You did, yes.

8 JUDGE CLARK: Okay. Thank you.

9 REDIRECT EXAMINATION BY MR. OPITZ:

10 Q. Mr. Cayce, counsel for the Company was  
11 asking about where you got the money to make these  
12 investments on the customer's side of the meter. Do  
13 you recall that?

14 A. Yes.

15 Q. And you started to give an answer. Can  
16 you -- can you explain where you -- where you were  
17 going with that?

18 A. We borrow all of our operating funds from  
19 CFC, Cooperative Finance Corporation. They're a bank  
20 that was created to lend money to electric and  
21 telephone cooperatives.

22 Q. Okay. Mister -- counsel for OPC was --  
23 was talking about some of the -- he was asking about  
24 the demographics of the participants. Is one of the  
25 demographics or -- or statistics that you're keeping

1 track of is whether renters are participating?

2 A. That's correct.

3 Q. And can you give me a sense of how -- how  
4 many of your 600 customers who participated are  
5 renters?

6 A. Just under half at this time. I think  
7 the data submitted with the testimony was data from a  
8 year ago and it has increased since then.

9 Q. And so would you say that PAYS is -- has  
10 been helpful in reaching customers who are renters and  
11 getting them to be more energy efficient?

12 A. Yes. Because we've been able to -- an  
13 actual tenant can actually request the PAYS services  
14 and we will go in and upgrade the equipment. On  
15 rental property it has to have the approval of the  
16 landlord, but we've yet to have a landlord say we  
17 cannot make improvements to their property.

18 Q. And one of the other I think questions  
19 counsel for OPC was talking about was the income  
20 levels of your customers. Would you say that having a  
21 PAYS program has been helpful in reaching low-income  
22 customers?

23 A. It's been very beneficial. Because other  
24 programs can't really go in and make the improvements  
25 to the rental property that most of them live in.

1 Q. And -- and PAYS has allowed you to do  
2 that?

3 A. Yes.

4 Q. I guess the -- the last question I'd have  
5 is in your experience with implementing this program  
6 in Arkansas, how has it impacted the member-owners  
7 satisfaction with the utility, if at all?

8 A. Everyone -- well, I would say 98 percent  
9 of everybody that's participated has been very happy.  
10 We've had a couple say that I was hoping to save more,  
11 but everyone is -- is saving that's participating.

12 And -- but other members benefit as well  
13 because it lowers our overall cost of power. And  
14 that's -- that's how we earn a return because it  
15 reduces our -- our peak demand. And we are billed on  
16 our coincident peak demand and we're averaging almost  
17 2 kW per home for every home that participates in the  
18 program.

19 Q. And -- and -- but you also earn a return  
20 on the money that's invested that's paid back through  
21 the -- the customer's bill; is that correct?

22 A. The earnings come from the savings in  
23 peak demand.

24 Q. Okay.

25 A. Because we have to buy -- we don't



1 actually own generation, but we have to buy our power  
2 from a wholesale supplier and that rate is determined  
3 by the amount of kW at coincident peak.

4 Q. And I guess just a final question, would  
5 you recommend that other utilities pursue a PAYS  
6 program?

7 A. I would recommend that.

8 MR. OPITZ: Thank you. That's all I  
9 have, Judge.

10 JUDGE CLARK: Okay. Thank you,  
11 Mr. Cayce. You can step down.

12 Company's next witness.

13 MR. FISCHER: Tim Nelson.

14 JUDGE CLARK: Mr. Nelson, would you raise  
15 your right hand and be sworn.

16 (Witness sworn.)

17 JUDGE CLARK: Please be seated and state  
18 and spell your name for the record.

19 THE WITNESS: Tim Nelson, T-i-m  
20 N-e-l-s-o-n.

21 JUDGE CLARK: Okay. Go ahead.

22 TIM NELSON, having been sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. FISCHER:

24 Q. Mr. Nelson, would you explain to the  
25 Commission your position with the Company and your

1 role in preparing the Direct and Surrebuttal Reports?

2 A. Yes. I -- my title is manager of  
3 analytics and I am in the Energy Solutions Group and I  
4 have testimony both in the application and in the  
5 surrebuttal. In the surrebuttal I cover various  
6 topics including cost-effectiveness, cycle of denial,  
7 the TRM and synching issues with the potential study  
8 and the IRP and maybe a few others.

9 Q. Do you know of any changes you need to  
10 make to the sections you wrote?

11 A. No. No changes.

12 MR. FISCHER: Judge, with that, I would  
13 tender the witness and -- for cross-examination.

14 JUDGE CLARK: Okay. Are you moving  
15 for -- the report is --

16 MR. FISCHER: Yeah. I'll move for that  
17 at the end of the case just -- if I don't forget it.

18 JUDGE CLARK: I'll try and remind you.

19 MR. FISCHER: Thank you.

20 JUDGE CLARK: I'll notice that it hasn't  
21 been done.

22 Okay. Division of Energy, do you have  
23 any cross-examination for this witness?

24 MR. WESTEN: No, thank you, Judge.

25 JUDGE CLARK: NRDC?

1 MR. ROBERTSON: No, Judge.

2 JUDGE CLARK: Renew Missouri?

3 MR. LINHARES: He stepped out quickly to  
4 confer with his witness, but I don't believe he has  
5 any cross.

6 JUDGE CLARK: Okay. We'll see if he  
7 comes back and expresses an interest.

8 MECG?

9 MR. WOODSMALL: No questions.

10 JUDGE CLARK: National Housing Trust?

11 MR. LINHARES: No, thank you, Judge.

12 JUDGE CLARK: The Office of Public  
13 Counsel?

14 MR. HALL: None at this time. Thank you.

15 JUDGE CLARK: And the Commission Staff?

16 CROSS-EXAMINATION BY MS. MERS:

17 Q. Good afternoon, Mr. Nelson.

18 A. Good afternoon.

19 Q. If you could turn to the Company's  
20 surrebuttal, page 11.

21 A. Yes.

22 Q. On lines 1 through 6 you testified that  
23 the Company's DSM programs are substituting for  
24 existing supply-side resources; is that correct?

25 A. Yes.

1 Q. And are those existing supply-side  
2 resources currently in rates?

3 A. Yes.

4 Q. And are customers currently paying a  
5 return on those resources?

6 A. Yes.

7 Q. And are customers currently paying  
8 operation and maintenance costs on those resources?

9 A. Yes.

10 Q. And customers don't pay a lower ROE on  
11 those resources for each kilowatt hour DSM programs  
12 would substitute for. Correct?

13 A. I would think I need to defer ROE  
14 questions to Mr. Ives.

15 Q. Okay. And under MEEIA all customers,  
16 excluding opt-outs, pay for earnings opportunity,  
17 program costs and the throughput disincentive; is that  
18 correct?

19 A. Except for those that opt out.

20 Q. Yes. And they would pay for the earning  
21 opportunity, the TD, the program costs while also  
22 paying for the return on and of existing supply-side  
23 resources. Correct?

24 A. Yes. They would pay that charge as well.

25 Q. And is the Company also not moving up any

1 retirements of existing supply-side resources based on  
2 the MEEIA Cycle 3 DSM savings alone. Correct?

3 A. That would have been a good question for  
4 Mr. Crawford.

5 Q. Okay.

6 A. He's the IRP guru.

7 Q. Sure. I apologize for missing that one  
8 then.

9 If we look at the -- staying on the same  
10 page, lines 17 through 20, you mention the SPP  
11 utilizing the CONE to value capacity for resource  
12 adequacy requirements. Do you recall the name of that  
13 penalty?

14 A. I don't recall the name of the penalty.

15 Q. The deficiency payment -- I think it's  
16 located on Attachment A-A of the SPP open access  
17 tariff, page 26. Does that ring any bells or is  
18 that --

19 A. I -- I -- I don't recall. It's been a  
20 while since I've reviewed that.

21 Q. Okay. Do you recall if that value  
22 applies to any SPP member that meets or exceeds the  
23 SPP resource adequacy requirement?

24 A. Can you repeat the question?

25 Q. Does that value apply to any SPP member

1 that -- okay. Does that value apply to any SPP member  
2 that meets or exceeds the SPP resource adequacy  
3 requirement?

4 A. Meets or exceeds?

5 Q. Yes.

6 A. Well, I think the penalty would apply if  
7 you don't have enough capacity to meet the  
8 requirement.

9 Q. Okay. So it's only a cost if you don't  
10 have capacity?

11 A. Correct.

12 Q. So that specific cost would only be  
13 avoided if the SPP members report short on capacity.  
14 Correct?

15 A. That's correct.

16 Q. Okay. Can we turn to pages -- we'll  
17 start with 19 of the Surrebuttal Report. I want to  
18 talk to you about the section of calculation of net  
19 benefits.

20 A. Yes.

21 Q. Okay. So on page 19, lines 10 through  
22 18, you express your disagreement with Staff's  
23 discounting of program and cost benefits to 2019  
24 dollars when calculating net benefits expected from  
25 Cycle 3.

1           The Company's approach is to -- you  
2 testify is to discount cost and benefits to each  
3 individual program year because budgets and targets  
4 are developed for each program year in nominal dollars  
5 and not discount to the first year of the cycle; is  
6 that correct?

7           A.     Right.

8           Q.     Okay. And does the net present value of  
9 net benefits for Cycle 3 or any MEEIA cycle represent  
10 one amount of dollars for the entire time period for  
11 which costs and benefits occur?

12          A.     Can you rephrase that?

13          Q.     I can try. Does the -- when you're  
14 looking at the net present value of the net benefits,  
15 do you calculate that amount once for the entire time  
16 period for -- over which the costs and benefits occur?

17          A.     Do I calculate it once?

18          Q.     Yes. Or do you -- true it up is probably  
19 not the -- the best word, but calculate inflation and  
20 other aspects to it from year to year?

21          A.     Well, what we've done in the application  
22 is just a one-time calculation. Is that what you're  
23 getting at as in the application?

24          Q.     Yes. Yes. So when you quantify the net  
25 benefits for the cycle -- is it for the cycle or is it

1 annual net benefits?

2 A. It's for the cycle.

3 Q. Okay. And what time period is that cycle  
4 for?

5 A. Well, the measure lives for each measure  
6 in each program is different, so the measure lives  
7 vary from one year to -- I don't remember what the  
8 longest one is, but I think there's one that's at  
9 least 20 years, but -- so the benefits would accrue  
10 over those -- those years.

11 Q. Okay. Do you agree with Staff that the  
12 earning opportunity payments to the Company should be  
13 included in the calculation of Cycle 3 net benefits?

14 A. Yes.

15 Q. And what --

16 JUDGE CLARK: Would you -- would you re--  
17 not rephrase, but would you repeat that question for  
18 me?

19 MS. MERS: Do you agree with Staff that  
20 the earning opportunity payments to the Company should  
21 be included in the calculation of Cycle 3 net  
22 benefits?

23 JUDGE CLARK: Thank you.

24 MS. MERS: Okay.

25 BY MS. MERS:



1 Q. And over what period of time does the  
2 earn-- do the earning opportunity payments occur?

3 A. The earnings opportunity payments occur  
4 after the evaluation, measurement and verification of  
5 the programs occurs. So generally speaking after a  
6 program year, the evaluation takes approximately the  
7 next year. And then once the -- the evaluation is  
8 complete and the numbers are confirmed, then the  
9 payment is -- is calculated, based on what we've  
10 proposed, on the -- the net actual achieved savings  
11 based on the EM&V.

12 Q. Is that a period of about ten years from  
13 once the EM&V has occurred?

14 A. Was what ten years?

15 Q. Is the -- you know, once you start --  
16 once the EM&V process has been completed, is the --  
17 would you agree that the time period is about ten  
18 years that you're collecting those earnings op--  
19 earning opportunity payments? Does that sound about  
20 right?

21 A. That's actually a question that is  
22 probably better for Mark Foltz as far as the  
23 recovery -- how that recovery occurs.

24 Q. Okay. Are you familiar with the  
25 calculation of net present value of revenue

1 requirement for valuating -- for valuing, excuse me,  
2 alternative resource plans for the IRP?

3 A. Somewhat, yes.

4 Q. Okay. Are you -- would you agree that  
5 the net present value of revenue requirement amounts  
6 are calculated by discounting a 20-year stream of  
7 annual revenue requirements in nominal dollars to the  
8 first year and only the first year of the 20-year  
9 stream of annual revenue requirements?

10 A. Are you talking about the IRP?

11 Q. Yes.

12 A. Okay. And the IRP is calculated back to  
13 one particular year.

14 Q. Okay. So we've heard a lot about how the  
15 IRP and MEEIA are linked. Correct?

16 A. Sure.

17 Q. So shouldn't the net present value of  
18 costs and benefits for a MEEIA cycle not be treated  
19 any differently than the net present value of a  
20 revenue requirement for an IRP?

21 A. Well, I don't think that we treated them  
22 differently, because the -- the core issue when you're  
23 doing this calculation to calculate is -- is  
24 calculating the cost-effectiveness and the  
25 cost-effectiveness test doesn't care what year you

1 calculate it back to as long as you calculate all of  
2 the costs and all the benefits to the same year for  
3 the cost-effectiveness calculation.

4           You would get the same result in  
5 cost-effectiveness regardless of which year you used  
6 as long as you appropriately discounted everything to  
7 the same year for the -- for the calculation.

8           Q.     Okay.  Were you involved in the GMO MEEIA  
9 Cycle 1?

10          A.     Cycle 1 was already in progress when I  
11 joined Energy Solutions, but I was in the group for  
12 the tail end of the Cycle 1.

13          Q.     Okay.  Can you please turn to the  
14 Company's Surrebuttal Report on page 24?  And I'll  
15 point you to lines 12 through 16.  So the Company's  
16 asserted that Staff has asserted that every individual  
17 customer must benefit.  Can you please point to where  
18 in Staff's Rebuttal Report that Staff asserted that  
19 every individual customer must benefit?

20          A.     I don't have a copy of Staff's report and  
21 I don't -- I don't think that they necessarily used  
22 that exact wording, but that is the implication of  
23 what they're saying, that -- that no customer can have  
24 a cost increase or -- I can't remember the exact  
25 wording.

1 Q. Are you familiar with Staff Witness John  
2 Rogers' analysis of the net benefits contained in the  
3 Rebuttal Report?

4 A. I recall reading it.

5 Q. Do you recall that when he performed that  
6 analysis, that it was for net benefit for  
7 non-participating customers, not every individual  
8 customer?

9 A. Okay.

10 Q. Okay. Thank you for your time. I have  
11 nothing further.

12 JUDGE CLARK: Any questions from the  
13 Commission?

14 QUESTIONS BY JUDGE CLARK:

15 Q. I actually have one question. And that  
16 is -- and I'm not meaning to be nit-picky, but to go  
17 back, you were asked a question as to whether MEEIA  
18 Cycle 3 was going to accelerate the retirement of any  
19 facility and you said that that was a question that  
20 was better for Mr. Crawford. Does that mean you don't  
21 know the answer to the question?

22 A. I don't recall the specifics on the  
23 analysis of that particular scenario precisely. We --  
24 we've done many different scenarios and I -- I haven't  
25 tried to keep the results of all of those in my head.

1 Q. Okay.

2 JUDGE CLARK: And Renew Missouri was out  
3 of the room. Do you have any cross-examination for  
4 this witness?

5 MR. OPITZ: No, thank you, Judge. I  
6 apologize for that.

7 JUDGE CLARK: Any redirect by the  
8 Company?

9 MR. FISCHER: Yes, briefly.

10 REDIRECT EXAMINATION BY MR. FISCHER:

11 Q. Mr. Nelson, I believe you were asked  
12 about page 11, lines 1 through 6, by Staff counsel.  
13 There I believe it indicated that however, the  
14 Company's DSM programs are substituting for existing  
15 supply-side resources.

16 A. Yes.

17 Q. Would you explain what you mean by that  
18 sentence?

19 A. Yeah. So when -- when we implement DSM  
20 programs, that reduces the -- the amount that the  
21 existing generators that we have need to run and so it  
22 would also potentially reduce the maintenance and  
23 other costs from those generators, as well as  
24 potentially reducing the amount of purchase power that  
25 we might have to buy.

1 Q. Okay. Is it your understanding that  
2 that's one of the points included in the Commission's  
3 MEEIA rules regarding it -- it needs to either  
4 substitute for existing supply-side or new supply-side  
5 resources, one or the other -- or any other?

6 A. Yes. It could do -- do either or both,  
7 but either way, the -- the real objective is to reduce  
8 revenue requirement.

9 Q. Okay. And that's what these do even  
10 though you may not be substituting for new power  
11 plant?

12 A. That's correct.

13 Q. You also were referred to page 19 I  
14 believe where you were talking about net benefits.

15 A. Yes.

16 Q. Are net benefits affected by the avoided  
17 cost value that's used in the calculation?

18 A. Yes, they are.

19 Q. Would you explain that to the Commission?

20 A. Sure. The -- the net benefits are --  
21 are -- the benefit side of the equation, net benefits  
22 is the total benefit minus the total costs. The costs  
23 are generally the program costs. The benefit side  
24 is -- is the -- the way the calculation works with the  
25 TRC test is the -- the avoided capacity cost times the

1 demand savings and then the avoided energy cost times  
2 the actual energy savings.

3 Q. I believe on page 21 you actually  
4 calculate the net benefits. I don't want you to get  
5 into the confidential number that's on line 7, but is  
6 it correct that the net benefits there, 66.8 million,  
7 that's -- that's what you calculated as net benefits?

8 A. Which is the -- the number you're  
9 referring to?

10 Q. I was referring to the 66.850519.

11 A. Maybe I'm on the wrong page.

12 Q. Page 21.

13 A. Line?

14 Q. Line 7.

15 A. Oh, there. Yes. Yes.

16 Q. That's the net benefits number that you  
17 calculated?

18 A. That's correct.

19 Q. And does that assume that -- the avoided  
20 cost value that's confidential on that same line?

21 A. Yes, it is.

22 Q. If you use that same avoided cost number  
23 that's on that line, would your -- would your programs  
24 be cost-effective?

25 A. Yes, they would.

1 MR. FISCHER: That's all I have, Judge.

2 JUDGE CLARK: Thank you. Mr. Nelson, you  
3 can step down.

4 Company, you can call your next witness.

5 MR. STEINER: Mark Foltz, please.

6 JUDGE CLARK: Mr. Foltz, will you raise  
7 your right hand and be sworn.

8 (Witness sworn.)

9 JUDGE CLARK: Please be seated and state  
10 and spell your name for the record.

11 THE WITNESS: Mark Foltz, M-a-r-k  
12 F-o-l-t-z.

13 JUDGE CLARK: Company.

14 MARK FOLTZ, having been sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. STEINER:

16 Q. Mr. Foltz, where do you work and what do  
17 you do?

18 A. I am employed with KC-- Kansas City Power  
19 & Light as senior project director. I work to support  
20 the MEEIA programs, as well as financial analysis on  
21 various other projects and programs.

22 Q. Mr. Foltz, did you prepare certain  
23 sections of the Company's Direct and Surrebuttal  
24 Report that we're discussing here today?

25 A. Yes.



1 MR. STEINER: Judge, I'd tender the  
2 witness for cross.

3 JUDGE CLARK: Any cross-examination from  
4 The Division of Energy?

5 MR. WESTEN: None, Judge. Thank you.

6 JUDGE CLARK: Any cross-examination from  
7 NRDC?

8 MR. ROBERTSON: No, Judge.

9 JUDGE CLARK: Any cross-examination from  
10 Renew Missouri?

11 MR. OPITZ: No, thank you, Judge.

12 JUDGE CLARK: Any cross-examination from  
13 MECG?

14 MR. WOODSMALL: No, thank you.

15 JUDGE CLARK: Any cross-examination from  
16 The National Housing Trust?

17 MR. LINHARES: Thank you. No questions,  
18 Judge.

19 JUDGE CLARK: Any cross-examination from  
20 the Office of the Public Counsel?

21 MR. HALL: No questions at this time.

22 JUDGE CLARK: Any cross-examination from  
23 the Commission Staff?

24 MR. PRINGLE: No questions, Judge.

25 JUDGE CLARK: Okay. Any -- any questions

1 from the Commission?

2 COMMISSIONER KENNEY: No. Thank you.

3 JUDGE CLARK: Okay. Mr. Foltz, you're  
4 dismissed.

5 And the Company can call its next  
6 witness.

7 MR. STEINER: Darrin Ives, please.

8 JUDGE CLARK: Mr. Ives, would you raise  
9 your right hand and be sworn.

10 (Witness sworn.)

11 JUDGE CLARK: Please be seated and state  
12 and spell your name for the record.

13 THE WITNESS: My name is Darrin,  
14 D-a-r-r-i-n, Ives, I-v-e-s.

15 JUDGE CLARK: Go ahead.

16 DARRIN IVES, having been sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. STEINER:

18 Q. Mr. Ives, what is your position at the  
19 Company?

20 A. I am the vice president of regulatory  
21 affairs for all of the operating utilities for the  
22 Evergy Company.

23 Q. Mr. Ives, were you involved in  
24 preparation of sections of the Company's Direct and  
25 Surrebuttal Reports?

1 A. Yes.

2 MR. STEINER: I would tender the witness  
3 for cross-examination.

4 JUDGE CLARK: Any cross-examination by  
5 The Division of Energy?

6 MR. WESTEN: No, Judge. Thank you.

7 JUDGE CLARK: Any cross-examination by  
8 NRDC?

9 MR. ROBERTSON: No, Judge.

10 JUDGE CLARK: Any cross-examination by  
11 Renew Missouri?

12 MR. OPITZ: No, thank you, Judge.

13 JUDGE CLARK: Any cross-examination by  
14 MECG?

15 MR. WOODSMALL: Yes, briefly.

16 CROSS-EXAMINATION BY MR. WOODSMALL:

17 Q. Good afternoon, sir.

18 A. Good afternoon.

19 Q. Are you familiar with the demand response  
20 program that was proposed as part of the Company's  
21 MEEIA 3 application?

22 A. Yes.

23 Q. Can you tell me what the demand response  
24 program is? I'm sorry.

25 A. Yeah. I think generally it's a program

1 available to -- to provide an incentive to -- to  
2 customers to -- to allow for the ability to utilize  
3 interruptible or curtailable load to -- to the benefit  
4 of managing peak demands.

5 Q. And when you say incentives, you're  
6 referring to financial incentives?

7 A. Yes.

8 Q. Okay. And what are the benefits to the  
9 Company of having interruptible customers?

10 A. Well, again, I think it allows us in --  
11 in periods where we have pressure of load during a  
12 peak demand period to ask those customers to -- to  
13 curtail or interrupt their load to -- to take pressure  
14 off of the system.

15 Q. So in the middle of the summer when  
16 you're seeing a high SPP price for electricity, you  
17 could ask these customers to interrupt some of their  
18 load and, thus, reduce your cost for paying those SPP  
19 prices; is that correct?

20 A. That would be one of the scenarios, yes.

21 Q. Okay. And do those benefits eventually  
22 flow back to all customers?

23 A. Yes.

24 Q. Okay. I don't want to get into any  
25 confidential customer names, but would you agree that

1 KCP&L's largest interruptible customer is willing to  
2 interrupt approximately six megawatts of load?

3 A. That's my understanding. I think we have  
4 testimony that says our -- our customers that have  
5 opted out, you know, represent about 35 percent of --  
6 of our interruptible load under our business response  
7 tariff.

8 Q. And KCPL's smallest interruptible  
9 customer is approximately 25 kW; is that correct?

10 A. I believe that's right. I haven't looked  
11 at that list recently.

12 Q. Okay. And let's talk about the opt-out  
13 provisions briefly. Can you describe for me how the  
14 opt-out provisions work?

15 A. Ye-- generally the -- the -- the MEEIA  
16 rules allow for customers to opt out of -- of paying  
17 for MEEIA charges and -- and, therefore, not  
18 participate in any other MEEIA programs, with the  
19 exception of the discussion that was had earlier in  
20 this proceeding about their ability to participate in  
21 interruptible or curtail-- curtailable schedules or  
22 tariffs.

23 Q. And you said MEEIA rules. Is it your  
24 understanding that initially that opt-out ability  
25 comes from the MEEIA statute?

1 A. Yes. That's correct.

2 Q. Okay. And when you say customers can opt  
3 out, can you tell me what type of customers have the  
4 ability to opt out?

5 A. Well, it's generally -- it's generally  
6 the larger customers. I don't -- I don't have that  
7 language in front of me, but I think it's fairly  
8 prescriptive in the statute and rules.

9 Q. Would you agree that, in general, in  
10 order to opt out, except for interstate pipelines, you  
11 have to have a load in excess of 2.5 megawatts? Do  
12 you recall that?

13 A. I don't recall the exact, but -- but I do  
14 know that there's a prescriptive threshold.

15 Q. Okay. Do you know -- and I have the --  
16 the tariff if you need to look at it. Would you agree  
17 that KCP&L's current non-residential MEEIA charge is  
18 .252 cents per kWh?

19 A. Can you say that again? I'm sorry.

20 Q. Would you agree that KCP&L's current  
21 non-residential MEEIA charge is .252 cents per kWh?

22 A. That -- that sounds about right.

23 Q. Okay. Would KCP&L agree that the  
24 customers with the largest amount of interruptible  
25 load are usually customers that have already opted out

1 as well?

2 A. That's generally true. Not -- not in all  
3 cases, but generally.

4 Q. Do you have any sense of whether the  
5 benefits of participating in demand response, that is  
6 the interruptible compensation, are equal to the  
7 benefits of opting out?

8 A. Yeah, there's -- there's certainly a  
9 benefit to -- to customers for participation in the --  
10 in the interruptible tariffs or the -- the business  
11 response tariffs. You know, it all depends upon the  
12 size and scale of the customer, but -- but the larger  
13 customers I think would not see a benefit sufficient  
14 to -- to cover the ch-- the charge that they would  
15 incur under the MEEIA rate as it currently sits.

16 Q. KCP&L -- prior to business demand  
17 response program KCP&L had an interruptible program  
18 known as MPower; is that correct?

19 A. That's correct.

20 Q. And do you recall MPower dates back to  
21 2007?

22 A. It's quite a while back, yeah.

23 Q. Okay. And it recently ended in -- when  
24 your last MEEIA programs were approved in 2016?

25 A. I think that's right.

1 Q. Okay. And I have a copy of that most  
2 recent tariff if you -- if you need to see it, but  
3 first off, would you agree that the -- the rates --  
4 the compensation payments for MPower were included in  
5 that tariff?

6 A. I haven't looked at that tariff in a  
7 while, but I suspect if you put it in front of me, it  
8 will demonstrate that it -- that it was in that  
9 tariff.

10 Q. And generally there's different levels of  
11 compensation dependent on how long you have been in  
12 the MPower program, but in general the compensation  
13 ranged between 250 per kW and 450 per kW?

14 A. That range sounds -- sounds reasonable.  
15 That sounds like about where we were.

16 Q. I don't have any further questions.  
17 Thank you.

18 JUDGE CLARK: Any cross-examination from  
19 The National Housing Trust?

20 MR. LINHARES: No. Thank you, Judge.

21 JUDGE CLARK: Any cross-examination from  
22 the Office of Public Counsel?

23 MR. HALL: Just a quick follow-up.

24 CROSS-EXAMINATION BY MR. HALL:

25 Q. You were asked about MPower.



1 A. Yes.

2 Q. You said that was back in 2007?

3 A. I think that's probably --

4 Q. Sorry.

5 A. -- around when it initiated and I think  
6 it ran until like 2016.

7 Q. Were there any predecessor programs?

8 A. You're straining my historical knowledge  
9 of those tariffs. I'm not sure.

10 Q. Thank you. No further questions.

11 JUDGE CLARK: Any cross-examination from  
12 the Commission Staff?

13 MR. PRINGLE: Yes, Judge.

14 CROSS-EXAMINATION BY MR. PRINGLE:

15 Q. Good afternoon, Mr. Ives.

16 A. Good afternoon.

17 Q. Do you have a copy of the Company's  
18 Surrebuttal Report in front of you?

19 A. I do.

20 Q. Could you please turn to page 44, lines 2  
21 through 8?

22 A. Okay. I'm there.

23 Q. All right. And if you want a moment to  
24 review it and then look up when you're ready.

25 A. Okay.

1 Q. Where is the authority that an earnings  
2 opportunity should be a percentage of program budget?

3 A. I don't believe there's an authority. I  
4 think this is a way to measure consistency of EO  
5 across a number of cycles and -- and across us and  
6 Ameren. There are probably multiple ways to do that;  
7 whether it's net benefits, percent of budget, percent  
8 of kilowatt hours saved.

9 And I think if you run them across any of  
10 those metrics, certainly be much more consistency with  
11 the way we filed the programs then a zero EO compared  
12 to prior cycles or Ameren's.

13 Q. But there is no statute or rule for it?

14 A. Not -- not other than I believe the  
15 statute and the rules say that we -- we should be  
16 provided an earnings opportunity.

17 Q. Thank you, Mr. Ives. No further  
18 questions.

19 JUDGE CLARK: Any questions from the  
20 Commission?

21 COMMISSIONER KENNEY: No, I don't have  
22 any, Mr. Ives. Thank you.

23 THE WITNESS: Thank you.

24 QUESTIONS BY JUDGE CLARK:

25 Q. Mr. Ives, how many programs are in the

1 MEEIA Cycle 3 portfolio?

2 A. There are a number. I'm trying to find  
3 if there's an easy place. It's actually a better  
4 question for one of our other witnesses, but I'm  
5 trying to see if I can find that -- a quick spot to  
6 answer that for you.

7 Q. Which witness is that a better question  
8 for -- or would that have been a better question for?

9 A. Mr. File was responsible for a lot of our  
10 program discussion in the report. Mister --  
11 Mr. Nelson probably could address that as well.  
12 They're individuals that they kind of manage those  
13 programs on a day-to-day and year-to-year basis.

14 Q. What's -- from the Company's perspective,  
15 what is the purpose of the MEEIA statute?

16 A. Yeah, so -- so from our perspective  
17 the -- the purpose of the statute was to -- to set out  
18 that it was the policy of the State to provide for  
19 the -- the implementation and adoption of  
20 cost-effective DSM programs both -- both providing  
21 energy and/or demand benefits that -- that ultimately  
22 would benefit all customers.

23 And I think, you know, as we've  
24 discussed, you know, our view of the world is the --  
25 the link between the MEEIA process and the IRP process

1 is so that we can utilize the IRP and the net present  
2 value revenue requirements to determine whether it is  
3 in the best interest of customers to -- to put the  
4 programs in place.

5 I think what the State wanted to do at  
6 the time that -- that MEEIA was put in place was per--  
7 find a way to incent utilities to offer programs  
8 that -- that they otherwise wouldn't -- wouldn't  
9 offer.

10 You know, Mr. Caisley I think said it  
11 well, but it would be much easier as a utility to  
12 continue to -- to utilize supply-side resources to  
13 serve our customers' needs over the long term.

14 There's a lot of execution risk with  
15 MEEIA energy efficiency programs that -- there's a lot  
16 of scrutiny that comes from all the parties that are  
17 certainly sitting in this room today and a lot of  
18 delay, as we've seen over each cycle of trying to get  
19 this process approved that we don't face when we meet  
20 customers' needs with supply-side.

21 But the legislature was pretty clear that  
22 they wanted energy efficiency and -- and demand-side  
23 programs to be a part of the solution in Missouri.  
24 And that's why we continue to come in here and we  
25 continue to put programs forward that can move the

1 ball forward for that policy.

2 Q. Okay. You're -- you're the last witness  
3 for the Company I can really ask this question to.  
4 What -- what are the avoided costs? Not -- not  
5 number-wise, but what are the avoided costs for MEEIA  
6 Cycle 3?

7 A. Yeah, so avoided costs certainly -- as  
8 was discussed a little bit with -- with Mr. Nelson,  
9 has -- has to do with the avoidance of some of the  
10 operations of existing facilities. In that regard, it  
11 is true that -- that those existing facilities kind of  
12 as they were invested in the last time we were in for  
13 a rate case are in rates and are being recovered from  
14 customers with a return.

15 It's also true that if you don't run  
16 those facilities as hard and utilize those facilities  
17 at the same level that you had been because you're now  
18 reducing energy and demand through your programs,  
19 you're going to have over a long-term lower repairs  
20 costs on those facilities, whether it's repairs from a  
21 maintenance perspective or repairs from a capital  
22 perspective, replacing parts that have been run and  
23 would get to a break/fix mode. So -- so that's a  
24 piece of it.

25 You have lower energy costs.

1 Particularly as you think about a lower demand usually  
2 when you need less energy out of the market, the first  
3 energy that comes out of the pecking order comes from  
4 higher cost resources in an RTO environment. So if  
5 you're not tapping those higher cost resources to  
6 provide energy, the -- the energy cost is going down  
7 at the node that you're serving, which ultimately is  
8 flowing through the fuel adjustment clause to the  
9 benefit of all customers.

10           You have environmental benefits that --  
11 that occur by -- by not generating the kilowatt hours  
12 from existing fossil facilities. You have -- I had  
13 one more. I've lost my train of thought.

14           I had one more thing I wanted to make --  
15 oh, and we talked about this in the -- in the opening  
16 from Mr. Fischer. You have economic benefits --  
17 economic development benefits for people that are  
18 interested to come in the state that promotes this, as  
19 well as economic development benefits because you have  
20 more dollars to -- to reinvest back in the state when  
21 you have lower energy bills and you also have jobs  
22 that are added as -- as were talked about in the  
23 opening.

24           And the potential for lower SPP benefits,  
25 particular-- or lower SPP costs, particularly the

1 costs that drive on kilowatt hours. So if you're --  
2 if you're procuring less kilowatt hours out of the  
3 system, you're incurring less of those SPP benefits.

4 Mr. Caisley mentioned that our ability to  
5 utilize DERMS, to utilize the technology continues to  
6 get better as each year passes based on investments  
7 that were made in some of those systems. And  
8 ultimately will allow us to get to better locational  
9 decision-making and ultimately demonstrate better, you  
10 know, transmission or distribution impacts.

11 All of those things will -- will be at  
12 risk of sliding backwards if we don't keep continuity  
13 in the programs and continue to operate MEEIA in the  
14 state.

15 Q. And in regard to the -- the wear and tear  
16 on the facilities, do you have a formula by which  
17 you're quantifying those in the same way that  
18 depreciation is quantified?

19 A. I -- I -- I think experience will  
20 ultimately tell us how that happens, as you -- you run  
21 through an existing system. I mean as you can expect,  
22 there are probably hundreds of things that can affect  
23 the operation and the wear and tear on parts on a  
24 generating facility, particularly some that are 30,  
25 40 years old like some of our facilities.

1           But -- but I know it is very intuitive  
2 that if we run them less, they will break down less  
3 and we'll have less repairs to make. That -- that --  
4 can I put it in a formula? Can I mathematically get  
5 there? I don't think I have that -- that level of  
6 visibility to impacts to do that in any way that would  
7 be, you know, something I would stand on from a --  
8 from a mathematical call.

9           Q.     I wasn't asking if you had the ability to  
10 do it. I was asking if that was something you've  
11 done, but it's not --

12          A.     Yeah. Either way. Either way. I think  
13 even if we'd done it, I would not feel comfortable  
14 standing on that math because I think there's --  
15 there's a lot of other variables that could come into  
16 play on that. But it's very intuitive to me that  
17 there will be benefits of not running those units at  
18 the level that -- that we otherwise would.

19          Q.     So that's not -- when you mention that,  
20 that's not something that's actually -- that's  
21 actually physically factored in?

22          A.     It's not calculated into the way we have  
23 valued benefits. Just like some of the environmental  
24 benefits are not calculated and factored into that,  
25 but -- but certainly less utilization of fossil



1 facilities will have environmental benefits to the  
2 region.

3 Q. Okay. Thank you.

4 JUDGE CLARK: Any cross-examination based  
5 upon Bench questions? Division of Energy?

6 MR. WESTEN: None, Judge. Thank you.

7 JUDGE CLARK: NRDC?

8 MR. ROBERTSON: No.

9 JUDGE CLARK: Renew Missouri?

10 MR. OPITZ: No, thank you, Judge.

11 JUDGE CLARK: MECG?

12 MR. WOODSMALL: No, thank you.

13 JUDGE CLARK: National Housing Trust?

14 MR. LINHARES: No, thank you, Judge.

15 JUDGE CLARK: The Office of Public  
16 Counsel?

17 MR. HALL: None, thank you.

18 JUDGE CLARK: And the Commission Staff?

19 MR. PRINGLE: Brief, Judge.

20 RE-CROSS-EXAMINATION BY MR. PRINGLE:

21 Q. Mr. Ives, from the Bench's questions, you  
22 said that older plants do more running less?

23 A. If we are reducing the kilowatts -- the  
24 kilowatt demand as a result of the programs -- and I  
25 think the number that came out earlier in this -- this

1 hearing was something like 180 megawatts, that -- that  
2 will necessarily mean -- and we're reducing the energy  
3 that's needed, that will necessarily mean those plants  
4 will run less than they otherwise would.

5 Q. But they aren't running less right now?

6 A. I assume they are, because we're in Cycle  
7 2 right now.

8 Q. And so then are you seeing any off-system  
9 sales being reduced by running those plants less?

10 A. Yeah, I think off-system sales are  
11 reduced for a lot of factors, but -- but certainly  
12 as -- as they run less, they are -- they are not going  
13 into the market.

14 Q. Thank you, Mr. Ives. No further  
15 questions.

16 JUDGE CLARK: Any redirect from the  
17 Company?

18 MR. STEINER: Yes, Your Honor.

19 REDIRECT EXAMINATION BY MR. STEINER:

20 Q. Let's start with the first questions from  
21 Mr. Woodsmall. Do you remember being asked about  
22 compensation payments under MPower and the tariffs?

23 A. I do remember that.

24 Q. Are there compensation payments currently  
25 located on the Company's website?

1           A.     Yes, there are. You know, I think -- I  
2 think that's an important distinction that hasn't come  
3 out yet. Those are on the website, so they will be  
4 available and are available. One of the things that  
5 we've tried to do as we've moved through the MEEIA  
6 process is to add more flexibility to our programs,  
7 which means have less of the prescriptive details in  
8 the tariffs and more of them available through the  
9 website or other places. So that information is  
10 available, just not in the tariff.

11           Q.     You recall the Judge asking you about how  
12 many programs are in the application?

13           A.     I do recall that. And -- and was not  
14 able to find a quick answer.

15           Q.     I'm going to see if I can help you.  
16 Could you go to page 16 of the Company's Direct  
17 Report?

18           A.     I'm not sure I brought the whole direct  
19 up with me.

20           Q.     I think I'll just point the Judge out to  
21 it -- this out to the Judge then.

22                   MR. STEINER: Judge, you can find the  
23 listing of the reports on page 16 and 17 of our Direct  
24 Report.

25                   THE WITNESS: The listing of the

1 programs?

2 MR. STEINER: Yeah. Thank you.

3 JUDGE CLARK: Thank you.

4 THE WITNESS: That's why I couldn't find  
5 it. I didn't have it up here with me.

6 MR. STEINER: Okay. And I've been just  
7 advised the detailed descriptions are in Appendix 8.2  
8 to the direct.

9 BY MR. STEINER:

10 Q. Mr. Ives, you were asked some questions  
11 by Staff regarding page 44 of the Company's  
12 Surrebuttal Report regarding the EO targets.

13 A. Yes, I was.

14 Q. Are the amounts that are proposed by the  
15 Company for EO, are they reasonable?

16 A. What -- when compared to the prior cycles  
17 that we have operated under that this Commission  
18 approved, when compared to the EO that the Commission  
19 authorized for the Ameren Cycle 3, they -- they are  
20 reasonable and consistent.

21 Q. Do you recall a question from the Judge  
22 on what are the avoided costs?

23 A. Yes. Yes, I do.

24 Q. What guidance do you want from the  
25 Commission on avoided costs?

1           A.       Yeah. I think that's worth talking  
2 about. There was a question I think from the Judge at  
3 the opening of this proceeding about position  
4 statements and issue statements and that maybe they  
5 were really broad and it looked like everything was in  
6 dispute and, you know, we -- we needed to give some  
7 guidance. And I'm sure we will all do that in briefs.

8                    But -- but I think the point is we have  
9 been in this process with this group of parties for an  
10 extended period of time. We had an application, we  
11 had a suspension for negotiation. That led us to an  
12 additional window added for Cycle 2 for more  
13 negotiation.

14                   We ultimately didn't get there for two  
15 primary issues. Avoided cost where there are views of  
16 parties that those are zero. That will not result in  
17 MEEIA programs operating in our side of Missouri. So  
18 we need some clarification from this Commission as to  
19 what their perspective is on avoided costs and how  
20 that fits the policy of this State. Because if it's  
21 zero, we can stop negotiating because our programs and  
22 the way we do energy efficiency will not work with --  
23 with a zero avoided cost.

24                   One of our main disputes, and we've  
25 talked about that a lot today, is earnings

1 opportunity. It will be necessary for our utility to  
2 have an earnings opportunity to continue to have  
3 programs in our side of the state of Missouri.

4 If the Commission determines that a zero  
5 earnings opportunity aligns with the policy of this  
6 State to implement energy efficiency, then we will not  
7 be able to continue programs and there's no need to  
8 continue to negotiate with parties.

9 So -- so those two areas for sure will be  
10 very important to get instruction from -- from this  
11 Commission on and are two reasons why we couldn't come  
12 with a settlement package for this Commission to  
13 consider.

14 Q. Thank you, Mr. Ives.

15 JUDGE CLARK: Okay. Mr. Ives, you're  
16 excused.

17 THE WITNESS: Thank you.

18 MR. LINHARES: Judge, if I may. Before  
19 we get into Staff witnesses, I'm wondering if we can  
20 take care of another matter.

21 JUDGE CLARK: That would be just fine.  
22 And actually I was just getting ready to ask you if  
23 this was a good time to do that.

24 MR. LINHARES: Perfect.

25 MR. STEINER: Before we do that, could I

1 offer Exhibits 1-C, 2-P, 3-C, 4-P into the record. I  
2 may have the C and Ps wrong.

3 JUDGE CLARK: Those are very important to  
4 get right, so let's -- let's be sure we've got those  
5 right.

6 MR. STEINER: One is confidential, our  
7 direct filing; two is the public version of that;  
8 three is the confidential Surrebuttal Report; four is  
9 the public Surrebuttal Report. I'd offer those into  
10 the record.

11 JUDGE CLARK: Okay. Is there any  
12 objection to admitting Company Exhibits 1 through 4  
13 onto the hearing record? I hear no objections and see  
14 no hands.

15 Exhibits 1 through 4 will be admitted  
16 onto the hearing record.

17 (Exhibits 1, 2, 3 and 4 were received  
18 into evidence.)

19 JUDGE CLARK: Thank you for reminding me.  
20 Okay. Mr. Linhares, go ahead.

21 MR. LINHARES: Thank you, Judge. My --  
22 my matter was similar. I imagine a few other parties  
23 have exhibits to introduce that are -- reflect  
24 testimony from witnesses who aren't present so I'd  
25 like to offer Exhibits 550A, 550B and 551 for The

1 National Housing Trust into the record. These are the  
2 Rebuttal Testimony and Surrebuttal Testimony of Annika  
3 Brink for The National Housing Trust.

4 JUDGE CLARK: And neither of those are  
5 confidential. Correct?

6 MR. LINHARES: 550A is confidential.  
7 550B is the public version.

8 JUDGE CLARK: So 550A and 550B. And is  
9 there the same thing for 551?

10 MR. LINHARES: No. There is simply a  
11 public version.

12 JUDGE CLARK: Okay. And previously I  
13 believe I was informed that all parties have waived  
14 cross in regard to Ms. Brink; is that correct?

15 MR. LINHARES: That's correct.

16 JUDGE CLARK: Okay. Any objection to  
17 admitting 550A and B and 551 onto the hearing record?

18 550A and B and 551 are admitted onto the  
19 hearing record.

20 (Exhibits 550A, 550B and 551 were  
21 received into evidence.)

22 JUDGE CLARK: And Mr. Linhares, are you  
23 asking to be excused?

24 MR. LINHARES: Yes, Judge. I'd like to  
25 ask to be excused for tomorrow's hearing, if that's



1 possible.

2 JUDGE CLARK: That will be granted.

3 MR. LINHARES: Thank you.

4 JUDGE CLARK: Are there any other matters  
5 that need to be taken care of at this time?

6 MR. ROBERTSON: Your Honor, along those  
7 same lines, I'd like to move the admission of NRDC's  
8 testimony.

9 JUDGE CLARK: I have no problem with you  
10 moving for the admission at this time. I have not  
11 heard back from all the Commissioners as to whether or  
12 not they have any Commission questions. I have  
13 polled.

14 But if you would like to go ahead and  
15 enter that assuming there are no objections, and if  
16 you'd like to be dismissed for the remainder of the  
17 day and I can try and reach you if there are going to  
18 be questions for Mr. Mosenthal tomorrow.

19 MR. ROBERTSON: Well, I'll stay for the  
20 remainder of the day, but I thought I would get this  
21 taken care of.

22 JUDGE CLARK: Okay. Are there any  
23 objections to -- let me get to NRDC's. Are there any  
24 objections to admitting Exhibit 400, the Rebuttal  
25 Testimony of Phil Mosenthal, public, and Exhibit 400-C

1 the Rebuttal Testimony of Phil Mosenthal,  
2 confidential, and the affidavit of Mr. Mosenthal onto  
3 the hearing record? I hear no objections.

4 Exhibits 400, 400-C and 401 are admitted  
5 onto the hearing record.

6 (Exhibits 400, 400-C and 401 were  
7 received into evidence.)

8 MR. ROBERTSON: As I mentioned to you  
9 before, I had agreed with Staff to enter a stipulation  
10 to DR responses of Mr. Mosenthal. I haven't marked  
11 those. I don't have copies for everybody yet. We  
12 haven't worked out the logistics. So -- Mr. Pringle  
13 indicates that he does have copies, so.

14 MR. PRINGLE: Yes. It's two DRs, Judge.  
15 DR 152 and 153 and 153 will be deemed confidential.

16 JUDGE CLARK: Say that again, please.

17 MR. PRINGLE: DRs 152 and 153.

18 JUDGE CLARK: Whose -- whose exhibit are  
19 these going to be?

20 MR. PRINGLE: These are going to be for  
21 Staff's exhibits. They'll be Exhibit Number 104? Is  
22 that where we're at?

23 JUDGE CLARK: Yes. That's where we're  
24 at.

25 MR. PRINGLE: 104. 104 and 105.

1 JUDGE CLARK: And one last time give me  
2 the description please.

3 MR. PRINGLE: Staff Exhibit Number 104 is  
4 DR0152.

5 JUDGE CLARK: Okay.

6 MR. PRINGLE: And then Staff Exhibit 105,  
7 that is DR0153. And it is confidential.

8 JUDGE CLARK: Okay. Has everybody had an  
9 opportunity to examine those that wishes to object?

10 MR. STEINER: Not yet.

11 (Exhibits 104 and 105-C were marked for  
12 identification.)

13 JUDGE CLARK: Have all the parties had an  
14 opportunity to examine the data requests? Are there  
15 any objections to admitting Staff Exhibit 104 onto the  
16 hearing record? Hearing none, Exhibit 104 will be  
17 admitted onto the hearing record.

18 (Exhibit 104 was received into evidence.)

19 JUDGE CLARK: Any objections to admitting  
20 105-C onto the hearing record? Hearing none, 105-C  
21 will be admitted onto the hearing record.

22 (Exhibit 105-C was received into  
23 evidence.)

24 JUDGE CLARK: Okay. What I'd like to do  
25 is before we break -- take an afternoon break, I'd

1 like to take one more witness mainly to just kind of  
2 feel out how long the afternoon is going to take. So  
3 I'm assuming the Company has no further witnesses at  
4 this time they want to call?

5 MR. STEINER: No further Company  
6 witnesses.

7 JUDGE CLARK: Okay. Staff of the  
8 Commission, I've got you listed as going next. You  
9 may call your first witness.

10 MS. MERS: Staff calls Natelle Dietrich  
11 to the stand.

12 JUDGE CLARK: Ms. Dietrich. Would you  
13 raise your right hand to be sworn.

14 (Witness sworn.)

15 JUDGE CLARK: Please be seated and state  
16 and spell your name for the record.

17 THE WITNESS: Natelle, N-a-t-e-l-l-e,  
18 Dietrich, D-i-e-t-r-i-c-h.

19 NATELLE DIETRICH, having been sworn, testified as  
20 follows:

21 DIRECT EXAMINATION BY MS. MERS:

22 Q. Ms. Dietrich who are you employed by and  
23 in what capacity?

24 A. Excuse me. I'm employed by the Missouri  
25 Public Service Commission as Commission Staff

1 director.

2 Q. And did you contribute to the Staff  
3 Rebuttal Report that's been marked as Exhibit 101,  
4 which is public and confidential, and did you also  
5 file your own Rebuttal Testimony that has been marked  
6 as Exhibit 100?

7 A. I have.

8 Q. Okay.

9 A. I did.

10 Q. Do you have any corrections or changes to  
11 your testimony?

12 A. No.

13 Q. And is that testimony true and accurate  
14 to the best of your knowledge and belief?

15 A. Yes.

16 Q. And if I asked you the same questions  
17 today, would your answers be similar?

18 A. Yes.

19 MS. MERS: Okay. At this time I would go  
20 ahead and offer Exhibit 100 into the record.

21 JUDGE CLARK: Any objection to admitting  
22 Exhibit -- Staff Exhibit 100 onto the hearing record?

23 MR. FISCHER: No objection, Your Honor.

24 JUDGE CLARK: Staff Exhibit 100 is  
25 admitted onto the hearing record.

1 (Exhibit 100 was received into evidence.)

2 MS. MERS: Okay. And I will tender the  
3 witness for cross.

4 JUDGE CLARK: Does the Office of the  
5 Public Counsel have any cross-examination for this  
6 witness?

7 MR. HALL: No questions at this time.  
8 Thank you.

9 JUDGE CLARK: Division of Energy?

10 MR. WESTEN: No, Judge. Thank you.

11 JUDGE CLARK: NRDC?

12 MR. ROBERTSON: No, Judge.

13 JUDGE CLARK: Renew Missouri?

14 MR. OPITZ: No, thank you, Judge.

15 JUDGE CLARK: MECG?

16 MR. WOODSMALL: No, thank you.

17 JUDGE CLARK: National Housing Trust?

18 MR. LINHARES: No questions. Thank you,  
19 Judge.

20 JUDGE CLARK: And the Company?

21 MR. FISCHER: Thank you, Judge.

22 CROSS-EXAMINATION BY MR. FISCHER:

23 Q. Good afternoon, Ms. Dietrich.

24 A. Good afternoon.

25 Q. I have a few questions, mostly of a

1 policy nature that I'd like to address your way.

2 A. Okay.

3 Q. If we turn to page 235 of your Rebuttal  
4 testimony at line 13, you say that Staff acknowledges  
5 that there are public policy reasons to support DSM  
6 and demand response. Do you see that?

7 A. Yes.

8 Q. Do you also agree that there are public  
9 policy reasons to support energy efficiency programs?

10 A. Yes.

11 Q. From your perspective at the Staff, what  
12 are the public policy reasons to support energy  
13 efficiency programs and DSM programs?

14 A. I think there's several. Just to give  
15 you an example, the legislative intent or direction  
16 under 393.1075, the potential opportunity for  
17 additional jobs, clean -- potential for clean energy.  
18 Those are a few.

19 Q. Those are things that have been discussed  
20 in this hearing room a lot over the years and why they  
21 support MEEIA programs. Right?

22 A. Why "they" support?

23 Q. Yeah. Public policy reasons that would  
24 support the MEEIA statute, MEEIA rules and the MEEIA  
25 programs.

1 A. Correct.

2 Q. I'd like to show you the Commission's  
3 last order approving the MEEIA 2 for GMO --

4 A. Okay.

5 Q. -- if that would be all right?

6 A. Sure.

7 Q. I highlighted a piece of it just so you  
8 can see where I'm going. This is a copy of the  
9 Commission's order approving the Non-Unanimous  
10 Stipulation and Agreement resolving KCPL Greater  
11 Missouri Operations Company MEEIA filing in File  
12 Number EO-2012-009; is that right?

13 A. I believe you said 009. It's 0009.

14 Q. Oh, that's right. I'm sorry. Four  
15 digits.

16 And that was dated November 15 of 2012?

17 A. That's the issue date, yes.

18 Q. Okay. On page 2 of the order it  
19 indicates that Staff, Public Counsel and other  
20 interveners supported GMO's MEEIA 2 programs in that  
21 case; is that right?

22 A. That paragraph -- or that page says that  
23 various parties, including Staff, submitted a  
24 Non-Unanimous Stipulation and Agreem-- excuse me,  
25 non-- Non-Unanimous Stipulation and Agreement



1 resolving GMO's MEEIA filing.

2 Q. Yes. And that includes both Staff and  
3 Public Counsel -- the Office of the Public Counsel?

4 A. That's correct.

5 Q. Okay. Let's turn back to the front page  
6 of that. There the Commission included a paragraph  
7 that said, MEEIA's designed to encourage Missouri  
8 investor-owned util-- electric utilities to  
9 wholeheartedly offer energy efficiency programs and  
10 projects designed to reduce the amount of electricity  
11 used by the utility's customers.

12 The law recognizes that under traditional  
13 regulation, a utility has a strong financial incentive  
14 to sell as much electricity to its customers as  
15 possible, because more sales result in greater  
16 profits. MEEIA creates an opportunity to change that  
17 financial incentive to better align the utility's  
18 financial interest with the public interest in  
19 encouraging the efficient use of energy.

20 Is that what they indicated in that -- in  
21 that fil-- or on that order?

22 A. That's what the order says, yes.

23 Q. From a public policy standpoint, do you  
24 agree with the Commission that MEEIA's designed to  
25 encourage Missouri investor electric utilities to

1 wholeheartedly offer energy efficiency pro-- programs  
2 and projects designed to reduce the amount of  
3 electricity used by the utility's customers?

4 A. Well, I'm not sure what the Commission  
5 meant by wholeheartedly, but I would agree that MI--  
6 that MEEIA is designed to encourage Missouri's IOUs to  
7 offer energy efficiency programs and projects designed  
8 to reduce the amount of electricity used by the  
9 utility's customers.

10 Q. Okay. Do you agree too that this goal of  
11 MEEIA to encourage Missouri investor-owned electric  
12 to wholeheartedly offer energy is a good public policy  
13 goal from your standpoint?

14 A. As long as the public policy meets the  
15 other requirements of the statutory -- of the MEEIA  
16 statute.

17 Q. That's fair. Do you agree with the  
18 Commission that MEEIA recognizes that under  
19 traditional regulation, a utility has a strong  
20 financial incentive to sell as much electricity as it  
21 can to its customers?

22 A. That's what the statute says, yes.

23 Q. And do you agree -- well, do you agree  
24 with the Commission that MEEIA creates an opportunity  
25 to change that financial incentive to better align the

1 utility's financial interests with the public interest  
2 by encouraging the efficient use of energy?

3 A. I -- I think that's a fair statement. It  
4 creates an opportunity, not a guarantee.

5 Q. Okay. Do you believe that's a good  
6 public policy?

7 A. To create an opportunity?

8 Q. Yes.

9 A. Sure.

10 Q. Do you believe it is a good public policy  
11 for the Commission to regulate similarly situated  
12 regulated companies in a fair and consistent manner?

13 A. All else being equal.

14 Q. Yeah. As a general rule, the Commission  
15 should -- it promotes a good public policy if  
16 utilities that are in similar circumstances are  
17 treated the similar way?

18 A. Well, I -- I guess it depends on your  
19 definition of similar. All else being -- all things  
20 being equal, yes. There are differences between  
21 utilities, there are differences between MEEIA  
22 offerings so there may be reasons for differences in  
23 treatment.

24 Q. Certainly. Is it true that Staff and  
25 Public Counsel, as well as a host of other

1 interveners, supported the approval of the Company's  
2 MEEIA Cycle 1 and 2 programs in previous cases?

3 A. Through stipulation.

4 Q. Yes.

5 A. Yes.

6 Q. Isn't it true that Staff supported the  
7 Company's MEEIA 1 and 2 programs even though, as I  
8 understand it, you believe that MEEIA requires all  
9 customers must benefit from the MEEIA programs?

10 A. Again, through settlement, through  
11 stipulation. And I would also point out that the  
12 previous cycles were individual utilities or -- KCPL  
13 GMO were treated individually. With Cycle 3 we now  
14 have the nuance where they're treated the same in SPP  
15 so that provided -- or was a reason for another look  
16 at it, a different approach.

17 Q. Yeah. I'd like to talk to you about that  
18 in a minute. But -- but you're saying that you did  
19 support it even though at that time you believed that  
20 MEEIA required that all customers must benefit from  
21 MEEIA programs. Right?

22 A. We raised some similar concerns, but we  
23 were able to reach agreement through settlement.

24 Q. Let's turn to page 5 of your testimony  
25 again, at line 19 through 22. There I believe you

1 indicate that Staff's analysis demonstrates that KCPL  
2 and GMO avoided cost assumptions contain fundamental  
3 flaws that artificially attribute avoided cost savings  
4 for all demand-side measures even though there will  
5 not be actual avoided cost savings for many years; is  
6 that right?

7 A. That's right. That's what it says.

8 Q. From Staff's perspective, the Company's  
9 use of its avoided cost assumptions is a fundamental  
10 reason why Staff is recommending the rejection of the  
11 Company's application in this case; is that right?

12 A. Could you repeat that, please?

13 Q. Certainly. From -- from your  
14 perspective, the Company's use of those avoided cost  
15 assumptions --

16 A. Yes.

17 Q. -- is a fundamental reason why Staff is  
18 recommending the rejection of the Company's  
19 application in this case?

20 A. That's one of the significant reasons,  
21 yes.

22 Q. Now, let's turn to page 6.

23 COMMISSIONER KENNEY: Excuse me, Counsel.  
24 Would you repeat that?

25 MR. FISCHER: Yes. I asked the question,

1 Judge -- or Commissioner, from Staff's perspective,  
2 the Company's use of its avoided cost assumptions is a  
3 fundamental reason why the Staff is recommending  
4 rejection of the application in this case.

5 COMMISSIONER KENNEY: Thank you.

6 BY MR. FISCHER:

7 Q. If we turn to page 6 at lines 5 through  
8 8, there you testify that this aggregation of assets  
9 demonstrates that KCPL GMO does not need to invest in  
10 additional supply-side resources until 2033 and 2036  
11 on a combined basis; is that right?

12 A. That's correct.

13 Q. So is it correct that you believe GMO  
14 won't need new capacity for 14 years?

15 A. We looked at KCPL and GMO separately and  
16 also together. And off the top of my head, I don't  
17 remember who needed what when.

18 Q. Well, I just subtracted 2033 from -- and  
19 2019 and came up with 14 years for GMO. And then if  
20 you subtract 2019 from 2036, I came up with 16 years.  
21 Does that sound about right?

22 A. Yes.

23 Q. Okay. So on a combined basis, KCPL and  
24 GMO won't need new capacity for about 16 years.  
25 Correct?

1 A. Correct.

2 Q. And that's a fundamental reason why  
3 Staff's opposing the Company's MEEIA 3 application in  
4 this case too. Right?

5 A. That -- that plays into the avoided cost  
6 calculations, yes.

7 Q. Now, let's turn to page 6, lines 10  
8 through 12. As I understand your testimony at that  
9 point, since the Company won't need new capacity for  
10 several years, Staff believes that the Company should  
11 have assumed an avoided capacity cost equal to zero  
12 for demand savings associated with demand-side  
13 resources associated with MEEIA Cycle 3; is that  
14 right?

15 A. That's correct. But I would point out  
16 that this is just a summary of the report, not the  
17 entire analysis.

18 Q. Oh, I know. Thank you. I realize that.  
19 I appreciate your summary, to be honest.

20 Now, as I understand your role in the  
21 case, you're principally a policy witness and other  
22 Staff members are witnesses of a more technical  
23 nature; is that right?

24 A. That's correct.

25 Q. And on the topic of appropriate use of

1 avoided costs for the analysis in the DSM and energy  
2 efficiency programs, is Mr. Luebbert the appropriate  
3 technical person that I should ask my questions to?

4 A. Yes.

5 Q. Was -- was he a primary technical person  
6 that developed Staff's position on this avoided cost  
7 issue?

8 A. In consultation with other Staff members,  
9 but he -- he was the lead on that issue.

10 Q. Okay. Now, I believe that Staff  
11 initially took a similar position on avoided costs in  
12 Ameren's MEEIA 3 case; is that right?

13 A. That's right.

14 Q. But prior to the Ameren 3 MEEIA case,  
15 Staff -- to your knowledge, had they -- had Staff ever  
16 taken a position that a public utility should assume a  
17 zero avoided cost or avoided capacity cost?

18 A. In Cycle 2, we raised issues, but not a  
19 zero capacity cost.

20 Q. So would it be correct to say that the  
21 Ameren case -- the Ameren MEEIA 3 case was the first  
22 time Staff raised that avoided cost issue?

23 A. I believe we raised it in Cycle 2, but  
24 not to --

25 Q. At a zero?



1 A. -- not at a zero. Not to the level that  
2 it's raised in Cycle 3.

3 Q. In that Ameren case, I believe Ameren was  
4 long on capacity for 16 years. Is that your memory?

5 A. Something like that, yes.

6 Q. I think I'd like to clarify that too for  
7 the record and show you a copy of the Staff's Rebuttal  
8 Report. On page 23 of line 13 of your report it  
9 states, Ameren Missouri has no current capacity needs  
10 for either. It will not need capacity for 16 years;  
11 is that right?

12 A. That's what it says, yes.

13 Q. Is it correct for me to conclude that  
14 from that statement, that in Ameren's MEEIA 3 case,  
15 Staff believed that Ameren would not need capacity for  
16 16 years?

17 A. That's correct.

18 Q. Is it correct that Staff ultimately  
19 supported Ameren's MEEIA 3 application in File  
20 EO-2018-0211?

21 A. Through negotiation and settlement, yes.

22 Q. So is it correct that Ameren did not need  
23 capacity for 16 years, but you still supported  
24 Ameren's MEEIA 3 application?

25 A. Through negotiation and settlement, yes.

1 Q. But since KCPL and GMO won't need  
2 capacity for about 16 years, you're opposing KCPL and  
3 GMO's MEEIA 3 application?

4 A. At -- at the point of being at hearing,  
5 yes. Although we did reach an agreement on capacity  
6 costs as part of the negotiation.

7 Q. Are you willing to use those at this  
8 point in time?

9 A. I think both Staff and the Company both  
10 said that they were not appropriate because we were  
11 not able to settle the rest of the case.

12 Q. Okay. So it's still back -- we're back  
13 to your set-- or your original position of zero?

14 A. Correct. But the way you worded it, I  
15 wanted to clarify.

16 Q. I appreciate that. Thank you.

17 Prior to that Ameren case, had Staff ever  
18 argued that the avoided cost for a public utility that  
19 was long on capacity should be zero?

20 A. Not that I'm aware of, no.

21 Q. I've got a few policy questions. From  
22 Staff's perspective, if the Company was showing a need  
23 to build new capacity in the near future, then the  
24 Company should use a positive avoided cost number in  
25 its analysis. Is that your position?

1 A. Just looking at that sentence in a vacuum  
2 I would say yes, but there may be other factors that  
3 affect it.

4 Q. Okay. Do you believe that MEEIA is  
5 designed to encourage Missouri investor-owned  
6 utilities to wholeheartedly offer energy efficiency  
7 programs and projects designed to reduce the amount of  
8 electricity used by their customers, but only if the  
9 public utility needs to build new capacity in the near  
10 future?

11 A. Well, again, I'm not sure what the  
12 Commission meant by the word "wholeheartedly," but the  
13 first part of that statement I would agree with. And  
14 if you could repeat the se-- second part?

15 Q. Okay. That MEEIA is designed to  
16 encourage electrics to offer energy efficiency  
17 programs and projects designed to reduce the amount of  
18 electricity used by their customers. But I'm asking  
19 is that only under the circumstances if the public  
20 utility needs to build new capacity in the near  
21 future?

22 A. The statute states that in order for the  
23 Commission to find that the utilities meet the  
24 statutory requirement, there has to be a demonstration  
25 or a consideration of valuing demand-side investment

1 equal to traditional investment in supply and  
2 delivery. So that -- what you're asking is part of  
3 that analysis, so the statute does not contain the  
4 words that you're using, but it's part of the  
5 analysis.

6 Q. Okay. Well, let's put the statute aside.  
7 Just from a public policy standpoint, do you believe  
8 that it's good public policy for investor-owned  
9 electrics to offer energy efficiency programs and  
10 projects designed to reduce the amount of electricity  
11 used by their customers, but only if they're on -- in  
12 the very near future need to build a power plant?

13 A. Well, I don't -- excuse me. I don't  
14 think you can answer that public policy question  
15 without taking the statute into account, which  
16 requires the analysis.

17 Q. Okay. Do you agree that the goal of  
18 MEEIA to encourage Missouri electrics to offer energy  
19 efficiency programs is a good public policy goal?

20 A. To offer the programs?

21 Q. Yes.

22 A. Yes.

23 Q. But that is true only if the public  
24 utility needs to build new capacity in the near  
25 future?

1 A. That's true if the utility and their  
2 programs and their offerings meet the statutory  
3 requirements.

4 Q. Ms. Dietrich, did Staff counsel ever show  
5 you any place in that statute that says a utility has  
6 to defer capacity -- new capacity before they could  
7 enter into a MEEIA program?

8 A. No.

9 Q. Does Staff believe that it's good public  
10 policy to better align the utility's financial  
11 interest with the public interest of encouraging  
12 efficient use of energy, but only if the utility needs  
13 to build new capacity in the near future?

14 A. Could you repeat that, please?

15 Q. Certainly. Does Staff believe that it's  
16 good public policy to better align the utility's  
17 financial interest with the public interest of  
18 encouraging the efficient use of energy, but that's  
19 only true if the utility needs to build new capacity  
20 in the near future?

21 A. Well, again, the first part of the  
22 statement is the -- in the statute, so that would be  
23 good policy. The second part of the statement is part  
24 of the analysis to determine the policy.

25 Q. Okay. I'm not sure I followed that, but

1 it's good public policy to better align the utility's  
2 interest with the customers' interest. Right?

3 A. Correct.

4 Q. I guess my question is, but does that  
5 only kick in if the utility needs to build a power  
6 plant in the near future?

7 A. And -- and what I'm saying is since once  
8 of the requirements of MEEIA is to look at valuing  
9 demand-side versus supply-side, that's part of the  
10 analysis. And so it's not necessarily is deferring  
11 the building or the building the actual policy. It's  
12 the -- meeting the statutory requirements that's the  
13 policy.

14 Q. Okay. So in all -- it all is key, from  
15 your standpoint, about going back to the statute; not  
16 necessarily public policy?

17 A. Correct. I think the statute says the  
18 public policy is what the statute says.

19 Q. The last major power plant that was  
20 constructed by KCPL was the Iatan 2 plant in 2012 --  
21 or 2010; is that right?

22 A. I'm not sure about the exact date, but  
23 that sounds about right.

24 Q. And is it correct that the completion --  
25 that with the completion of Iatan 2, that KCPL wa--

1 had sufficient capacity to serve customers for quite a  
2 number of years into the future?

3 A. Yes.

4 Q. And KCPL has also added some wind and  
5 solar capacity since that time?

6 A. Yes.

7 Q. Back in 2010, the combined company of  
8 KCPL and GMO also had sufficient capacity to serve  
9 customers for quite a number of years into the future.  
10 Is that your understanding?

11 A. Probably as a combined, although we  
12 didn't look at them that way.

13 Q. Now, from Staff's perspective, the  
14 avoided costs in 2010 would have been zero since the  
15 Company didn't need to build a new base load plant for  
16 the foreseeable future; is that right?

17 A. From Staff's perspective today, it should  
18 have been zero --

19 Q. Back then?

20 A. -- nine years ago or whatever?

21 Q. Yeah. Looking at the way -- looking at  
22 the circumstances in 2010, as you -- as you approach  
23 the avoided cost capacity issue in this case, wouldn't  
24 you agree that the avoided costs at that time would  
25 have been zero, capacity costs?

1           A.     If Staff would have looked at both  
2 companies on a combined basis, then that might have  
3 been the outcome.

4           Q.     So if the avoided capacity costs were  
5 zero during that time frame, why did Staff support the  
6 approval of the Company's MEEIA 1 program in 2012?

7           A.     Sorry. I thought he was going to make an  
8 objection.

9           Q.     Okay.

10          A.     First of all, back in 2012, it was the  
11 first time that there was a MEEIA application and the  
12 resolution was through a negotiation and settlement.  
13 I don't know that at the time avoided cost was even an  
14 issue. We were trying to interpret the statute.

15                   I remember having, you know, several  
16 conversations as a group with -- with all the  
17 stakeholders about what the statute meant. And so it  
18 was all new and, frankly, I doubt that it came up at  
19 the time. I don't remember it coming up.

20                   But with anything, as we get more  
21 experience, new questions come up. I think somebody  
22 pointed out earlier that there are some new Staff  
23 people working on the MEEIA cycles now, so that --  
24 different perspectives. We have some new rules that  
25 we didn't have back in Cycle 1. So there's different



1 circumstances.

2 Q. Well, you didn't -- you didn't look at  
3 the avoided cost being zero at that time. Right?

4 A. Correct.

5 Q. And now you have some new Staff people  
6 that have a different perspective on that?

7 A. And new rules and we're looking at the  
8 combined companies, not the individual companies.

9 Q. Now, new rules. The MEEIA rules had to  
10 be adopted after the statute was passed. Correct?

11 A. Correct.

12 Q. So those rules were in effect at the time  
13 you entered into the agreement to support MEEIA 1.  
14 Right?

15 A. I said new rules. I meant new -- new  
16 revisions to the rules. Not -- not that the rules  
17 themselves were new, but we have gone through rule  
18 re-- rule revisions.

19 Q. On the substance of the MEEIA rule?

20 A. Uh-huh. Yes.

21 Q. Okay. Has that affected your view of  
22 avoided costs?

23 A. Yes.

24 Q. Load growth for the combined companies  
25 has been relatively flat since 2010; is that true?

1 A. I'm not sure about the year, but several  
2 years, yes.

3 Q. If that was true, why did Staff support  
4 the approval of the MEEIA 2 in 2015 if the combined  
5 companies still didn't need to build a new capacity  
6 for a large number of years?

7 A. Well, same reasons. We looked at the  
8 companies individually because they were not treated  
9 as a combined company in SPP. We had the rule  
10 revisions that we just talked about. Again, they were  
11 settled through negotiations.

12 Q. Okay. So it is correct that Staff has  
13 changed its views on what is the appropriate way to  
14 analyze avoided costs when a company has sufficient  
15 capacity to serve its customers for several years in  
16 the future?

17 A. That's correct.

18 Q. Is it correct that Staff has not  
19 recommended an earnings opportunity for either KCPL or  
20 GMO in this case?

21 A. That's correct.

22 Q. Did you read the Surrebuttal Testimony of  
23 Darrin Ives?

24 A. I did.

25 Q. I believe your counsel pointed to his

1 testimony on page 44 of the surrebuttal where he had  
2 talked about the earnings opportunity that was  
3 recently awarded by -- or to Ameren in Ameren's last  
4 MEEIA 3 case. Do you recall that?

5 A. The questions or what was awarded to  
6 Ameren?

7 Q. Well, did -- let's just look at page 44  
8 of the Company's Surrebuttal Report, if you have that.

9 A. Okay.

10 Q. There I think he testified that Ameren's  
11 earnings opportunity is targeted at 30 million  
12 dollars, which equates to 15 percent of the Ameren  
13 program budget at 100 percent target rate. Do you see  
14 that or recall that?

15 A. Yes.

16 Q. Do you have any reason to dispute  
17 Mr. Ives's testimony on that point?

18 A. I don't have any reason to dispute it,  
19 but we did not approach earnings opportunity in that  
20 way.

21 Q. I understand. You approached it from a  
22 zero perspective.

23 A. Well, I mean that methodology.

24 Q. I'd like to show you a portion -- well,  
25 so you agree that whether -- whatever the methodology,

1 you agree that Ameren is receiving 15 percent of its  
2 program budget as an earnings opportunity?

3 A. I don't know if that's the right numbers.  
4 I -- they are receiving an earnings opportunity based  
5 on settlement and negotiation.

6 Q. Okay. Let me show you the Ameren  
7 Missouri 2019 to 2021 MEEIA Energy Efficiency Plan  
8 Report. And would you confirm to me that the earnings  
9 opportunity is 30 million dollars?

10 A. This says that this is the MEEIA 2019 to  
11 '21 plan.

12 Q. Yes.

13 A. And the Company has included an annual  
14 average earnings opportunity of approximately  
15 10 million dollars, which equates to a total of  
16 30 million for the 2019 to '21 implementation period.  
17 What I can't tell from this is if this is what they  
18 filed or if this was what was submitted as part of the  
19 Stipulation and Agreement.

20 Q. So you don't know what the earnings  
21 opportunity is for that company?

22 A. Not in this format, no.

23 Q. Okay. I believe that was attached to  
24 Ameren Missouri's 2019 -- or -- or I'd like --  
25 actually I think that was attached and updated as a

1 part of the Stipulation and Agreement in that case,  
2 wasn't it? EO-2018-0211.

3 A. And that's what I'm saying. I can't tell  
4 if this was what was attached or if it was --

5 Q. Okay.

6 A. -- something else.

7 Q. I'll represent to you that I took it off  
8 the attached stipulation.

9 Would you confirm that on page 51 of that  
10 MEEIA 3 plan it -- well, you just read it. It  
11 indicates that over that three-year period it's  
12 30 million dollars?

13 A. That's correct.

14 Q. And then there's another 2.5 million  
15 associated with the low-income programs. Right?

16 A. That's correct.

17 Q. Is it correct that Ameren's earnings  
18 opportunity for MEEIA 3 will be 30 million if it  
19 reaches 100 percent of the target levels?

20 A. Plus -- plus the 2.5 million, yes.

21 Q. I'd like to show you now a copy of the  
22 appendix from the Ameren stipulation in that case  
23 where it lists the total program costs for Ameren's  
24 MEEIA 3 program. And I'd like for you to confirm for  
25 me that in 2019 the amount is 50.14 million, in 2020

1 it's 66.83 million, and in 2021 it's 78.48 million?

2 A. I don't know if I wrote it down backwards  
3 or if I -- you said it backwards, but in 2019 it's  
4 50.14; 2020, 66.83; and 2021, 78.48.

5 Q. If I didn't say that, I misspoke.  
6 That's -- that's what I had too.

7 Whenever I added that up, I added a total  
8 of 195.45 million dollars for the total for the Ameren  
9 3 MEEIA three-year program; is that right -- about  
10 right?

11 A. Could you repeat your number?

12 Q. 195.45. That's the total dollars --  
13 program costs for Ameren's MEEIA 3?

14 A. That's correct.

15 Q. Okay. So if we took that 30 million of  
16 Ameren's earnings opportunity and divided it by  
17 195.45, the total program costs, would you agree that  
18 that represents 15 percent of total program costs?

19 A. Close.

20 Q. Okay. So is it also true that Staff and  
21 Public Counsel, as well as other interveners,  
22 supported the approval of Ameren's MEEIA 3 cycle,  
23 including the 30 million of earnings opportunity?

24 A. That's true. But I would point out that  
25 it's -- the structure of the earnings opportunity also

1 plays into that.

2 Q. Okay. But that does equate to 15 percent  
3 of Ameren's total pr-- program costs. Correct?

4 A. Approximately, yes.

5 Q. Is it also correct that Staff and Public  
6 Counsel are recommending a zero for earnings  
7 opportunity for the Company in this case?

8 A. Staff is.

9 MR. HALL: Objection.  
10 Mischaracterization of evidence. I think she actually  
11 was just clarifying. We're not making any  
12 recommendation to that point.

13 MR. FISCHER: Oh, I apologize. I  
14 apologize. That's good to know.

15 BY MR. FISCHER:

16 Q. So Staff is recommending a zero, but not  
17 necessarily Public Counsel?

18 A. I -- I can't speak for Public Counsel,  
19 but that's Staff's recommendation.

20 JUDGE CLARK: Why don't we stop here for  
21 a second? And based upon what Mr. Hall, I'll sustain.  
22 And you're already rephrasing, so go ahead.

23 MR. FISCHER: I'm sorry, Judge. I jumped  
24 in there before I let you do that.

25 BY MR. FISCHER:

1 Q. So that would be true, that Staff is  
2 recommending a zero for earnings opportunity, even  
3 though you recommended 30 million for Ameren.  
4 Correct?

5 A. Again, under negotiation and settlement  
6 and a -- an earnings opportunity structure, that was  
7 agreeable.

8 Q. I also heard a reference today that  
9 Ameren had agreed in the MEEIA 3 stipulation to do a  
10 MEEIA -- a PAYS program. Is that your understanding?

11 A. I heard that too. I don't remember that  
12 part, but that doesn't mean they didn't. I just am  
13 not recalling that part because that was not a Staff  
14 issue.

15 Q. Okay. I didn't find anything like that  
16 in the Staff -- or in the Stipulation and Agreement,  
17 which you all were parties too. Right?

18 A. Correct.

19 MR. FISCHER: Okay. Judge, I think  
20 that's all I have. Thank you.

21 QUESTIONS BY COMMISSIONER KENNEY:

22 Q. Good afternoon, Ms. Dietrich.

23 A. Good afternoon.

24 Q. New rules. What revisions that made you  
25 guys change the way you look at -- look at things?



1 I -- just because it seems -- I know you mentioned  
2 that several times. I'm just curious --

3 A. Right.

4 Q. -- what rules they were that had -- made  
5 Staff change the way they viewed the MEEIA cycle or  
6 MEEIA decision?

7 A. It was the MEEIA rules specifically --  
8 well, we have new rule numbers now. So the new rule  
9 number 20 CSR 4240-20.092(1)(C), which is the  
10 definition of avoided costs and also 20 CSR  
11 4240-20.094(3)(4), which is -- which talks about the  
12 impacts from all demand-side programs included in the  
13 application on any postponement of new supply-side  
14 resources and the early retirement of existing  
15 supply-side resources including annual and net present  
16 value of any lost utility earnings related thereto.

17 Q. Okay. So Staff's position is that  
18 changed how Staff was to analyze the request going  
19 forward?

20 A. That's correct. Put a focus on avoided  
21 costs and also on the postponement of new supply-side  
22 resources and early retirement of existing supply-side  
23 resources.

24 Q. So it changed -- to you, it changed the  
25 definition of avoided costs?

1 A. The definition and how it was -- how it  
2 was to be reviewed.

3 Q. Okay. Earlier Staff -- excuse me,  
4 Company counsel and Witness Caisley were -- stated  
5 that they felt Staff changed their whole -- their way  
6 of doing things, changed their -- made drastic change  
7 since -- since Ameren.

8 Now, Staff counsel pointed out that the  
9 same position you have in this case that they had  
10 in -- Staff had in Ameren's Cycle 2 and Cycle 3. And  
11 you've mentioned several times that that came about --  
12 the changes allowing them to have a 15 percent or 30  
13 million dollar opportunity -- earnings opportunity  
14 came about through the Stipulation and Agreement.  
15 Correct?

16 A. For Cycle 3, yes.

17 Q. Okay. What was the big change? What was  
18 the big change that Staff had -- or going from not  
19 wanting to support MEEIA at all to making that change?  
20 What was -- what would you say the nuts and bolts of  
21 that -- because I have to make this decision, with  
22 four others here, of -- of who's right and wrong or  
23 who's in the right direction, so --

24 A. Right.

25 Q. -- convince me what the big difference

1 is.

2 A. The -- the issues were largely the same.

3 Q. Uh-huh.

4 A. Staff filed testimony in Ameren's Cycle 3  
5 very similar to what we filed in Cycle 2 -- I mean in  
6 KCPL GMO's Cycle 3, avoided cost, earnings  
7 opportunity. Their -- Ameren's demand response  
8 programs if I recall, they were new programs so we  
9 didn't have the same issues that we have with KCPL  
10 having experience with demand response programs.

11 HER was another picture issue. And if I  
12 recall, one of the reasons we didn't have a strong  
13 issue in Ameren with HER as we do with KCPL is because  
14 Ameren does not AMI, Ameren does not have a robust  
15 com-- comparable to the Energy Analyzer so they don't  
16 have multiple programs or avenues.

17 I think Mr. File testified earlier that  
18 KCPL tries to approach customers from many different  
19 avenues and I think that's applaudable, but the  
20 question is should customers pay for it multiple  
21 times. And so that -- that's one of the issues that  
22 was different.

23 But getting to the two major issues, the  
24 avoided cost and the earnings opportunity, we were  
25 able to negotiate with Ameren on an agreeable avoided

1 cost and then they were willing to structure their  
2 earnings opportunity. One of the big differences was  
3 a focus on long-life projects. So for instance, the  
4 projects that provided the benefits over the longest  
5 term are focused more on the earnings opportunity.  
6 Some of the programs that didn't have the longer  
7 benefits had a shorter -- or a smaller earnings  
8 opportunity, so it was kind of a tiered approach.

9           So -- so those were the two -- kind of  
10 the two biggest differences.

11           Q.     But they were similar? I mean the  
12 companies were similar in -- not in everything that  
13 they want to do, but similar in the issues -- the  
14 reasons why Staff opposed initially?

15           A.     Correct.

16           Q.     Is KCP&L just not willing to negotiate  
17 and talk with Staff or is Staff -- has Staff been  
18 trying to give KCP&L the same opportunities that they  
19 gave Ameren?

20           A.     Well, I think Mister -- or Commissioner  
21 Rupp made the comment other parties may not agree with  
22 the way KCP&L and Mr. Caisley characterized the  
23 negotiations. I think that's probably a fair  
24 statement. We would not agree that -- to me, it  
25 sounded like Staff was not willing to move. We met --

1 Q. I'm just asking you.

2 A. Right.

3 Q. I'm not --

4 A. Right. We met numerous times. We tried  
5 to negotiate. We -- we were able to reach resolution  
6 on several issues. We, as I mentioned earlier, came  
7 up with an avoided cost resolution, but it did not go  
8 forward because the rest of the settlement didn't go  
9 forward.

10 And probably the biggest sticking point  
11 was the earnings opportunity. And we -- we just  
12 weren't able to get there. We tried to propose  
13 different options. The Company tried to consider  
14 different options. But we weren't able to get there.

15 Q. Yeah, I remember when this Commission  
16 denied Ameren's Cycle 2 request, but it was completely  
17 different than this -- this -- what we're seeing here  
18 today in my mind. It was not even -- not similar at  
19 all.

20 A. Well, some of the issues are similar.  
21 For instance, one of the big issues back in Ameren's  
22 Cycle 2 was an issue that was in Ameren's Cycle 3 and  
23 KCPL's Cycle 3; the benefits to all customers or all  
24 par-- all customers, including those that did not  
25 participate. And that's been an issue for quite a

1 while.

2 Q. And will probably continue to be an  
3 issue.

4 A. Right.

5 Q. Yeah. But I -- I think the MEEIA program  
6 has been very -- very good for this -- for the  
7 ratepayers. I think going forward there's many  
8 reasons we have MEEIA and I would hope that the  
9 Company and Staff will -- and the other interveners  
10 will get together, because I'd hate to see that go  
11 away in my hometown.

12 A. I would agree. It's provided benefits,  
13 but it has to be structured.

14 Q. I understand. Thank you.

15 A. Uh-huh.

16 QUESTIONS BY JUDGE CLARK:

17 Q. I have a couple questions. This may  
18 reflect my lack of understanding. Now, as was said in  
19 the opening by Staff's attorney, you've elected to  
20 look at and indeed these cases were consolidated.  
21 You've elected to look at both companies kind of as an  
22 unit?

23 A. Correct.

24 Q. But KCP&L's -- GMO's was found -- their  
25 programs were found to be cost-effective, is that

1 correct, on the whole or am I misunderstanding that?

2 A. When you say KCP, G--

3 Q. GMO's.

4 A. Just GMO's?

5 Q. Yes. Just GMO's.

6 A. I'd have to go back and look at Staff's  
7 report. Just one second. I'm still looking.

8 Okay. If you look at page 42 of Staff's  
9 Rebuttal Report, there's a table. And most of GMO's  
10 programs using GMO's avoided costs are cost-effective.  
11 Using Staff's avoided costs, they are not.

12 Q. Okay. What about Kansas City Power &  
13 Light Company?

14 A. That's on page 41. And for KCPL, Kansas  
15 City Power & Light, it looks like using their --  
16 KCP&L's avoided cost, four programs are cost-effective  
17 for residential and two are very close. And for  
18 business, it looks like all but one are cost-effective  
19 using KCPL's avoided cost. Using Staff's avoided  
20 cost, for residential only one is cost-effective and  
21 two for business. One's close.

22 Q. Okay. Now, is Staff of the opinion that  
23 we have to take -- that the Commission has to take  
24 these applications together or can we treat -- can the  
25 Commission treat them as separate applications?

1           A.       The Company has applied separately, but  
2 has similar structures, but different program --  
3 similar programs but different structures. What Staff  
4 is saying is because of the way they're treated in  
5 SPP, they need to be considered now as a combined  
6 Company. Because I bel-- it was 2017 or '18 when SPP  
7 started treating them as a combined entity based on  
8 a -- what's called a NITS. And off the top of my  
9 head, I don't remember what the acronym means, but  
10 it's an agreement with SPP that they would be treated  
11 as a combined company.

12           Q.       So you're saying just in Staff's opinion,  
13 it would be inappropriate to reject Kansas City Power  
14 & Light Company's and approve GMO's MEEIA plan?

15           A.       Actually that was Staff's first approach  
16 until we discovered the SPP treatment. So I mean I --  
17 I don't know that the Commission could not do that.  
18 It's just because of the S-- SPP treatment is the  
19 reason that we're recommending that only -- that they  
20 be treated as a combined company.

21           Q.       Okay. Thank you.

22           A.       Uh-huh.

23                    JUDGE CLARK: Any recross based upon  
24 Commission questions? Office of the Public Counsel?

25                    MR. HALL: Yes.



1 RECROSS-EXAMINATION BY MR. HALL:

2 Q. Just to clarify. Ms. Dietrich, I'm  
3 referring back to the tables you just discussed with  
4 the Judge.

5 A. Yes.

6 Q. Page 41 of Staff's report, table 4, you  
7 have the column for Staff's updated avoided costs.  
8 And the Judge asked about those programs that are  
9 cost-effective and those that aren't. I'm noticing --  
10 I'm looking at the number .67. Do you see where I'm  
11 following on that column?

12 A. For income-eligible HER?

13 Q. Yeah. That's a low-income program.  
14 Right?

15 A. Yes.

16 Q. The next program down, income-eligible  
17 multi-family, that's also a low-income program.  
18 Correct?

19 A. That's correct.

20 Q. The low-income programs, those are  
21 treated differently under this TRC test. Correct?

22 A. That's correct. I was just looking at  
23 the numbers.

24 Q. The only program that's cost-effective  
25 using Staff's analysis is the energy savings products

1 and the KCPL residential portion of this table.

2 Correct?

3 A. That's correct.

4 Q. And turning over to table 5, page 42 of  
5 Staff's Rebuttal Report, similar table, I'm also  
6 looking at GMO residential. Basically I want to get  
7 that same point across. The programs that were --  
8 some of the programs that were marked as not  
9 cost-effective, there's a number of .38, that's less  
10 than one. Does that also relate to a low-income  
11 program?

12 A. Yes, it does.

13 Q. Which one?

14 A. Income-eligible multi-family.

15 Q. And next program down is residential --  
16 oh, my mistake. That one's not a low-income program.  
17 I retract that question. No further questions.

18 JUDGE CLARK: Any recross from the  
19 Division of Energy?

20 MR. WESTEN: None, Judge. Thank you.

21 JUDGE CLARK: NRDC?

22 MR. ROBERTSON: No, Judge.

23 JUDGE CLARK: Renew Missouri?

24 MR. OPITZ: No, thank you, Judge.

25 JUDGE CLARK: MECG is gone. National

1 Housing Trust?

2 MR. LINHARES: No, thank you, Judge.

3 JUDGE CLARK: And for the Company?

4 MR. FISCHER: Yes, Judge.

5 RECROSS-EXAMINATION BY MR. FISCHER:

6 Q. Ms. Dietrich, let's go back to that table  
7 that Public Counsel and the Judge both asked you  
8 about. Table 4 and table 5 would indicate that if you  
9 use a zero for avoided costs, as Staff is using, the  
10 only programs that are cost-effective are energy  
11 savings products for both KCPL and GMO. Correct? And  
12 then dropping down to the business programs, business  
13 custom and business process efficiency for both GMO  
14 and KCPL; is that right?

15 A. That's correct.

16 Q. Now, is it your understanding that if you  
17 use either the Company's filed approach of using a CT  
18 as the avoided cost or the Company's alternative,  
19 which was based on the market R-- RFPs that GMO had,  
20 that all of these but one would be cost-effective?

21 A. I know in G-- in the Company's  
22 surrebuttal, they provided that information. I don't  
23 know if it was just one, but it was majority of them.

24 Q. I think all but the Business Thermostat  
25 Program.

1           You mentioned in answer to Commissioner  
2 Kenney that the rules had changed and the rules change  
3 a lot, but when did these change that you were  
4 referring to and what was the impetus for that rule  
5 change?

6           A.     I'm sorry. It's showing the effective  
7 dates of the rule moves from Department of Economic  
8 Development to Department of Commerce and Insurance so  
9 I'm having to read a little.

10          Q.     Okay. Or if you know generally, that's  
11 okay. I don't need an exact date, but --

12          A.     It looks like late 2017.

13          Q.     Okay. And do you know what the impetus  
14 for those changes were?

15          A.     Yes. The Governor issued an executive  
16 order that required all state agencies to review all  
17 of their rules, so it would have been part of that. I  
18 don't remember if we were also just generally  
19 reviewing the MEEIA rules at that time.

20          Q.     So that was to streamline the  
21 regulations, wasn't it, based on the Governor's  
22 recommendations -- or order, I guess?

23          A.     That's what the Governor's order was, but  
24 if there were reasons to also modify the rules, we --  
25 we did that at the same time. We might have -- I'm

1 thinking we might have been looking at the MEEIA rules  
2 already because that's an extensive process.

3 Q. So Staff was recommending a change, which  
4 ultimately resulted in Staff changing its view of how  
5 avoided costs are calculated to zeros?

6 A. I don't know that Staff originally  
7 recommended the change to the definition, but Staff  
8 would have initiated the rulemaking.

9 Q. Okay. So Staff initiated the rulemaking,  
10 which now results in Staff coming to the conclusion  
11 that avoided costs should be zero if you don't need a  
12 power plant for several years?

13 A. Correct.

14 Q. Okay. You also, I think, indicated at  
15 one point in answer to Commissioner Kenney that really  
16 we agreed to an avoided cost stipulation so that -- so  
17 the major issue that was left was earnings  
18 opportunity. Right? Is that what you said?

19 A. I think when I said that, I was talking  
20 about Ameren, but --

21 Q. Oh, I thought you were talking about our  
22 negotiations.

23 A. It -- it could have been. I -- I think  
24 related to our negotiations, I said we had rel--  
25 reached an agreement on avoided costs and -- and

1 several of the issues and the major issue that we had  
2 left was earnings opportunity.

3 Q. I know you pointed out on -- that you --  
4 we talked about page 44 of the Surrebuttal Testimony  
5 of the Company where we agreed that the EEO for Ameren  
6 was 30 million dollars and that equated to 15 percent  
7 of the program budget.

8 Would Staff be agreeable to allow the  
9 Company to have 15 percent of its program budget as an  
10 EEO?

11 A. I don't know that I can agree to that  
12 sitting here today without knowing what the rest of  
13 the portfolio would look like.

14 Q. Well, in the Cycle 2 EEO target on that  
15 page we talked about, KCPL's received 14.7 percent of  
16 its program budget and 19.7 for GMO. Would Staff have  
17 a view about whether that would be reasonable just  
18 going forward on Cycle 3?

19 MR. HALL: Objection. Counsel is  
20 referring back to questions he posited on cross. This  
21 is supposed to be limited to scope of questions from  
22 the Bench.

23 JUDGE CLARK: I'm going to overrule that.

24 THE WITNESS: I would have to say the  
25 same thing. Without knowing what the entire portfolio

1 looked like, what the entire application looked like,  
2 I couldn't sitting here -- couldn't sitting here today  
3 agree to what an earnings opportunity might be.

4 BY MR. FISCHER:

5 Q. Well, what if we -- what if we agreed to  
6 use those avoided costs that you already agreed to?

7 A. I would have to do some analysis, not  
8 just agree right here.

9 Q. And I guess that would be true if we  
10 wanted to do a percentage of net present shared  
11 benefits?

12 JUDGE CLARK: This is all beginning to  
13 look like some negotiation that should occur outside  
14 the hearing room.

15 MR. FISCHER: Well, it came up from the  
16 Bench, Judge. That's the only reason I went there.

17 JUDGE CLARK: You can continue if it's  
18 short.

19 BY MR. FISCHER:

20 Q. Well, I'll conclude with that, but --

21 A. Could you repeat that question, please?

22 Q. Sure. I think --

23 MR. FISCHER: Why don't you read that  
24 back, if the court reporter would indulge me there?

25 THE COURT REPORTER: "Question: And I

1 guess that would be true if we wanted to do a  
2 percentage of net present shared benefits?"

3 BY MR. FISCHER:

4 Q. In other words, you wouldn't want to  
5 agree with what we've done in Cycle 2 based on net  
6 shared benefits?

7 A. Oh, okay. The word "present" in there I  
8 wasn't sure if you were --

9 Q. Okay.

10 A. -- creating something new or what.

11 Q. Probably just misspoke.

12 A. Again, without knowing what the analysis  
13 looked like, I wouldn't be comfortable agreeing to  
14 something today.

15 MR. FISCHER: Okay. Judge, I think -- I  
16 think that's all I have. Thank you.

17 JUDGE CLARK: Any redirect from the  
18 Commission Staff?

19 REDIRECT EXAMINATION BY MS. MERS:

20 Q. You were asked a question from the  
21 Company's counsel regarding Staff's statement that  
22 there were public policy reasons to support energy  
23 efficiency. Do you recall that?

24 A. Yes.

25 Q. Because Staff recognizes there are public



1 policy reasons to support energy efficiency, did Staff  
2 have alternate recommendations?

3 A. Alternate recommendations?

4 Q. Uh-huh.

5 A. Yes.

6 Q. Could you explain those?

7 A. Well, Staff suggested that we would be  
8 willing to further negotiate if that was an outcome  
9 that the Commission wished. We also had several  
10 conditions that we included in the Staff report.

11 Q. And was there a pared-down level of MEEIA  
12 offerings that Staff also could support?

13 A. Yes. Just one second.

14 Q. Sure.

15 A. Staff could support a MEEIA portfolio  
16 that included only low-income programs, education  
17 programs, except for the Home Energy Reports, and a  
18 restructured demand response --

19 Q. Okay.

20 A. -- program.

21 Q. You were asked some questions about the  
22 MEEIA 1 stipulation between the Company and Staff and  
23 other parties. Do you recall those questions?

24 A. Yes.

25 Q. Is the Company's current application the

1 same as the application that was the subject of the  
2 Cycle 1 stipulation?

3 A. I haven't done a comparison, but off the  
4 top of my head and the various issues, no.

5 Q. You were asked some questions about  
6 public interest and if the public interest supports  
7 energy efficiency. Do you believe that the public  
8 interest would also consider all of the public,  
9 including non-participants?

10 A. Would -- would non-participants be part  
11 of the public?

12 Q. Uh-huh.

13 A. Yes.

14 Q. Is there other public interest  
15 considerations that Staff looked at and considered  
16 when evaluating this application?

17 A. I'm sure there is, but off the top of my  
18 head, I'm --

19 Q. Do you believe that the public -- I think  
20 you were asked some questions about it being in the  
21 customers' interest to offer energy efficiency. Do  
22 you recall those questions?

23 A. Yes.

24 Q. Do you believe that it would be in the  
25 customers' interest to pay for not effective -- or not

1 cost-effective programs?

2 A. Well, putting aside low-income  
3 programs --

4 Q. Uh-huh.

5 A. -- which do not have to be  
6 cost-effective, no, it would not be in the public  
7 interest.

8 Q. Okay. You were asked a lot of questions  
9 about the Ameren MEEIA Cycle 3 stipulation. In  
10 response to one of those questions you stated that all  
11 else being equal. Do you believe that Ameren and KCPL  
12 GMO are equal?

13 A. No.

14 Q. Okay. Could you say that the previous  
15 Cycle 1 and 2 applications in this application are  
16 equal?

17 A. No.

18 Q. I believe you were asked a few questions  
19 about -- it's been kind of a misconception floating  
20 around that Staff believing each individual customer  
21 should benefit. Is that Staff's position or is it  
22 non-participants as a whole should benefit?

23 A. It -- Staff's position based on the  
24 statutory language is that non-participants as a whole  
25 should benefit, not each individual customer or each

1 individual participant or non-participant.

2 Q. Has the Commission given policy directive  
3 on that facet?

4 A. Yes. In -- I believe it was Ameren's  
5 Cycle 2. I -- in its order in EO-2015-0055, the  
6 Commission said something like are non-participants  
7 better off paying to help some -- some other -- some  
8 other customers reduce usage than paying for a power  
9 plant to be built.

10 Q. And Staff doesn't believe that's the case  
11 here. Correct?

12 A. That's correct.

13 Q. Turning back to again some of the  
14 questions you received about the Ameren MEEIA Cycle 3,  
15 do you recall is Ameren postponing supply-side  
16 investment?

17 A. They are postponing I believe -- well, I  
18 don't know if that's confidential. Yes.

19 Q. Okay. And you were asked questions about  
20 their earnings opportunity. Did they reduce their  
21 earnings opportunity as an outcome of the discussions?

22 A. Yes. And also like I was explaining,  
23 they also did a tiered approach.

24 Q. Okay. Can you explain a little bit more  
25 about the difference in the earnings opportunity

1 approach? I mean to the extent it's not confidential,  
2 of course.

3 A. Right. Just -- just at a high level, it  
4 was a tiered approach based on the value that was  
5 received from the different programs. So the longer  
6 life programs had a higher earnings opportunity  
7 because they provided value over a longer time versus  
8 some of the shorter life programs. And so it was --  
9 it was tiered that way.

10 Q. Do you recall did the earnings  
11 opportunity also have more demanding savings goals and  
12 targets?

13 A. More demanding than what?

14 Q. What we see in this application.

15 A. That I don't know.

16 Q. You were questioned several times about  
17 the public policy to support energy efficiency in the  
18 state and how that was beneficial. To your knowledge,  
19 are there any energy efficiency programs offered in  
20 the state outside of MEEIA?

21 A. Yes. Empire has offered ener-- has never  
22 offered energy efficiency programs through MEEIA.  
23 They've discussed it a few times, but it has not met  
24 the statutory requirements, so they continue to offer  
25 outside of MEEIA.

1 Q. And you were asked about Staff's position  
2 in several cases. Do you recall what Staff's position  
3 was in Ameren MEEIA Cycle 2?

4 A. Staff recommended rejection.

5 Q. And what did the Commission do?

6 A. Basically agreed with Staff and allowed  
7 the parties an opportunity to go back to the table and  
8 negotiate. And the parties ultimately were able to  
9 present a Stipulation and Agreement.

10 Q. Okay. Are Ameren and KCPL GMO in the  
11 same RTO?

12 A. As each other?

13 Q. Yes.

14 A. Yes.

15 Q. Ameren -- is Ameren in MISO?

16 A. I thought you said are KCPL and GMO in  
17 the same RTO.

18 Q. I probably worded that terribly. I  
19 apologize.

20 A. Ameren's in MISO. KCPL and GMO are in  
21 SPP.

22 Q. Are there differences in those RTOs?

23 A. Yes.

24 MR. FISCHER: Judge, I'm going to lodge  
25 an objection. I don't think we've talked about RTOs

1 in any of the cross today and I think it's beyond the  
2 scope of cross.

3 MS. MERS: We've had several questions --  
4 if I can respond -- that, you know, has -- has  
5 suggested Ameren and KCPL GMO are -- are the -- the  
6 same; therefore, what Ameren got, KCPL GMO should have  
7 got. And I believe that the differences in RTOs, if  
8 the witness is allowed to expound upon that, is one of  
9 those things that can go to that point that they're  
10 not the same utility and should be evaluated  
11 differently.

12 JUDGE CLARK: I'll overrule the  
13 objection. You can answer the question.

14 THE WITNESS: Could you repeat the  
15 question now?

16 BY MS. MERS:

17 Q. Are there differences in those RTOs?

18 A. Yes.

19 Q. Such as?

20 A. One of the main ones that was addressed  
21 in the Ameren Cycle 3 application -- or excuse me,  
22 stipulation was that Ameren -- or MISO has a trans--  
23 transparent ca-- well, transparent capacity market.  
24 And so it -- Staff is able to look at the impacts of  
25 the market on the Ameren stipulation differently than

1 the KCPL GMO SPP relationship. Staff Witness J  
2 Luebbert I'm sure will get into it a lot more based on  
3 his analysis.

4 Q. Okay. And finally, you were asked about  
5 the rule revisions. Kind of -- there was almost a  
6 suggestion that Staff changed rules to, you know, take  
7 advantage of them later. But does the Commission have  
8 to sign off on any rule revision before it's sent to  
9 the Secretary of State?

10 A. In multiple stages. There's a workshop  
11 process where Staff usually has a proposal for parties  
12 to consider to -- to stimulate discussion. There's  
13 several changes made based on those discussions. Then  
14 it goes to the Commission to go to the Secretary of  
15 State for initial publication. There's a formal  
16 comment period, a formal hearing period, and then the  
17 Commission does a final order of rulemaking based on  
18 all of the information in the formal comments in the  
19 formal hearing process.

20 Q. So stakeholders have multiple  
21 opportunities to give input on rule revisions?

22 A. Yes. And it's not unusual for the  
23 Commission to make changes based on those input --  
24 that input.

25 Q. And that would include the Company.



1 Correct?

2 A. Correct.

3 Q. And it's not just the Commission that has  
4 to sign off on rule revisions, but there's also  
5 approval from other state agencies; is that correct?

6 A. Other state agencies look at the fiscal  
7 impact of the rules. Probably the last two years,  
8 three years the Governor's office has also reviewed  
9 the rules.

10 Q. And they can reject or send back rules.  
11 Is that your understanding?

12 A. Yes.

13 Q. Okay. I have nothing further. Thank  
14 you.

15 A. Thank you.

16 JUDGE CLARK: Okay, Ms. Dietrich. You  
17 can step down.

18 We're going to recess until right around  
19 4:40. Go off the record.

20 (Off the record.)

21 MR. FISCHER: We wanted to let you know  
22 that we have a number of witnesses that we will not be  
23 asking any questions of unless other parties have  
24 questions. We've got questions for Mr. Luebbert and  
25 Mr. Eaves of the Staff, but most of the other folks

1 we're going to be able to waive. I don't know whether  
2 other parties are going to be able to do that or not,  
3 but it might move it -- move it along quite quickly if  
4 we get to that point.

5 JUDGE CLARK: Okay. I'll tell you what.  
6 When we get back from recess, I'll address briefly  
7 whether there are any witnesses that anyone's willing  
8 to waive across the board on. But that doesn't  
9 necessarily mean that there won't be Commission  
10 questions.

11 MR. OPITZ: Your Honor, to that point, I  
12 believe I've heard from all the parties that they  
13 would waive cross on James Owen and Philip Fracica.  
14 In the event that the Commissioners and yourself also  
15 waive cross, I thought I'd bring it up now since you  
16 may have the opportunity to inquire with them in the  
17 interim.

18 JUDGE CLARK: Okay. Thank you so much.  
19 Again, we will recess until about 4:43 and we'll go  
20 off the record.

21 (A recess was taken.)

22 JUDGE CLARK: Okay. We're back on the  
23 record. I've had a few questions about a number of  
24 things. It is my intention tonight to go and at least  
25 try to get through as many of Staff's witnesses as I

1 can.

2 Just by a show of hands, are there any  
3 witnesses here who have traveled a fair distance to be  
4 here? And I've been asked just out of -- is  
5 Mr. Crawford going to be here tomorrow or were you  
6 planning on excusing him after tonight?

7 MR. FISCHER: He can be here.

8 JUDGE CLARK: Is that -- is that going  
9 to --

10 MR. FISCHER: I think we was planning to  
11 go back, but if there's someone that would like to  
12 talk to him --

13 JUDGE CLARK: Okay. Let me think on  
14 that.

15 My intention right now is not to run past  
16 6:00 if I can help it, but as I said off the record, I  
17 would like to get through as many of Staff's witnesses  
18 as I can. It's my understanding from some of the  
19 parties, including -- including the Company and  
20 including Renew Missouri that they would like to waive  
21 on some witnesses.

22 It would be my preference to just go  
23 ahead and call the witness up, swear them in. If any  
24 questions, I'll just basically ask each party if they  
25 have questions and then if there are no objections to

1 entering the testimony on the record, we'll do that  
2 and if there are any Commission questions at that  
3 time, we'll take them. So we'll just -- we'll just do  
4 it that way rather than attempting to waive a bunch of  
5 witnesses out of the box.

6 So with that in mind, Staff call your  
7 next witness.

8 MS. MERS: Staff calls J Luebbert to the  
9 stand.

10 JUDGE CLARK: Okay. Mr. Luebbert, would  
11 you raise your right hand to be sworn.

12 (Witness sworn.)

13 JUDGE CLARK: Okay. Please have a seat  
14 and state and spell your name for the record.

15 THE WITNESS: My name is J Luebbert.  
16 It's the letter J, L-u-e-b-b-e-r-t.

17 J LUEBBERT, having been sworn, testified as follows:

18 DIRECT EXAMINATION BY MS. MERS:

19 Q. And by whom are you employed and in what  
20 capacity?

21 A. I'm employed by the Missouri Public  
22 Service Commission as a case manager.

23 Q. And did you contribute to Staff's  
24 Rebuttal Report, which has been marked as Exhibit 101  
25 in public and confidential forms?

1 A. Yes, I did.

2 Q. And do you have any correction to your  
3 testimony?

4 A. Not that I'm aware of.

5 Q. And is that testimony true and accurate,  
6 to the best of your knowledge and belief?

7 A. Yes, it is.

8 Q. And if I asked you the same questions  
9 today, would you give me the same answers?

10 A. Yes.

11 MS. MERS: At this time I'd tender the  
12 witness for cross.

13 JUDGE CLARK: Does Mr. Luebbert have any  
14 separate testimony or just in relation to the report?

15 MS. MERS: Just the report.

16 JUDGE CLARK: Okay. Any  
17 cross-examination from the Office of Public Counsel?

18 MR. HALL: Yes, Your Honor.

19 CROSS-EXAMINATION BY MR. HALL:

20 Q. Good evening.

21 A. Good evening.

22 Q. Mr. Luebbert, I'm not sure you have a  
23 copy in front of you, but -- so I'm looking -- right  
24 now I'm looking at the Surrebuttal Report provided by  
25 the Company.

1 A. I do.

2 Q. Page 12. The Company -- I'll just posit  
3 to you what the -- there's a sentence on line 6 where  
4 Staff asserts that the avoided cost should be zero for  
5 all years except for 2032.

6 Are you following where I'm reading?

7 MR. FISCHER: What page was that,  
8 Counsel?

9 MR. HALL: Sorry. Page 12 in the  
10 Company's Surrebuttal Report.

11 THE WITNESS: Yes.

12 BY MR. HALL:

13 Q. Now, you're the Staff witness to ask  
14 questions about avoided costs, aren't you?

15 A. Yes, I am.

16 Q. When I read the sentence in the Company's  
17 report, it occurred to me that literally it could be  
18 read as that Staff is arguing for a position that  
19 avoided costs should be zero. Is that Staff's  
20 position?

21 Or let me rephrase that. By should be  
22 zero, is Staff advocating for any -- is Staff  
23 advocating that that is the goal, for avoided costs to  
24 be zero?

25 A. No. I don't -- I wouldn't say that Staff

1 is advocating for zero avoided costs. I think what --  
2 I'd say what Staff is advocating for is a  
3 demonstration of a cost that can actually be avoided.

4 Q. By should then, Staff is saying that  
5 Staff believes the avoided costs are actually zero?

6 A. Based off of the modeling analysis  
7 provided by the Company at this time, the avoided  
8 capacity costs in those years up until 2032 would be  
9 zero dollars.

10 Q. My understanding of the Company's  
11 position is that the Company doesn't believe the  
12 avoided costs are zero. It sounds like there's a  
13 pretty big dichotomy of positions then. Can you  
14 explain Staff's position of avoided costs versus the  
15 Company's?

16 A. So Staff's position on avoided costs is  
17 in line with the definition within the -- the MEEIA  
18 rule. I believe it's 20.092(1)(C). If you give me  
19 just a moment. Right. So it would be 20 CSR  
20 4240-20.092(1)(C) defines avoided costs. And within  
21 that definition it states that avoided costs or  
22 avoided utility costs means the cost savings obtained  
23 by substituting demand-side programs for existing and  
24 new supply-side resources. Avoided costs include  
25 avoided utility costs resulting from demand-side

1 programs, energy savings and demand savings associated  
2 with generation, transmission and distribution  
3 facilities including avoided -- avoided proba--  
4 probable environmental compliance costs.

5           Then it goes on to say that the utility  
6 shall use the integrated resource plan and risk  
7 analysis used in its most recently adopted preferred  
8 resource plan to calculate its avoided costs, which  
9 as -- as Staff stated within its Rebuttal Report,  
10 we -- we took issue with the final sentence in that --  
11 the waiver of that rule because we also identified it  
12 as a deficiency within the most recent IRP, triennial  
13 compliance filings -- triennial compliance filings.

14 Sorry, I tailed off there.

15           So the way Staff is viewing that  
16 definition basically says that a cost actually needs  
17 to be avoided. In my view, the way that the Company  
18 is -- is viewing that position is the value of a  
19 brand-new CT would be this value and that's the number  
20 we'll use to screen our -- our programs. That's not a  
21 cost that will actually be avoided through  
22 implementation of a demand-side program. That is just  
23 the cost of a new CT.

24           Q.     By CT you refer to combustion turbine?

25           A.     Yes.   Sorry.



1 Q. You said they simply impute that value to  
2 see if they can be cost-effective, but -- I'm sorry.  
3 You just re-- you just gave me your answer, but why  
4 can we not just impute that value as the Staff -- as  
5 the Company's proposed?

6 A. That cost -- that coast won't be avoided  
7 through the implementation of demand-side programs, or  
8 at least it hasn't been demonstrated that it will be  
9 avoided.

10 Q. I'm sorry. Could you just highlight --  
11 or do you -- are you saying that the Company doesn't  
12 have to build fu-- generation in the near future?

13 A. Not at this time.

14 Q. And that's what you're saying is not  
15 being avoided?

16 A. Based on the modeling analysis provided  
17 by the Company in Appendix 8.11, even with Cycle 3 --  
18 without Cycle 3, a combustion turbine would be  
19 necessary I believe in 2033 and 2036. With Cycle 3, a  
20 combustion turbine is needed in 2033 and 2036. So no  
21 cost is being avoided there.

22 Q. But is avoided generation the only  
23 avoided cost that could be justify a MEEIA  
24 application?

25 A. No.

1 Q. Could transmission?

2 A. Absolutely.

3 Q. And aren't there avoided transmission  
4 costs as purported by the Company?

5 A. There are some potential revenue stre--  
6 or cost avoidance streams that could be realized by  
7 the Company if the programs are designed in a way to  
8 do so.

9 Q. And you don't believe the Company has  
10 designed in its programs?

11 A. I don't think that's the intention of the  
12 design, no.

13 Q. Why do you say that?

14 A. For starters, the -- the stated goal for,  
15 for example, the demand response program is simply to  
16 try to limit system peak for the individual utilities.  
17 However, that's not how -- or that's not the most  
18 efficient way to avoid transmission costs through SPP  
19 fees.

20 Q. What would be more efficient?

21 A. If the Company were to design that  
22 program and other demand response programs to try to  
23 avoid -- from my understanding, if they could avoid  
24 the SPP zonal monthly peak, they'd be able to maximize  
25 the avoided transmission costs.

1 Q. Just for some background, could you  
2 explain what you meant by zonal modal peak?

3 A. So SPP is split up into separate zones  
4 and so this would be the -- the monthly peak within  
5 that -- that zone, which KCPL and GMO are both a part  
6 of.

7 Q. So we've covered generation and  
8 transmission. Could avoided distribution costs be  
9 used to justify a MEEIA application?

10 A. Absolutely. That's another emphasis on  
11 Staff's Rebuttal Report is to recommend that the  
12 Commission request or -- or that the Company modify  
13 its programs in a way that would target stressed areas  
14 of the system or sy-- areas that need system upgrades  
15 and try to, one, either avoid that upgrade and  
16 essentially avoid an investment in that distribution  
17 system, or to minimize the necessary in-- investment.

18 So if you can -- if you can size a piece  
19 of equipment smaller based off of a targeted --  
20 targeted outlook on the energy efficiency in demand  
21 response programs.

22 Q. I take it by that -- by that explanation  
23 you didn't find any identified avoided distribution  
24 costs. Am I interpreting that answer correctly?

25 A. I asked the Company to identify the

1 locations and quantify the savings that could be  
2 attributable to both Cycle 2 and Cycle 3 MEEIA  
3 programs and their response was that they had no  
4 quantification.

5 Q. On the subject of distribution and  
6 transmission, do you have reason to believe that the  
7 Company is actually going to be increasing investments  
8 in those two areas?

9 A. Yes, I do. I think -- was it last year?  
10 They recently filed for plant in-service accounting.  
11 And I -- I don't know the -- the number off the top of  
12 my head, but I know it's -- it's a fairly large number  
13 that they plan to invest in distribution.

14 Q. Does 1 billion dollars of investment  
15 sound right?

16 A. It sounds about right, yeah.

17 Q. Broad overview -- I may be mistaken, but  
18 I couldn't find avoided cost in the MEEIA statute. So  
19 why do we focus on avoided cost?

20 A. The avoided costs -- you know, a  
21 definition isn't within the MEEIA statute, but what is  
22 in the MEEIA statute is a requirement for benefits to  
23 all customers in a rate class, regardless of their  
24 participation.

25 And the benefits that we look at within a

1 MEEIA program or a demand-side program really boil  
2 down to can you avoid costs not only for those  
3 participants through reductions in their bills, but  
4 through an avoided -- an avoided investment in  
5 supply-side resources or a reduction in the amount of  
6 purchase power that you may have to get through SPP.

7           And I've never -- we haven't in this case  
8 or in -- at least to my knowledge in previous cases,  
9 discounted the fact that you can save some avoided  
10 energy costs by reducing purchase power from the RTO.

11           Q.     Is there any -- is there a time limit on  
12 when we could calculate that avoided cost? Can it --

13           A.     So in my experience since I've been here  
14 with Commission Staff, once the avoided cost has been  
15 set or approved in a Commission order, it's then used  
16 to calculate benefits throughout the remainder of that  
17 cycle without any more input from any of the other  
18 stakeholders.

19           The EM&V contractor receives the avoided  
20 cost estimates for each year from the utility and then  
21 multiplies by the actual savings that they verified.  
22 When I say "savings," I mean energy and demand savings  
23 that they've verified or estimated. But they're --  
24 they're not reevaluating what the avoided costs are.  
25 And they don't update as -- as we go through the cycle

1 from the best of my understanding.

2 Q. I want to highlight something there. So  
3 the avoided cost numbers are given to the -- I believe  
4 you said EM&V operator or --

5 A. Evaluator.

6 Q. Evaluator.

7 A. Yeah. As well as the Commission auditor.  
8 I didn't mean to cut you off.

9 Q. But they're not updated within each  
10 program year?

11 A. No. They are -- they are updated based  
12 off of what the Company has filed.

13 Q. Would you agree with me then that for --  
14 success of a MEEIA program depends on getting avoided  
15 costs right the first go-around then?

16 A. Absolutely. And that's -- I'd say that's  
17 what we're trying to do here.

18 Q. No further questions.

19 JUDGE CLARK: Division of Energy?

20 MR. WESTEN: No questions. Thank you,  
21 Judge.

22 JUDGE CLARK: NRDC?

23 MR. ROBERTSON: No questions.

24 JUDGE CLARK: Renew Missouri?

25 MR. OPITZ: No, thank you Judge.

1 JUDGE CLARK: MECG is gone. National  
2 Housing Trust is gone. The Company?

3 MR. FISCHER: Thank you, Judge.

4 CROSS-EXAMINATION BY MR. FISCHER:

5 Q. Good afternoon, Mr. Luebbert.

6 A. Good evening.

7 Q. Good evening. That's even better. Let's  
8 see if we can get out of here at a reasonable hour.  
9 Okay?

10 A. That sounds good.

11 Q. As I understand it, you've been here at  
12 the Commission about three and a half years; is that  
13 right?

14 A. That's correct.

15 Q. And you're the case -- a case manager?

16 A. That's correct.

17 Q. Did you serve as a case manager in this  
18 case or not?

19 A. No. I was a witness in this case.

20 Q. Okay. So there's a difference be-- what  
21 is the role of a case manager?

22 A. As a case manager, I dealt with  
23 coordination of a lot of Staff members' testimony,  
24 making sure that they're in line with not only the  
25 rules, but also that they don't conflict with each

1 other and in a way that doesn't make sense for, you  
2 know -- for Commission Staff's position.

3 Q. Keeping -- keeping things consistent  
4 among the witnesses?

5 A. Yeah. And a lot of times, you know, I  
6 was tasked with reviewing a lot of testimony and --  
7 and discussing intra-departmentally kind of what --  
8 what information has been discovered and -- and how  
9 that information can be used going forward.

10 Q. What position and role did you play over  
11 at the Department of Natural Resources when you were  
12 there?

13 A. At the Department of Natural Resources I  
14 was an environmental engineer.

15 Q. Environmental. Okay. And you were there  
16 for about three years?

17 A. I think it was close to four, but --

18 Q. Four. Okay.

19 A. Close enough.

20 Q. Have you ever been subject to  
21 cross-examination on avoided cost before?

22 A. No, I have not.

23 Q. Okay. Well, we'll try to get through  
24 this as easy as we can. I'd like to talk to you a  
25 little bit about the Ameren Staff Rebuttal Report.



1 So --

2 A. Sure.

3 Q. -- if it's all right, I'd like to give  
4 you a copy of it.

5 A. That would be very helpful. I've got a  
6 lot up here, but that's not --

7 Q. Yeah. That's probably not one. We'll  
8 get this done first and then --

9 A. Okay. Thank you. Do you have a specific  
10 area that you wanted to --

11 Q. Yeah. I'll go there first.

12 A. Okay.

13 Q. Let's talk about -- let's go to page 2 to  
14 start with.

15 A. Starting off early.

16 Q. At line 2. There the Staff recommended  
17 rejection of -- of Ameren's MEEIA 3; is that right?

18 A. That's correct.

19 Q. And Staff's position, as I understand it,  
20 was based at least in part upon the fact that Ameren  
21 had no needs for capacity for 16 years; is that right?

22 A. Yes. For resource adequacy needs, they  
23 did not have a capacity need.

24 Q. And I believe that's confirmed on page 23  
25 of the report where you say, Ameren Missouri has no

1 current capacity needs and will not need capacity for  
2 16 years; is that right? It's line 13. I left out a  
3 couple words there, for either and will not, but --

4 A. Yeah. I guess I would just point out  
5 that the -- the section right before that says for RTO  
6 resource planning requirements they don't have a  
7 capacity need, but yes, that's correct.

8 Q. And so for that purpose and for any other  
9 purpose, they didn't need to build capacity for  
10 16 years. Right? Yeah?

11 A. Yes.

12 Q. And then you go on, Ameren Missouri's  
13 current capacity position greatly exceeds the needs of  
14 its customers and if Ameren Missouri continues to  
15 invest in demand-side resources at currently proposed  
16 levels, Ameren will continue to remain long on  
17 capacity's balance sheet for the entire 20-year  
18 planning horizon. Right?

19 A. Yes.

20 Q. Staff pointed out that Ameren didn't need  
21 capacity until 2034; is that right?

22 A. Is that on that same page? That sounds  
23 correct, but I --

24 Q. Yeah. I think it --

25 A. Subject to check, I guess.

1 Q. It's on page 21 at line --

2 A. Yep. I see it here.

3 Q. -- line 10. So -- and now in this case,  
4 the Staff has suggested that the combined company of  
5 KCPL and GMO, they won't need to invest in capacity  
6 until 2034 either. Right?

7 A. I think that date may be off.

8 Q. 16 years?

9 A. Let me check. Sorry.

10 Q. Okay. Yeah, that would be great. I'd  
11 appreciate that.

12 A. I actually said until 2033.

13 Q. Oh, 2033. Okay. So 15 years?

14 A. Yes.

15 Q. Okay. I wonder where I got '34. And now  
16 the Commission's approved Ameren's MEEIA 3; is that  
17 right?

18 A. That's correct.

19 Q. In this case, Staff has taken the  
20 position that a public utility like KCPL and GMO  
21 that's long on capacity, has avoided costs of zero --  
22 avoided capacity costs. Correct?

23 A. I'm sorry. I'm writing it down to make  
24 sure I get your question.

25 Q. Sure. Take your time.

1 A. Okay. So you said a public utility  
2 that's long on capacity, as is KCPL and GMO on a  
3 combined basis. What was the finish of that?

4 Q. Has an avoided capacity cost of zero?

5 A. I don't think that that's a fair  
6 representation of my position. I'd say that in this  
7 case, from the modeling analysis that I've seen, KCPL  
8 and GMO on a combined basis don't have an avoided  
9 capacity cost in the near term.

10 Q. Until 2033, you said?

11 A. Yes. But I don't think it's fair to  
12 ascribe that to any public utility.

13 Q. Okay. Any public utility that didn't  
14 have to build a plant until 2033? Wouldn't --  
15 wouldn't that have an avoided capacity of zero, except  
16 for maybe transmission or distribution?

17 A. That hasn't demonstrated the potential  
18 for an avoided cost would have an avoided capacity  
19 cost of zero.

20 Q. Okay. Now, to the best of your  
21 knowledge -- and I don't know, did you -- before you  
22 filed testimony in this case, had you reviewed the  
23 position of Staff in -- in any of the MEEIA 1 and 2  
24 cases for KCPL or Ameren?

25 A. I'm aware of them. I wouldn't say that

1 I'm, you know -- I know the ins and outs of the  
2 entirety of the position, but I -- I have read through  
3 the Report and Orders and --

4 Q. That's fair.

5 A. -- some of the positions.

6 Q. Well, to the best of your knowledge,  
7 isn't it true that prior to the Ameren MEEIA 3 case,  
8 Staff had never argued that a public utility that was  
9 long on capacity, at least out to 2033, had an avoided  
10 capacity cost of zero and couldn't justify energy  
11 efficiency DSM program?

12 A. I'm not certain that the -- I'm not  
13 certain that Staff took a formal position on what the  
14 avoided capacity costs should be in those previous  
15 cases. I know that these -- this is only the third  
16 cycle and Staff continues to -- to learn from and  
17 understand better what these programs do and how they  
18 function and how they -- they can attribute benefits  
19 to customers. And I'd say that -- that this is an  
20 outcome of that.

21 Q. I think if I recall, and the record will  
22 reflect, Ms. Dietrich may have confirmed that they had  
23 never taken that position prior to the Ameren MEEIA 3  
24 case.

25 A. Okay.

1 Q. Do you recall that?

2 A. That sounds familiar.

3 Q. Okay. But that was -- was that your  
4 recommendation to the team in this case, that they  
5 conclude that there's no avoided capacity costs for  
6 KCPL and GMO until 2033?

7 A. I wrote the substantial portion of the  
8 report that -- that testified to that, so yes.

9 Q. Okay. And I noticed in your credentials  
10 that you had a Bachelor of Science degree in  
11 biological engineering; is that right?

12 A. That's correct.

13 Q. And I didn't -- to be honest, I didn't  
14 know exactly what that field was so I looked it up on  
15 the Mizzou website. And it stated there that  
16 biological engineering or bio-engineering is a  
17 science-based engineering discipline that integrates  
18 engineering with biological sciences in one  
19 curriculum.

20 Bio-engineers apply scientific and  
21 engineering principles of design and analysis to  
22 develop products, systems and/or processes for  
23 improving human and animal health, bio-resource  
24 utilization and environmental protection.

25 Is that generally what you studied?

1 A. That sounds like an accurate  
2 representation of my degree, yes.

3 Q. It sounded very interesting and very  
4 challenging.

5 A. It certainly was.

6 Q. Okay. Well, I believe it. What types of  
7 courses would you take if you're studying to be a  
8 bio-engineer?

9 A. There's a lot of -- a lot of courses that  
10 would have been taken. A lot of the focus that I had  
11 was on the biomedical side of -- so there -- I kind of  
12 characterize it into -- to three disciplines that you  
13 might have within that -- that degree.

14 One of them being agriculture based,  
15 another being medical based, which is what I tended to  
16 focus on. I guess agriculture and environmental, put  
17 those two together. And then the third being more  
18 processing. So along the lines of what chemical  
19 engineers do, with a biology twist.

20 Q. Okay. Well, that sounds really  
21 interesting to me. Would you have taken accounting,  
22 economics or law or anything like that?

23 A. I took an accounting class. I also had  
24 some credits for economics as well.

25 Q. Econ 1 or 101 or whatever they call it?

1 A. Macroeconomics.

2 Q. Macro?

3 A. Yeah.

4 Q. Okay. Did you have any courses that  
5 dealt with energy efficiency or demand-side management  
6 programs?

7 A. Not in -- not at University, no. But  
8 I've continued my education here with the Commission  
9 and have done lots of research.

10 Q. Okay. And it appears that bio-engineers  
11 would be expected to work on products and systems and  
12 processes that improve human and animal health.  
13 Right?

14 A. Sure.

15 Q. Okay. On page 27 of the Staff's Rebuttal  
16 Report at lines 1 through 4, you believe that KCPL GMO  
17 should have assumed an avoided capacity cost equal to  
18 zero dollars for the years 2019 through 2031 because  
19 KCPL and GMO are not expected to need capacity  
20 until -- this says 2032; is that right?

21 A. That's correct.

22 Q. Is it correct that if the Commission  
23 accepts your position, then it would follow that only  
24 a handful of the Company's energy efficiency and  
25 demand programs would be cost justified before 2032?



1 A. I don't believe so.

2 Q. Under the MEEIA statute?

3 A. The way they're designed today, yes. But  
4 I think they can certainly be redesigned in a way that  
5 would make them cost-effective prior to that date.

6 Q. You think all of those plans would if we  
7 don't have any capacity needs until 2033?

8 A. I don't think all of the plans would, but  
9 I think a portfolio could certainly be designed that  
10 would allow KCPL and GMO to have programs prior to  
11 2032 and potentially ramp up in a way that would allow  
12 you to still avoid combustion turbine. But the  
13 programs in front of us today are not that.

14 Q. Yeah. For the programs that are there  
15 today, if you assume zero until 2033, they don't pass  
16 your test. Right? Your cost-effectiveness test?

17 A. I don't -- I wouldn't say it's my test,  
18 but I don't think they pass the -- the TRC.

19 Q. Right. But they would pass -- and they  
20 do lower net present value revenue requirements, don't  
21 they?

22 A. They allow the Company to maintain  
23 off-system sales and lower purchase power, yielding  
24 some additional off-system sales revenue. And I'm  
25 sure that Staff Witness John Rogers can expand on that

1 if -- if asked to.

2 Q. Well, that wasn't my question. My  
3 question was don't they lower the net present value  
4 revenue requirements as shown in the IRP?

5 A. As shown in the IRP or in Appendix 8.11?

6 Q. I asked about the IRP.

7 A. I'm trying to recall because it's been a  
8 while since I've reviewed that or looked at -- at that  
9 docket, but I'm -- I'm not certain that I recall. Did  
10 they model a no DSM plan in that docket?

11 Q. I'm -- I'm asking you. Do you know?

12 A. I don't recall if they -- if -- if the  
13 Company modeled a no DSM.

14 Q. They -- they modeled several different  
15 scenarios with --

16 A. Yes, they did.

17 Q. -- multiple levels of DSM.

18 A. Yes, they did.

19 Q. And isn't it true that the one that they  
20 chose, the preferred plan, is the one that lowered--  
21 had the lowest present value net rev-- revenue  
22 requirements at the lowest level for the 20 years.  
23 Right?

24 A. I don't recall. And for some reason I'm  
25 thinking that it wasn't the lowest.

1 Q. Okay. Well, let's go to the bottom of  
2 page 20 of the Staff report at line 20. There you  
3 state, Therefore, KCPL GMO should have assumed avoided  
4 capacity costs equal to zero dollars in years 2019  
5 through 2031 and then the estimated market cost of  
6 capacity to serve capacity deficit in 2032 and zero  
7 dollars from that point on for the MEEIA 3 Cycle  
8 program evaluation. Is that what you say?

9 A. It's from 20 to 21. Right? Is that what  
10 you said?

11 Q. From 2019 through 2031 it's zero, and  
12 then you assume the market cost of capacity for the  
13 deficit in 2032. And then after that -- after that,  
14 you go back to zero for -- going on. Correct? That's  
15 how you looked at it?

16 A. From page 20 through page 21? I'm sorry.

17 Q. Oh, I'm sorry. You're asking what page  
18 number.

19 A. I'm sorry.

20 Q. Yeah, I'm asking at line 20 at page 20.

21 A. Okay. Yes, that -- I think that's --  
22 that's what I said.

23 Q. Okay. So is it correct then that you're  
24 saying that only in the year 2032 is there an avoided  
25 capacity cost?

1 A. Attributable -- attributable to the  
2 proposed MEEIA Cycle 3 application, yes.

3 Q. Well, you're looking at the Company's  
4 needs, aren't you? Capacity needs. And you're saying  
5 they don't have a capacity need in any year except  
6 2032. And that's the reason you can avoid it because  
7 they have capacity needed.

8 A. So there -- the reason that I made the  
9 statement is that Alternative Resource Plan Number 9  
10 when compared to Alternative Resource Plan Number 7 --  
11 so that's MEEIA Cycle 3 or stop after MEEIA Cycle 2 --  
12 results in the same combustion turbine additions in  
13 years 2033 and 2036.

14 Now, I will say that ARP 8, which is  
15 the -- the RAP minus for the 20-year planning horizon  
16 does show that CT additions may not be necessary if  
17 you implement DSM through that entire time. But it's  
18 not attributal to MEEIA Cycle 3.

19 Q. Well, let's not get in the weeds. I mean  
20 what you're saying is there is a capacity need in 2032  
21 and, therefore, if we can avoid that, you have a  
22 positive avoided capacity cost. But in the other  
23 years, there's not a capacity need so there's a zero  
24 avoided capacity cost. Right?

25 A. Attributable to MEEIA Cycle 3, yes.

1 Q. So the Company should have assumed the  
2 market cost of capacity, as I understand it, in 2032  
3 as its avoided cost for that single year. Right?

4 A. Yes. And that's based off of the -- the  
5 modeling analysis demonstrating a deficit when  
6 compared to the SPP resource adequacy requirement.

7 Q. And just so we're clear, for the years  
8 2019 through 2031, you're testifying that the avoided  
9 capacity costs are zero?

10 A. Attributable to MEEIA Cycle 3, yes.

11 Q. And then in the year when there is a need  
12 for a power plant to be built, the year 2032, the  
13 Company would have a positive avoided cost and you  
14 suggest using the market cost of capacity for that  
15 year?

16 A. So to clarify, 2032 is the first year  
17 that there's a deficit on the capacity balance sheet  
18 of the Company. It is not the first year that the  
19 modeling analysis would say that a CT build is  
20 necessary. So that was the reason for stating that  
21 the market value in that year would be reasonable.  
22 And then that following year, a combustion turbine is  
23 being added based off of the modeling analysis. And  
24 that point, the Company would then be long again.

25 Q. Aren't you suggesting the market cost of

1 capacity can be used as an alternative when you're  
2 looking at avoided costs of capacity?

3 A. I think the rule allows for it, yes.

4 Q. But after the Company builds the new  
5 capacity in 2032, then you again conclude the avoided  
6 capacity costs from that point forward would be zero.  
7 Right?

8 A. Because of the fact that the combustion  
9 turbine isn't deferred?

10 Q. No, I'm asking you just is that a yes or  
11 no?

12 A. It -- it's not a simple answer,  
13 unfortunately.

14 Q. Okay. Well, just -- I'm just trying to  
15 understand your statement there where you said that  
16 you go back to zero.

17 A. Based off of the MEEIA 3 application,  
18 that's what I would recommend because of the fact that  
19 a supply-side resource is not deferred. And once that  
20 resource would have been built, you no longer have a  
21 capacity need.

22 Q. So if the Company does eventually have to  
23 build another power plant, then in that year there  
24 would again be -- in that year, there would be a  
25 positive avoided cost, but after you don't need any

1 more because you got plenty, it goes back to zero.

2 Right?

3 A. If you don't defer the plant, then yes.

4 Q. And that's kind of a major lynchpin in  
5 the Staff's analysis on avoided cost, isn't it?

6 A. I guess you could say that, yes.

7 Q. So once new capacity is built, then --  
8 then the avoided cost would again be zero and there  
9 would be no need for energy efficiency or DSM programs  
10 because the Company has sufficient capacity; is that  
11 true?

12 A. If the Company weren't able to defer that  
13 supply-side investment, yes.

14 Q. Is it correct then that the only year  
15 where an energy efficiency and DSM program could be  
16 cost justified, using your analysis, would be in the  
17 year 2032?

18 A. Absolutely not.

19 Q. So when would they -- when would they  
20 begin a DSM energy efficiency program under your  
21 analysis?

22 A. I -- I've made my recommendation on the  
23 avoided cost based off of the application that's in  
24 front of me. That being said, if a utility were to  
25 propose a -- a similar savings target, I think the

1 number that you guys pointed out earlier was 158  
2 megawatts; is that right? Is that the savings target  
3 in the early years?

4           So if a utility was to propose something  
5 like that at a time when the persistence of those  
6 measures being installed could actually defer some  
7 supply-side resources, I would say that it would be  
8 reasonable to assume that there's some avoided costs  
9 that are not just the year before the supply-side  
10 resource would be necessary, but also in every year  
11 thereafter that that Company can defer that cost.

12           Q.     What if we could show you that the net  
13 present value revenue requirements will begin going  
14 down for that whole period? Wouldn't that show you  
15 that it's cost-effective to be doing DSM and energy  
16 efficiency?

17           A.     I think if you showed me that the net  
18 present value of revenue requirement was decreasing,  
19 it would depend -- my -- my analysis would depend on  
20 the screening tool that you utilized to decide which  
21 measures and -- and how -- and at what level the  
22 Company should invest.

23                     If you -- if you used an avoided cost  
24 that was the entirety of a CT, you'll -- you'll be  
25 over-inflating the amount of what would be deemed to



1 be cost-effective energy efficiency when, in fact, it  
2 isn't cost-effective because you're not avoiding a  
3 cost.

4 Q. Doesn't that turn on what you decide is  
5 the avoided cost for those years? Because if it's --  
6 if it's -- if the net present value is -- is going  
7 down because we are doing DSM and energy efficiency,  
8 doesn't that show that's a cost-effective way to go,  
9 whether we use a CT or whether we use a market-based  
10 capacity cost or whatever for screening under the  
11 CT -- the Total Resource Cost analysis?

12 A. I'd say there's a high likelihood that  
13 there's many programs that would be implemented -- or  
14 be modeled that would be implemented that aren't  
15 actually cost-effective. And it would reduce the  
16 revenue requirement, but the benefits would largely be  
17 in the hands of participants. And I -- like I said  
18 before, I think John Rogers could probably answer  
19 the -- the specifics of that -- that estimation.

20 Q. Isn't it --

21 A. But it wouldn't surprise me to see an  
22 NPVRR decrease as long as you're increasing the amount  
23 of demand-side measures being implemented in the IRP.

24 Q. Isn't one of the benefits of energy  
25 efficiency and DSM programs, that public utilities

1 don't have to operate fossil fuel power as often or  
2 for as many hours in the year?

3 A. I don't think that's the case in this  
4 instance because of the Company's participation in  
5 SPP. I believe your units will be running the same  
6 regardless of whether or not you need them or not.

7 Q. Isn't one of the benefits though from a  
8 generic point of view of energy efficiency and DSM  
9 programs, that public utilities don't have to operate  
10 fossil fuel power as often or for as many hours in the  
11 year?

12 A. So you'd be speaking SPP footprint-wide  
13 then? Is that -- I just need to clarify your  
14 question.

15 Q. Yeah, that's fair.

16 A. I -- if that is the question, then I'd  
17 say yes, that is a benefit.

18 Q. So if all the SPP utilities are doing  
19 energy efficiency and DSM, that's going to help the  
20 whole SPP footprint. Right?

21 A. It -- it would decrease the amount of  
22 time that a higher margin unit would -- would operate,  
23 yes.

24 Q. And that could be an environmental  
25 benefit for Missourians if the Company -- or if

1 SPP-regulated utilities didn't have to run their  
2 plants as often. Right?

3 A. I would say it would.

4 Q. We'd have less emissions. Right? That's  
5 what we're talking about?

6 A. I -- I wouldn't disagree with that.

7 Q. The Company should just wait until it's  
8 on the verge of being short of capacity before they  
9 encourage their customers to be more efficient. Is  
10 that the approach the Staff's recommending?

11 A. Absolutely not.

12 Q. Mr. Luebbert, do you own an air  
13 conditioner at your home?

14 A. I do.

15 Q. Are you like me where you're not going to  
16 replace that air conditioner until it breaks down or  
17 is on the verge of its last of its life span?

18 A. I was lucky enough to have bought a home  
19 that had a fairly efficient unit, so --

20 Q. Yeah.

21 A. -- I can't relate.

22 Q. Yeah, you're a young guy. I didn't have  
23 that option.

24 But if -- if the Company wants to  
25 encourage customers to use more efficient air

1 conditioners, do you think it would be good business  
2 sense to wait until the customers -- or wait until the  
3 Company's on the verge of needing a power plant before  
4 we start encouraging customers to be more efficient  
5 and use a higher quality air conditioner?

6 A. I don't think that's what my position  
7 would reflect.

8 Q. But when would you -- when would you  
9 start your energy efficiency and DSM program, under  
10 your analysis?

11 A. At a point in which you could defer a  
12 supply-side resource.

13 Q. And that's not until 2032. Right?

14 A. Right now your -- your next needed  
15 supply-side resource is in 2032. But there's a high  
16 likelihood that a program that began closer to that  
17 date, say 2026, could yield cost-effective programs.  
18 And I don't know what that looks like because that's  
19 not the application in front of me today.

20 Q. So is that what the Staff's recommending,  
21 is we ought to really just wait? We ought to just  
22 cancel? We ought to tell all our implementers and  
23 suppliers out there no more energy efficiency because  
24 we don't need a power plant for quite a number of  
25 years and, therefore, let's just call it quits and

1 we'll wait till we need it and that's when we'll ask  
2 people to start buying new air conditioners?

3 A. I'd say that the Staff position on  
4 avoided cost would give a clear indication to the  
5 Company that you should be investing in high-impact,  
6 long-lived measures now at a -- at a -- from -- from  
7 what's in the application a relatively less amount.

8 And as you get closer to the year in  
9 which you would actually need a supply-side resource  
10 and that -- that level of need is starting to  
11 increase, you would ramp up energy efficiency and  
12 demand response programs in a way -- in the most  
13 cost-effective way to do so in order to avoid that  
14 supply-side resource. That's not what's in the  
15 application and so that's not what's in my  
16 recommendation.

17 Q. So what are you recommending?

18 A. I'm recommending that for the application  
19 that's in front of us, that the avoided cost be zero  
20 in years 2019 through 2031, the estimated market cost  
21 of capacity to serve the capacity deficit in 2032, and  
22 zero dollars from that point on based off of the  
23 modeling analysis that's been provided to me.

24 Q. And that's what you recommended in Ameren  
25 initially too, wasn't it?

1 A. It is. Something similar, yes.

2 MR. FISCHER: Judge, I'd like to have an  
3 exhibit marked.

4 JUDGE CLARK: Go ahead. I'm assuming  
5 this is going to be Exhibit 6.

6 (Exhibit 6 was marked for  
7 identification.)

8 BY MR. FISCHER:

9 Q. Mr. Luebbert, does this appear to be  
10 Appendix C of the avoided costs that were attached to  
11 the Ameren Stipulation and Agreement?

12 A. It looks similar, but believe it or not,  
13 I don't remember every exact number that was on it  
14 from that long ago.

15 Q. Well, I'm not --

16 A. It does look similar.

17 Q. Okay. I'm not going to ask you about  
18 every number, but would you describe for the  
19 Commission what this appendix is designed to show?

20 A. What this appendix has is the 2017 IRP  
21 avoided costs from Ameren's IRP.

22 Q. Now, you originally recommended zero.  
23 Correct?

24 A. I recommended zero avoided capacity  
25 costs --

1 Q. And --

2 A. -- transmission costs and I believe  
3 distribution costs as well.

4 Q. At the top of the page there it says that  
5 for the cost-effectiveness analysis of its MEEIA 2019  
6 through '21 measures, programs and portfolio, Ameren  
7 Missouri used avoided costs for -- from its 2017  
8 integrated resource plan, IRP, File Number  
9 EO-2018-0038 as shown on the table below. Correct?

10 A. That's correct.

11 Q. Does this appendix show the avoided  
12 energy costs, the avoided capacity costs, the avoided  
13 transmission costs and the avoided distribution costs  
14 that were ultimately used in the Ameren MEEIA 3 case?

15 A. Yes, it does.

16 Q. And that was used to review the  
17 cost-effectiveness of Ameren's MEEIA 3 programs; is  
18 that right?

19 A. At what point in time?

20 Q. When you stipulated.

21 A. When we stipulated, yes.

22 Q. Is it correct that the avoided capacity  
23 costs shown on this exhibit are not zero?

24 A. That's correct.

25 Q. In fact, it appears that the avoided

1 capacity costs used in the Ameren case to review the  
2 cost-effectiveness of Ameren's energy efficiency and  
3 DSM programs range from 26 -- no, I'm sorry

4 JUDGE CLARK: Can I ask a question here  
5 real quick?

6 MR. FISCHER: Yes, sir.

7 JUDGE CLARK: Since this is another case  
8 and I don't know, I'm just going to ask. Is any of  
9 this confidential?

10 MR. FISCHER: No, sir. It's all public.  
11 It's all attached to the Ameren Stipulation and  
12 Agreement in 2018-- EO-2018-003 -- no, that's not  
13 right.

14 MR. HALL: 211.

15 MR. FISCHER: Oh, yeah. 00-- 0211.  
16 Right? Gotcha. Thanks.

17 JUDGE CLARK: Thank you. Go on.

18 MR. FISCHER: Yeah. I'm sorry.

19 BY MR. FISCHER:

20 Q. I think my question was if I look at the  
21 avoided capacity costs, the second column there, it  
22 ranges from 20 dollars in 2019 and then it escalates  
23 to 101 dollars per kW year in 2037; is that right?

24 A. That's correct.

25 Q. Is it correct that in the Ameren MEEIA 3



1 case, Staff's position that the avoided costs should  
2 be zero for all years but one was not utilized in the  
3 final analysis of the cost-effectiveness of Ameren's  
4 MEEIA 3's programs?

5 A. That is correct. And I'll just point out  
6 that that was --

7 Q. That's okay.

8 MR. FISCHER: I'd like to show you a copy  
9 of the stipulation in that case, Judge. That's the  
10 2018-01-- 211.

11 THE WITNESS: Thank you.

12 BY MR. FISCHER:

13 Q. That's the Ameren stipulation in the  
14 MEEIA 3 case. And if you turn to page 3, the very  
15 last part of that paragraph says, The following table  
16 summarizes revisions made to the original appendices  
17 as reflected in the appendices of the revised report;  
18 is that right?

19 A. That's correct.

20 Q. And then if you flip over to page 4 on  
21 the Appendix C which -- which relates to avoided  
22 costs, it says, The only changes -- only revised -- or  
23 the rationale was only revised to reflect new MEEIA  
24 2019 to 2021 plan title. Right?

25 A. That's what it says, yes.

1 Q. Would it be correct to conclude that the  
2 Stipulation and Agreement that Staff supported in the  
3 Ameren MEEIA 3 case incorporated the same avoided cost  
4 numbers that were originally used by Ameren in its  
5 revised 2019-2021 MEEIA energy efficiency plan?

6 A. As part of settlement, throughout that  
7 process, there were lots of gives and takes. This is  
8 clearly one.

9 Q. So you clearly went to Ameren's avoided  
10 cost numbers for purposes of that settlement?

11 A. As you can see, the -- it states that  
12 they're only revised to reflect new MEEIA 2019-2021  
13 plant title.

14 Q. Yeah. The title page was changed?

15 A. Right.

16 Q. Would it be correct to conclude that  
17 Staff agreed to use higher avoided costs than zero in  
18 analyzing Ameren MEEIA 3 programs in that case?

19 A. Clearly.

20 MR. FISCHER: Judge, I'd move for the  
21 admission of that exhibit, Number 6.

22 JUDGE CLARK: Any objection to admitting  
23 the Company's Exhibit 6 onto the hearing record? I  
24 hear no objections. Exhibit 6 will be admitted onto  
25 the hearing record.

1 (Exhibit 6 was received into evidence.)

2 MR. FISCHER: Couple more, Judge.

3 BY MR. FISCHER:

4 Q. As I understood some testimony in the  
5 hearing earlier, there was some indication that  
6 there's a difference between SPP and -- and the MISO  
7 because our -- the MISO has a capacity market that --  
8 that SPP does not; is that right?

9 A. That's my understanding, yes.

10 Q. Now, if you look at the avoided costs  
11 that were used in the Ameren case that were just part  
12 of Exhibit C --

13 A. Uh-huh.

14 Q. -- those are not MISO capacity cost  
15 numbers, are they? The MISO capacity costs are much  
16 lower than the numbers that are included there; isn't  
17 that true?

18 A. I think at this point in time the -- the  
19 numbers are unknown. So no, they're not actual MISO  
20 capacity numbers. They are projected market  
21 equivalencies.

22 Q. Would you agree that the MISO capacity  
23 costs today are much lower than what are included on  
24 that -- on that sheet?

25 A. To be honest with you, I'm not -- I'm not

1 current on what that -- those costs are.

2 MR. FISCHER: Judge, I think that's --  
3 yeah.

4 BY MR. FISCHER:

5 Q. Mr. Luebbert, when was the last time you  
6 looked at the MISO capacity market?

7 A. I'd say it was probably in 2018.

8 Q. Okay. Do you recall what they were at  
9 that time?

10 A. I can't say I do -- I'm sorry. I can't  
11 say I do. It's -- it's been quite some time and lots  
12 of cases in between that, so I apologize.

13 Q. Would they be substantially less than  
14 100 dollars?

15 A. Absolutely.

16 Q. Would they be substantially less than  
17 52 dollars?

18 A. I don't recall, but I know they weren't  
19 100 dollars.

20 Q. Okay.

21 A. Sorry I can't be more help.

22 MR. FISCHER: Judge, with that, I think  
23 given the time of the night, I'll -- I'll pass the  
24 witness.

25 JUDGE CLARK: Any questions from the

1 Commission?

2 COMMISSIONER KENNEY: No, I don't have  
3 anything.

4 JUDGE CLARK: Any redirect from Staff?

5 REDIRECT EXAMINATION BY MS. MERS:

6 Q. So there's been a lot of talk about the  
7 Ameren MEEIA case and how it compares to this case. I  
8 think the Company's assertion is that the cases are  
9 similar. But can you explain in Staff's view how the  
10 cases are different?

11 A. That's a lot to unpack. There's quite a  
12 few differen-- quite a few differences. I guess the  
13 first being -- I think the obvious thing is that  
14 Ameren and Staff, as well as the other parties, were  
15 able to get together in settlement and come to an  
16 agreement put forth in front of the Commission.

17 That -- that clearly isn't the case in  
18 this case. I wouldn't say not for the lack of trying.  
19 There's -- there's been a long settlement and  
20 negotiation process within this case and,  
21 unfortunately, it -- it resulted in us not being able  
22 to come up with an agreement to put in front of you.

23 One of -- one of the biggest areas -- and  
24 I don't want to get too far into kind of settlement  
25 discussion in another case, but one of the biggest

1 areas that -- that Mr. Fischer has keyed in on is this  
2 avoided capacity cost that was utilized in the  
3 2019-2021 Ameren MEEIA plan.

4           And I think the biggest difference  
5 between the two utilities is the fact that Ameren does  
6 operate in MISO, and KCPL and GMO operate in SPP where  
7 there is no capacity market and from my understanding,  
8 I -- I don't think that there's one on the horizon  
9 from what I've seen.

10           I -- I would point to Matt Michaels'  
11 testimony in the Ameren MEEIA case in which he stated  
12 that the Company's approach is rooted in the operation  
13 of the MISO capacity market. The Company bids its  
14 resources into MISO's capacity auction and then  
15 separately purchases capacity to meet its customer  
16 demand also through the MISO's capacity auction. The  
17 level of the Company's capacity purchases depends  
18 entirely on the level of the Company's load.

19           Another major difference is that Ameren's  
20 proposed avoided capacity cost was a modeled cost  
21 using Ventyx Mita (phonetic) software, which has been  
22 used in the last few IRPs for all of the utilities for  
23 the avoided energy costs. They utilized it in this  
24 case -- or in the 0211 case to model the avoided  
25 capacity costs within that -- within that market.

1           And so what that -- that model does is it  
2 simulates additions, retirements and dispatch of  
3 resources within a market to determine what the market  
4 clearing price might be in a given year. And so they  
5 utilize that information, they -- they utilize that  
6 software to develop several different curves with --  
7 with different probabilities depending on whether or  
8 not there may be low load, mid-level load or a high  
9 load. And they developed the probability weighted  
10 curve, which I believe is what you see here. I'd have  
11 to check that to be absolutely certain.

12           That differs drastically from what KCPL  
13 has done. What they've given you is our avoided cost  
14 is the cost to build a CT today. It's 110 dollars per  
15 kW year and we're going to continue that with  
16 inflation over the entirety of the planning horizon.

17           Those two approaches are drastically  
18 different. And I'd say, you know, as I mentioned to  
19 Mr. Fischer before, I think the rule does have a  
20 provision that allows to you use a market equivalency.  
21 And from -- from what I can tell, that's -- that is  
22 the approach that Ameren attempted to make.

23           And as I -- as I read the surrebuttal,  
24 you know, things became a little clearer to me and  
25 there was information provided that wasn't provided in

1 the application and that I hadn't seen within the IRP.

2 JUDGE CLARK: Ameren or KCPL?

3 THE WITNESS: Ameren.

4 JUDGE CLARK: Okay.

5 THE WITNESS: So I -- I'm not saying that  
6 that is why that -- that we just checked off on  
7 avoided costs, but through the course of settlement  
8 and through, you know, gives and takes in both  
9 directions, this is the result.

10 BY MS. MERS:

11 Q. So to tie that back to the Exhibit 6 that  
12 you were asked about, it sounds like you were  
13 eventually provided information to verify the figures  
14 on that exhibit; is -- is that correct?

15 A. When I -- when I wrote the Rebuttal  
16 Testimony in the EO-2018-0211 case, I was aware of the  
17 planning reserve auction. I was not aware that Ameren  
18 was currently bidding all of its capacity in and  
19 purchasing all of its capacity back out of that  
20 auction.

21 That -- that operation is very similar to  
22 how -- my understanding both utilities operate in the  
23 energy -- for the energy of their -- both their load  
24 and their generation. They bid all of their  
25 generation in, they -- the economic dispatch model



1 dispatches which units are economic in a given  
2 interval and then for each interval they purchase all  
3 of the necessary load back from the -- from the RTO.

4           With the explanation that Mr. Michaels  
5 provided in the -- in his surrebuttal, it sounds a lot  
6 like that same process. And so at that point it's  
7 much more reasonable to assume that you may have --  
8 you may have some net benefits through excess revenues  
9 from additional capacity sales as opposed to -- and  
10 decreased capacity purchases that would then flow back  
11 to customers through the fuel adjustment clause.

12           Q.     And do you believe that Ameren's programs  
13 are actually more tailored to produce those -- those  
14 numbers or those benefits?

15           A.     You know, I think -- I think the market  
16 does that for them. I think there's -- there's an  
17 addition-- additional layer of complexity added for  
18 KCPL and GMO given that they're in SPP. And in order  
19 for them to have that revenue stream -- and I go into  
20 a little bit more discussion of this in my -- my  
21 rebuttal.

22                     But in order for them to actually realize  
23 that revenue stream for customers, they have to not  
24 only save the -- the capacity, but then they also have  
25 to go out and find somebody that's willing to purchase

1 it. And they have to try to get the best amount  
2 possible that they can for it.

3 And from what I've seen in response to  
4 data requests, there hasn't been a high level of I  
5 guess direction to go and do that, to go and find  
6 those -- those that are willing to purchase large  
7 amounts for potential revenue streams.

8 Q. And a lot was made of the -- you know,  
9 trying to compare the capacity situations in those  
10 cases to make the point that the applications were the  
11 same. But can you point to any differences in the  
12 measures or the types of measures that Ameren is  
13 pursuing versus what KCPL and GMO are pursuing?

14 A. Yeah. So one of the things that -- that  
15 is apparent when you look at the earnings opportunity  
16 matrix that's within the stipulation for the 0211 case  
17 as compared to what was filed is -- is a large  
18 emphasis being placed on not only measures that have  
19 large megawatt reductions in years 10 through 14, but  
20 an even greater emphasis and a greater financial  
21 incentive for the Company to go and invest in measures  
22 that have -- measure lives that are 15-years plus.

23 So -- so what that does is it -- it is an  
24 attempt to drive those megawatt savings out to those  
25 years when -- when a supply-side resource could be

1 deferred.

2 Q. And is there any difference in the  
3 aggressiveness in savings goals?

4 A. I don't have those numbers in front of me  
5 and unfortunately I haven't looked at them in a while,  
6 so --

7 Q. Would that be a better question for  
8 Mr. Fortson?

9 A. Maybe.

10 Q. What about differences in budget caps?

11 A. Yeah. So one of the -- one big  
12 difference within the stipulation for the Ameren case  
13 is we were able to agree to budget caps kind of along  
14 the same lines as what I'm talking about with the  
15 years 15 plus and the years 10 to 14.

16 Those would have a larger percent above  
17 the target that would be allowable for the earnings  
18 opportunity; whereas, those programs that may not  
19 be -- have the persistence or the -- the deep level of  
20 demand savings would have a smaller cap. So I think,  
21 for instance, there's some that are as low as -- and  
22 I -- this would be subject to check, but I'd say  
23 115 percent or maybe 120 as opposed to 125 percent for  
24 another.

25 Q. You were asked if DSM lowers the net

1 present value of revenue requirement. And you started  
2 to answer that yes, because of the off-system sales  
3 revenue. Do you recall that?

4 A. I do.

5 Q. And were you here when Company Witness  
6 Mr. Ives testified?

7 A. I was.

8 Q. Did you hear him testify that they plan  
9 to run their plants less and -- I believe the gist was  
10 that that could reduce their off-system sales revenue?

11 A. I do recall that. My understanding of  
12 how the SPP -- sorry. I lost my train of thought. My  
13 understanding with how the SPP economic dispatch works  
14 is it is going to dispatch a unit, regardless of what  
15 utility it is, based off of whether or not it's  
16 economic in that -- in that unit of time.

17 A simple reduction on KCPL and GMO's load  
18 doesn't necessarily mean that KCPL and GMO's units are  
19 running less. As I -- as I me-- or explained to  
20 Mr. Fischer, could it mean that on an SPP  
21 footprint-wide basis that some of those marginal units  
22 or those more expensive units are running a little bit  
23 yes -- a little bit less, yes, that is the case.

24 But I don't think that's the case for  
25 actual KCPL units. And if that's not the case, then,

1 you know, I wouldn't expect decreased operation and  
2 maintenance expense and I wouldn't expect decreased  
3 outages. However, if that were the case and the units  
4 were running less based, off of Mr. Ives's testimony,  
5 I would assume that that would mean less off-system  
6 sales, which would result in less off-system sales  
7 revenue that would be flowing back to customers  
8 through the full adjustment clause.

9 I don't know that I've seen anything --  
10 and by no means am I Staff's F-- FAC expert. I know  
11 enough to get myself in trouble, but I don't know that  
12 there's been any demonstration that -- one, that the  
13 units are running less based off of MEEIA cycles.

14 Q. And without that demonstration then some  
15 of the non-energy benefits that Mr. Fischer was  
16 referring to wouldn't come to pass; is that correct?

17 A. Some of the non-energy benefits that  
18 would be attributable to KCPL and GMO units, yes. I  
19 think it -- it's fair to say that there's some  
20 environmental benefit on a footprint-wide basis for  
21 not running the dirty units, but I don't think it's  
22 anything that would be necessarily attributable to the  
23 companies in this case.

24 Q. And if -- you know, take --  
25 hypothetically if the Company was correct and their

1 units would run less and there would be less  
2 off-system sales revenue, how would that impact the  
3 net energy benefit calculation that the Company  
4 performed? I know you're not the FAC expert, but at a  
5 high level.

6 A. I believe it would decrease the net  
7 benefits. I'm -- I'm sure that John Rogers can give a  
8 clear and definitive answer on that if you -- if you  
9 so inquire.

10 Q. And would those benefits be the ones that  
11 non-participants primarily would re-- not primarily,  
12 but non-participants would supposedly benefit from  
13 those as opposed to --

14 A. Yeah. Absent -- sorry to cut you off.  
15 Absent a deferral of supply-side resources and a -- a  
16 deferral of rate-basing of that supply-side resource,  
17 the primary way that any non-participating customer  
18 could benefit is if ultimately the -- the FAC base  
19 rates were to decrease. So in -- in the instance that  
20 that's not the case, participants get the benefit of a  
21 lower bill because they have less usage and  
22 non-participants don't.

23 Q. Do you recall being asked about the  
24 avoided capacity assumptions on page 20 of the Staff  
25 Rebuttal Report?

1 A. I do.

2 Q. And there was discussion about using  
3 market value capacity for valuing MEEIA. Do you  
4 recall that?

5 A. I do.

6 Q. Would customers be better off if the  
7 Company just went to the market to purchase capacity  
8 instead of investing in MEEIA Cycle 3?

9 A. Can you clarify in which year? As of  
10 today, they don't need to.

11 Q. In the year that they would need the  
12 capacity.

13 A. Yeah. I think I stated it a couple times  
14 throughout our report, but given the responses that  
15 we've seen -- and I think Mr. Fischer alluded to a GMO  
16 2017 RFP. If those prices were to remain stable, the  
17 costs to meet that resource adequacy need in that one  
18 year that would be necessary based off of this  
19 modeling would be a fraction of what the -- the  
20 almost -- the nearly 100 million dollars that the  
21 Company is proposing.

22 Q. And you were also asked a few questions  
23 about the IRP, showing that DSM plans lower the net  
24 present Value of revenue requirement. Do you recall  
25 that?

1 A. I do.

2 Q. Whose avoided cost figures were used in  
3 that analysis, the IRP one?

4 A. So within that analysis, the avoided  
5 cap-- or the avoided costs from the Company would have  
6 been utilized to screen demand-side measurement  
7 programs or demand-side programs. So essentially the  
8 higher your avoided capacity cost is, the more  
9 cost-effective any given program will look.

10 If you -- if you artificially inflate  
11 the -- the level of demand savings that you can have  
12 from demand-side measures, you can implement more and  
13 deem it cost-effective. Well, the result of that is  
14 that now you have a higher decrease to purchase power  
15 then you would have had if you had only looked at  
16 cost-effective programs using a reasonable avoided  
17 cost value.

18 Q. You were asked some questions by  
19 Mr. Fischer about wanting to encourage efficient air  
20 conditioning. Do you recall that line of questioning?

21 A. I do.

22 Q. Can the Company offer efficient measures  
23 outside of MEEIA?

24 A. Absolutely. We've got a utility in the  
25 state that does today.



1 Q. And do they get compensated for that?

2 A. They get some compensation, but they  
3 don't get all of the provisions that the MEEIA statute  
4 provides.

5 Q. And to receive those provisions, would  
6 you agree you have to meet certain requirements?

7 A. Statutory requirements, yes.

8 Q. And those weren't met in this case?

9 A. No, they weren't.

10 Q. I have nothing further. Thank you.

11 JUDGE CLARK: Okay. Mr. Luebbert, you  
12 can step down.

13 THE WITNESS: Thank you.

14 JUDGE CLARK: It is one minute after  
15 six o'clock. What I'd like to do at this time -- I  
16 want to do two things real quick. First, I'm going to  
17 say that in regards to when we're going to start  
18 tomorrow, I'm going start after the agenda meeting.  
19 So the agenda meeting currently is scheduled for 5:00,  
20 so let's say sche-- I'm sorry. The agenda meeting is  
21 scheduled for 9:00.

22 COMMISSIONER KENNEY: Little better yeah.

23 JUDGE CLARK: Thank you. Sorry. It's  
24 late. I'm a little loopy.

25 COMMISSIONER KENNEY: I know.

1 JUDGE CLARK: So why don't we plan on --  
2 I'll just plan on it potentially running long. So why  
3 don't we just plan on starting at 10:00.

4 COMMISSIONER KENNEY: Might be over  
5 quick.

6 JUDGE CLARK: Now, I was -- most likely.  
7 I was expecting -- it's my understanding  
8 from Renew Missouri that everybody's agreed to waive  
9 in regards to your remaining two witnesses; is that  
10 correct?

11 MR. OPITZ: That's my understanding, yes,  
12 Judge.

13 JUDGE CLARK: And Mr. Robertson, you've  
14 indicated the same thing in regard to Mr. Mosenthal?

15 MR. ROBERTSON: Yes.

16 JUDGE CLARK: Okay. What about  
17 Department of -- and it's my understanding -- I'm just  
18 going to ask if there's anybody who was going to have  
19 questions for this witness and that will give me a  
20 list of -- that I can actually shoot out to the  
21 Commissioners. I'm not saying I'll be able to get  
22 responses back. I may not before the hearing starts,  
23 but I'm going to try to.

24 Jane Epperson, Division of Energy's  
25 witness. Anybody have questions for Jane?

1 MR. STEINER: I don't believe so.

2 JUDGE CLARK: Anybody going to have  
3 questions for OPC witness, Dr. Geoff Marke?

4 MR. OPITZ: I think that I will have  
5 some, Judge.

6 JUDGE CLARK: Okay. Questions for Staff?

7 MR. STEINER: So Your Honor, just because  
8 other people might be asking Mr. Marke questions, then  
9 we might have to questions.

10 JUDGE CLARK: It's a given. If he's  
11 here, he's here.

12 MR. STEINER: Got it.

13 JUDGE CLARK: So you're not waiving your  
14 right to ask questions just because you don't at this  
15 time posit any questions.

16 MR. STEINER: Got it.

17 JUDGE CLARK: Staff witness Seoung Joun  
18 Won. Anybody have questions for Mr. Won? Okay. I  
19 will ask in regard to him. Staff witness Robin  
20 Kliethermes. Anybody have questions for  
21 Ms. Kliethermes?

22 MR. STEINER: We might. We need to look  
23 at that.

24 JUDGE CLARK: Okay. Staff witness Byron  
25 Murray? Anybody have questions for Mr. Murray? Staff

1 witness Dana Eaves?

2 MR. FISCHER: Company has some questions.

3 JUDGE CLARK: Staff witness Kory  
4 Boustead, any questions? Staff witness Brad Fortson?

5 MR. HALL: Public Counsel has some  
6 questions for Mr. Fortson.

7 JUDGE CLARK: Thank you. Staff witness  
8 Tammy Huber?

9 MR. HALL: We may have some questions,  
10 but I'll have to confer.

11 JUDGE CLARK: Staff witness -- well,  
12 everybody said they already have questions for  
13 Mr. Rogers. So I'll just need Mr. Rogers.

14 So the list I've got to inquire about  
15 potentially not having to testify further at this  
16 point are Renew Missouri's witnesses, NRDC's witness,  
17 DE's remaining witness, and Kory Boustead, Byron  
18 Murray, and Seung Joun Won; is that correct? Okay.  
19 I will try and get an answer before the hearing starts  
20 tomorrow.

21 In regards to you, Mr. Crawford, I'm not  
22 going to have you come back tomorrow. I can't think  
23 of a reason to. If there's a singular question that  
24 one of us needs to get answers, we'll figure out a way  
25 do it.

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Okay. And with that in mind, we will adjourn and go off the record until 10:00 a.m. tomorrow morning.

(Exhibits 400, 400-C, 401, 550A-C, 550B and 551 were marked for identification.)

(WHEREUPON, the hearing was adjourned until September 24, 2019 at 10:00 a.m.)

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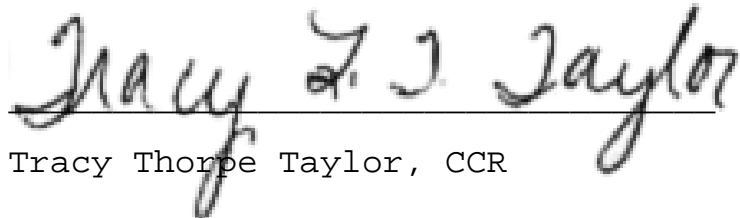
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CERTIFICATE OF REPORTER

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 Thorpe Taylor, CCR

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