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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

EVIDENTIARY HEARING

In the Matter of Union)
Electric Company d/b/a Ameren)
Missouri's 4th Filing to)
Implement Regulatory Changes) File No. EO-2023-0136
in Furtherance of Energy)
Efficiency as Allowed by)
MEEIA)

MONDAY, JULY 22, 2024

9:00 a.m.

Governor Office Building
200 Madison Street
Jefferson City, Missouri 65101

VOLUME 3

RON PRIDGIN, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE

KAYLA HAHN, Chair
MAIDA J. COLEMAN,
JASON R. HOLSMAN,
GLEN KOLKMEYER,
JOHN MITCHELL,
COMMISSIONERS

Reported By:
Shelley L. Bartels, RPR, CCR

Job No.: 169918

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1 Proceedings began at 9:03 a.m.:

2 JUDGE PRIDGIN: Good morning. We are on
3 the record. This is the evidentiary hearing in File
4 No. EO-2023-0136. And this is the -- in the matter
5 of Union Electric Company d/b/a Ameren Missouri's
6 Fourth Filing to Implement Regulatory Changes in
7 Furtherance of Energy Efficiency as Allowed by MEEIA.
8 This hearing is beginning July 22nd, 2024 in the
9 Governor Office Building in Jefferson City, Missouri.
10 The time is 9:03 a.m.

11 I would like to get entries of appearance
12 from counsel please, beginning with Ameren Missouri.

13 MS. MOORE: Good morning, your Honor.
14 Appearing on behalf of Ameren Missouri is Jennifer
15 Moore, Jennifer Hernandez, and William Holthaus.

16 JUDGE PRIDGIN: All right, Ms. Moore.
17 Thank you. Any appearance on behalf of the Staff of
18 the Commission.

19 MR. PRINGLE: Thank you, Judge. Travis
20 Pringle and Tracy Johnson on behalf of Staff.

21 JUDGE PRIDGIN: Mr. Pringle, thank you.
22 Entry on behalf of Renew Missouri.

23 MR. LINHARES: Thank you, Judge. Andrew
24 Linhares appearing on behalf of Renew Missouri
25 Advocates. The court reporter has my info.

1 JUDGE PRIDGIN: Mr. Linhares, thank you.
2 Any entry on behalf of NRDC? All right. Hearing
3 none, any entry -- and I believe MECG's asked to be
4 excused, but just in case, any entry of behalf MECG?
5 Any entry on behalf of Consumers Council?

6 MR. COFFMAN: Yes, your Honor. John
7 B. Coffman on behalf of the Consumers Council of
8 Missouri.

9 JUDGE PRIDGIN: Mr. Coffman, thank you.
10 Any entry on behalf of the Office of the Public
11 Counsel.

12 MS. VANGERPEN: Yes. Thank you, your
13 Honor. Lindsay VanGerpen on behalf of the OPC.

14 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
15 Have I overlooked anyone? Anything further from
16 counsel or from the bench before we proceed to
17 opening statements?

18 COMMISSIONER HOLSMAN: Judge,
19 Commissioner Holsman has joined.

20 JUDGE PRIDGIN: Commissioner, thank you.
21 All right. Hearing nothing from the parties or from
22 the bench, Ameren Missouri, whenever you're ready.

23 MS. MOORE: Good morning, and may it
24 please the Commission. I'm Jennifer Moore, appearing
25 on behalf of Ameren Missouri. The Company's request

1 is requesting approval of its fourth MEEIA plan under
2 the Midwest -- excuse me -- Missouri Energy
3 Efficiency Investment Act or MEEIA, which I will
4 refer to throughout this opening. The MEEIA 4 plan
5 represents a significant increase in the Company's
6 commitment to energy efficiency and demand-side
7 programs as a foundational part to serve customers
8 in the most reliable and affordable way. The plan
9 is consistent with the preferred resource plan C
10 filed in the Company's 2023 Integrated Resource Plan
11 or IRP, and the program portfolio is expected to
12 produce 822,340 megawatt hours or 517 megawatt hours
13 in net savings.

14 Maintaining the reliability of the
15 electric system is paramount importance to the needs
16 of the -- to be achieved in a way that also promotes
17 customer affordability. This has always been true,
18 but perhaps even more so because it's a more pressing
19 issue today that it has been in recent years when the
20 MEEIA cycles were approved.

21 The generation mix is transitioning
22 industrywide and regionwide, and the reserve margins
23 are tighter than we have seen in many years. This is
24 only going to be exasperated [sic] by the rapid
25 load-growth expectations that have emerged around

1 large data centers which have occupied the talk of
2 the industry today. However, this growth of useful
3 applications of electricity does nothing to reduce
4 the importance or efficacy of managing the existing
5 load and driving out wasteful usage where the same
6 level of end-user benefits can be achieved with less
7 electricity. In fact, it increases the urgency to
8 use energy efficiency and demand response to create
9 more headroom for our system to serve those new loads
10 and to -- that bring economic activity to our state.

11 Returning to the reliability challenge
12 that we are wrestling today, the solution to
13 reliability going forward requires a balanced but
14 aggressive approach to prod -- to pursuing the
15 development of all types of resources, both supply
16 side and demand side, and including both dispatchable
17 and clean energy resources on the supply side. Now
18 is not the time to turn away from the tools in the
19 reliability tool kit, and energy efficiency and
20 demand response are exactly that, an important tool
21 in the reliability tool kit.

22 If the Commission were not to approve the
23 Company's MEEIA Four application, Ameren Missouri's
24 capacity position in the 2025 MISO planning reserve
25 auction would instantly become 200 megawatts shorter,

1 exposing the Company's customers to the potential for
2 high market clearing prices on every megawatt that's
3 no longer available in the Company's portfolio and to
4 increase reliability risks that go along with the
5 smaller reserve margin that might result in this.

6 And while the effects of energy
7 efficiency are not as instantaneously as the effects
8 of demand response, energy efficiency's long-term
9 impact on reliability and affordability as we manage
10 the amount of load that is served over time is
11 important, and energy efficiency is every bit as
12 critical and foundational to our ability to
13 reliably -- reliably and affordably serve our
14 customers. Yes, we still must invest in new
15 supply-side capacity, but for every megawatt saved,
16 the efficacy of supply-side resources that we do
17 develop is enhanced and our reserve margins improve
18 and with it, so does reliability.

19 Our MEEIA 4 plan provides customer
20 continuity by offering many of the same residential
21 income and in -- residential income eligible and
22 business programs offered under the current MEEIA 4
23 plan. And this plan also includes two new customer
24 programs and an educational programs as outlined in
25 our revised Appendix B. Of note is that the MEEIA 4

1 plan also increases the income eligibility --
2 eligible budget over the previous to build on the
3 success that we've had in the Community Savers
4 programs. A summary of the total resource cost test
5 and the revised program summary cost are included in
6 our revised Exhibit A.

7 The Company is requesting continuation of
8 its demand-side investment mechanism or the DSIM
9 which includes an earning opportunity and a
10 throughput disin -- disincentive. Approving the DSIM
11 is consistent with the Commission's statutory
12 obligation to ensure the Company's financial
13 incentives are aligned with helping customers use
14 energy more efficiently and to provide the Company
15 with timely earnings opportunity associated with the
16 cost-effective measure -- measurable and verifiable
17 energy savings.

18 The purpose or -- and efficiency savings
19 as well.

20 The purpose to recover the costs of --
21 the Company proposes to recover the cost of the
22 programs, the cost of reduced energy sales and
23 incentives on the performance of the programs through
24 the Energy Efficiency Investment charge. The Company
25 has calculated customer impacts, and a residential

1 customer using a thousand kilowatt hours of
2 electricity a month will see a charge of
3 approximately \$2.07 per month in 2025. And that's
4 all outlined in our revised Appendix L.

5 The Company's filing also includes a
6 reliable evaluation, measurement, and verification or
7 EM&V plans in the revised Appendix E. The EM&V plans
8 continue the current process and modifies the EMV to
9 allow prospective elements of deemed -- for deemed
10 savings which places the risk on our program
11 implementers and benefits customers through lower
12 administrative fees. The EM&V plans are reasonable
13 and allow for further stakeholder input prior to the
14 start of the evaluation. The plan includes -- this
15 EMV plan includes in continuing the review of the
16 independent state auditor as required under the
17 Commission rules.

18 And just as a reminder, in 2023 report,
19 the independent state auditor, Evergreen Economics,
20 found that Ameren's EM&V plans, after a review of the
21 PY, or plan year, 2023 evaluation indicates that all
22 evaluation reports were well-written, complete, and
23 meet the minimum requirements for impact and process
24 evaluations stipulated under the Commission rules.

25 So Ameren Missouri's EM&V plan is

1 designed to allow feedback so that the results of the
2 plan evaluations continue to meet the requirements
3 under the Commission's rules and are transparent to
4 the Commission and all stakeholders.

5 The MEEIA statute allows energy
6 efficiency and demand-side programs so long as those
7 programs are approved by the Commission, result in
8 measurable demand and energy savings, and are
9 beneficial to all customers. The Commission is
10 responsible for reviewing our MEEIA plan and de --
11 and determining whether the MEEIA plan accomplishes
12 those goals under the statute. The Commission's IRP
13 in the MEEIA rules set forth a framework for the
14 Commission to evaluate the plan.

15 Now, under the Commission rules, the
16 Commission shall consider the TRC test a preferred
17 cost-effective test and for demand-side programs and
18 plans that have a TRC greater than one, the
19 Commission shall approve demand-side programs or
20 program plans budgets and demand an energy-saving
21 targets for each demand-side program it approves
22 provided it finds the utility has met the filing and
23 submission requirements and the demand-side programs
24 have three elements: That they're consistent with
25 the goal of achieving effective demand-side savings,

1 have reliable evaluation and measurement, and are
2 included in the electric utilities' preferred plan or
3 have been analyzed through the integrated resource
4 process under chapter 22 to determine the impact of
5 the net present value on the revenue requirements of
6 the electric utility.

7 In terms of the goal of achieving all
8 cost-effective demand-side savings, the portfolio
9 programs is designed to offer programs both to
10 residential and business customers and includes a
11 variety of programs to allow and encourage customer
12 participation. The rebuttal testimony of Steven
13 Wills shows two charts the MEEIA cycle impact of
14 MEEIA 1 through 3 has had on the Company's load. As
15 you can see, and this is -- and so I'd encourage the
16 Commission to ask Mr. Wills some more questions
17 around that.

18 So in addition to these load reduction
19 benefits, MEEIA plan also produces 303 million of net
20 benefits and creates over 2,710 jobs. And it has a
21 portfolio TRC ratio of 1.64 showing benefits to all
22 customers.

23 Now, the EM&V plan is consistent with
24 MEEIA 3. And, as discussed earlier, the independent
25 auditor reports confirmed the evaluation meets the

1 re -- minimum requirements under the Commission
2 rules. And the plan is also consistent with the
3 realistic, achievable potential in the Company's most
4 recent IRP, in the 2023 IRP as our preferred plan C.

5 So the decision before the Commission is
6 whether to approve Ameren Missouri's MEEIA 4 plan or
7 reject the plan as Staff and OPC recommend.

8 Rejecting the plan will cost customers approximately
9 four billion over higher investment costs on a net
10 present value basis which is unreasonable and
11 undermines the purpose of MEEIA. The MEEIA 4 plan is
12 the option that decreases customers' bills, allows
13 the Company to rely on demand size -- demand-side
14 programs as an asset in its portfolio to provide safe
15 and reliable service that's affordable for -- to
16 customers. For this reason the Company
17 respectfully requests the Commission approve its
18 MEEIA 4 plan. Thank you.

19 JUDGE PRIDGIN: Ms. Moore, thank you.
20 Any bench questions?

21 CHAIR HAHN: Good morning.

22 MS. MOORE: Good morning.

23 QUESTIONS

24 BY CHAIR HAHN:

25 Q. Just a couple. I'm interested, you

1 mentioned several times using the EM&V for Cycle 4
2 the same as you did for Cycle 3. I have the Cycle 3
3 reports, and I've reviewed them. I'm curious how the
4 Company used those reports to inform its Cycle 4
5 plan, specifically on the programs that are
6 underperforming. Or who -- who can I direct that set
7 of ques -- those set of questions to?

8 **A. That's a great question. So I think**
9 **you -- for some of the program performances, you can**
10 **ask Mr. Lozano, Mr. Via, and then for specific EM&V**
11 **questions, please ask Mr. Neil Graser -- Graser.**

12 **But to your question, each -- it's**
13 **important to keep in mind that each program year has**
14 **its different challenges and there will be different**
15 **results and that you have to look at in on a**
16 **portfolio level, and Mr. Lozano can explain that.**
17 **And so for those programs that, you know, didn't do**
18 **as well in 2023, there's constant evaluation, a**
19 **recorder that we meet with stakeholders and try to**
20 **correct. So I'm happy that you asked that question**
21 **because it goes -- MEEIA -- the Commission just**
22 **doesn't approve our MEEIA plan. Our MEEIA plan is**
23 **constantly tweaked and developed to improve it so**
24 **that all the programs perform and meet those targets**
25 **that we're aiming for and kind of look back and see**

1 **what went wrong and what can be improved upon.**

2 Q. One other thing that you mentioned in your
3 opening remarks was the amount -- I want to write
4 down the exact amount you cited at the very
5 beginning, the amount of megawatt hours saved. Can
6 you repeat that for me?

7 **A. 822,340 megawatt hours. So --**

8 Q. Is what you estimate to be saved --

9 **A. Uh-huh.**

10 Q. -- through the Cycle 4?

11 **A. Those are the net savings, but that's a**
12 **net, not gross.**

13 Q. Yeah. And then I'm assuming Matt Michels
14 might be the witness to talk about the net savings
15 and the plant additions that may otherwise be
16 required?

17 **A. Correct.**

18 Q. Okay. The cost of this program to
19 ratepayers, Ameren Missouri anticipates recovering
20 approximately \$626 million and variances of 20
21 percent should be anticipated because of the
22 significant flexibility you've requested. How does
23 that compare to Cycle 3?

24 **A. Well, first I want to qualify that. We**
25 **weren't asking -- the plan is asking for a 10 percent**

1 variance on the budget so we can manage it better and
2 not 20 percent. The \$600 million also includes what
3 our -- for the earnings opportunity. There's a
4 maximum bend that includes that. If we don't hit
5 targets, then we're not going to receive that. We'll
6 be back at the normal level. And that's only if we
7 hit those targets. And again, those are stretch
8 goals, so keep that in mind as well. And the number
9 amount isn't that, you know, different. So that's
10 how -- I think I've got -- I wanted to make sure that
11 I -- did I answer your question --

12 Q. Yes.

13 A. -- because I think I got lost in --

14 Q. I think that --

15 A. -- trying to make sure that I'm clear.

16 Q. How does that compare to Cycle 3?

17 A. It's -- it's -- we're spending more money,
18 about 1.7 more, so the budgets have increased, but
19 the earnings opportunity percentage amount is in the
20 range about -- for the net sharing is about 15
21 percent and that compares the same.

22 In Cycle 3 though I do want to distinguish
23 that we had a three-year plan and then we had the
24 plan extensions. And the earnings opportunity and
25 the spending were a little lower, so that you have

1 **the whole picture.**

2 CHAIR HAHN: Uh-huh. Okay. I think
3 that's all my questions. Thank you.

4 MS. MOORE: Thank you.

5 JUDGE PRIDGIN: Chair Hahn, thank you.
6 Any other further bench questions? Commissioner
7 Holsman?

8 COMMISSIONER HOLSMAN: Judge. Yes, real
9 briefly.

10 QUESTIONS

11 BY COMMISSIONER HOLSMAN:

12 Q. Thank you for the opening statement this
13 morning. Who would be the best person to talk about,
14 in detail, the strategies that Ameren is going to
15 employ to improve customer participation in these
16 programs and to explain why the participation has not
17 been as -- as robust as what the Commission would
18 like to see and what are the barriers to that
19 participation? Is it systematic within the program
20 that is keeping these -- the participation low? Is
21 it -- have you identified those barriers and what can
22 the Company do to remove those barriers so that we
23 can see more customers take advantage of these
24 programs?

25 **A. Those would be great questions for**

1 Mr. Lozano and as well as Timothy Via. And then if
2 you have any EM&V questions in learning, then talk to
3 Mr. Neil Graser.

4 COMMISSIONER HOLSMAN: All right. Thank
5 you. Thank you, Judge.

6 JUDGE PRIDGIN: All right. Commissioner,
7 thank you. Any further bench questions? All right.
8 Hearing none --

9 COMMISSIONER MITCHELL: I have just a
10 quick question.

11 JUDGE PRIDGIN: Yeah. Commissioner, yes,
12 sir, go ahead.

13 COMMISSIONER MITCHELL: Thank you.

14 QUESTIONS

15 BY COMMISSIONER MITCHELL:

16 Q. In your opening I thought I heard you say
17 that if the Commission doesn't approve this plan, it
18 results in about a 200 megawatt shortfall in clearing
19 capacity. Did I hear that correctly?

20 A. Yes. Yes, you did. That would represent
21 our demand response programs, both residential and
22 nonresidential, for next year, and we can't -- we
23 can't present them in the MISO market until we have
24 approval for that. And so does that answer your
25 question? But those --

1 Q. It does. It does.

2 A. That's the anticipated savings in 2025 for
3 those demand response programs.

4 Q. And I guess the overall savings to the
5 consumer in terms of I guess reduced risk and perhaps
6 an avoidance in rate pressure, did I hear you say
7 that that was about 4 billion over the -- over the
8 life of the program, or did I hear that --

9 A. It's -- it's -- Matt Michels will be able
10 to give you the analysis better. That was done as
11 part of the IRP analysis, and that is the Plan I.
12 What will happen if we lose these savings is that
13 we'll have to invest more and it might be, including
14 over the next 20 years, two more generation plants.
15 And again, Mr. Michels can address more to how the
16 plan was put together and how the costs were
17 calculated. But yes, it's not over three years, but
18 it's the net present value of the revenue requirement
19 for the next 20 years.

20 COMMISSIONER MITCHELL: Thank you. That
21 helps me.

22 JUDGE PRIDGIN: Commissioner Mitchell,
23 thank you. Chair Hahn, further questions?

24 QUESTIONS

25 BY CHAIR HAHN:

1 Q. Who would be the appropriate witness to
2 ask on the Ameren side about calculations of cost
3 with regard to the MISO market for the upcoming
4 seasons?

5 A. Mr. Michels could address that and
6 Mr. Wills might be able to also address some more
7 questions in terms of, you know, rate impacts.

8 CHAIR HAHN: Thank you.

9 JUDGE PRIDGIN: Chair Hahn, thank you.
10 Any further bench questions? Ms. Moore, thank you
11 very much. Opening statement from Staff. When
12 you're ready, counsel.

13 MS. JOHNSON: Thank you, Judge. Good
14 morning, Chair Hahn, Commissioners, Judge Pridgin.
15 May it please the Commission. My name is Tracy
16 Johnson from the Staff counsel's office, and I'm
17 honored to be appearing for you -- before you the
18 first time today representing Staff in this case
19 alongside Mr. Pringle. So let's get to it.

20 I'd like start by naming a challenge.
21 Energy efficiency demand-side management is presumed
22 to be a good thing. It sounds good. Sounds like it
23 could only benefit everyone. Calling out this
24 presumption is not popular and challenging it
25 certainly does not make for good headlines. But in

1 our analysis of energy efficiency, we need to keep an
2 eye out for who bears the risk, who pays, and who
3 gets paid.

4 Another challenge in this case, one
5 specific to the Commission, is ensuring the
6 application of the Missouri Energy Efficiency
7 Investment Act is executed correctly. What a tall
8 order. So how can Staff help establish the facts
9 needed to get this right. Well, the devil's in the
10 details. Staff have supported and the Commission has
11 approved past MEEIA applications. So what's changed.
12 For starters, the world; the availability of
13 energy-efficiency products; the choices that
14 consumers make to use those products, regardless of
15 the incentives that they receive; the market. Our
16 world has changed.

17 Certainly our understanding of the
18 impacts of MEEIA on other regulatory mechanisms has
19 changed. The nuance in the applicability of related
20 rules has become advanced as we all gain more
21 experience. And the most illuminating change, the
22 increase in real specific evidence we have from the
23 past implementation of MEEIA programs. It only makes
24 sense that our analysis of MEEIA would become more
25 nuanced and evolve with what we've learned and

1 experienced. With what's happening in the real world
2 around energy efficiency, how could it not change.
3 The details of how programs are designed and who is
4 impacted matter now more than ever.

5 You'll hear that Staff have gotten lost
6 in the details and are manufacturing issues that have
7 never before been brought up. Staff is focused on
8 details because they impact the end result. Ignoring
9 them is likely to result in ratepayer detriment.

10 You'll hear claims that ratepayers will
11 be exposed to over 4 billion in additional costs over
12 the next 20 years if you let Staff to torpedo MEEIA.
13 First, the dollar figure should be dismissed offhand
14 as it includes billions of cost that are not subject
15 to this case, including seemingly unnecessary power
16 plant additions. Staff does not intend to torpedo
17 MEEIA, but this application fails on too many fronts.
18 In fact, Staff offers a path to design a MEEIA
19 portfolio in a manner that could comply with
20 statutory directives.

21 You'll hear that reliability is at risk
22 without this MEEIA Cycle 4 application being approved
23 exactly as it is. This is a red herring to distract
24 from the foundational flaws of Ameren's application.

25 You'll hear that Staff don't like MEEIA

1 and that they're creating false barriers to the
2 continuation of MEEIA in the state of Missouri. The
3 barriers in this case are constructed by Ameren and
4 include poor assumptions, lack of citations for
5 assumptions, and failure to account for how MEEIA
6 programs will actually affect ratepayers.

7 On top of all that you'll hear that
8 Ameren doesn't think this is the right time for this
9 level of granularity. MEEIA is complicated and
10 details matter. Ignoring them does not make them go
11 away, but it does advance the risk of ratepayer harm.
12 So let's make sure we stick to this application in
13 this case with this company and get the analysis done
14 right.

15 And don't forget, Ameren's MEEIA
16 application has been rejected before. The Company
17 assumes little risk in this application and in the
18 rejection of this application. They came back to
19 take another bite of the apple after Cycle 2 with a
20 different application and more willingness to work
21 with Staff. Ameren is too well-run of a company and
22 the MEEIA statute is far too wealthy. They won't
23 leave that money on the table. They'll come back
24 with more detail and a better plan. The sky is not
25 falling, but preventing negative outcomes does

1 require a specific plan with attention to detail
2 which is exactly what Staff are recommending that
3 Ameren be made to do.

4 Staff has put in hundreds of hours of
5 analysis and produced over 500 pages of testimony and
6 work papers in this case to make sure that you have
7 the details. Staff has attempted to work with Ameren
8 to verify information and perform a thorough review
9 of this application, even working through an
10 extension to make sure that we had the time to get it
11 right.

12 Staff is not satisfied with the
13 application, work papers or answers that Ameren has
14 provided. They are not satisfied with the level of
15 detail. They are not satisfied with the assumptions
16 made or the information that's been left out. And
17 you shouldn't be either. So take advantage of Staff
18 being here this week and the work they've put into
19 this case. Ask them questions and get the details.
20 Ask the same questions of Ameren because the devil is
21 in the details.

22 So what details should you seek. Let's
23 start with the basic goals of this MEEIA Cycle 4
24 application. What does the application hope to
25 achieve. When will it happen. Where will the

1 results take place and how. Still too vague and
2 intangible? I thought so too.

3 This topic is complex. It's very easy to
4 raise it to a 30,000-foot level and gloss over
5 important pieces of information. So what information
6 should you question. Information like the assumed
7 numbers that feed the Deemed Savings Table. The
8 basis of calculations in the Technical Resource
9 Manual, the TRM. The way attributed values were
10 calculated and used in the Integrated Resource Plan,
11 the IRP. The estimates that feed every single cost-
12 benefit analysis provided in this application and
13 supporting documentation.

14 Staff asked these questions. A hundred
15 and 61 data requests with 14 sub requests.
16 That's 175 individual requests for information.
17 Staff examined all of these responses and tried to
18 understand where the numbers come from. The math
19 isn't mathing. And it's not because Staff can't
20 figure it out. It's because assumptions were made.
21 It's because evaluation, measurement, and
22 verification, EM&V, has not been satisfactorily
23 planned and documented. There are too many
24 unanswered questions around how EM&V is to be done.

25 If this application is to serve as the

1 foundation that we're locked into for demand-side
2 management for every single Ameren ratepayer in the
3 state of Missouri, let's make sure it's sturdy.
4 Staff has found it to be full of cracks, and Ameren
5 wants you to ignore that and approve building a house
6 on top of it. And not just any house. A \$600
7 million house. That's bigger than any rate case and
8 funded by ratepayers, not investors. So ask
9 questions. Look really closely for the cracks
10 because the devil is in the details.

11 For the presentation of the issues in
12 this case, the parties have agreed and Judge Pridgin
13 has graciously allowed for this case to be organized
14 into seven issues over five days. There's a lot of
15 details that need to be understood. Each issue is
16 going to receive its own shorter opening as agreed
17 to, but for clarity I want to walk through all seven
18 issues with you quickly now.

19 So issue number one is benefits. The
20 work papers underlying Ameren's application
21 drastically overstate the assumed benefits of the
22 proposed programs. The ratepayer costs of MEEIA
23 programs are far too high to rely on potential
24 benefits that should not be expected to occur
25 anywhere near the magnitude that Ameren would have

1 you believe. Ameren has not shown its work and
2 cannot identify the cancelation or deferment of any
3 supply-side resources for its current application or
4 any past application for that matter.

5 So who is benefiting and when.
6 Participants? Nonparticipants? Under this
7 application, it's always Ameren who benefits.
8 Additionally, this application relies on a method to
9 calculate avoided capacity costs that the Commission
10 rejected in Evergy's Cycle 3 MEEIA application. Ask
11 Staff witnesses Brad Fortson and J Luebbert what
12 details they need to support a MEEIA application.
13 Ask Ameren to identify the specific supply-side
14 generation, transmission, or distribution investment
15 that will be avoided or deferred if this Cycle 4
16 application is approved.

17 Issue number two: The Inflation
18 Reduction Act, the IRA. This application ignores the
19 impact of the IRA and, in turn, it asks you to ignore
20 the IRA and attribute all impact on demand side to
21 Ameren's MEEIA programs. Ameren's application does
22 not address free ridership or attribution in relation
23 to the IRA.

24 Issue three: Administrative overhead.
25 Should there be a cap. Yes. There is one set out in

1 the IRA at the federal level. Staff agrees with the
2 Office of Public Counsel on this issue, specifically
3 the information detailed by Dr. Geoff Marke.
4 Dr. Marke points out two things regarding
5 administrative overhead of energy efficiency
6 programs. First, some past Ameren programs were
7 allotted more funds for administrative overhead than
8 they did for the actual energy-saving measure itself.
9 Secondly, Ameren should be made to be efficient with
10 the funds that ratepayers are forced to pay to
11 support energy efficiency.

12 This carries us to issue four: The
13 earnings opportunity. Is an earnings opportunity
14 warranted, and if so, how much. The intent of the
15 earnings opportunity as a component of MEEIA is to
16 compensate shareholders for a return not earned on
17 investments not made because the MEEIA cycle is
18 reducing, deferring, or avoiding future investment
19 opportunities. Inflated benefit estimates in this
20 application give the appearance of cost-effective
21 programs, but if the benefits are unlikely to ever be
22 realized by ratepayers, the estimates should be
23 rejected. Ameren Missouri ratepayers assume all the
24 risks of Ameren not meeting its projected energy
25 targets. Ask Staff witnesses Mr. Fortson,

1 Mr. Luebbert, and Ms. Lange for details here. Ask
2 Ameren for details on the certainty of the benefits
3 for ratepayers. What details matter here.

4 This question leads us directly into
5 issue number five. The details that matter must be
6 thoroughly evaluated, measured, and verified. EM&V.
7 We'll talk about that a lot. Overestimation gives
8 inflated results and generalization excludes from the
9 analysis concepts we know need to be addressed.
10 Listen to Staff as they walk through these concepts
11 and explain how ignoring them pads Ameren's
12 application and increases risk for ratepayers.

13 To get this analysis right we need to
14 know what Ameren has done to address the rebound
15 effect, interactive effects, the principal-agent
16 issue, interaction with the Inflation Reduction Act,
17 operational inefficiencies, free ridership,
18 spillover, the impact of time-based rates. These are
19 known concepts that must be accounted for. This
20 analysis is complex, and if we leave out those
21 details, it's a windfall to Ameren of double, if not
22 triple recovery, paid for in large part by
23 ratepayers.

24 **A large portion of the necessary**
25 **evaluation, measurement, and verification has a**

1 foundation in the Technical Resource Manual, the TRM,
2 and the Deemed Savings Table. A closer look at both
3 shows us that they are extensive and give the
4 appearance of providing very accurate estimates of
5 energy and demand savings, but don't be fooled. Ask
6 for the details. Transparency around the sources
7 utilized for thousands of assumption borne out of
8 these two documents is lacking. Many of the numbers
9 are hard coded without citations. The citations that
10 do exist are no longer valid. And the ones that are
11 still valid are cited by vague references to entire
12 documents that are often hundreds of pages.

13 Staff attempted to interact with the data
14 cited to support the TRM and the Deemed Savings
15 Table. When they tried to trace it back and get the
16 details, they found assumed values were not
17 reasonable, reliance on outdated studies produced
18 inaccurate results, and there was an extreme lack of
19 justification for assumptions made within these two
20 documents. Listen to Mr. Fortson and Mr. Luebbert as
21 they walk you through the details or the lack
22 thereof.

23 Issue number six: Throughput
24 disincentive. Staff has proposed a new mechanism to
25 address the vast number of customers on time-based

1 rates. It's easier to use and it's based in the
2 reality of what actually occurs over time. Staff
3 witness Sarah Lange is the expert on this mechanism;
4 she created it. Ameren has not wanted to explore
5 this new mechanism. Why not. Perhaps it's because a
6 throughput disincentive based in reality instead of
7 this application is less advantageous to Ameren.
8 Talk to Ms. Lange about the new mechanisms. Ask her
9 why she doesn't stand by her initial support of the
10 original mechanism. Get the details.

11 Lastly, issue number seven is programs.
12 A MEEIA application should include programs that are
13 reasonable, well-supported, and meet the statutory
14 and regulatory requirements. This application fails
15 to show any of those things. If you don't have the
16 details spelled out in black and white for each of
17 the programs, then you can't make a conclusion that
18 ratepayers are better off paying for MEEIA Cycle 4
19 regardless of their participation in the programs
20 offered. And this is what the statute requires.

21 Here we are back to the details. Are you
22 tired of talking about details yet. This application
23 is relying on our exhaustion over the details. So
24 stick with me. What details should we be interested
25 in for each of the programs offered in this

1 portfolio? A thorough description of the purpose of
2 the program including goals of implementation, the
3 availability for each program, clear definition over
4 the terms and conditions of the program. What about
5 a program-level budget by year broken down in cost
6 categories that cover incentive amounts, the amount
7 allotted for administrative labor, the cost to
8 measure and verify as is required for a proper
9 program portfolio. How about a list of energy
10 efficiency measures that are available through each
11 program and the incentive amounts identified and tied
12 to each measure offered in the program. A
13 description of the recovery of program administrative
14 incentive amounts, applicable rate restrictions for
15 each program, an explanation of the evaluation of
16 each program that discusses how achieved savings will
17 be measured and verified. How will each program
18 minimize free riders and maximize ratepayer benefits
19 regardless of their participation. Where are those
20 details within the proposed tariff sheets.

21 Ask these questions. Staff asked them.
22 Ameren should be able to answer them. Pay close
23 attention to the details, the ones you get, the ones
24 Staff asked for but haven't received, and the ones
25 that are glossed over in the claims and analysis put

1 forward by Ameren in this application, because the
2 devil is in those details. Thank you.

3 JUDGE PRIDGIN: Ms. Johnson, thank
4 you. Let me see if we have any bench questions.
5 Chair Hahn. No questions, thank you. Commissioner
6 Holsman?

7 COMMISSIONER HOLSMAN: No questions,
8 Judge, thank you.

9 JUDGE PRIDGIN: Thank you. Commissioner
10 Kolkmeyer? Thank you. Commissioner Mitchell? I'm
11 not hearing any questions. Ms. Johnson --

12 COMMISSIONER MITCHELL: None for me,
13 Judge.

14 JUDGE PRIDGIN: Thank you. Ms. Johnson,
15 thank you.

16 COMMISSIONER HOLSMAN: Judge -- Judge, I
17 do have one question.

18 JUDGE PRIDGIN: Yes, when you're ready,
19 sir.

20 COMMISSIONER HOLSMAN: Thank you.

21 QUESTIONS

22 BY COMMISSIONER HOLSMAN:

23 Q. Is it Staff's position that the 200
24 megawatts of capacity shortfall, is that an
25 inaccurate statement by Ameren based on your -- your

1 research?

2 A. I don't want to lead you down a path
3 that's incorrect, so I'm going to defer that question
4 to Staff. I believe that there are some accuracies,
5 but I think the answer's a bit more complex than just
6 simply saying yes or no.

7 COMMISSIONER HOLSMAN: All right. Thank
8 you. Thank you, Judge.

9 JUDGE PRIDGIN: Commissioner, thank you.
10 Any further bench questions? Ms. Johnson, thank you.

11 MS. JOHNSON: Thank you.

12 JUDGE PRIDGIN: Opening from Renew
13 Missouri.

14 MR. LINHARES: Good morning. May it
15 please the Commission. My name is Andrew Linhares.
16 I'm representing Renew Missouri Advocates or Renew
17 Missouri. And I'm happy to be here today. For --
18 for more than a decade now, Missouri's investor-owned
19 utilities have been operating demand-side management
20 programs under the Missouri Energy Efficiency
21 Investment Act or MEEIA, a law whose primary function
22 is to reverse the inherent disincentive for utilities
23 to reduce their sales through energy-saving measures.
24 Now, it's likely that other utilities' future
25 portfolios will follow in the wake of the decision

1 made in this case, so I don't need to tell the
2 Commission of the wide-ranging impacts that could
3 result.

4 Energy efficiency is often touted as the
5 cheapest investment utilities can make in order to
6 meet customer demand. The energy that doesn't need
7 to be produced in the first place is the cheapest and
8 the cleanest form of energy. So if utilities can
9 offer incentives to help residential and business
10 customers reduce usage, the MEEIA statute says that
11 utilities can make a profit on these expenditures on
12 par with profits on investments on the supply side of
13 the grid. Under this framework, Missouri's IOUs have
14 been in -- have invested hundreds of million dollars,
15 generated far more in customer benefits, and led to
16 job creation and the development of measure delivery
17 pipelines and marketing channels that didn't exist
18 prior to MEEIA.

19 Now, I say all of this just as context to
20 remind us where we've been and where we are. This
21 will, in fact, be my last hearing in front of the
22 Commission as I've accepted -- at least for the time
23 being -- as I've accepted a job that actually starts
24 on Monday.

25 In one of my very first cases in front of

1 the Commission was Ameren Missouri's MEEIA 1
2 portfolio in 2013 that we worked on and achieved
3 approval at the Commission. And here we are again.
4 This case presents the Commission with the decision
5 of whether to continue with utility energy efficiency
6 programs in Missouri. So we're asking this
7 Commission to approve Ameren Missouri's MEEIA Cycle 4
8 DSM portfolio in order to continue the wild success
9 of the MEEIA statute and to not throw away the energy
10 efficiency infrastructure that's taken so long to
11 develop.

12 Now, I want to zero in on a specific
13 area. You'll find this as issue number two in the
14 list of issues. That's whether utilities can combine
15 utility rebates along -- or stack utility rebates
16 with federal incentives for the same measures as well
17 as how to approach the issue of attribution of
18 savings, which I see as an EM&V issue. Now, these
19 topics become relevant due to the passage of the
20 Federal Inflation Reduction Act, administered by DOE
21 in part. That was passed in 2022, and that includes
22 several home energy rebate programs and other tax
23 incentives for energy efficiency measures, some of
24 which overlap with measures incentivized by Ameren
25 Missouri's programs.

1 Now, Staff and Public Counsel have
2 submitted testimony encouraging the Commission to
3 deny the Company's filing. Part of the reason they
4 point to is the coming federal IRA incentives. Staff
5 and OPC witnesses are concerned about free ridership,
6 which we'll hear a lot about in this hearing. And
7 they even go so far as to call utility rebates
8 handouts. The reasoning goes if some federal rebates
9 could be larger than utility ones, then utilities
10 aren't causing those measures to take place, thus
11 utilities shouldn't receive attribution for that
12 savings and, in fact, we don't actually need utility
13 programs or MEEIA any longer at all.

14 So in responding to this general line of
15 argument, I want to emphasize how important it is to
16 remember how central the utility is to energy
17 efficiency infrastructure and delivery in our state.
18 Utility energy efficiency programs are -- they're
19 much more than checks that go out to customers. For
20 most customers their electric utility is still the
21 first place they turn to seek ways to lower their
22 bills or make their homes or businesses more
23 efficient. Utilities function as the basic entry
24 point to the universe of energy efficiency products,
25 measures, financing, locating contractors, et cetera.

1 Without the utilities' involvement, the
2 efficiency space looks very different. I don't know
3 how many people have been practicing back to 2009 or
4 before, but it was a very different world. The
5 infrastructure that took many years to develop and
6 wouldn't be in place without the MEEIA statute and
7 incentive framework, we -- we have MEEIA to thank for
8 that. The Commission should consider carefully
9 whether -- whether it wants to scrap this
10 infrastructure because of federal incentives that do
11 not yet exist in Missouri, will likely not hit the
12 market in Missouri until late 2025, will go away
13 after a few short years, and are ultimately uncertain
14 due to the changing federal political climate.

15 Renew Missouri recommends that the
16 Commission embrace and approve the stacking or
17 braiding of utility rebates with federal IRA
18 incentives. Particularly for some of the
19 income-qualified sectors or markets, stacking utility
20 and IRA incentives will allow energy efficiency
21 measures to finally reach some residents or building
22 owners who need it the most, but who have never taken
23 advantage due to the up-front cost barrier.

24 The National Consumer Law Center supports
25 the braiding of federal and nonfederal incentives as

1 a way to eliminate up-front costs for low and
2 moderate income households and there's a lot to refer
3 to there. And I've prepared a presentation here that
4 outlines some of the federal guidance to stacking
5 incentives. The Federal Department of Energy
6 recommends allowing and encouraging stacking rebates
7 so long as the total rebated value does not exceed
8 the total project cost. And Renew Missouri
9 recommends that the Commission follows this federal
10 guidance.

11 And actually, let's see if I can
12 advance -- this is more guidance from the Federal
13 DOE. It's clear that they're envisioning cofunding
14 these measures. Now, the -- the one federal resource
15 that I want to make sure to direct the Commission's
16 attention to is the FAQs here on the DOE site. This
17 is actually under the SCEP function of the DOE.
18 Stacking home energy rebates with nonfederal funds or
19 utility funds is generally allowable and encouraged
20 if the total rebated value does not exceed total
21 project costs. Now, there's -- there's far more
22 there we can look into on the DOE, but I just wanted
23 to briefly mention that here.

24 Moreover, another Midwestern state that
25 we could look at as a corollary to Missouri, the

1 state of Wisconsin are explicitly embracing stacking
2 and are currently rolling out a statewide efficiency
3 program with the provider Focus on Energy. That will
4 be cofunded using IRA home energy rebates and the
5 state rebates. The state of Maine is also embracing
6 stacking, planning for the IRA home energy rebates to
7 complement existing state energy efficient incentives
8 and federal tax credits. Both states are essentially
9 ready to offer the IR rebates -- IRA rebates this
10 summer, a little ahead of Missouri. They're
11 providing delayed states like Missouri a chance to
12 observe and learn from them. So this is a solvable
13 issue, this issue of the IRA and stacking rebates.
14 And clearly stacking is an anticipated and encouraged
15 practice by other states, by the federal government,
16 by third-party resources.

17 Now, the attribution of savings issue I
18 see as separate. It should be viewed separately from
19 whether rebates should be allowed to stack. And
20 that's best -- best dealt with in the EM&V, the
21 evaluation, measurement, and verification process.
22 And I think the parties can work together on how to
23 determine the best way to attribute savings when both
24 incentive streams are being deployed for a particular
25 measure.

1 Now, there is an emerging body of
2 literature, guidance, real world models that State
3 regulators can use to figure out how to approach the
4 attribution issue. The Northeast Energy Efficiency
5 Partnership or NEEP, this is a regional energy
6 efficiency partnership similar to the Midwest one,
7 MEEIA. SWEEP I believe is the southwest one.
8 They -- NEEP released a long document just this
9 month, it's brand new. I'll be offering it as an
10 exhibit when -- when appropriate. This provides
11 guidance for regulators on the various ways to
12 approach attribution for this exact case where both
13 the federal and utility funding streams are employed.

14 In considering attribution during the
15 EM&V process, Renew Missouri wants to encourage
16 regulators to be open minded here and consider the
17 crucial functions that utilities are serving, which I
18 mentioned before. Serving as the primary hub for
19 each step in the efficiency process from estimates to
20 locating contractors and selecting contractors to
21 providing the actual incentive payments and
22 ultimately in measure evaluation at the end.

23 So even in the case where nonutility
24 centives -- incentives are larger than the utility
25 share of the total incentive, it's still reasonable I

1 would argue that the measure would not occur but for
2 the utilities' involvement. So that's the central
3 point I want to get across here.

4 So in closing I want to just reiterate a
5 sense of caution here in putting an end to the MEEIA
6 framework after all the years of work it's taken to
7 get us to this point, especially given a lot of
8 uncertainty around the IRA home energy rebates and
9 the political situation at the federal level. Renew
10 Missouri believes, we still believe in the value of
11 utility-sponsored energy efficiency, and I -- I do
12 believe it would be a mistake to change course at
13 this point.

14 So thank you. I'd be happy to entertain
15 what questions the commissioners may have. I also, I
16 do have a few exhibits to offer. I have heard from I
17 believe all the parties that they do not have any
18 cross-examine for my two witnesses, so if
19 appropriate, Judge, I'd offer their exhibits at this
20 point. But I'm -- again, I'm happy to entertain
21 questions first.

22 JUDGE PRIDGIN: Yeah. Let's see if we
23 have any bench questions first. Chair Hahn, any --
24 any bench questions? Thank you. Commissioner
25 Holsman?

1 COMMISSIONER HOLSMAN: Yes, briefly,
2 Judge.

3 JUDGE PRIDGIN: Whenever you're ready.

4 QUESTIONS

5 BY COMMISSIONER HOLSMAN:

6 Q. Thank you. Thank you for the presentation
7 today. First off, appreciate all the time you've
8 spent in the state of Missouri working on behalf of
9 these issues and good luck in your next endeavor.

10 A. **Thank you. Thank you very much,**
11 **Commissioner.**

12 Q. Do you -- do you -- does Renew Missouri
13 have an opinion on the capacity issue if these
14 programs were to be not approved on the 200 megawatt
15 shortfall?

16 A. **Well, I believe the capacity issue is**
17 **going to see a major change in the next decade.**
18 **There are gas plants in -- in utility IRPs that are**
19 **before us. There's a major change in terms of**
20 **consumer demand. We've heard about data centers.**
21 **We've heard about electrification. All these things**
22 **are going to change the demand picture quite a bit.**
23 **I believe that the distributed energy space is going**
24 **to have a major role to play here.**

25 **But the key thing -- I suppose I don't**

1 have a particular reaction or position that's germane
2 to your question there, Commissioner, but I just
3 would say that I really think it's important for the
4 utility to be -- to continue to be involved with the
5 infrastructure that it has to be able to be in a
6 position to offer demand response programs and price
7 signals to customers. And I think MEEIA is
8 responsible for most of that, right. So the caution
9 that I'm offering, that I'm recommending here is to
10 make sure that utilities stay engaged at that level.
11 And I think MEEIA is the way to do that, to be able
12 to affect customer demand through -- through
13 programs.

14 So I hope that's responsive. I don't have
15 a particular position to offer on your exact
16 question.

17 Q. You recommend -- (poor connection).

18 A. Sorry, Commissioner. We're having trouble
19 hearing you.

20 JUDGE PRIDGIN: Yeah. Commissioner
21 Holsman, I don't -- we can't hear you. I'm afraid
22 you're cutting out, Commissioner. We can hear you a
23 little, but we can't hear your question.

24 COMMISSIONER HOLSMAN: Sorry. I just
25 turned off my video.

1 JUDGE PRIDGIN: There you go. You're
2 still cutting out, Commissioner Holsman. I'm sorry.

3 COMMISSIONER HOLSMAN: Ask if anybody
4 else has any questions. Let's see if I can get
5 another tower.

6 JUDGE PRIDGIN: All right. Very good,
7 Commissioner. Thank you. Commissioner Kolkmeier,
8 any questions? Commissioner Mitchell?

9 COMMISSIONER MITCHELL: Yeah, just --
10 just a quick question.

11 QUESTIONS

12 BY COMMISSIONER MITCHELL:

13 Q. With regard to the notion of stacking,
14 I'm really trying to understand it a little bit
15 myself here. How -- the earning opportunity on, you
16 know, the utility investment, I understand the
17 capital comes from the utility to support these
18 investments, but the capital that might come in from
19 the Inflation Reduction Act or other federal sources,
20 is there an earning opportunity associated with --
21 with that as well and do any of the other states
22 separate the two -- the two funding sources --

23 A. Right.

24 Q. -- to determine earning opportunity?

25 A. Right. So my understanding here is no,

1 there's no earnings opportunity on the expenditure or
2 the, you know, the incentive amount that's coming
3 from say the federal government here. But there
4 would be an earning opportunity on the utility
5 portion, the attributed savings that is determined to
6 be attributed to the utility, right.

7 So the point of disagreement is whether
8 the utility should get full attribution or partial
9 attribution or no attribution in a case where there
10 is a large federal incentive and a utility incentive
11 at play for the same measure.

12 So one -- there's one issue of whether the
13 utility should be allowed to issue a rebate, offer a
14 rebate for a measure that's already receiving federal
15 funding. That's the issue of stacking or whether we
16 can braid two sources of incentive for a single
17 measure. Then the issue of attribution comes in
18 essentially whether the utility should re -- should
19 be seen as causing that measure, whether -- whether
20 it should be attributed the savings that that measure
21 causes. I see that issue as for evaluation,
22 measurement, verification on the back end rather than
23 just the decision on whether to allow two sources of
24 incentive to -- to be in play for a measure.

25 So I'm trying to distinguish there, but I

1 **hope that answers the question. I'm happy to clarify**
2 **further.**

3 COMMISSIONER MITCHELL: It does. That --
4 that helps me understand a lot better. I appreciate
5 it. Thanks. I don't have any other questions,
6 Judge.

7 JUDGE PRIDGIN: Commissioner Mitchell,
8 thank you. Commissioner Holsman, did you want to --
9 did you have any other questions?

10 COMMISSIONER HOLSMAN: Yeah. I should be
11 in good shape. I got five full bars and 5Gs. So I'm
12 on I-70 headed your way; I'll be there in about 45
13 minutes.

14 QUESTIONS

15 BY COMMISSIONER HOLSMAN:

16 Q. So back to my question. And Commissioner
17 Mitchell kind of touched on it a little bit. You're
18 recommending stacking the rebates. Does that mean if
19 we don't stack them, that there are existing federal
20 resources that are going underutilized?

21 A. Well, I -- I will tell you I believe
22 there's a danger of that, yes. I mean, I -- you
23 know, we -- our Division of Energy is in the process
24 of applying for those funds. I believe they'll have
25 a third party involved in helping them administer

1 them. But I think the challenge -- the major
2 challenge there is, you know, with what sales and
3 outreach and evaluation infrastructure that's going
4 to be done, and we're talking about hundreds of
5 millions of dollars, and to my mind, the entities
6 that are capable of administering hundreds of
7 millions of dollars or tens of millions of dollars
8 are the utilities, full stop. I don't believe
9 there's a government agency that's prepared to do
10 that sort of function, at least at -- at the time
11 being.

12 And here we are with the infrastructure
13 existing in the utilities with knowledge of the
14 market and their consumer base, with experience
15 building pipelines and seeing those measures through.
16 And I believe that tasking a state agency with --
17 unaided by utilities, because that's what we're
18 talking about is getting rid of MEEIA, I believe that
19 that's a serious challenge and it's hard to imagine
20 us administering all of that money without the
21 involvement of the utilities.

22 Q. Do you think that this potential resources
23 that could come our way through the IRA could be used
24 for other projects that might otherwise inhibit the
25 energy efficiency program like, you know, holes in

1 the roof or other issues that tend to keep a customer
2 from participating in energy efficiency unique to
3 build resources that stack could address some of the
4 those barriers?

5 A. That's a great question, Commissioner. I
6 mean, you're referring to, you know, sometimes called
7 walk-away issues, you know, issues that are, you
8 know, conditions in the home or the business that are
9 barriers to doing the actual efficiency measure.
10 Now, a lot of those things like repairing a roof or
11 removing contaminants, those don't have energy
12 savings associated with them, so it's tough to
13 imagine utility resources being used to that because
14 you're going to have a high TRC score there. You're
15 going to -- you're going to price yourself out of
16 cost effectiveness without generating savings.

17 And as to whether federal resources can be
18 used for those sorts of things, I don't think I'm
19 knowledgeable enough personally. There may be
20 witnesses that know the answer to that. I do not
21 know the IRA programs inside and out. I believe
22 there's some evaluation associated with those
23 programs as well and reporting on how the money was
24 used.

25 So I don't want to speak to that, but I

1 believe that is going to be a challenge. But the key
2 here is they can be used to get very close to
3 eliminating the entire up-front cost of a measure,
4 which is the challenge. That's the challenge for a
5 lot of low-income or income-eligible buildings. And
6 we've talked a lot about the split incentive in this
7 state over the years which is, you know, in the
8 affordable housing sector where the building owner is
9 not the meter holder; they're not paying the bill,
10 and so they don't necessarily have the same incentive
11 to invest in the building. And the meter holder, the
12 tenant doesn't own the building, so they don't have
13 the incentive to invest in a building that's not
14 theirs. How do you overcome that issue. And you've
15 got to eliminate a lot of the up-front costs in order
16 for the building owner to see the value in it.

17 So there may be a lot of neglected and
18 untouched-by-MEEIA buildings out there that allowing
19 these funds to stack could -- could finally reach.

20 So while --

21 Q. Would you say that that -- is that -- is
22 the up-front cost -- because we look at some of the
23 efficiency of this program and the performance of
24 this program, and some of them is -- it is pretty
25 abysmal in its output. Would you say that up-front

1 cost is the number one barrier?

2 A. I don't know about the number one
3 barrier and --

4 Q. As opposed to -- as opposed to education,
5 you know, awareness of the programs, you know,
6 other -- other factors that go into why someone
7 doesn't choose to utilize it.

8 A. Right. Well, I certainly -- I wouldn't
9 want to speak for all building -- or, you know, the
10 entire market, but I'm -- I'm speaking for the
11 income-eligible sector and specifically affordable
12 housing. I believe that up-front cost, yes, I
13 believe that's the number barrier there. Certainly
14 awareness and, like, understanding of how programs
15 work is another barrier, but I see that as taken care
16 of by the sales teams at the utilities.

17 I mean, what we've been working on with
18 Ameren Missouri and other utilities is a concierge
19 approach rather than just a making the program
20 available and accepting all comers. We believe that
21 using data, market data, energy burden data, we can
22 identify the customers most in need and do targeted
23 outreach for those buildings, some of those buildings
24 that have been untouched by MEEIA programs in the
25 past. That's the model that I see being successful.

1 **So I don't see education and awareness as**
2 **that big of a barrier as I do the up-front cost**
3 **barrier for that affordable housing sector.**

4 COMMISSIONER HOLSMAN: All right. Thank
5 you very much. Thank you, Judge. Those are all the
6 questions I have.

7 MR. LINHARES: Thank you, Commissioner.

8 JUDGE PRIDGIN: Commissioner Holsman,
9 thank you. Any further bench questions?
10 Mr. Linhares, I'm sorry, did I understand you wanted
11 to offer some exhibits?

12 MR. LINHARES: If that's acceptable to
13 you, Judge, yeah, I -- I would do that at this
14 moment.

15 JUDGE PRIDGIN: That's perfectly fine
16 with me. I believe you've been assigned exhibit
17 numbers 400 through 449?

18 MR. LINHARES: Yes. And I have
19 Exhibits 400 through 405 to offer. And I'm happy to
20 run those down for you.

21 JUDGE PRIDGIN: Please.

22 MR. LINHARES: Okay. So Exhibit -- I
23 have marked as Exhibit 400 the rebuttal testimony of
24 Emily Piontek. As 401 I have marked the rebuttal
25 testimony of Dana Gray. As 402 I have marked the

1 surrebuttal testimony of Emily Piontek. And 403
2 would be the surrebuttal testimony of Dana Gray. So
3 that's -- that's the test -- the four pieces of
4 testimony Renew Missouri's offered.

5 As 404 I've marked my presentation today
6 which includes links to federal resources, the
7 Wisconsin and -- and Maine examples, if that's of
8 interest to the commissioners. And then my final
9 Exhibit marked as 405 would be the NEEP report which
10 is entitled Expanding the Energy Savings Pie,
11 Attribution Frameworks to Align IRA Home Energy
12 Rebates and State Programs. So that's published
13 July 2024. It's a brand new resource that I'd love
14 to offer as an exhibit today.

15 JUDGE PRIDGIN: All right. Exhibits 400
16 through 405 have been offered. Any objections?

17 MR. PRINGLE: Is there a, just a copy
18 of 405 we could look at real fast, Andrew or?

19 MR. LINHARES: Absolutely. I have it
20 here.

21 MS. MOORE: Andrew, do you have another
22 copy?

23 MR. LINHARES: I'm sorry. I do not. I
24 can send a digital copy.

25 MS. MOORE: When you get a chance, that

1 would be great. Thanks.

2 JUDGE PRIDGIN: Does Counsel need more
3 time to review the exhibit?

4 MS. VANGERPEN: Judge Pridgin, we would
5 like just a few minutes as well.

6 JUDGE PRIDGIN: Certainly.

7 MS. VANGERPEN: Thank you.

8 MR. LINHARES: Judge, I'm happy to offer
9 it at a later time or we can take the time now for
10 people to page through it. Either way is all right
11 with me.

12 JUDGE PRIDGIN: I'm wondering if we could
13 proceed to other openings? Will that distract you
14 from reviewing the exhibits?

15 MS. VANGERPEN: We'll try to be very
16 quick, your Honor.

17 JUDGE PRIDGIN: Okay. I'll just give you
18 a few minutes. Thank you.

19 MS. VANGERPEN: Thank you.

20 MR. LINHARES: So I would move to offer
21 these exhibits into the record.

22 JUDGE PRIDGIN: Okay. Exhibits 400
23 through 405 have been offered. Any objections? All
24 right. Hearing none, Exhibits 400 through 405 are
25 admitted into evidence.

1 (Renew Missouri Exhibits 400 through 405
2 were admitted and made a part of this record.)

3 JUDGE PRIDGIN: All right. Thank you.
4 Any -- excuse me. Opening statement from NRDC.

5 MS. RUBENSTEIN: Good morning. Just
6 checking my connection here. Hopefully you all can
7 see me and hear me okay.

8 JUDGE PRIDGIN: Yes, good morning.
9 Whenever you're ready.

10 MS. RUBENSTEIN: Morning. May it please
11 the Commission. My name is Sarah Rubenstein and in
12 this case I represent Natural Resources Defense
13 Counsel, commonly known as NRDC. NRDC takes a
14 position in this matter only with respect to issue
15 number seven, programs.

16 NRDC respectfully asks that the
17 Commission approve Ameren Missouri's proposed MEEIA
18 energy efficiency plan with modifications. In this
19 proceeding NRDC submitted the direct and rebuttal
20 testimony of Stacy Sherwood who has 15 years of
21 experience in the energy sector related specifically
22 to the review and development of energy efficiency
23 and demand response programs and policies. As
24 outlined in detail in Sherwood's testimony, Ameren
25 Missouri's MEEIA plan has good attributes putting

1 forward a wide-ranging portfolio of programs and
2 measures across different rate-paying classes.
3 However, as the projected demand savings from the
4 program drop off after 2025, NRDC believes the plan
5 leaves room for improvement. Ms. Sherwood's
6 testimony recommends modifications that would expand
7 the reach of the plan and increase its demand-savings
8 opportunities.

9 First, the plan should be expanded to
10 reach a minimum of 1 percent annual energy savings.
11 The plan projects annual energy savings of .8 percent
12 which is lower than savings achieved by the Company
13 in 2021 and declines from prior years annually.
14 Additional cost-effective energy savings may be
15 available that could bring the program closer to the
16 level of savings projected by the Commission's MEEIA
17 demand-side savings goals, closer to savings achieved
18 by other similarly-situated large electric utilities,
19 and closer to levels Ameren itself has achieved in
20 prior years.

21 Second, NRDC believes the plan should be
22 modified to limit residential lighting programs to
23 direct installation in income-eligible properties and
24 to utilize a measure life assumption of one year.
25 The high-efficiency lighting discounts proposed in

1 the plan are no longer necessary in light of the fact
2 that LEDs now serve as the baseline.

3 Third, the Company's residential
4 demand response program should be expanded to offer
5 winter-demand response opportunities and to include
6 small business customers. This could be accomplished
7 for residential customers by expanding the current
8 program, which operates from May through September,
9 to include winter events using the same thermostat
10 that is already in use. In addition, the Company
11 should consider expanding the residential
12 demand response program to include small businesses.
13 Thermostats for small business customers could be
14 enrolled and direct-load control switches could be
15 installed for such customers without requiring new
16 program designs.

17 Finally NRDC recommends braiding or
18 leveraging programs that promote the common goal of
19 reducing energy consumption and demand with MEEIA
20 programs rather than supplanting them. This is
21 especially true because cost is one of the greatest
22 barriers to the implementation of energy efficiency
23 measures for both households and businesses. Thank
24 you very much.

25 JUDGE PRIDGIN: Ms. Rubenstein, thank

1 you. Let me see if we have any questions. Chair
2 Hahn.

3 QUESTIONS

4 BY CHAIR HAHN:

5 Q. Good morning. I do, just based upon that,
6 have a couple questions. You said that the target
7 should be 1 percent annual savings and that this
8 current plan is just the goal of .8 percent and that
9 that goal declined from prior years. What were the
10 prior years goals, do you know?

11 A. I don't know off the top of my head, but
12 our witness, Ms. Sherwood, will certainly know.
13 She's performed that analysis. So I would direct you
14 to her when we present her testimony.

15 Q. Thank you. And as far as the cost for
16 expanding demand response to the winter season, which
17 does make sense to me, would that have additional
18 cost?

19 A. Again, I would direct you to Ms. Sherwood
20 or to the Company with that question for specifics,
21 but we believe the -- you know, it would be such an
22 easy model to just continue those -- those
23 thermostats that are already being used for that
24 purpose. That is -- that is sort of the thought
25 process behind that, that that would be a very easy,

1 low-cost option that could be implemented in theory
2 very quickly.

3 CHAIR HAHN: Great. Thank you so much.

4 MS. RUBENSTEIN: And -- And --

5 CHAIR HAHN: Oh, so sorry.

6 MS. RUBENSTEIN: Thank you.

7 JUDGE PRIDGIN: Chair Hahn, thank you.

8 Commissioner Holsman?

9 COMMISSIONER HOLSMAN: No questions.

10 JUDGE PRIDGIN: Thank you. Commissioner
11 Kolkmeier? Commission Mitchell?

12 COMMISSIONER MITCHELL: No questions for
13 me, Judge.

14 JUDGE PRIDGIN: All right. Thank you.

15 I'm going to now proceed to opening -- I think MECG
16 has been excused, but just in case, does MECG have an
17 opening? Hearing nothing, any opening from Consumers
18 Council?

19 MR. COFFMAN: Thank you, your Honor. We
20 will not have an opening at this time. Consumers
21 Council is generally convinced by testimony from
22 Staff and Public Counsel. We're adopting the Public
23 Counsel position here, so no opening at this time.
24 Thanks.

25 JUDGE PRIDGIN: Thank you. Chair Hahn

1 any questions.

2 CHAIR HAHN: Yes.

3 BY CHAIR HAHN:

4 Q. Mr. Coffman, in the last proceeding that
5 you participated in before this Commission was the
6 Ameren securitization proceeding in which you also
7 adopted the position of Public Counsel, but during
8 which the proceeding you were largely absent and did
9 not make additional filings. But I did read your
10 opinion of the Commission's case in a major news
11 media outlet. That being said, I'm curious if you're
12 planning to be present during this hearing or
13 proceeding and if you plan to make additional filings
14 in the case.

15 **A. We have no plans to make additional**
16 **filings in the case. My plan is to be here today**
17 **and -- but may not be here for all of the proceeding,**
18 **the remaining proceedings.**

19 JUDGE PRIDGIN: Chair Hahn, thank you.
20 Any further questions? Commissioner Holsman?
21 Hearing none, Commissioner Kolkmeier? Commissioner
22 Mitchell? All right. Thank you. Any opening from
23 the Office of the Public Counsel?

24 MS. VANGERPEN: Yes, your Honor.

25 JUDGE PRIDGIN: Ms. VanGerpen, when

1 you're ready.

2 MS. VANGERPEN: Good morning, Chair Hahn,
3 Commissioners, Judge Pridgin. May it please the
4 Commission. My name is Lindsay VanGerpen, and I'm
5 here this morning on behalf of the OPC. Before I
6 begin this morning, I want to make something very
7 clear. The OPC is not anti-energy efficiency.
8 Rather what we are is anti-inefficiency and that,
9 Commissioners, is what we see in Ameren's amended
10 application and why we're here this week asking that
11 you reject it.

12 So with that being said, let's dive in.
13 I'll break my time up with you this morning into
14 three parts. First, a short history of MEEIA.
15 You'll see as I go through this, Commissioners, it's
16 a history that's fairly collaborative amongst the
17 parties. Next I'll address the inefficiencies we see
18 in the amended application with a brief discussion of
19 the seven issues. Finally I'll turn to the options
20 that we see for moving forward.

21 So to get started, let's look at how we
22 got here. In 2009 the Missouri legislature passed
23 the MEEIA statute. Stakeholders then worked together
24 to draft the MEEIA rules and in January 2012 Ameren
25 filed an application for its first cycle of MEEIA

1 programs. Over about the next eight months or so,
2 parties worked together to find a mutually-agreeable
3 resolution and the case ultimately settled, but then
4 the first EM&V came in and there were problems. This
5 was a highly contentious, labor-intensive
6 disagreement amongst the parties.

7 At roughly the same time, in
8 December 2014, Ameren filed its application for its
9 Cycle 2 programs. The parties had some challenging
10 experiences as I mentioned with the Cycle I programs
11 when they started considering the application for
12 Cycle 2. The case ultimately resulted in competing
13 stipulations: One known as the utility stipulation
14 and the other as the nonutility stipulation. When
15 the parties' continued settlement discussions ended
16 at an impasse, the Commission ultimately rejected
17 Ameren's utility stipulation finding in part that its
18 lack of retrospective EM&V process and high earnings
19 opportunity resulted in a plan that simply wasn't
20 cost effective for Ameren's ratepayers.

21 In its Report and Order issued in
22 October 2015, the Commission specifically recognized
23 MEEIA was never intended to be a blank check. Then
24 in concluding that Report and Order, the Commission
25 encouraged Ameren to consider its decision and to

1 present a plan that all parties and the Commission
2 could support.

3 In accordance with that directive, the
4 parties worked together again and approximately four
5 months later in February 2016 the Commission approved
6 the parties' stipulation for Ameren's Cycle 2
7 programs. Immediately after that, the Commission
8 revised its MEEIA rules in their entirety based off
9 of all of the collective experience with Cycle 1.

10 About two and a half years later in
11 June 2018 Ameren filed an application seeking a third
12 cycle of MEEIA programs. Again, the parties worked
13 together and reached an amicable solution which this
14 Commission approved in December of 2018.

15 The parties then worked together again as
16 Cycle -- as the Cycle 3 programs approached their
17 initial end date and ultimately agreed to extend the
18 Cycle 3 programs for three additional years for
19 program year 2022, 2023, and 2024. In each ex -- in
20 each extension the parties increased the efficiencies
21 of the program and essentially trimmed the fat off of
22 them. We're now about halfway through that last
23 one-year extension of the Cycle 3 programs.

24 As you can see, Commissioners, the
25 history of Ameren's MEEIA programs has been at most

1 times a collaborative one, but the importance of this
2 history is the learning and evolving as we go. The
3 MEEIA programs have to evolve.

4 So knowing that history of collaboration
5 that has existed in the past MEEIA programs, why are
6 we here this week. Again, the OPC is not anti-energy
7 efficiency, but, Commission, this amended application
8 is riddled with inefficiencies that rise to the level
9 of unacceptable.

10 The parties have identified seven sets of
11 problems which Staff also referenced in their
12 opening, and these are our seven issues this week.
13 They are benefits, the IRA and other market dynamics,
14 administrative overhead, the earnings opportunity,
15 the EM&V process, the throughput disincentive, and
16 the programs themselves. Now, I also don't want to
17 take a lot of time to do a deep dive into all of
18 these because you're going to hear from me a lot this
19 week, but I do want to give you just a broad overview
20 of where we're at with each of these issues.

21 So first and perhaps most importantly is
22 the issue of benefits. As I briefly mentioned
23 earlier, the MEEIA statute requires the programs to
24 be beneficial to all customers regardless of
25 participation. You'll see that statutory here --

1 standard here on the screen. Now, Ameren has told
2 this Commission that their cost-benefit analyses show
3 that programs are cost effective, but I implore you,
4 Commissioners, to remember that those analyses are
5 just a guess and they fail to account for important
6 factors such as free riders, alternatives, or the
7 diminishing returns associated with a saturated
8 market. This is certainly enough to question those
9 cost-benefit analyses.

10 Further, as the testimonies of the OPC's
11 Ms. Lena Mantle and Staff's Mr. J Luebbert describe,
12 Ameren has failed to consider how the distribution of
13 benefits through its FAC will affect its ratepayers.
14 Importantly, as Ms. Mantle's analysis shows,
15 situations exist where a reduction in energy will
16 actually increase the cost to nonparticipants.
17 That's in direct contravention of the MEEIA statute.

18 Further, as the OPC's Mr. Jordan Seaver
19 and Staff's Mr. Brad Fortson explain, it's unlikely
20 that Ameren will actually avoid or defer any
21 supply-side investment with this portfolio. MEEIA,
22 Commissioners, as I will discuss later, is a
23 situation where those who bear the risk will likely
24 receive none of the reward. These problems are
25 certainly enough for the Commission to reject the

1 amended application as failing the statutory
2 standard.

3 But if you disagree with us, you
4 should -- we also ask that you consider the IRA or
5 the Inflation Reduction Act and other market
6 dynamics. Now, the easiest way to describe these
7 issues is to say that alternatives exist and
8 standards have changed such that -- such that
9 Ameren's programs will result in significant free
10 riders or those who would have made the energy
11 efficiency upgrades regardless of Ameren's programs.
12 Simply put, fewer people are installing ener --
13 inefficient equipment because it just doesn't exist
14 anymore.

15 Commissioners, you are well-aware of the
16 situation facing Ameren's ratepayers. Ameren has to
17 build generation to continue to provide reliable
18 service to its customers. This will come at a time
19 when those same ratepayers are facing significantly
20 higher costs across other sectors of their lives as
21 inflation remains high. We have to be cautious with
22 what we ask ratepayers to spend their money on. It
23 has to provide the benefits it claims, and it should
24 be something that they can't get anywhere else. The
25 generous tax breaks and incentives through programs

1 like the Inflation Reduction Act and the Low Income
2 Weatherization Assistance Program as well as the
3 changed codes and standards that promote and require
4 energy efficiency are yet another reason to reject
5 Ameren's amended application.

6 The next issue is the administrative
7 cost. As Dr. Marke explains, based on prior MEEIA
8 cycles Ameren will likely spend about 45 percent of
9 its program budget on administrative costs. Here
10 that means that customers will spend over \$160
11 million to, in many cases, simply write somebody a
12 check. This amount of administrative cost is in
13 direct contrast to the 20 percent cap on
14 administrative costs found in the Inflation Reduction
15 Act. Again, this high percentage of administrative
16 cost stands as yet another reason to reject the
17 amended application.

18 Next I'll turn to the earnings
19 opportunity. Ameren asks this Commission to approve
20 an earnings opportunity of about \$70 million. Here,
21 Commissioners, I want to come back to that idea of
22 risk reward. Who bears the risk that Ameren will
23 fail to meet its goals that it set for itself.
24 Unlike almost any other aspect of utility regulation
25 with MEEIA, that's 100 percent borne by the

1 ratepayers. These programs are effectively funded
2 by 100 percent ratepayer capital such that Ameren's
3 shareholders bear zero risk.

4 This is in direct contrast to something
5 like a new generating unit where shareholders have
6 their own dollars on the line if something
7 catastrophic were to occur. In that instance,
8 shareholders are rewarded handsomely through the
9 return on equity for bearing that risk. With MEEIA
10 though, shareholders bear zero risk and still receive
11 a handsome reward. Ameren's proposed earnings
12 opportunity here is yet another reason to reject the
13 amended application.

14 The next problem on our list is the
15 evaluation, measurement, and verification or EM&V
16 process. Now, the EM&V is supposed to be used to
17 determine whether the programs actually worked as
18 they were supposed to. But, Commissioners, that's
19 hard, really hard. We're trying to prove a
20 counterfactual here. The customer would not have
21 made the energy efficiency upgrade without Ameren's
22 programs. Ameren's proposal to do a prospective EM&V
23 moves all the risk to its ratepayers, and again, the
24 Commission must reject it.

25 The throughput disincentive is the next

1 issue. And here I would direct you to the
2 testimonies of Staff's Ms. Sarah Lange. She
3 discusses in detail the many problems associated with
4 Ameren's proposed throughput disincentive mechanism,
5 but suffice it to say that the adoption of TOU rates
6 or time-of-use rates and Ameren's deployment of AMI
7 meters have changed the circumstances that led to
8 Ameren's past throughput disincentive mechanism.
9 Ameren's proposal to continue to use it here should
10 be rejected.

11 And finally for our seventh problem, the
12 programs themselves. Throughout his rebuttal
13 testimony Dr. Marke points out the many problems with
14 Ameren's proposed programs. For instance, he
15 describes how some programs are redundant with
16 available free-market alternatives. That's programs
17 like the Business Demand Response Program which
18 overlaps with this Commission's decision to partially
19 remove the prohibition on aggravators of retail
20 customers or ARCs participating in Missouri.
21 Further, some programs have been shown to result in
22 significant free ridership, like the Whole Home New
23 Construction Program which caters to developers who
24 specialize in Energy Star homes. This is on top of
25 significant overlap between the programs in Ameren's

1 amended application and those in the Inflation
2 Reduction Act and the Low-Income Weatherization
3 Assistance Program that I mentioned earlier.

4 Commissioners, if you want individual
5 utility sponsored energy efficiency programs to
6 continue here in Missouri, the OPC says this is not
7 the suite of programs to do that.

8 So with all that in mind you might be
9 wondering what is -- what is it that the OPC asks you
10 to do, Commission. So as we see it, there are three
11 different options. The first, you could simply
12 ignore everything I just said and what we'll say this
13 week and approve the application anyway. Now, for
14 all of the reasons that I've discussed, and again
15 that we'll talk about this week, we see that as the
16 worst outcome for ratepayers.

17 Option two is you could say no and reject
18 the amended application for any one of the reasons
19 that I've discussed or a combination of them. Given
20 the option between what the Company has put forward
21 and no MEEIA, the OPC says no MEEIA. This is a step
22 back, not a step forward. Though this may sound
23 harsh, as I've referenced this morning, saying no to
24 this amended application is not a no to energy
25 efficiency. There are alternatives that exist, and

1 in many cases the market has changed such that only
2 energy efficient equipment exists.

3 Finally, as option three you could
4 approve Ameren's amended application with the
5 modifications Dr. Marke sets out in his surrebuttal
6 testimony.

7 Dr. Marke has been doing this work a long
8 time. He has been instrumental in improving MEEIA
9 programs to date, and he continues to do so here by
10 describing an alternative proposal that allows Ameren
11 to continue to offer programs while being cognizant
12 of the cost flown to ratepayers and trying to correct
13 the problems we've discussed this morning.

14 With this proposal the OPC also asks the
15 Commission to encourage the utilities to work
16 toward -- to work together in an attempt to move
17 towards a statewide program that would increase
18 efficiencies, among them, cut down on costs. That's
19 the best practices option, and I encourage you to ask
20 Dr. Marke any questions that you have about it.

21 So again, Commissioners, Judge Pridgin, I
22 realize I've thrown a lot at you this morning, but
23 before I leave you I want to encourage you to ask
24 questions of the witnesses. We have a lineup of
25 witnesses this week who have been doing this work for

1 a long time. They're experts in this field and
2 they're happy to answer your questions.

3 And I do want to take just a brief moment
4 to introduce the OPC's witnesses. First up we have
5 Mr. Jordan Seaver whose Master's in philosophy helped
6 him explain the flawed reasoning Ameren used to
7 support its amended application.

8 We also have Ms. Lena Mantle. She's a
9 professional engineer who's an expert on the fuel
10 adjustment clause and helped to draft the rules that
11 govern it. It's really no exaggeration to say that
12 there's probably no one in this building who knows
13 more about the FAC than Ms. Mantle. In addition to
14 her familiarity with the FAC though, she also has
15 experience with energy efficiency. Please ask her
16 any questions that you may have, but especially those
17 about how the FAC affects the distribution of MEEIA
18 benefits.

19 And finally, Commissioners, we have
20 Dr. Geoff Marke. Now, I want to spend just a little
21 bit more time introducing Dr. Marke because I believe
22 he's a witness on every issue that we have this week
23 so we'll be hearing from him a lot. And really,
24 that's for good reason. He's been involved in MEEIA
25 since Cycle 1 and has likely written more testimony

1 on MEEIA than anyone else. He's been an active
2 stakeholder involved in each ratepayer-sponsored
3 program in Missouri since the inception of MEEIA. He
4 has the lived experience that allows him to
5 effectively function as a sort of decoder ring for
6 the Commission for this complicated but extremely
7 important issue.

8 Far from being anti-energy efficiency,
9 Dr. Marke is arguably the reason why Missouri can
10 claim to be the first state in the United States to
11 have a statewide inclusive on-tariff financing in the
12 form of the Pay as you Save program or the PAYS
13 program. He has also been recognized nationally by
14 pro demand response -- I apologize -- pro demand-side
15 management advocacy groups. Dr. Marke has spoken
16 nationally, regionally, and at the state level in
17 various energy efficiency venues such as in the
18 Midwest -- such as ACEEE's National Energy Efficiency
19 Finance Forum and others. He is certainly a wealth
20 of knowledge and experience, especially when it comes
21 to MEEIA.

22 So, Commissioners, I want to leave you
23 where we started. As you're considering this case,
24 please remember the OPC is not anti-energy
25 efficiency. We have worked diligently with other

1 stakeholders throughout the years trying to make
2 MEEIA into something that meets the goals of all the
3 parties and the requirements of the MEEIA statute.
4 Even in this case Dr. Marke has put forth an
5 alternative plan that meets those goals. The OPC is,
6 however, anti-inefficiency, and Ameren's application
7 is just that, a collection of inefficiencies. The
8 OPC asks this Commission to reject Ameren's amended
9 application, or in the alternative, prove it up with
10 the modifications listed in Dr. Marke's surrebuttal
11 testimony.

12 Thank you for your time this morning, and
13 I'm happy to answer any questions.

14 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
15 Let me see if any have any bench questions. Chair
16 Hahn? No. Commissioner Holsman?

17 COMMISSIONER HOLSMAN: Just real briefly,
18 Judge.

19 QUESTIONS

20 BY COMMISSIONER HOLSMAN:

21 Q. Thank you for your opening statement. In
22 previous cases in front of this Commission very
23 recently, OPC has taken the position that they lack
24 the capacity indicates or presents a risk to the
25 ratepayer so much that it was intervention in the

1 last -- in the last case on that issue. What is
2 OPC's position on Ameren's -- on the Company's
3 statement that there will be a 200 megawatt shortfall
4 and they will not have resource adequacy if this is
5 not approved?

6 A. Thank you, Commissioner. So before I
7 begin, I do want to encourage you to also ask this
8 question of Dr. Marke, but I will attempt to give you
9 a preview. So as I understand it, our position is
10 that there may be an immediate reduction in capacity
11 associated with the demand response program which is
12 different from the energy efficiency programs
13 themselves. So I believe, if I understand Ameren's
14 statement earlier, that reduction in capacity is
15 associated with the demand response programs only.

16 And you'll see in Dr. Marke's testimony
17 that we do support the demand response programs. But
18 as I understand it, Ameren does not have to have a
19 MEEIA in order to do demand response. And then there
20 is also a market alternative which this Commission
21 has recently opened in the form of ARC participation.

22 COMMISSIONER HOLSMAN: All right. Thank
23 you. Thank you, Judge.

24 JUDGE PRIDGIN: Commissioner Holsman,
25 thank you. Commissioner Kolkmeyer, any questions?

1 Commissioner Mitchell?

2 COMMISSIONER MITCHELL: Yeah, just a
3 couple.

4 QUESTIONS

5 BY COMMISSIONER MITCHELL:

6 Q. Thank you for your statement. The
7 question I had, the -- the proposed 45 percent
8 administrative costs that are proposed in the
9 application compared to the cap in the Inflation
10 Reduction Act of 20 percent I guess surprises me a
11 bit. Do you know off the top of your head, or do you
12 know who we should ask what has been the previous
13 MEEIA cycle admin costs, and have they been in the
14 same range?

15 A. Again, I want to start off by again
16 encouraging you to ask that -- that question of
17 Dr. Marke. I believe the high administrative cost
18 has been a problem with prior MEEIA cycles as well
19 although I don't, Commissioner, have those numbers in
20 front of me. But I -- I'm happy to do -- to get
21 those numbers for you if that would be helpful.

22 Q. It would. It would. In the earning
23 opportunity in this application, same question. Can
24 you -- can you kind of express that as a percentage
25 of program cost, and how does that compare to

1 previous cycles?

2 **A.** **That question, Commissioner, I -- I think**
3 **I would need a bit more time to -- to do. I don't**
4 **believe we've conducted the math necessary as to say**
5 **what percentage of the EO as a -- as to**
6 **administrative co -- or to program costs, I**
7 **apologize, I'm kind of fumbling my way through that**
8 **math in my head. But again, I'm happy to do that**
9 **research and get that back to you. And again, I**
10 **would encourage you to ask Dr. Marke on that**
11 **question.**

12 **Q.** **Yeah. Fair enough. Fair enough. And I**
13 **guess my last question, I guess we heard from Renew**
14 **Missouri that a potential disapproval of the**
15 **application, my impression from the -- from the**
16 **opening was that that -- that really throws MEEIA**
17 **just out the window. And that's really not what**
18 **we're talking about here, is it? I mean, there's --**
19 **we can disapprove it but the effect of that is that**
20 **the parties go back to the drawing board and continue**
21 **to work on a -- a more palatable program. Is that --**
22 **is that the -- is that really the mechanics of what**
23 **would happen in the event of a disapproval?**

24 **A.** **Commissioner, I can't say for certain**
25 **because I -- I certainly don't know the future, but**

1 I can tell you that that is what happened in the
2 Cycle 2 program. So the Commission rejected the
3 Cycle 2 application for -- for various reasons and
4 then the -- the parties went back, worked together,
5 and a subsequent Cycle 2 proposal was put forward and
6 approved by the Commission.

7 COMMISSIONER MITCHELL: Thank you. That's
8 very helpful. I appreciate it.

9 MS. VANGERPEN: You're very welcome.

10 JUDGE PRIDGIN: Commissioner Mitchell,
11 thank you. Any further bench questions? Chair Hahn.

12 QUESTIONS

13 BY CHAIR HAHN:

14 Q. Also a logistics question similar to
15 Commissioner Mitchell's question. There may be a
16 host of things that the Commission thinks differently
17 on, whether it's the programs that are offered in --
18 by Ameren. Some seem to be more efficient than
19 others. Whether it's, you know, administrative
20 costs. If the Commission does have positions on
21 those things, can -- I guess could ask Staff too. I
22 don't know who to ask. But can the Commission order
23 particular things and also reject certain programs in
24 an order instead of throwing everything out or how --
25 what's the logistics of that?

1 A. I will -- it is my understanding that you
2 can. So I believe -- I don't have the MEEIA statute
3 in front of me, but I believe the language is
4 approve, approve with modifications, or reject. So I
5 believe if -- if you -- the Commission have things,
6 changes that you would like to see, that is something
7 that you could include in that order. However, as I
8 understand it, the MEEIA statute is voluntary, so it
9 would then be up to Ameren to decide whether or not
10 they wanted to implement that modified program. And
11 I -- I would encourage you to ask that same question
12 of the other attorneys as well. That's just my
13 understanding of the statute.

14 CHAIR HAHN: Thank you so much.

15 MS. VANGERPEN: You're very welcome.

16 JUDGE PRIDGIN: Any further bench
17 questions? Hearing none, Ms. VanGerpen, would you be
18 able to get your opening statement filed in EFIS for
19 further review?

20 MS. VANGERPEN: The --

21 JUDGE PRIDGIN: Your Power Point.

22 MS. VANGERPEN: Oh, the Power Point.
23 Yes, yes of course.

24 JUDGE PRIDGIN: No hurry. Just at some
25 point.

1 MS. VANGERPEN: Sure. Yeah. Would you
2 like me to offer that as an exhibit now?

3 JUDGE PRIDGIN: That's up to you whether
4 to offer it as an exhibit or not. I don't know what
5 objections you would have. But I do think the
6 Commission would want to review it at some point.

7 MS. VANGERPEN: Okay. I think that might
8 be the cleanest way to do it. So we would offer that
9 as an exhibit, just as a -- just as a demonstrative
10 exhibit, not as an evidentiary exhibit.

11 JUDGE PRIDGIN: And I would show that
12 as Exhibit No. 300. And that has been offered.
13 Does anyone have any objections? Hearing none,
14 Exhibit 300 is admitted into evidence.

15 (OPC Exhibit 300 was admitted and made a
16 part of this record.)

17 MS. VANGERPEN: Thank you.

18 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
19 This looks to be a perfect time to take a midmorning
20 break. I show the time to be 10:37, so let's try
21 to resume at 11:00 a.m. Anything further from
22 counsel or the bench before we go to break? All
23 right. Hearing nothing, we will be off the record
24 until 11:00 a.m. Thank you. We're off the record.

25 (Off the record.)

1 JUDGE PRIDGIN: Good morning. We are
2 back on the record. I believe the first witness on
3 my list of witnesses is Mr. Michels from Ameren
4 Missouri. Is there anything further from counsel or
5 from the bench before we proceed to Mr. Michels'
6 testimony?

7 MS. VANGERPEN: Your Honor, this is
8 Lindsay with OPC. I believe the parties have
9 reserved the right to do mini openings for each of
10 the issues. And the OPC does have a mini opening for
11 the benefits question.

12 JUDGE PRIDGIN: Okay. Any other parties
13 wishing to make a mini opening statement?

14 MR. PRINGLE: Staff does as well, Judge.

15 JUDGE PRIDGIN: I assume you do too,
16 Ameren Missouri, or no?

17 MS. MOORE: I'm going to go along. Yes,
18 your Honor.

19 JUDGE PRIDGIN: Sure. Why not. Whenever
20 you're ready.

21 MS. MOORE: Yes, your Honor. In terms of
22 the benefits and when we discussed this, Staff
23 counsel had said some of the things about MEEIA are
24 in the details. And one of the things that I want to
25 remind the Commission is that there are benefits to

1 MEEIA which we can't put into the program because
2 it's not -- there isn't a rule for it. And those are
3 benefits like creating 2,700 jobs; the benefits that
4 we don't get to claim, and that would be when we go
5 into some of the income-eligible programs and some of
6 the home energy saving kits include water aerators
7 and ways to save money on natural gas. And so the
8 societal benefits that energy efficiency approves
9 should also considered by the Commission.

10 And then finally I do want to direct the
11 Commission's attention that MEEIA is to value
12 demand-side resources on the same level as supply
13 side. Supply-side resources go out 20 years or
14 longer and can be used by the Company. So that's why
15 in the Commission rules in chapter 20, section 94.4,
16 subsection I, that number 3 that says, The -- the
17 demand-side programs are included in the electric --
18 electric utilities' preferred plan and have been
19 analyzed through the integration process required
20 under chapter 2260 to determine the impact of
21 demand-side programs and program plans on the net
22 present value of the revenue requirement of the
23 electric utility.

24 And that's 20 years. I know that Staff
25 doesn't want you to look at this detail, but this is

1 an application of the Commission's rule. And the
2 Company has looked at that net present value. And
3 the benefits to the customers are real when you look
4 at the investment in energy efficiency that it will
5 have over the long run. And again, the resources
6 that need to be built, energy efficiency enhances
7 those resources so that we are able to use that in
8 our reliability tool kit and use our resources to the
9 greatest potential.

10 And then finally I do want to point out
11 for any questions regarding how the earnings
12 opportunity is calculated, the Commissioners -- I
13 think Commissioner Mitchell had a question, the
14 revised Appendix N has the calculations of the
15 earnings opportunity and that will show the different
16 bands and the percentages including an incentive
17 bonus. So if there are any further questions, you
18 know, and the witnesses, it might be handy to have
19 that.

20 And in terms of any of the administrative
21 costs, you can find those in our revised Appendix A,
22 which is a summary table of the programs and the
23 costs associated with them all broken down.

24 And then any specific, you know, program
25 benefits or the benefits, our revised Appendix B has

1 the program, templates and it'll the measures. And
2 then our Appendix D outlines the incentive ranges for
3 the plan.

4 With that, I don't have anything further.
5 Thank you.

6 JUDGE PRIDGIN: Thank you. Any bench
7 questions for Ameren's counsel? Hearing none, thank
8 you. Any mini opening from Staff?

9 MR. PRINGLE: Yes, Judge. I'm going to
10 get up to the podium if you don't mind. Good
11 morning, and may it please the Commission. My name
12 is Travis Pringle and I will be representing Staff in
13 today's proceeding with Tracy Johnson for the mini
14 opening regarding benefits.

15 MEEIA is authorized under
16 section 393.1075 RSMo. Subsection 4 of that statute
17 explicitly states quote, the Commission shall permit
18 electronic -- electric corporations to implement
19 Commission-approved demand-side management programs
20 proposed pursuant to this section with the goal of
21 achieving all cost-effective demand-side savings.
22 Recovery for such programs shall not be permitted
23 unless the programs are approved by the Commission,
24 result in energy or demand savings, and are
25 beneficial to all customers in the customer class in

1 which the programs are proposed regardless of whether
2 the programs are utilized by all customers.

3 This morning we need to focus on that
4 latter sentence. Beneficial to all customers
5 regardless of whether the programs are utilized by
6 all customers. This is not the first time that Staff
7 has contested an Ameren MEEIA application's
8 assertions of benefits for all customers. Ameren's
9 MEEIA Cycle 2 application, filed under and
10 initially rejected by the Commission in Docket
11 No. EO-2015-0055, had the same problem. The evidence
12 in that case as here shows that most Ameren Missouri
13 customers will likely receive very little, if any,
14 overall net benefits from this application. Even
15 accepting Ameren's Missouri other estimates regarding
16 benefits and even assuming that program costs are
17 properly treated as what are called transfer
18 payments, Ameren Missouri's total resource cost test,
19 or the TRC, results include a mathematical error in
20 the treatment of these program costs as transfer
21 payments.

22 To obtain a TRC result above 1, in this
23 case 1.64, Ameren Missouri divided \$729 million in
24 benefits by \$446 million in nonprogram costs.
25 However, if program costs were being treated as a

1 transfer payment, the proper math would be to
2 divide \$909 million of benefits by \$625 million in
3 costs producing a TRC result of 1.45. However, also
4 keep in mind that Ameren Missouri shareholders are on
5 the risk for zero dollars in this calculation. This
6 is ratepayer money.

7 For purposes of statutory compliance, it
8 is not reasonable to treat program costs as transfer
9 payments. The MEEIA statute allows approval of a
10 demand-side program investment mechanism or a DSIM
11 only if the MEEIA cycle is beneficial to all
12 customers in the customer class in which the programs
13 are proposed, regardless of whether the programs are
14 utilized by all customers. The TRC results of
15 program costs are considered a cost, not a transfer
16 payment, are \$729 million in benefits divided by \$625
17 million in costs, which now lowers the TRC result
18 to 1.1 -- 1.16. Sorry.

19 Now, Ameren Missouri's modeling as
20 presented in its Appendix A includes a mismatch
21 between models, earnings opportunities, recovery, and
22 production of benefits. Correction of this error
23 results in a reduction of the TRC results to a range
24 of 1.03 to .93, relying on Ameren Missouri's avoided
25 cost assumptions. In addition, the ratepayer impact

1 measure test, otherwise known as the RIM test,
2 results in Ameren Missouri's, with the result
3 provided in Ameren Missouri's Appendix A of its
4 application, provides a portfolio total result TRC
5 of .70. Because the RIM result is less than one and
6 by Ameren Missouri's own modeling, the program costs
7 customers more than it benefits them. In order for
8 all customers to benefit, customers pay-through MEEIA
9 rates should be lower than the increase in general
10 rates otherwise would be due to a new supply-side
11 investment.

12 Historically the statutory language has
13 been interpreted to mean an earnings opportunity to
14 be based on foregone earnings opportunity for
15 avoiding or deferring a supply-side investment.
16 Ameren Missouri in this situation has not done that
17 analysis and, therefore, cannot show its work
18 identifying the specific supply-side generation
19 investment that will be avoided or deferred if its
20 MEEIA Cycle 4 application is approved.

21 The concept behind MEEIA is that all
22 customers pay certain amounts a day with an
23 expectation that all customers will avoid potential
24 costs in the future. The basic premise of MEEIA is
25 that all customers may benefit from avoided costs in

1 the future in exchange for socializing energy
2 efficiency costs in utility incentives today. The
3 avoided costs used to evaluate MEEIA programs are not
4 reasonable estimates. The benefits realized by
5 ratepayers through demand-side programs, the
6 underlying premise falls apart.

7 Ameren's Missouri alleged support for the
8 application, the attached report, and its work papers
9 utilize -- utilized to estimate and quantify benefits
10 are unrealistic, inappropriate estimates that should
11 not be considered reliable. This is especially true
12 considering the lack of specific citations and
13 sources that are prevalent throughout the work papers
14 that Ameren Missouri provided Staff.

15 The assumed avoided capacity transmission
16 and distribution benefits are unlikely to ever be
17 realized by ratepayers. Ameren Missouri's
18 calculation of benefits in its application grossly
19 overstates the application of benefits, and approval
20 is likely to result in ratepayer harm through
21 implementation of programs that are just not cost
22 effective.

23 Ameren Missouri's approach to estimating
24 these avoided capacity costs is nearly identical to
25 the approach that was employed by Evergy and

1 recognized as inappropriate by this Commission during
2 Evergy's Cycle 3 MEEIA application, EO-2019-0132.

3 Furthermore, an important part of this
4 application, that it lacks retrospective EM&V, the
5 evaluation, measurement, and verification. While
6 Staff will go into greater detail during the EM&V
7 portion of this hearing, Ameren Missouri currently
8 has the perverse incentive to implement programs with
9 high deemed energy reduction, but low actual energy
10 reduction. The Company's application had the same
11 issue in Cycle 2 and was summarily rejected. Without
12 retrospective EM&V it is impossible for anyone to
13 know just how much Ameren Missouri collects from
14 customers for energy savings that were never
15 materialized.

16 The realized ratepayer costs of MEEIA
17 programs are far too high to rely on potential
18 benefits that might occur when, in reality, Ameren
19 Missouri is actively investing billions of dollars
20 with plans to invest billions more in traditional
21 utility infrastructure while seeking rate recovery of
22 those investments regardless of the impacts of the
23 MEEIA programs.

24 Ameren Missouri's current analysis
25 ignores the effects of the fuel adjustment clause, or

1 the FAC. The FAC cannot be ignored in attempting to
2 quantify the avoided costs associated with a given
3 MEEIA program. Consideration should be given by this
4 Commission to, at a minimum, the relative value of
5 wholesale energy purposes expected to be avoided by
6 any given measure and the classes that benefit from
7 avoided cost and then the classes that pay for the
8 creation of the avoided cost through demand-side
9 programs.

10 Ameren Missouri's current analysis
11 ignores the literal program -- program costs, ignores
12 the impact of the fuel adjustment clause on
13 redistributing avoided energy benefits among
14 customers, and relies on unreasonable avoided cost
15 assumptions.

16 Based on Ameren Missouri's work papers,
17 Staff understands that Ameren Missouri anticipates
18 recovering approximately \$600 million from MEEIA
19 Cycle 4 through the rider Energy Efficiency
20 Investment Charge, the EEIC. Further, Ameren
21 Missouri requests significant flexibility in program
22 implementation, so variances of up to 20 percent
23 should be anticipated.

24 Staff has taken the rate estimates
25 prepared by Ameren Missouri and calculated Ameren

1 Missouri's quantification for annual bills per a
2 thousand kilowatt hours per month of usage which
3 demonstrates that ratepayers in the residential small
4 general service and large general service classes
5 will be worse off if Ameren Missouri's MEEIA Cycle 4
6 application is approved.

7 I ask you to -- I implore you to ask the
8 questions of Staff witnesses on this matter:

9 Mr. Justin Tevie, Mr. J Luebbert, Mr. Brad Fortson,
10 and Ms. Sarah Lange about the analysis they have done
11 regarding these benefits. And at this time I'm happy
12 to entertain any additional questions the Commission
13 may have.

14 JUDGE PRIDGIN: All right. Thank you,
15 Mr. Pringle. Any bench questions? Hearing none, all
16 right. Thank you, sir. Any opening statement from
17 Renew Missouri?

18 MR. LINHARES: Thank you, Judge. No
19 opening statement on this issue.

20 JUDGE PRIDGIN: Thank you. Any opening
21 statement from NRDC?

22 MS. RUBENSTEIN: No, thank you.

23 JUDGE PRIDGIN: Very good. Consumers
24 Council?

25 MR. COFFMAN: No opening, your Honor.

1 JUDGE PRIDGIN: Thank you. Public
2 Counsel?

3 MS. VANGERPEN: Yes, just briefly. Good
4 morning again, Commissioners, Chair Hahn, Judge
5 Pridgin. I'm here again this morning to talk to you
6 about the question of benefits. Now, the statute
7 mandates that a utility can only recover for its
8 MEEIA programs if it can be shown that they are
9 beneficial to all customers regardless of
10 participation. There's a lot of testimony in this
11 case from Ameren, Staff, and the OPC about how we
12 determine whether that's true. But I want to take a
13 step back from some of the micro-level arguments
14 about the TRC and the FAC distribution of benefits.
15 Don't get me wrong. Those are very important issues,
16 and I really want to encourage you to follow up with
17 the witnesses that you'll hear from today about any
18 questions that you have.

19 But I want to talk to you about two macro
20 level arguments here. The first is risk and reward
21 and the second is diminishing returns.

22 Now, as I previously mentioned, the OPC
23 asks this Commission to reject Ameren's amended
24 application. It's simply too rich for Ameren. To
25 show this I want to first talk to you about the

1 concept of risk and reward. Now, many talk about
2 risk avoidance, but the best -- best investors won't
3 tell you to avoid risk completely in your diversified
4 portfolio. And why is that. Because risk is closely
5 tied with the idea of reward. Risky investments can
6 have a big pay out. So to meet your financial goals,
7 you'll want a diversified portfolio with at least
8 some risk to it.

9 Where am I going with this. In utility
10 regulation we often talk about the idea of risk in
11 the context of the return on equity in rate cases.
12 There we try to answer the question of what do
13 shareholders need as a return on their investment to
14 take the risk and invest in the utility stock. That
15 typically falls between 8 and 10 percent.

16 But we're not talking about a rate case
17 this week. This week we're talking about MEEIA. And
18 who bears the risk when it comes to MEEIA.
19 Ratepayers. Ratepayers effectively bear 100 percent
20 of the risk when it comes to MEEIA. They bear the
21 risk that MEEIA programs won't work, that they will
22 fail to defer or avoid any supply-side investment.
23 And if these programs fail, then ratepayers will have
24 paid not only for the cost of the MEEIA programs and
25 the EO and the throughput disincentive, but they'll

1 also have to pay for the new generating unit which,
2 of course, also has its own mountain of costs.

3 Ameren on the other hand effectively
4 bears no risk with these programs. It recovers not
5 only its program costs, but an earnings opportunity
6 for its shareholders and a throughput disincentive as
7 well. So it seems pretty clear that ratepayers are
8 the ones bearing the risk with MEEIA.

9 So let's move on to reward. As I
10 mentioned, in a rate case shareholders typically
11 receive about an 8 to 10 percent return for assuming
12 a risk that comes with investment. What do
13 ratepayers receive as a reward for bearing the risks
14 of MEEIA. They get a maybe. Maybe Ameren will defer
15 a generating plant for a few years or maybe Ameren
16 will avoid paying market rate for additional energy.
17 But also maybe not. There's certainly no guarantee
18 of any of that actually happening. Who knows what
19 the market will look like in a few short years. MEEIA
20 is just a maybe. A very risky, very expensive maybe.

21 So ratepayers are making a risky
22 investment and may get no reward. But you'll
23 remember what I said just a moment ago. There is an
24 earnings opportunity with MEEIA. Who gets that.
25 Shareholders do. They're the ones who bear

1 effectively no risk, but get a handsome pay out as
2 part of these programs.

3 So where does that leave us. You might
4 remember my seesaw in -- in my initial opening. It's
5 certainly leaves us at a point where the risk-reward
6 balance is off kilter. It seems as if the ratepayer
7 is left with all of the risk, and shareholders get
8 all of the reward. And that's just one of the
9 reasons why the OPC as the ratepayers' advocate is
10 here today asking you to reject Ameren's amended
11 application.

12 Now, before I leave you again, I want to
13 talk to you about diminishing returns. Again, the
14 MEEIA statute requires that benefits for all
15 customers regardless of participation. Ameren has
16 filed its amended application at a unique time. The
17 market has changed since prior MEEIA cycles. As
18 Dr. Marke explains, codes and standards as well as
19 generous direct incentive and tax incentive programs
20 from the federal government have moved the market to
21 a place where inefficient equipment simply doesn't
22 exist anymore, or at least in the way it once did.
23 In many circumstances, efficient options are the only
24 options. The cost-benefit analyses that supported
25 MEEIA in the past must be questioned as we move

1 toward the future.

2 As both Dr. Marke and Mr. Fortson
3 describe in their testimonies, the various MEEIA
4 cycles and extensions have been an attempt -- have
5 been attempts at making things better.

6 Again, the history of MEEIA has been
7 mostly a collaborative one, but the time has come
8 where the OPC cannot support Ameren's amended
9 application. The risk-reward analysis is simply too
10 rich for the Company and too risky for its
11 ratepayers. It hit a point of diminishing returns.
12 MEEIA must adapt so that it can provide benefits in
13 this environment.

14 Again, Commissioners, I encourage you to
15 ask the witnesses any questions that you have.
16 They're -- they're eager to discuss this with you.
17 For this question you will hear from all three of the
18 OPC's witnesses: Mr. Jordan Seaver, Ms. Lena Mantle,
19 and Dr. Marke. And again, the OPC asks this
20 Commission to reject Ameren's amended application.
21 Thank you again, and I'm also happy to answer
22 questions that you might have.

23 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
24 Any bench questions? Hearing none. All right.
25 Thank you, Counsel.

1 Anything further before Mr. Michels comes
2 forward to be sworn? All right. Mr. Michels, if
3 you'll come forward please.

4 (Witness sworn.)

5 MATTHEW MICHELS

6 the witness, having been first duly sworn,
7 testified as follows:

8 JUDGE PRIDGIN: Thank you very much.
9 Please have a seat. Counsel, when you're ready.

10 MR. HOLTHAUS: Judge, one preliminary
11 before we begin. Mr. Michels' prefiled testimony
12 addresses more than one issue. His prefiled
13 testimony chiefly addresses benefits but his
14 testimony also briefly addresses earnings
15 opportunity. Do we want to add his testimony to the
16 record now or after he's been on the stand for all
17 issues to which he will testify?

18 JUDGE PRIDGIN: I have no preference and
19 I don't know how counsel feels. If you want to try
20 to introduce it now, if you'll get any objections
21 or -- I'll leave that up to you.

22 MR. HOLTHAUS: I suggest we -- I know at
23 the securitization hearing in April, the parties
24 agreed to move to admit testimony into the record
25 once the witness appeared for the last time. So

1 without -- I suggest we stick with that procedure.

2 JUDGE PRIDGIN: That works for me. Thank
3 you.

4 MR. PRINGLE: And that would be Staff's
5 preference as well, Judge.

6 JUDGE PRIDGIN: Okay. Very good. Thank
7 you.

8 MR. HOLTHAUS: And just to clarify, once
9 the witness is on the stand for the last time, we
10 will -- we will move to admit all of their testimony,
11 direct, rebuttal, surrebuttal all at the same time.

12 JUDGE PRIDGIN: That works for me. Thank
13 you.

14 DIRECT EXAMINATION

15 BY MR. HOLTHAUS:

16 Q. Good morning, Mr. Michels. Would you
17 please state your name and employer for the
18 Commission.

19 A. **My name is Matthew Michels, and I'm**
20 **employed by Ameren Services.**

21 Q. And are you the same Matthew Michels who
22 prefiled rebuttal and surrebuttal testimony in
23 this case marked for identification as Exhibits 100
24 and 101?

25 A. **Yes, I am.**

1 Q. Mr. Michels, do you have any corrections
2 or additions to your prefiled testimony?

3 **A. No, I don't.**

4 Q. And if I were to ask you the questions
5 that are contained within your prefiled testimony,
6 Exhibits 100 and 101, would your answers today be
7 substantially the same?

8 **A. Yes.**

9 Q. And those answers contain information that
10 is true and correct to the best of your knowledge?

11 **A. That's correct.**

12 MR. HOLTHAUS: Okay. Tender the witness
13 for cross.

14 JUDGE PRIDGIN: All right. Thank you.
15 Any cross-examination, Renew Missouri?

16 MR. LINHARES: No. Thank you very much,
17 Judge.

18 JUDGE PRIDGIN: Thank you. NRDC?

19 MS. RUBENSTEIN: No. Thank you, Judge.

20 JUDGE PRIDGIN: Thank you. Consumers
21 Council?

22 MR. COFFMAN: No questions.

23 JUDGE PRIDGIN: Staff?

24 MR. PRINGLE: None at this time, Judge,
25 thank you.

1 JUDGE PRIDGIN: Public Counsel?

2 MS. VANGERPEN: None at this time, your
3 Honor.

4 JUDGE PRIDGIN: Okay. Any bench
5 questions? Chair Hahn.

6 QUESTIONS

7 BY CHAIR HAHN:

8 Q. Good morning, Mr. Michels.

9 **A. Good morning.**

10 Q. There's been testimony and even discussion
11 this morning of additional supply-side resources that
12 would need to be constructed should this application
13 be rejected. I'm hoping that you -- with an
14 estimated price tag associated with those generation
15 facilities of being \$4 billion. I'm hoping that
16 you can talk a little bit more about the math behind
17 the 4 billion, the calculation of the addition of
18 those resources, and those very specific years. So
19 we can start there.

20 **A. Absolutely. So in my -- in my rebuttal**
21 **testimony on page 6 there's a small table that shows**
22 **the supply-side resource additions for what we called**
23 **Plan C, which was our preferred resource plan, and**
24 **Plan I which is an alternative plan with no**
25 **demand-side programs going forward. And -- and that**

1 table shows that if we were not to engage in
2 demand-side programs for the entirety of the
3 planning horizon, that we would have to add
4 generation in 2037, which would be a simple-cycle gas
5 plant; 2043, which would be a combined-cycle gas
6 plant; and we would also have to accelerate the
7 combined-cycle gas plant that is in our preferred
8 plan in 2033 to 2028.

9 The way that we come up with the 4 billion
10 in costs is to compare the net present value revenue
11 requirements of those two plants. So the net present
12 value revenue requirements includes all of the costs
13 for all of the resources contained in those plants.
14 So for the demand-side programs, it includes all the
15 programs costs, it includes -- there is -- there is
16 no throughput disincentive because we assume full
17 recovery of the revenue requirement. And then for
18 supply-side resources, it includes the capital cost,
19 which for a 1,200 megawatt combined-cycle plant today
20 is, you know, in the one and a half to two billion
21 dollar range for each one, each 1,200 megawatt plant.

22 And then we also include the operating
23 maintenance costs for the supply-side resources and
24 the fuel costs and the revenue from sales of energy
25 into the market as well as a net capacity cost for an

1 entire portfolio in each year. And what I mean by
2 that is we look at the capacity position of a
3 particular plan, each of these individually, and we
4 say, Do we have -- you know, how much capacity and
5 resources do we have relative to our demand and
6 planning reserve margin. And that difference is
7 priced out at the market price of capacity. So all
8 of that is included in the revenue requirements in
9 each year of the model and then we present value
10 those back to today.

11 Q. Sounds like a lot of assumptions.

12 A. Yeah. Planning is all about assumptions
13 and ranges.

14 Q. Talk to me about how the additions of
15 those plants change when you're talking about that
16 net capacity cost calculation that you just
17 mentioned from present to what you're planning
18 in 2037 and 2043.

19 A. Right. So we're looking at the capacity
20 position. That's kind of a big deal. It's not the
21 end all when we're looking at reliability needs, but
22 we do that for summer and winter in particular to
23 look at resource need. And then we also calculate a
24 capacity position for fall and spring so we can see
25 what the net cost is going to be.

1 And so for winter season, which is what
2 tends to drive the need for resources, we see
3 that we have needs for resources in the preferred
4 plan in 2033, which is after we have assumed the
5 retirement of the Sioux plant and then also in 2040
6 after we have retired some gas generation in Illinois
7 and then 2043 when we retire the last two units at
8 Labadie. And this is all under normal load
9 conditions. If we look at extreme weather
10 conditions, then we've also added simple-cycle gas
11 generation to address those needs.

12 Q. I assume you might also be the person to
13 talk about the MISO planning resource auction pricing
14 periods and how it impacts costs and benefits to
15 ratepayers. Is that --

16 A. That's fair.

17 Q. Okay. I think it's Staff's position, but
18 it says, Ameren Missouri's application drastically
19 overstates the avoided cost related to its expected
20 demand reductions and its analysis does not include
21 demand reduction totals for programs in the fall,
22 winter, or spring MISO planning resource auction
23 pricing period.

24 Can you talk directly about what you think
25 Staff is saying, how you're overstating those avoided

1 costs and how you don't include those demand
2 reduction totals?

3 A. I think so. My reading of Staff's
4 testimony and position is that they don't believe
5 that there are needs for resources the way that we've
6 laid them out in our preferred resource plan. And I
7 think the big disconnect is what I just described,
8 which is the difference between planning for normal
9 weather and planning for extreme weather.

10 So I mentioned the 800 megawatts of
11 simple-cycle generation that we're planning to add.
12 The big driver for that is what we've seen in terms
13 of extreme weather events, which Staff has
14 acknowledged in testimony have become more frequent
15 and -- and longer. So we've included that also in
16 our CCN application for the Castle Bluff project,
17 which was made just last month, to address the need
18 for capacity during those extreme weather events.

19 With regard to the seasonal aspect of it
20 when we add resources, physical resources, we're
21 adding them and they're there for the entire year.
22 They don't come during the season you need them and
23 go when you don't, so the cost is there for the
24 entire year. Our avoided costs are based on the
25 avoidance of those resources that we would otherwise

1 have to add, and so it's a full cost. It's not a
2 market price of capacity, which in MISO is -- can be
3 relatively small at times and which FERC has
4 acknowledged previously represents a, sort of a
5 residual capacity market, unlike some other more
6 unregulated markets where it's a big driver of
7 capacity builds.

8 So we want to compare the full cost of
9 that supply-side resource to the cost of implementing
10 programs when we're screening. And then when we
11 include that in our integration analysis, we're
12 getting a heads-up comparison of plans that include
13 demand-side resources or additional supply-side
14 resources so that we can get that direct comparison.
15 As I -- and as I mentioned before, it's sort of the
16 marginal capacity need deficit or shortfall that we
17 price out at the market.

18 Q. I think I've gotten that written down. I
19 may have to ask you again, but I think I've gotten
20 it.

21 A. That's fine.

22 Q. Following up, Staff recommends relying on
23 a market-based approach associated with demand
24 reductions because supply-side resources -- resource
25 investments are not expected to be avoided or

1 deferred. Reliance on a market-based approach
2 requires the ability to determine accurate demand
3 reductions in each season and accounting for the FAC.
4 Ameren has not provided evidence in this case that
5 enabled such analysis to be done with reasonable
6 accuracy.

7 Why hasn't that information been provided,
8 or can you talk about that?

9 A. I -- I'm not quite sure what information
10 is being alleged to be absent. But if I can
11 elaborate a little bit more on the -- on the
12 market-based cost aspect of it. You know, in years
13 past when the market was long capacity, we were long
14 capacity, the expectation that you were going to
15 avoid resources in the near term was small to
16 nonexistent unless you had a big retirement in the
17 near term. And so market-based capacity prices can
18 make sense in that situation. I would argue that
19 when you're looking at resource comparisons, that
20 it's probably better to compare to the cost of a
21 supply-side resource because that's the long-run
22 marginal cost of capacity. But there can be an
23 argument made for looking at market-based capacity as
24 well in the short term when -- when the market is
25 long.

1 Q. And I should have finished too because it
2 was to figure out the interaction of the FAC and the
3 ratepayer benefits in order to determine if the
4 programs meet the statutory requirement for benefits.
5 So that might have helped you figure it out a little
6 bit more.

7 A. Oh, okay. I think the questions about FAC
8 may be better addressed by Mr. Wills.

9 CHAIR HAHN: Okay. I think that's all I
10 have. Thank you.

11 JUDGE PRIDGIN: Chair Hahn, thank you.
12 Commissioner Holsman.

13 COMMISSIONER HOLSMAN: Thank you.

14 QUESTIONS

15 BY COMMISSIONER HOLSMAN:

16 Q. Thank you. In Ameren's opening statement
17 we were told that there's going to be a \$200 million
18 capacity shortfall if this program is not extended.
19 And then OPC followed that up by saying those numbers
20 are more accurately defined in the demand response,
21 not in the energy efficiency program. Can you
22 elaborate as to that 200 million is an accurate
23 number and which part of the program that that does
24 represent?

25 A. Let me just clarify. Are you talking

1 about the 200 megawatt --

2 Q. I'm sorry.

3 A. -- shortfall? Okay.

4 Q. Yeah. I meant megawatt.

5 A. That's what I thought; I just --

6 Q. My brain said million.

7 A. Yeah.

8 Q. Megawatt. Sorry.

9 A. Yes. So in our plan, the demand response
10 impact for 2025 is 205 megawatts in the summer. It's
11 relatively small in the winter. It's around 170
12 megawatts each in the spring and the fall which
13 happen to be the seasons that we saw a shortfall on
14 the local clearing requirement in the last planning
15 resource auction.

16 COMMISSIONER HOLSMAN: Okay. Thank you.

17 JUDGE PRIDGIN: All right. Commissioner,
18 thank you. Commissioner Kolkmeyer, any questions?
19 Commissioner Mitchell?

20 COMMISSIONER MITCHELL: None for me,
21 Judge.

22 JUDGE PRIDGIN: All right. Thank you.
23 Chair Hahn.

24 QUESTIONS

25 BY CHAIR HAHN:

1 Q. Commissioner Holsman asking questions then
2 brought up, speaking of the planned resource auction
3 and the -- there's been conversations about demand
4 response versus energy efficiency and that you don't
5 actually have to have an energy efficiency set of
6 programs under MEEIA to offer demand response from
7 OPC. Is that correct?

8 A. I'm not sure. That might be better
9 directed to Mr. Lozano.

10 Q. Okay. And then if you do -- so I should
11 ask Mr. Lozano on all demand response programs?

12 A. I -- I think he'd be the best place to
13 start.

14 CHAIR HAHN: Thank you.

15 JUDGE PRIDGIN: All right. Thank you.

16 Any further bench questions for this witness? All
17 right. Any recross based on bench questions? Renew
18 Missouri?

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

20 JUDGE PRIDGIN: Thank you. NRDC?

21 Hearing nothing. Consumers Council?

22 MR. COFFMAN: No. Thank you, your
23 Honor.

24 JUDGE PRIDGIN: Staff?

25 MR. PRINGLE: One moment, Judge.

1 JUDGE PRIDGIN: Certainly.

2 MR. PRINGLE: No -- no further cross from
3 Staff, Judge. Thank you.

4 JUDGE PRIDGIN: Mr. Pringle, thank you.
5 Public Counsel?

6 MS. VANGERPEN: One moment, Judge.

7 JUDGE PRIDGIN: Certainly.

8 MS. VANGERPEN: Just very briefly, your
9 Honor.

10 RECROSS EXAMINATION

11 BY MS. VANGERPEN:

12 Q. Good morning, Mr. Michels.

13 **A. Good morning.**

14 Q. I just have a quick clarifying question.
15 So Commissioner Holsman asked you about the 200
16 megawatt shortfall. And I just want to make sure I
17 understand. That capacity shortfall, is that
18 associated -- that's associated with the demand
19 response program. Is that correct?

20 **A. That's correct.**

21 MS. VANGERPEN: Thank you. Nothing
22 further, your Honor.

23 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
24 Any redirect?

25 MR. HOLTHAUS: Briefly, Judge.

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REDIRECT EXAMINATION

BY MR. HOLTHAUS:

Q. Mr. Michels, you had some discussion with Chair Hahn about the comparison of IRP Plan C with IRP Plan I and certain supply-side resources that AMO -- I'm sorry -- Ameren Missouri intend to add to address extreme weather. Do you recall that discussion?

A. Yes.

Q. Did you discuss with Staff the planning for extreme weather in the IRP?

A. We did. We had -- we had a meeting last September about two weeks prior to the filing of the IRP. And -- and in that discussion we talked about the need to look at capacity needs for extreme weather. We showed capacity positions, which I show on my testimony as well, for winter in particular that demonstrate the need for additional resources to meet that requirement.

MR. HOLTHAUS: No further questions.

Thank you.

JUDGE PRIDGIN: All right. Thank you.

You may step down. And the next witness is Mr. Wills. If Mr. Wills will come forward and be sworn please.

1 (Witness sworn.)

2 STEVEN WILLS

3 the witness, having been first duly sworn,
4 testified as follows:

5 JUDGE PRIDGIN: Thank you very much. You
6 may have a seat. Counsel, when you're ready.

7 MS. HERNANDEZ: Thank you.

8 DIRECT EXAMINATION

9 BY MS. HERNANDEZ:

10 Q. Can you state your name for the record
11 please.

12 A. **Steven Wills.**

13 Q. And where are you employed?

14 A. **Ameren Missouri.**

15 Q. And in what capacity?

16 A. **As the senior director of regulatory
17 affairs.**

18 Q. And are you the same Steven Wills that
19 caused to be prepared Exhibit Nos. 102 and 103?

20 A. **Yes, I am.**

21 Q. And that would be your rebuttal and
22 surrebuttal testimony?

23 A. **That's correct.**

24 Q. And if I were to ask you those same
25 questions contained in your testimony today, would

1 your answers be the same?

2 **A. Yes.**

3 Q. And are your answers true and correct to
4 the best of your knowledge, information, and belief?

5 **A. Yes.**

6 Q. Oh, and you -- did you have any changes to
7 your rebuttal or surrebuttal testimony?

8 **A. I do not have any changes.**

9 MS. HERNANDEZ: With that I will reserve
10 offering his testimony until the last time he takes
11 the stand and tender the witness for cross.

12 JUDGE PRIDGIN: All right.

13 Ms. Hernandez, thank you. Cross-examination. Renew
14 Missouri?

15 MR. LINHARES: None. Thank you, Judge.

16 JUDGE PRIDGIN: NRDC?

17 MS. RUBENSTEIN: None, thank you, your
18 Honor.

19 JUDGE PRIDGIN: Thank you. Consumers
20 Council? Staff?

21 MR. PRINGLE: One moment, Judge. No
22 questions at this time. Thank you.

23 JUDGE PRIDGIN: Thank you. Public
24 Counsel?

25 MS. VANGERPEN: None at this time, your

1 Honor.

2 JUDGE PRIDGIN: Thank you. Bench
3 questions? Chair Hahn.

4 CHAIR HAHN: Just one.

5 QUESTIONS

6 BY CHAIR HAHN:

7 Q. Mr. Wills.

8 **A. Good morning, Chair Hahn.**

9 Q. Morning. I just have one question that's
10 a follow up from the previous testimony. And that is
11 Staff says that Ameren Missouri has not provided
12 evidence in this case that a certain analysis be done
13 and that is Staff recommends relying on a
14 market-based approach associated with demand
15 reductions because supply-side resource investments
16 are not expected to be avoided or deferred. Reliance
17 on market-based approach requires the ability to
18 determine accurate demand reductions in each season
19 and accounting for the interaction of the FAC and
20 ratepayer benefits in order to determine if the
21 programs meet statutory requirements for benefits.

22 Can you talk through why Ameren Missouri
23 hasn't provided enough analysis to do that?

24 **A. I'm not sure I would say we haven't**
25 **provided certain analysis on that, but when you look**

1 at the -- the market -- so the entirety of our cost-
2 benefit analysis is looking at the market-based
3 avoided cost for energy. And in the IRP it looks at
4 the market-based avoid cost for capacity.

5 Mr. Michels explained why we used the long-run
6 marginal cost of capacity in the screening analysis,
7 but in the IRP it absolutely does look at the
8 market-based cost of both energy and capacity.

9 Now, Staff seems to be of a mind that --
10 that the FAC complicates that. And, you know, at the
11 end of the day, all of those avoided costs get back
12 to customers by lower rates, right. And those lower
13 rates are either going to occur in the fuel
14 adjustment clause or in base rates.

15 Now, I think there's been a misperception,
16 you know, kind of perpetuating through this case that
17 the FAC is the primary mechanism that those benefits
18 get to customers. I describe this in my rebuttal
19 testimony that the FACs in Missouri by their very
20 nature are what I would character as a transient
21 mechanism. They're just tracking differences in
22 costs between the last rate case and today. And so,
23 you know, if I -- if a customer installs an energy
24 efficient measure today, it's going to impact the FAC
25 for about the next -- you know, we've got a -- we

1 have a rate case pending right now, so if it goes in
2 today, the benefits of that will flow through the FAC
3 until about June of next year. And then for the
4 remaining 12 years of the measure life, they'll flow
5 through base rates.

6 But another -- you know, a more important
7 thing here is which mechanism they go through. In
8 both cases they're lowering rates for customers. And
9 how are they allocated? Well, in the FAC, benefits
10 that reduce the rate are spread back to customers
11 based on loss-adjusted kilowatt hours because that's
12 the billing unit used to allocate changes in net
13 energy costs through the FAC, right. Well, if we go
14 into a rate case, I mean, ultimately how those are
15 allocated is going to be subject to a Commission
16 determination on cost allocation. But Ameren
17 Missouri's approach to allocating those benefits is
18 on loss-adjusted kilowatt hours. It's the same
19 allocation whether it's in base rates or the FAC.

20 And again, the FAC is going to impact a
21 very short amount of the period of time. I don't --
22 I just don't see there being a need for an
23 incremental analysis to say that if these are
24 impacting base rates versus the FAC, at least our
25 proposal in a rate case is going to be that it's

1 going to be allocated in the same way either way.

2 The FAC mechanics are complicated, and
3 there was a lot said about that in this case. And I
4 think we all agree about what the mechanics are.

5 You know, one of the concerns that Staff
6 raised was there's -- there's two separate concerns
7 about the IVC, right. One was that FAC rates could
8 go up as a result of this. I -- I did some analysis
9 for rebuttal testimony because, I mean, intuitively
10 as a ratemaker I knew that that was a highly, highly
11 unlikely occurrence. But in response to hearing the
12 allegation that that would be likely to happen, I
13 actually did the explicit analysis of that in
14 rebuttal testimony to look at the specific times that
15 each measure avoids energy costs and what are the
16 market prices at those times, an hourly-level
17 analysis. And it demonstrated that even using our
18 lowest price scenario for avoided energy costs from
19 our IRP, every single measure is expected to produce
20 savings in the FAC rather than rate increases through
21 the FAC.

22 And then the second element that they were
23 concerned about with the FAC is how it impacts the
24 allocation of those benefits across classes. And
25 that's what I already alluded to, that at least from

1 Ameren Missouri's approach to recommending
2 ratemaking, it's the same in base rates or the FAC.

3 I -- I mean, to be quite frank with you, I
4 mean, I -- I do think the FAC is important, but the
5 fact that it's a confounding factor, and this is
6 really a red herring to me, those benefits are going
7 to come through the customers in the form of lower
8 rates for a little bit of time in the FAC and then
9 for a long period of time in base rates, and the
10 allocations are going to be very similar.

11 CHAIR HAHN: Thank you for helping me
12 understand that better.

13 THE WITNESS: Sure.

14 JUDGE PRIDGIN: Chair Hahn, thank you.
15 Commissioner Holsman?

16 COMMISSIONER HOLSMAN: Thank you.

17 QUESTIONS

18 BY COMMISSIONER HOLSMAN:

19 Q. Thank you. So we've established that the
20 bulk of the megawatt shortfall would be in demand
21 response. Is it true that you could offer demand
22 response outside of MEEIA if MEEIA was not extended?

23 A. I -- I believe, yeah. We've had energy
24 efficiency programs outside of MEEIA in the past;
25 there's no legal restriction on it. The problem

1 being that demand-side programs by -- by the MEEIA
2 law, the MEEIA law is what gives us the ability to
3 value them equally with supply side, right. So can
4 we, yes. Do the tools ex -- I mean, we would still
5 have to seek some form of cost recovery. The MEEIA
6 gives us a framework to do that and to value the
7 programs equally to --

8 Q. Is there any other benefit in including
9 demand response in the MEEIA?

10 A. Is there --

11 Q. Is that -- is that the primary reason
12 why --

13 A. It's -- it's all cost-effective
14 demand-side savings that we're, you know, we're
15 tasked with getting under the MEEIA statute. I think
16 they fit under the umbrella of MEEIA in a way that
17 actually aligns the Company's incentives with
18 pursuing that and provides a path, you know, for cost
19 recovery on it. I -- I mean, my lawyers may weigh
20 in. I don't think there's a legal restriction to us
21 doing demand response outside of MEEIA, but we would
22 have to be in here talking about how are we going to
23 recover our costs and how does this compare to supply
24 side. You know, all the same issues would -- would
25 be present I think.

1 Q. Do you have an idea what the value of the
2 shortfall would be outside of demand response? Like
3 what would be --

4 A. Yeah. So -- so demand re -- so I actually
5 had this in my surrebuttal testimony, the reference
6 to the demand response shortfall. The reason we're
7 focusing on the demand response shortfall is because
8 in -- we have an existing pool of customers who are
9 on the demand response program that are today a
10 capacity resource for us in essence. And if the
11 programs don't go forward, that -- that 200
12 megawatts, like, literally just goes away that we
13 already have.

14 Energy efficiency will build a capacity
15 resource over time, but it -- like Day One, energy
16 efficiency -- so these programs are not going to have
17 an impact on our capac -- or a significant impact on
18 our capacity, this is on Day One. It will grow over
19 time as we implement the -- so, right. We're -- I'm
20 trying to make sure I am clear about this.

21 For demand response, this is existing
22 resource customers that are participating today will
23 not be available to participate because we won't have
24 a framework under which to offer that. Under energy
25 efficiency, we're going to be seeking new

1 participation that will build and grow capacity
2 offsets over time, but on Day One that doesn't cause
3 any additional shortfall. It causes a shortfall over
4 the years that the -- the savings would grow, if that
5 makes sense.

6 Q. So this legislation was passed in 2009 and
7 we're on now getting ready to do Cycle 4. Isn't the
8 fact that there isn't a shortfall in, you know, the
9 additional savings capacity an indication that the
10 program has a lot of work to do to -- to get to be a
11 benefit to the ratepayer?

12 A. I don't fully understand your question.

13 Q. So I'm saying if, you know, if the program
14 were more successful and we were seeing more
15 participation and the -- essentially OPC has said,
16 We're not against energy efficiency; we're against
17 the way that Ameren's doing it and if they're going
18 to do it, here's another way of doing it. And I'm
19 saying if the way you were doing it was successful,
20 wouldn't there be an indication that more capacity
21 would be potentially lost because it would reflect
22 the amount of savings that the program had generated
23 since the bills -- since the legislation has been
24 passed since 2009 which is, you know, 15 years of an
25 opportunity to generate that offset.

1 **A.** I'm -- you know, I'm not sure exactly what
2 the OPC claim is there, but I don't know that I
3 accept the premises that our programs haven't been
4 successful. In terms of demand response, I don't --
5 Cycle -- Cycle 1 we didn't even start off on
6 demand --

7 Q. I'm not talk -- I'm necessarily talking
8 about demand response.

9 **A.** **Okay.**

10 Q. I think demand response is a proven, you
11 know, entity --

12 **A.** **Sure.**

13 Q. -- in terms of strategy.

14 What I'm talking about is energy
15 efficiency, like, you know, ongoing finances and
16 other things that you do that hasn't shown
17 participation. And my question is is have the
18 barriers of entry, whether they be education, whether
19 they be -- we talked with Renew Missouri, you know,
20 the up-front costs to enter the program, have these
21 barriers been identified with a strategy that's going
22 to remove those barriers, so that way that the return
23 on this -- these programs are such that the
24 ratepayer's seeing a benefit?

25 **A.** **I think specifics on the barriers to**

1 participation might be better addressed by either
2 Mr. Lozano or Mr. Via. But I mean, yeah, of course
3 every different program has different levels of
4 success in attracting customers, but I think if you
5 look broadly at our portfolio, I think our
6 participation is outstanding. We've had very
7 success -- a lot of success in creating those energy
8 savings. As far as if there's a particular program
9 that could be performing better, I know our team is
10 looking at that and -- and going to make the
11 improvements where they can.

12 But I -- I'm not sure that I agree with
13 the characterization that we haven't been successful
14 across the portfolio in generating a lot of
15 participation and benefits.

16 COMMISSIONER HOLSMAN: Thank you very
17 much. Thank you, Judge.

18 JUDGE PRIDGIN: Commissioner, thank you.
19 commission Kolkmeier, any questions? Commissioner
20 Mitchell.

21 COMMISSIONER MITCHELL: Yes.

22 QUESTIONS

23 BY COMMISSIONER MITCHELL:

24 Q. Thank you, Mr. Wills, and good morning. I
25 heard in opening from OPC that, you know, if the

1 application, even if the application were approved,
2 that it would be unlikely that Ameren would avoid any
3 supply-side investments and that, in fact, Ameren
4 would need to build capacity regardless. And could
5 you respond to how Ameren or how you view that
6 statement?

7 A. Yeah, absolutely. And, you know, this
8 gets into a lot of the discussion that Mr. Michels
9 had when he was on the stand as well.

10 But, you know, we are in a phase where we
11 do have to be adding capacity and building capacity.
12 And so, you know, MEEIA programs aren't designed to
13 offset, you know, all supply-side investment, but to
14 the extent that we have higher loads because we're
15 not managing that load through MEEIA programs, there
16 will be more supply-side investment needed to meet
17 those higher loads with the higher reserve margins
18 that go along with them.

19 I -- I mean, this all is grounded really
20 in the discussion Mr. Michels had, you know, around
21 our IRP where our Plan I where we don't do new
22 demand-side management programs going forward
23 requires the addition of two additional gas plants
24 and the acceleration of a third.

25 You know, our IRP, you know, there's been

1 a lot of talk about, you know, getting into the
2 details, you know, of these programs and the details
3 of our resource planning. Our IRP is incredibly
4 detailed, and I think Mr. Michels, you know, alluded
5 to some of that in terms of the, you know, the
6 analysis we're doing around extreme weather events.
7 But beyond that we're doing an 8,760-hour-a-year
8 reliability modeling. We're looking at a whole host
9 of environmental regulations that have different
10 potentials to impact our plants. And so all of that,
11 the planning that we do for what resources we would
12 have to build is -- is really influenced by all that
13 analysis.

14 And, you know, I think a lot of the
15 parties speculate that we might not need those
16 resources, but I don't think they have a plan that --
17 that has been through the kind of robust analysis
18 that we have done to show the needs that we're going
19 to expect to have to meet based off of the, you know,
20 the changes in the energy market landscape that we're
21 wrestling with. There's really no doubt in my mind
22 that if our load is, you know, hundreds of thousands
23 of megawatts higher, hundreds of megawatts of peak
24 demand higher, that we will need more resources and
25 we will have to build new supply side and those will

1 avoided by doing these programs.

2 Q. So fair to say it's not a matter of
3 whether those resources will be needed, it's timing?

4 A. Absolutely. And that's why the Integrated
5 Resource Plan is -- is so important because, you
6 know, we consider all the different risks. The risk
7 of increased load growth. We're seeing in the
8 industry, you know, talk of significant increases in
9 load forecast. We need to be prepared to meet that
10 higher load if it materializes. We need to be
11 prepared to meet our load if the environmental
12 regulations cause a coal plant retirement sooner than
13 it might otherwise be.

14 So the risk not just that we, you know --
15 you know, there's -- the risk really is that, you
16 know, if we're not doing this, we're not doing the
17 things to prepare for the risks that our customers
18 might face in terms of the, you know, balance of
19 supply and demand on our system.

20 Q. Thank you. Thank you. I want to switch
21 gears for a second. And I think we also heard from
22 OPC that as energy efficiency regulations evolve and
23 mature that things like, you know, premium efficiency
24 motors and high-efficiency lighting and architectural
25 standards for new building envelopes improve, that --

1 that we're incentivizing through some of the programs
2 things that are already required, that are required
3 as really sort of a baseline condition. So with
4 regard to programs, how -- I mean, how would Ameren
5 respond to that statement?

6 A. Yeah. Thank you, Commissioner. I think,
7 you know, there's this concept that people are
8 talking about of diminishing returns. And, yes,
9 there was a lot more of what we call low-hanging
10 fruit of energy efficiency in past years, but if you
11 look at -- and I wish I had some of the, you know,
12 numbers associated with past cycles in front of me.
13 But I will tell you the cost-effectiveness ratios
14 were even higher then because there was a lot more
15 headroom between the codes and standards of efficient
16 appliances and what was on the market.

17 But the reason that our -- our
18 cost-effective ratios have come down from past cycles
19 but are still positive and net beneficial is that we
20 account for those changes in baselines in our market
21 potential study. And so when I say that, our market
22 potential study is a -- is a study where we do
23 detailed analysis of the measures that are available
24 to manage customer loads and what are -- you know,
25 that's compared to baselines of what are the current

1 legal standards, what are the current kind of
2 marketplace norms in terms of what efficiency is
3 offered. And we adjust our potential to compare to
4 those evolving standards. That's part and parcel of
5 our -- of our market potential study.

6 So yes, there's -- you know, there's less
7 potential than there was ten years ago because we did
8 a lot of good efficiency work in, you know, over
9 those years and standards have done some work as
10 well. But we make those updates through our market
11 potential study to figure out what are the current
12 baselines, what's being offered in the market and,
13 you know, and what potential exists above and beyond
14 those things that might naturally occur based on
15 what's going on the market and what's the current
16 codes and standards.

17 Q. Sure. Sure. And I think that kind of
18 gets back to Commissioner Holsman's question about
19 participation I think as the number -- or as the
20 diminishing returns kind of reduce the overall
21 numbers, I think that the -- one of the keys is to
22 get, you know, more customers participating to get
23 the overall impact -- to recover the overall impact
24 of the programs. Not -- not so much a question; it's
25 just an observation here.

1 A. Yeah. And I'll just agree with you and
2 also, you know, suggest that that's maybe a reason
3 that we want to think carefully about this balance.

4 And I know this is an issue for another
5 day, but the balance of the administrative versus
6 the incentive costs, a lot of getting that
7 participation up is making sure that the, you know,
8 that the infrastructure is there, the marketing is
9 there. And so, you know, just -- just think about
10 that, you know. I know that, you know, folks are
11 touting that the IRA has a clause that the
12 administrative costs have to be capped at 20 percent.
13 We haven't seen if the IRA can actually deliver
14 savings, you know, based off of that. What we have
15 seen is that marketing and the administrative costs
16 are a needed part of our programs to drive that
17 participation.

18 COMMISSIONER MITCHELL: Thank you,
19 Mr. Wills. That's helpful.

20 **THE WITNESS:** Thank you.

21 COMMISSIONER MITCHELL: No other
22 questions, Judge.

23 JUDGE PRIDGIN: Commissioner Mitchell,
24 thank you. Commissioner Holsman.

25 COMMISSIONER HOLSMAN: Thank you.

1 QUESTIONS

2 BY COMMISSIONER HOLSMAN:

3 Q. Just want to follow up on that. So the
4 diminishing opportunities, does that affect the goal?
5 Like on your business portfolio that you -- that I
6 have here in front of me, the goal and target
7 achieved, is that a moving number that is -- that is
8 then reflecting those depreciated opportunities?

9 A. I think if I'm understanding your question
10 right, I think the answer is yes. I mean, we update
11 it with every market potential study, but I do
12 believe that, you know, in terms of like our
13 evaluation, that'll even get further updated with new
14 baselines as -- if a new code or standard were to be
15 passed, you know, that would get updated into our
16 evaluation. But in terms of our goals, you know, we
17 set those based off of market potential study.

18 Q. Are these numbers that I'm looking at
19 through 2022 or through 2023? It looks like 2023.

20 A. Which -- which are you looking at?

21 Q. I'm looking at the June 7, 2024, volume 1
22 portfolio impact summary, the annual EM&V report. So
23 I assume it's -- it says 2023 so I'll assume that's
24 correct.

25 So then back to my original line of

1 questioning. You know, looking at these numbers,
2 it's clear that based on these numbers like the
3 resource capability for the business DR program is
4 at 131 percent of its goal. So you set a goal. You
5 exceeded it by 131 percent. The -- and I would say
6 that's a huge success. The residential DR program's
7 at 79 percent of goal. So that's -- that's good.
8 That's -- that's -- I would say that that is a
9 successful program. But when you do look at the
10 breakouts and you see that, you know, the PAYS is
11 at 7 percent of goal and you see that the MFMR ---
12 which is the multifamily is at 39 percent of goal and
13 then the SBDI is at 31 percent of goal and RCX is 51
14 percent of goal, that tells me that there's a lot of
15 room that you could be -- if you set -- you set the
16 goal. Right? We didn't set the goal; you set the
17 goal. Right?

18 **A. Yeah. I mean -- I -- yeah, I believe**
19 **that's correct. I mean, as far as the specific**
20 **program level, that may be questions that are better**
21 **suited to Mr. Lozano or --**

22 **Q. Okay.**

23 **A. -- Mr. Via.**

24 **But yeah. Obviously, you know, each of**
25 **those programs they're going to be looking at**

1 independently and trying to make sure that we drive
2 that participation, but as far as, you know, their
3 actions on that, they would be better --

4 Q. I'll hold off until I get to Mr. Lozano.

5 A. Yeah, sure.

6 COMMISSIONER HOLSMAN: Thank you.

7 JUDGE PRIDGIN: All right. Thank you.

8 Any further bench questions? Mr. Wills, I think I
9 will have just a few questions.

10 QUESTIONS

11 BY JUDGE PRIDGIN:

12 Q. Do you have your surrebuttal with you?

13 A. I do.

14 Q. And I'm just going to refer to page 45 in
15 case you need to refer to it, but I believe you state
16 on page 45 of your surrebuttal that the proposed DSM
17 portfolio should result in lower FAC rates when
18 compared to the base factor set in your last rate
19 case. Is that correct?

20 A. Yes.

21 Q. Would you agree that the FAC base factor
22 that will be set in your current rate case will not
23 include the impact of any of the proposed DSM
24 portfolio in the 2025 to 2027 MEEIA plan?

25 A. Yes. I mean, I don't expect the true-up

1 **data, the base factor should not have any of that**
2 **included.**

3 Q. Have you reviewed OPC's witness Lena
4 Mantle's rebuttal testimony?

5 **A. Yes.**

6 Q. And I don't know if you will need this to
7 answer my question. If you do and you don't have it,
8 please let me know so you can get a copy. But on
9 page 26 of her rebuttal she has a Table 9 that
10 contains an analysis that states that MEEIA
11 nonparticipants will not benefit if the average
12 kilowatt hour cost is less than the FAC base factor.
13 Would you agree with that or have you found any
14 errors in her analysis or her schedules?

15 **A. No. I think that's the basis of my**
16 **conclusion was based off my own analysis of exactly**
17 **that phenomenon.**

18 JUDGE PRIDGIN: Very good. Thank you.
19 Any further bench questions? Recross based on bench
20 questions. Renew Missouri?

21 MR. LINHARES: Thank you, Judge, none.

22 JUDGE PRIDGIN: NRDC?

23 MS. RUBENSTEIN: No, thank you.

24 JUDGE PRIDGIN: Consumers Council?

25 MR. COFFMAN: No, thank you, your Honor.

1 JUDGE PRIDGIN: Staff?

2 MR. PRINGLE: No, thank you, Judge.

3 JUDGE PRIDGIN: Public Counsel?

4 MS. VANGERPEN: No, thank you, your
5 Honor.

6 JUDGE PRIDGIN: Any redirect?

7 MS. HERNANDEZ: No redirect, thank you.

8 JUDGE PRIDGIN: Ms. Hernandez, thank you.
9 Mr. Wills, you may step down.

10 This looks to be a convenient opportunity
11 to take a lunch break. I'm showing it's just about
12 five minutes or so after 12:00. I'd like to resume
13 at 1:00 p.m. Is there anything further from counsel
14 or from the bench before we go into recess? All
15 right. Hearing nothing, we will resume at one
16 o'clock. Thank you. We're off the record.

17 (Off the record.)

18 JUDGE PRIDGIN: Good afternoon. We are
19 back on the record. I believe we are ready for
20 Ameren Missouri's witness Mr. Lozano. Is there
21 anything further from counsel before we proceed to
22 his testimony? All right. Hearing nothing,
23 Mr. Lozano, if you'll come forward and be sworn
24 please, sir.

25 (Witness sworn.)

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ANTONIO LOZANO

the witness, having been first duly sworn,
testified as follows:

JUDGE PRIDGIN: Thank you, sir. Please
have a seat. Counsel, when you're ready.

MS. MOORE: Thank you, your Honor.

DIRECT EXAMINATION

BY MS. MOORE:

Q. Good afternoon. Could you please state
your name for the record.

A. Antonio Lozano.

Q. Mr. Lozano, what -- by whom are you
employed and in what capacity?

**A. Ameren Missouri, and I am director of
energy efficiency and the demand response.**

Q. And did you file direct testimony,
rebuttal testimony, and surrebuttal testimony in
this docket? And it's been identified as Ameren
Exhibit 104, 105, and 106.

A. Yes, I did.

Q. Do you have any changes or corrections to
your testimony?

**A. Yes, I do. On direct testimony on
page 25, lines 4 and 5, I mention two additional
combined cycles -- two additional combined-cycle**

1 plants. I'd like to remove the words "combined-cycle
2 plants" and replace that with the word "resources."
3 I misspoke there.

4 And then on rebuttal, I have two of the
5 same change. The first is on page 8, line 3 where I
6 mention 2,400 megawatts of additional generation.
7 That number should actually be 2,350 megawatts. And
8 that number is again mentioned and should be updated
9 on page 9, line 20.

10 And as it was tied to my direct testimony,
11 I want to remind everybody on Friday night we filed
12 an updated Figure 38 on page 80 of the amended
13 application. Figure 38 was updated to match the
14 wording above the figure to show the earnings
15 opportunity as a percent of program costs for the
16 full cycle.

17 Q. Okay. Thank you. If I were to ask you
18 the same questions contained in your direct,
19 rebuttal, and surrebuttal testimony today, would your
20 answers be the same?

21 A. Yes, they would.

22 Q. And to the best -- and are these question
23 and answers true responses to the best of your
24 knowledge?

25 A. Yes, they are.

1 MS. MOORE: With that I tender Mr. Lozano
2 for cross-examination.

3 JUDGE PRIDGIN: Ms. Moore, thank you.
4 Any cross from Renew Missouri?

5 MR. LINHARES: No, your Honor.

6 JUDGE PRIDGIN: Thank you. NRDC?

7 MS. RUBENSTEIN: No, thank you.

8 JUDGE PRIDGIN: Consumers Council?
9 Staff?

10 MR. PRINGLE: Not at this time, Judge,
11 thank you.

12 JUDGE PRIDGIN: Public Counsel?

13 MS. VANGERPEN: Not at this time, your
14 Honor. Thank you.

15 JUDGE PRIDGIN: All right. Thank you.
16 Let's see if we have any bench questions.
17 Commissioner Holsman.

18 COMMISSIONER HOLSMAN: Thank you.

19 QUESTIONS

20 BY COMMISSIONER HOLSMAN:

21 Q. So you've got a chance to listen to a
22 little bit of the testimony and some of the questions
23 that we've had so far.

24 **A. Yes, sir.**

25 Q. So help me understand. You set the

1 goal --

2 **A. Yeah.**

3 Q. -- for these programs and then you're --
4 the portfolio that I'm looking at tells me how
5 successful you've been at achieving a percentage of
6 that goal. That's right?

7 **A. Yes, sir.**

8 Q. So if I look at demand response, I'm
9 seeing on the capac -- on the capacity side, 131
10 percent and with the 80 percent, we're looking at a
11 blended 110 percent total for resource capability.
12 Is that right?

13 **A. I believe you're looking at the 2023 EM&V**
14 **report?**

15 Q. Correct.

16 **A. That sounds right. I don't have it in**
17 **front of me, but --**

18 Q. Okay.

19 **A. -- that sounds right.**

20 Q. But then when it drops down to the energy
21 savings megawatt hours saved, the residential DR
22 program says it's at 13 percent of the goal target
23 achieved and the business DR program's at 46 percent.
24 So help me understand why the capability and the
25 savings have such a big Delta.

1 A. Absolutely. Yeah. I think there are a
2 variety of data points to consider. One is when
3 those energy and demand savings goals are set, often
4 those are stretch goals for us to help test the
5 market to see what's -- what's capable there. In the
6 last couple years, and we're in one year -- one here
7 with the one-year extensions, those certainly make it
8 a little bit tougher for some of those projects that
9 maybe are a little bit longer to -- to get that
10 participation as well. And lately with inflation,
11 that has made prices a little bit tougher too. That
12 is, to be frank, sometimes made savings more
13 expensive. To give you an example there --

14 Q. What's the difference between savings and
15 capability?

16 A. Can you help me understand when you say
17 capability?

18 Q. So I have two performance indicators. One
19 says, Resource capability in megawatts. And one
20 says, Energy savings in megawatt hours.

21 A. Okay. Yeah. So I believe when you're
22 saying capability, you're talking about our demand
23 capability tied as a capacity resource?

24 Q. So is this the contracts that you have
25 with the residents or the businesses that are willing

1 to throttle down when you need them to do so? Is
2 that what that's saying?

3 **A. Our demand savings partially comes from**
4 **that. We also get demand savings from our energy**
5 **efficiency program as well.**

6 Q. But the capability is who you could ask to
7 reduce load, and the savings is who you have asked to
8 reduce load. Is that a fair?

9 **A. I think that is -- that is mostly fair.**
10 **The savings also, since they come from the energy**
11 **efficiency side, from who have implemented certain**
12 **measures, and we see energy and demand savings come**
13 **from those reductions.**

14 Q. Okay. And then as I'm looking through
15 some of the other programs, SBDI, 31 percent; RCX, 51
16 percent; the M -- the multifamily market rate is
17 at 39 percent of goal; PAYS is at 7 percent of goal.
18 So clearly PAYS is the lowest one.

19 **A. Yeah.**

20 Q. You know, the -- the Pay as You Save
21 program, in my estimation, I don't know, in my
22 background I helped draft and pass the PACE
23 legislation --

24 **A. Okay.**

25 Q. -- which allowed for, you know, a

1 financing mechanism to be offered from a third party
2 that was able to put on the lien.

3 So I'm familiar with the process by which
4 the intended goal of this program is. And so clearly
5 I support, you know, the outcomes of -- of a program
6 like this. We've heard up-front costs as a reason
7 why there might not be as much participation in this
8 program. You know, I gotta believe on some level,
9 education awareness have to be, you know, the fact
10 that the customers know that this is available to
11 them has got to be another reason. What are some of
12 the barriers and challenges -- is the program
13 itself -- and I want to talk about PAYS specifically.

14 **A. Okay.**

15 Q. And we can talk about why the other ones
16 have lower goals percentages. But the PAYS
17 specifically, you know, what is the barrier to entry
18 here that's causing you to leave 93 percent of your
19 goal on the table?

20 **A. I do think that copay often is -- is**
21 **something that is not palatable to customers. And**
22 **I'm going back to -- there's a statewide**
23 **collaborative going on right now to try to understand**
24 **what these barriers are and to try to help improve**
25 **PAYS across the state. Dr. Marke actually lays out**

1 some of these in his testimony, and I mention that in
2 mine, that I agree with those and I believe others
3 exist.

4 I think the timing of it also is a
5 barrier. Customers are often coming into PAYS when
6 they need something and they need it right away.
7 And -- and right now we're not able to accommodate
8 that yet. And so we're looking at ways that we can
9 do that. That would be another barrier.

10 Q. Okay. So the other -- the other programs,
11 the multifamily and the small business and the RCX,
12 why are they all under 50 percent performing?

13 A. At a high level, I would talk about those
14 factors I mentioned earlier. One of the things I
15 would note is not only is our portfolio cost
16 effective as it shows in that report, but every one
17 of our programs that we offer is cost effective with
18 a TRC over one except for PAYS and single-family
19 income eligible. So -- so I would look at that cost
20 effective and as well as the participation that we've
21 shown in these programs and the 80,000-plus that
22 we've seen across our portfolio and say that -- that
23 we've been able to generate some success and we're
24 continuing to work through not only those one-year
25 extensions, but trying to design ways to increase

1 that participation --

2 Q. How --

3 A. -- to help generate more.

4 Q. How often is the goal updated? Because
5 earlier testimony I asked if -- you know, we -- we
6 understood there were some depreciating opportunities
7 because of technology and because, you know, a lot of
8 the lower-hanging fruit had already been taken. Does
9 this goal -- my two-part question. One, does this
10 goal reflect the fact that there is a depreciating
11 opportunity for energy efficiency?

12 A. The goal itself, you know, we're setting
13 these goals and we're following these goals on an
14 annual basis. You'll be able to see those in the
15 Appendix A. Our team is working regularly throughout
16 the year, entry year, to look at each program that we
17 have in the portfolio to see if there are any
18 adjustments that need to be made, certainly within
19 the program, and adjustments across the portfolio,
20 taking into account the variety of considerations.

21 Now, at a broader level we've talked about
22 the changing nature of energy efficiency. Mr. Wills
23 talked about that market potential study. That is
24 every three years, and we start there with the
25 bottoms-up approach to look at each measure in the

1 program and in the portfolio including at a
2 cost-effective level. We then take that and we go
3 out to the market, request for proposals with
4 implementers that work with many more utilities in
5 many more states than just us. And then we take that
6 to our team to them help set those initial goals and
7 then refine them.

8 Q. If this Commission approves this next
9 MEEIA, do you have concrete plans on how to improve
10 these percent of goals? Like, do you -- do you have
11 an idea of how to remove the challenges and barriers
12 that exist that have kept these numbers suppressed?

13 A. On a program-by-program basis?

14 Q. Yes.

15 A. We do, yes, sir.

16 Q. Okay. And this may be a question you
17 don't have the answer to, but I think you could
18 probably get an answer to this question.

19 A. Okay.

20 Q. We heard that it's 200 megawatts of
21 shortfall that would happen, but that's attributed to
22 the demand response program. Do you have an idea if
23 all of your goals were hit, if these were hundred
24 percents across the board, how much megawatt savings
25 there would be?

1 **A. For 2025 or is this for the life of the**
2 **amended application?**

3 Q. I would say -- I mean, we can't do
4 anything about the past, so 2025.

5 **A. Yeah. For 2025 it would be an**
6 **additional 126 megawatts across demand response and**
7 **energy efficiency on top of that 205 megawatts.**

8 Q. But take demand response out of it because
9 I think we've also established that you can do demand
10 response.

11 **A. Okay.**

12 Q. We may have to figure out how you're going
13 to recover if you were to do it separately. And I
14 understand that MEEIA provides you a framework to do
15 that, so I get -- I understand why you don't want to
16 decouple the two.

17 **A. So outside of demand response?**

18 Q. Outside of demand response.

19 **A. I can get that. I don't have that off the**
20 **top of my --**

21 Q. Okay. I would be curious to see what is
22 the megawatt projected savings if you hit your goals
23 for the energy efficiency portion --

24 **A. Okay.**

25 Q. -- of MEEIA.

1 **A. I can get that for you.**

2 COMMISSIONER HOLSMAN: All right. Thank
3 you, Judge.

4 JUDGE PRIDGIN: Commissioner, thank you.
5 Commissioner Kolkmeyer, any questions? Commissioner
6 Mitchell?

7 COMMISSIONER MITCHELL: Just one quick
8 question.

9 QUESTIONS

10 BY COMMISSIONER MITCHELL:

11 Q. You mentioned that you had a chance to
12 tabulate the EO as a percent and program costs. What
13 did that figure wind up at?

14 **A. Yes, Commissioner. Subject to check I**
15 **believe it's just over 15 percent, maybe 15.2. I'm**
16 **happy to check here if you give me a second.**

17 Q. That's okay. Round numbers are fine.

18 **A. Yeah. Just above 15 percent.**

19 COMMISSIONER MITCHELL: Thank you.

20 **THE WITNESS: You're welcome.**

21 JUDGE PRIDGIN: All right. Thank you.
22 Any further bench questions? All right. Any recross
23 based on bench questions. Renew Missouri?

24 MR. LINHARES: No questions. Thank you,
25 your Honor.

1 JUDGE PRIDGIN: NRDC?

2 MS. RUBENSTEIN: No questions. Thank
3 you.

4 JUDGE PRIDGIN: Thank you. Consumers
5 Council? Staff?

6 MR. PRINGLE: One moment, Judge.

7 JUDGE PRIDGIN: Certainly.

8 MR. PRINGLE: Yeah. Brief, Judge.

9 RECROSS-EXAMINATION

10 BY MR. PRINGLE:

11 Q. Mr. Lozano, you mentioned programs being
12 cost effective. When were avoided costs used in the
13 cost-benefit analysis derived?

14 A. Are you talking about 2023, or are you
15 talking about this amended application?

16 Q. For this amended application.

17 A. When were avoided costs used to determine
18 cost effectiveness?

19 Q. Oh, sorry. For Cycle 3. Sorry,
20 Mr. Lozano. That was for Cycle 3.

21 A. I would have to confirm that. I don't
22 know that answer off the top of my head.

23 Q. Would it -- would it -- I guess would it
24 be fair to say that's typically what happened at the
25 beginning of Cycle 3?

1 A. It's certainly the first time it would be
2 looked at.

3 Q. And then after that, at the beginning of
4 the cycle, the learn actually updated after the cycle
5 starts. Correct?

6 A. I don't think I could speak to that. I
7 would need to check with Mr. Michels and a few folks
8 on my team.

9 Q. All right.

10 A. I can tell you along those lines our
11 original application on this cycle, we used what were
12 the other -- the older avoided cost numbers. We
13 filed our updated IRP in September 2023, and we
14 updated the avoided costs accordingly.

15 MR. PRINGLE: Thank you, Mr. Lozano. No
16 further questions, Judge.

17 JUDGE PRIDGIN: Mr. Pringle, thank you.
18 OPC, any questions?

19 MS. VANGERPEN: Just one moment, your
20 Honor. Thank you, your Honor.

21 RE CROSS-EXAMINATION

22 BY MS. VANGERPEN:

23 Q. Good afternoon, Mr. Lozano. Just really
24 quickly, what is the full amount of the EO that
25 Ameren has proposed, if you achieve the entire EO?

1 **A. Target and max?**

2 Q. Yes.

3 **A. Just over 70 million. I don't have the**
4 **exact number in front of me. I can get that in**
5 **Appendix N. But it's just over 70 million. The**
6 **target is just over 56 million.**

7 Q. And is that reflective in Figure 38 that
8 you just previously mentioned?

9 **A. Figure 38 reflects the target.**

10 MS. VANGERPEN: Okay. Thank you.

11 JUDGE PRIDGIN: I'm sorry, Ms. VanGerpen,
12 any further questions?

13 MS. VANGERPEN: Oh, I apologize, your
14 Honor. No, no thank you.

15 JUDGE PRIDGIN: Quite all right. Thank
16 you. I neglected to ask a few questions. I'll have
17 a few, and then I'll give another opportunity for
18 recross based on bench questions.

19 QUESTIONS

20 BY JUDGE PRIDGIN:

21 Q. Mr. Lozano, I don't think you'll need any
22 documents to answer these. But if you do, please let
23 me know and I'll give you --

24 **A. Okay.**

25 Q. -- a chance to look at those.

1 Just going over the revised plan, on
2 page 22 the application states, A community products
3 delivery channel will also be made available to
4 income-eligible communities that will offer
5 discounted LEDs through retail establishments and
6 community-based organizations such as local food
7 banks.

8 How exactly would this work to target
9 Ameren Missouri's single-family income-eligible
10 consumers at retail establishments?

11 **A. I would need Mr. Via to answer that**
12 **question.**

13 Q. Okay. thank you. I appreciate that. And
14 I should have said that's also an acceptable answer.
15 If somebody else can answer it, that's fine.

16 Has Ameren Missouri exhausted a similar
17 light bulb program available to all consumers in
18 prior MEEIAs?

19 **A. In my experience, now it is not near what**
20 **Mr. Via's is, we've had other light bulb programs on**
21 **the residential side for non-income-eligible which is**
22 **no longer available. And we've also had a targeted**
23 **community lighting light bulb program which is no**
24 **longer available.**

25 Q. Thank you. And again, you may need the

1 application to answer this. And if you do, please
2 let me know so someone can get you a copy. But in
3 revised Appendix D, Incentive Ranges, can you explain
4 the difference between the low and high incentives
5 and how those amounts were determined?

6 **A. I would ask Mr. Graser to answer that**
7 **question.**

8 Q. Okay. And he may be better suited to
9 answer this question. But do you know how it would
10 be determined if a customer is eligible for the low
11 or high incentive?

12 **A. Yeah. I apologize. I would -- I would**
13 **ask Mr. Via and Mr. Graser to answer those questions.**

14 Q. Thank you. I appreciate it.

15 **A. You're welcome.**

16 JUDGE PRIDGIN: Those are all the
17 questions I have. I'm sorry. Any further bench
18 questions? Any recross based on bench questions?
19 Renew Missouri?

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

21 JUDGE PRIDGIN: NRDC?

22 MS. RUBENSTEIN: No, thank you.

23 JUDGE PRIDGIN: Staff?

24 MR. PRINGLE: Yes, Judge. One moment.

25 FURTHER RECROSS-EXAMINATION

1 BY MR. PRINGLE:

2 Q. Mr. Lozano, regarding the incentive
3 ranges, how are the cost-benefit analyses for this
4 application set up as it pertains to incentive
5 amounts?

6 A. I am not able to answer that question. I
7 believe that Mr. Via and Mr. Graser can help answer
8 those.

9 MR. PRINGLE: Thank you. Thank you, sir.
10 No further questions, Judge.

11 JUDGE PRIDGIN: Mr. Pringle, thank you.
12 Public Counsel?

13 MS. VANGERPEN: Nothing. Thank you, your
14 Honor.

15 JUDGE PRIDGIN: All right. Thank you.
16 Any redirect?

17 MS. MOORE: No, your Honor, thank you.

18 JUDGE PRIDGIN: All right. Thank you.
19 Mr. Lozano, thank you. You may step down. I believe
20 our next witness, is it Mr. Tevie? Am I pronouncing
21 that correctly?

22 MR. PRINGLE: Tevie.

23 JUDGE PRINGLE: Tevie, excuse me. If
24 Mr. Tevie could come forward and be sworn.

25 (Witness sworn.)

1 JUSTIN TEVIE

2 the witness, having been first duly sworn,
3 testified as follows:

4 JUDGE PRIDGIN: Thank you very much.
5 Please have a seat. And, Mr. Pringle, when you're
6 ready, sir.

7 MR. PRINGLE: Thank you, Judge. And just
8 going to ask for your preference when it comes to the
9 exhibits. We had listed them out in an alphabetical
10 order but because my witnesses aren't actually taking
11 the stand in alphabetical order, would you like for
12 me to give them the numbers as they appear?

13 JUDGE PRIDGIN: I have no preference,
14 whichever you prefer. Thank you.

15 DIRECT EXAMINATION

16 BY MR. PRINGLE:

17 Q. Good afternoon.

18 A. **Afternoon.**

19 Q. Please state and spell your name for the
20 record.

21 A. **Justin Tevie, J-u-s-t-i-n, last name**
22 **T-e-v-i-e.**

23 Q. Thank you, Mr. Tevie. And by whom are you
24 employed, in what capacity?

25 A. **The Missouri Public Service Commission and**

1 **I'm economist analyst.**

2 Q. Thank you, Mr. Tevie. And are you the
3 same Justin Tevie who caused to sponsor direct,
4 rebuttal, and surrebuttal in this proceeding which
5 have been premarked as Staff Exhibits 200, 201,
6 and 202?

7 **A. Yes.**

8 Q. At this time do you have any corrections
9 to make to Exhibits 200, 201 or 202?

10 **A. Yes. I have some corrections to make to**
11 **my rebuttal testimony. So the first is on page 5,**
12 **line 5. The word should be "calculate." The next**
13 **one appears on page -- on page 10, line 7. The word**
14 **should be "subsequently." And the last one appears**
15 **on page 11, line 18. The word should be "accurate."**

16 Q. And do you have any additional corrections
17 to make to your testimony at this time, Mr. Tevie?

18 **A. No.**

19 Q. And is the information contained in your
20 direct, rebuttal, and surrebuttal true and accurate
21 to the best of your belief and knowledge?

22 **A. Yes.**

23 Q. If I were to ask you the same questions
24 contained within Exhibits 200, 201, and 202, would
25 your answers be similar or substantially similar to

1 those contained therein?

2 **A. Yes.**

3 MR. PRINGLE: Thank you, Mr. Tevie.

4 Mr. Tevie will be taking the stand again, Judge, so
5 we will be not moving to enter his testimony on the
6 record yet. But at this time I tender Mr. Tevie for
7 cross-examination.

8 JUDGE PRIDGIN: All right. Mr. Pringle,
9 thank you. Cross-examination, Public Counsel?

10 MS. VANGERPEN: Nothing. Thank you, your
11 Honor.

12 JUDGE PRIDGIN: Thank you. Renew
13 Missouri?

14 MR. LINHARES: Nothing. Thank you, your
15 Honor.

16 JUDGE PRIDGIN: NRDC?

17 MS. RUBENSTEIN: No, thank you.

18 JUDGE PRIDGIN: Ameren Missouri?

19 CROSS-EXAMINATION

20 BY MS. MOORE:

21 Q. Can I just get a couple clarifications on
22 your changes so that I'm following it right. So when
23 you say page 5, line 5, are you inserting the word
24 "calculate"? Oh, calculate. I see. Okay.

25 **A. Yeah.**

1 Q. So you're just striking the D?

2 A. **Yeah, the D.**

3 Q. Okay.

4 A. **So these were typos.**

5 MS. MOORE: Okay. Great. Those are all
6 my only questions. Nothing further, your Honor.

7 JUDGE PRIDGIN: Ms. Moore, thank you.
8 Any bench questions? Commissioner Coleman?
9 Commissioner Holsman? Commissioner Kolkmeyer?
10 Commissioner Mitchell? All right. Hearing no
11 questions.

12 Thank you very much. You may step down.
13 And I believe Ms. Lange is the next witness.

14 MR. PRINGLE: That is correct, Judge.
15 Staff calls Ms. Lange to the stand.

16 JUDGE PRIDGIN: Ms. Lange, if you'll come
17 forward to be sworn please.

18 (Witness sworn.)

19 SARAH LANGE

20 the witness, having been first duly sworn,
21 testified as follows:

22 JUDGE PRIDGIN: Thank you very much.
23 Please have a seat. And, Mr. Pringle, when you're
24 ready.

25 MR. PRINGLE: Thank you, Judge.

1 DIRECT EXAMINATION

2 BY MR. PRINGLE:

3 Q. Good afternoon.

4 A. **Good afternoon.**

5 Q. Please state and spell your name for the
6 record.

7 A. **Sarah Lange, S-a-r-a-h L-a-n-g-e.**

8 Q. Thank you, Ms. Lange. And by whom are you
9 employ and in what capacity?

10 A. **The Commission as member of the technical**
11 **staff. I am an economist.**

12 Q. And are you the same Sarah Lange who
13 caused to sponsor in these proceedings direct,
14 rebuttal, and surrebuttal testimony that have been
15 premarked Exhibits 203, 204, and 205?

16 A. **Would it be -- oh, yes.**

17 Q. And do you have any corrections to your
18 direct, rebuttal, or surrebuttal testimony at this
19 time?

20 A. **Not that I am aware of.**

21 Q. Is the information contained within your
22 direct, rebuttal, and surrebuttal testimony true and
23 believed to the best of your -- true and correct to
24 the best of your belief and knowledge?

25 A. **It is.**

1 Q. If I were to ask you the same questions
2 within your direct, rebuttal, and surrebuttal
3 testimony, would your responses be similar or
4 substantially similar to those contained therein?

5 **A. They would.**

6 MR. PRINGLE: Thank you, Ms. Lange. And,
7 Judge, Ms. Lange will also be taking the stand after
8 this, so I will not be entering her exhibits on the
9 record at this time. But Staff does tender Ms. Lange
10 for cross-examination.

11 JUDGE PRIDGIN: Thank you.
12 Cross-examination, Public Counsel?

13 MS. VANGERPEN: Yes, your Honor, just
14 briefly.

15 CROSS-EXAMINATION

16 BY MS. VANGERPEN:

17 Q. Good afternoon, Ms. Lange.

18 **A. Good afternoon.**

19 Q. In a rate case who -- who gets the
20 benefits from an energy efficiency program impacted
21 by the allocation factors used to allocate other
22 costs?

23 **A. I'm trying to think if the answer is**
24 **different for energy efficiency versus demand**
25 **response.**

1 Q. Perhaps it's best maybe just to talk
2 through one.

3 A. I'll -- I'll do that, and I'll --

4 Q. Okay.

5 A. -- see if it changes.

6 Well, so generally speaking, the benefits
7 are avoided costs. It's not like there's going to be
8 a line in the EMS or in an accounting schedule titled
9 Benefits that would get allocated. So to the extent
10 that installing enough -- you know, if -- if enough
11 heat pumps today drive that there will not be a need
12 for a new substation five years from now, it would
13 just be that there's not the cost for a new
14 substation to allocate five years from now.

15 To the extent that energy is avoided in
16 the near term, well, over any term, to the extent
17 that energy is avoided and we're to a rate case so
18 we've gone through the FAC portion, Staff has, at
19 least for the last decade or so, allocated energy on
20 wholesale energy cost by class. Ameren and some of
21 the utilities do some netting before they allocate
22 energy on loss-adjusted kWh, but again it would be
23 that the rate case would allocate what the cost
24 actually is, not the difference between what the cost
25 is and what it could have been.

1 So I guess as I'm thinking it through, I
2 don't know that any benefits get allocated in a rate
3 case. It's just a question of when you get to a
4 point in time where something would have happened
5 that you're not allocating a cost that didn't happen.
6 And I think a slight caveat to that would be with
7 demand response because those programs -- I would
8 defer to Mr. Luebbert -- I think the case is that a
9 lot of, like any market avoided costs -- I'm sorry --
10 auction results change in MISO capacity is going to
11 be going through the FAC first. And then it would
12 just be that you're not allocating a plant that isn't
13 built, you know, in 2033 or whenever it might be if a
14 plant is actually not built.

15 Q. Okay. Thank you. Does weather
16 normalization also impact the energy allocation
17 factors?

18 A. Well, it would depend at least in part on
19 whether the Cycle 2 TDNSB, that's throughput net
20 shared benefit mechanism, is used or the mechanism
21 that I've recommended in this case. Because I think
22 that there are parties who have done different
23 sequencing on this, but part of the existing TDNSB is
24 a rate case annualization. And so in a rate case we
25 assume that the shape of a measure and the number of

1 installations of a measure and the timing of those
2 installations of the measure as that shape was
3 reflected in the TRM, that's Technical Resource
4 Manual, that those occurred exactly as they occurred,
5 if you will. Or I'm sorry, exactly as modeled in the
6 TRM.

7 And so -- I'm trying not to talk with my
8 hands because I know it doesn't show up in the
9 transcript, but this is really a talk with your hands
10 moment, so. The TRM has a shape that's assuming for
11 when people are heating, when people are cooling,
12 when they're using their toasters, what have you.
13 And then weather has a shape. And so the point in
14 time if you adjust the measure shape out or in first,
15 then you normalize for weather, you're going to get a
16 different billing determinate revenue result than you
17 would if you do it in the opposite order.

18 So, yeah. In reality, no year is going to
19 have the savings shape -- even if everybody did
20 everything great, you're never going to have that
21 savings shape that was assumed in the TRM based on
22 the end-use shape. So whether the Company comes out
23 ahead or behind through the throughput disincentive
24 and then through the resulting revenues, because
25 whatever you adjust into the billing determinants and

1 **revenues gets perpetuated, it will have an impact,**
2 **but I don't know what it will be sitting here today.**

3 MS. VANGERPEN: Okay. Thank you. Nothing
4 further.

5 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
6 Any cross from Renew Missouri?

7 MR. LINHARES: None, thank you, Judge.

8 JUDGE PRIDGIN: Ameren Missouri?

9 MS. MOORE: None. Thank you, your Honor.

10 JUDGE PRIDGIN: Thank you. Let me see if
11 we have any bench questions. Chair Hahn, any
12 questions for this witness? Commissioner Coleman?
13 Commissioner Holsman? Commissioner Kolkmeyer?
14 Commissioner Mitchell?

15 COMMISSIONER MITCHELL: No questions,
16 Judge.

17 JUDGE PRIDGIN: Thank you. Any redirect?

18 REDIRECT EXAMINATION

19 BY MR. PRINGLE:

20 Q. Ms. Lange, you stated Cycle TDNSB. Did
21 you mean NTD or net throughput disincentive?

22 A. I'm going to confuse myself on acronyms
23 right now. So what I was referring to is the
24 throughput disincentive mechanism that was in place
25 for Cycle 2. And I don't want to give the wrong

1 designation of name on that. I believe it's net
2 throughput disincentive.

3 MR. PRINGLE: Thank you, Ms. Lange. No
4 further redirect from Staff, Judge.

5 JUDGE PRIDGIN: Mr. Pringle, thank you.
6 Ms. Lange, thank you very much. You may step down.
7 I believe Mr. Fortson's the next witness. Come
8 forward and be sworn please.

9 (Witness sworn.)

10 BRAD FORTSON

11 the witness, having been first duly sworn,
12 testified as follows:

13 JUDGE PRIDGIN: Thank you very much, sir.
14 Please have a seat. And, Mr. Pringle, when you're
15 ready.

16 MR. PRINGLE: Thank you, Judge.

17 DIRECT EXAMINATION

18 BY MR. PRINGLE:

19 Q. Good afternoon.

20 A. **Good afternoon.**

21 Q. Please state and spell your name for the
22 record.

23 A. **It's Brad Fortson, B-r-a-d, F-o-r-t-s-o-n.**

24 Q. Thank you, Mr. Fortson. And by whom are
25 you employed and in what capacity?

1 **A. Missouri Public Service Commission Staff**
2 **as a regulatory compliance manager.**

3 Q. And are you the same Brad Fortson who
4 caused to sponsor in these proceedings direct,
5 rebuttal, and surrebuttal testimony that have been
6 premarked Staff Exhibits 206, 207, and 208?

7 **A. Yes.**

8 Q. Do you have any corrections to make to
9 either Exhibit 206, 207, or 208 at this time?

10 **A. A few minor changes. The first is in my**
11 **direct testimony, page 8, line 2. The word**
12 **"products" should be "projects." Rebuttal testimony,**
13 **page 4, line 10. Instead of 2023, it should be 2024.**
14 **And in surrebuttal, page 7, line 22. Instead of**
15 **"CC," it should be "SC."**

16 Q. Thank you, Mr. Fortson. And do you have
17 any additional corrections to make at this time?

18 **A. I think that was it.**

19 Q. And is the information contained within
20 Exhibits 206, 207, and 208 true and correct to the
21 best of your belief and knowledge?

22 **A. They are.**

23 Q. If I were to ask you the same correct --
24 the same questions within Exhibits 206, 207, and 208,
25 would your answers be the same or substantially

1 similar?

2 **A. They would.**

3 MR. PRINGLE: Thank you, Mr. Fortson.

4 And, Judge, also Mr. Fortson will be taking the stand
5 again during these proceedings, so at this time I
6 tender Mr. Fortson for cross-examination.

7 JUDGE PRIDGIN: All right. Mr. Pringle,
8 thank you. Cross-examination, Public Counsel?

9 MS. VANGERPEN: Yes. Again, just very
10 briefly, your Honor, thank you.

11 CROSS-EXAMINATION

12 BY MS. VANGERPEN:

13 Q. Good afternoon, Mr. Fortson.

14 **A. Afternoon.**

15 Q. Does Staff believe that Ameren needs to
16 build generation?

17 **A. I think I would answer that by, you know,**
18 **if you look at Plan C compared to Plan I as was**
19 **mentioned earlier and you take certain assumptions**
20 **into account, I mentioned in my -- in testimony, I**
21 **think it was my rebuttal testimony, that their winter**
22 **position illustrates that they are worse off with**
23 **their -- or than their summer position, but when you**
24 **look at Plan C and Plan I, there's a capacity**
25 **shortfall for '25 through '27 regardless of what plan**

1 you look at. And they've got a -- as a part of --
2 they currently have an application in front of the
3 Commission for a new gas plant to be online, I
4 believe it was 2028. But when you look at the
5 capacity balance positions, you know, for Plan C and
6 Plan I, that plant wasn't included, which, you know,
7 brought some confusion to Staff as to why that
8 wouldn't be included. And there was analysis done as
9 to, you know, what -- what their plans look like once
10 you include that.

11 Depending on whether you're looking at
12 weather normalized position or the, you know, extreme
13 weather event position what was -- was what I
14 understand was the determining factor whether Ameren
15 included it or not. We opted to include it because
16 it is a plant that is going to -- that is anticipated
17 to be built, so it needed -- should be included in
18 the -- a part of their capacity position.

19 As part of that 800 megawatts gas plant
20 in 2028 they -- they have stated that that is needed
21 for reliability purposes for, to potentially cover
22 a 600 megawatt extreme winter weather event. But
23 when you -- taking that into account, you know,
24 instead of historically looking at maybe a peak
25 summer day when we're, you know, not talking near

1 that amount of -- of peaking, you know, of a peaking
2 day or peaking days and now looking at that amount,
3 you also need to consider that, you know, once that
4 plant is built to cover the reliability for those few
5 days of a winter weather event, you know, absent
6 those days, the plant is still on system, can be
7 called upon. So I think that calls into question,
8 you know, why you have that plant online. The
9 demand-side management that's been proposed seems
10 substantially less necessary. I know that was a
11 longwinded answer, but.

12 Q. No. I appreciate the explanation. So you
13 mentioned in your explanation Plan I versus Plan C.
14 So as I understand it -- I guess could you explain
15 the difference between the Plan I and Plan C? Let's
16 start there.

17 A. Yeah. I guess at the -- at the highest
18 level, Plan -- Plan C is the -- is Ameren's preferred
19 resource plan. They've -- they ran a Plan I as
20 they've stated as a comparison to Plan C. And if
21 you -- Plan C includes DSM; Plan I doesn't.

22 I can't speak to all of the different
23 assumptions that were made as a part of -- as a part
24 of those, you know, the comparison of those plans,
25 but again, at a high level, Plan I doesn't include

1 DSM. If you look at my surrebuttal testimony in
2 comparison -- or in comparing Plan C and Plan I, I
3 did include the 800 megawatt simple cycle in 2028,
4 which again, by all appearances, the Company didn't.
5 From what I understand they were again comparing or
6 they were looking at it as planning for normal
7 weather as opposed to extreme weather. However, in
8 taking extreme weather into account, that's where
9 the 800 megawatts comes into play.

10 So once we included the 800 megawatt
11 simple cycle, it started to really show the
12 difference between what Plan C and Plan I really
13 appeared to be. And the DSM, that just anticipated
14 throughout the planning horizon, the 20-year
15 planning horizon could be delayed till I think it
16 was 2024 to potentially defer a new supply-side gas
17 plant in 2037.

18 Q. So would it be fair to say that both of
19 those plans include a lot of assumptions though?

20 A. A lot of assumptions.

21 MS. VANGERPEN: Okay. Nothing further.
22 Thank you, your Honor.

23 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
24 Any cross-examination, Renew Missouri?

25 MR. LINHARES: No cross. Thank you,

1 Judge.

2 JUDGE PRIDGIN: Thank you. All right.
3 I've lost track. Yeah. We're down to Ameren
4 Missouri. Excuse me.

5 MS. HERNANDEZ: No questions. Thank you.

6 JUDGE PRIDGIN: All right. Thank you.
7 Any bench questions? Chair Hahn.

8 QUESTIONS

9 BY CHAIR HAHN:

10 Q. Good afternoon, Mr. Fortson.

11 **A. Good afternoon.**

12 Q. I'm going to take Staff counsel's lead and
13 ask about the details, which I know you're more
14 knowledgeable than myself. But in Staff counsel's
15 opening arguments under this issue of Benefits,
16 counsel stated that Ameren overstates the benefits of
17 the MEEIA plan that they've offered and to
18 specifically ask about Ameren's avoided capacity cost
19 calculation. So I'm going to do that.

20 So can you just tell me about how Ameren
21 calculated the benefits of its MEEIA plan for
22 customers and maybe how it could have overstated the
23 benefits and then Staff's view of that calculation?

24 **A. Sure. I can start and then Mr. Luebbert**
25 **can continue next. So it gets a little confusing in**

1 my mind. The Company calculated -- or in their
2 analysis, I guess if you start it at Plan I and the
3 couple plants that they are assuming are --
4 potentially could be avoided, I took a few steps
5 back and went back to, I think I went back to
6 starting in 2014 in that tri-annual IRP and started
7 comparing those plans and said, What are the take of
8 Plan C and Plan I, DSM versus no DSM for, you know,
9 the 2023 IRP. I thought I'd go back and just see if
10 we could determine whether actually comparing those
11 plans is a fair comparison.

12 And throughout several pages in my
13 rebuttal testimony I point out that most, if not all,
14 of the plans, the way I viewed it, you know, taking a
15 certain plant in a certain year and then seeing what
16 has happened over the years, mainly all of the
17 renewables that have come online, are anticipated to
18 come online, the dispatchable that we now know is --
19 is anticipated and even in application currently in
20 front of the Commission for -- for a new supply side.
21 I took those -- those previous years, compared it to
22 the 2023 preferred resource plan and what they're
23 assuming and planning for in the near and long-term
24 future. And it illustrates to me that nothing has
25 come to fruition like it has been planned.

1 And if you look at the 2023 plan and, you
2 know, take into account what they are planning even
3 coupled with the DSM as planned, again as planned
4 through the IRP for 20 years, not, you know -- not
5 solely looking at the MEEIA Cycle 4 proposal, when
6 they talk about displacing or avoiding a plant
7 in 2037 and 2043, that's a long ways out. But
8 there's also, as I point out in my direct, thousands
9 of megawatts coming on for renewable generation. And
10 we now, you know, have the 2028 simple cycle that's
11 planned or an actual application coupled with other
12 plants that they have planned in their -- in the
13 preferred plan.

14 When you take that all into account and,
15 you know, looking at big picture throughout the years
16 and years to come, the avoided capacity cost just
17 isn't there. It hasn't been there. So that's
18 where -- that's where my criticism of previous
19 avoided capacity cost and the cost effectiveness of
20 the programs given the -- the likely little or no
21 avoided capacity cost and how that affects the cost
22 effectiveness of previous programs, which at this
23 point it is what it is, but when, you know, looking
24 forward with the application that -- that is in front
25 of the Commission right now and the analysis that I

1 and other Staff members have done as far as avoided
2 capacity costs go, I guess the fact of the matter is,
3 you know, if you -- looking at it from our position,
4 there are little to no avoided capacity costs. So,
5 therefore, the -- the benefits from that TRC or the
6 cost-benefit calculation don't exist.

7 So that's where our concern lies with cost
8 effectiveness. But then again, you take it a step
9 further. If you have no avoided capacity costs,
10 you're not avoiding new generation, you then, you
11 know, inherently then have no foregone earnings from
12 those -- from those -- from that new supply side. So
13 that's where my criticism of the earnings opportunity
14 came from as far as avoided capacity costs go.

15 CHAIR HAHN: I think that answers
16 everything I had. Thank you.

17 JUDGE PRIDGIN: Chair Hahn, thank you.
18 Any further bench questions? Commissioner Coleman?
19 Thank you. Commissioner Holsman? Commissioner
20 Kolkmeyer? Commissioner Mitchell, any questions?

21 COMMISSIONER MITCHELL: Yes.

22 QUESTIONS

23 BY COMMISSIONER MITCHELL:

24 Q. And I'm not sure, but I think this goes
25 toward the discussion of supply-side investments.

1 But Mr. Pringle talked a bit about -- (poor
2 connection.)

3 COURT REPORTER: I can't hear him.

4 JUDGE PRIDGIN: And, Commissioner
5 Mitchell, I'm sorry; the court reporter's having a
6 tough time hearing you. Could you repeat that
7 question please?

8 COMMISSIONER MITCHELL: Sure.

9 BY COMMISSIONER MITCHELL:

10 Q. Mr. Pringle discussed RIM as a performance
11 metric, and I'd like to know what that means and why
12 it's important.

13 A. Sure. I can attempt. Again, Mr. Luebbert
14 might be able to clean this up a little bit when he
15 comes up. But the ratepayer impact measure test is
16 another test in the cost-effective sort of test
17 tool kit. The TRC and Commission rules is stated as
18 a -- the primary cost-effective test. But when you
19 look at ratepayer impact measure test, it looks more
20 specifically at the ratepayer impacts of the -- of
21 the costs for DSM, the cost versus benefits.

22 I don't recall off the top of my head what
23 exactly is taken into consideration in that
24 calculation. It is most often always less than the
25 TRC and other cost-benefit calculations because it's

1 looking more, again, specifically at the -- the
2 impacts to the actual ratepayers as opposed to the
3 TRC I believe takes into account for costs the
4 incremental cost to customers and the admin costs,
5 and the ratepayer impact measure test takes into
6 account more ratepayer costs into that calculation.

7 COMMISSIONER MITCHELL: Thank you.

8 JUDGE PRIDGIN: Commissioner Mitchell,
9 thank you. Commissioner Coleman, any questions?

10 COMMISSIONER COLEMAN: Yes, thanks.

11 QUESTIONS

12 BY COMMISSIONER COLEMAN:

13 Q. Mr. Fortson, I'm not sure if you're the
14 right person to ask at this time this question, but
15 as I was driving in and listening to the testimony
16 this morning, I know -- and the judge and I agree on
17 this -- that none of you all are shy and you're quite
18 willing to say you should talk to someone else about
19 that. So my question is do you believe it's prudent
20 for Ameren to base its ability to meet its load
21 requirements through energy efficiency instead of
22 generation capacity?

23 A. That's an interesting question. The only
24 thing that gives me pause is -- is, you know,
25 speaking to the, you know, that specific word

1 "prudent." I mean, in -- in their planning, you
2 know, there are certain requirements, you know, to
3 take into account energy efficiency, you know, as a
4 part of integrated resource planning. And there's
5 different variations and different levels that
6 they're required to test against. So while I think
7 it's, you know, it -- it makes sense, it's, you know,
8 as part of the requirements for the integrated
9 resource planning to take into account energy
10 efficiency, I think the question comes more to, you
11 know, to what level and at what cost.

12 And I mean, I really do think we're
13 getting -- you know, the -- that prudence question is
14 becoming more and more into play. And I think -- I
15 mean, throughout the hundreds of pages of testimony
16 that we've filed, I mean, I think it's easy to see
17 that we are starting to question whether it's prudent
18 to -- you know, I'd -- I'd say it's prudent to take
19 into account and to analyze, but I would question the
20 prudence of -- of utilizing something that -- if
21 you're using it in a way that is detrimental to
22 ratepayers and is not compliant with the statute and
23 the rule, then yes, there's absolutely a prudence
24 issue there.

25 Q. This is a question I might end up asking a

1 few people, so we'll see where the opinion falls.

2 **A. Sure.**

3 COMMISSIONER COLEMAN: Thank you. Judge.

4 JUDGE PRIDGIN: Commissioner Coleman,
5 thank you. Any further bench questions? Recross
6 based on bench questions. Public Counsel?

7 MS. VANGERPEN: Just very briefly.

8 RECROSS-EXAMINATION

9 BY MS. VANGERPEN:

10 Q. Mr. Fortson, Commissioner Mitchell asked
11 you about the RIM test, the repair impact measurement
12 test I believe. Is there any other witness that
13 could also speak to the inputs on that test?

14 **A. Sure. I don't want to put Mr. Luebbert on**
15 **the spot; he may be able to. Dr. Marke when he gets**
16 **up here later, he's been heavily involved in cost**
17 **effectiveness, testing those inputs throughout the**
18 **years.**

19 MS. VANGERPEN: Okay. Thank you so much.
20 Thank you, your Honor.

21 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
22 Any recross, Renew Missouri?

23 MR. LINHARES: None. Thank you, Judge.

24 JUDGE PRIDGIN: NRDC?

25 MS. RUBENSTEIN: No, thank you.

1 JUDGE PRIDGIN: Ameren Missouri?

2 MS. HERNANDEZ: No questions, thank you.

3 JUDGE PRIDGIN: All right. Thank you.

4 Any redirect. Staff?

5 MR. PRINGLE: No redirect, Judge. Thank
6 you.

7 JUDGE PRIDGIN: All right. Thank you.
8 Mr. Fortson, thank you. You may step down. And I
9 believe Mr. Luebbert is the next witness. If you'll
10 come forward to be sworn, please, sir.

11 (Witness sworn.)

12 J LUEBBERT

13 the witness, having been first duly sworn,
14 testified as follows:

15 JUDGE PRIDGIN: Thank you very much, sir.
16 Please have a seat. Mr. Pringle, when you're ready.

17 MR. PRINGLE: Thank you, Judge.

18 DIRECT EXAMINATION

19 BY MR. PRINGLE:

20 Q. Good afternoon.

21 A. **Good afternoon.**

22 Q. Please state and spell your name for the
23 record.

24 A. **My name is J Luebbert. It's the letter J,
25 Luebbert, L-u-e-b-b-e-r-t.**

1 Q. Thank you, Mr. Luebbert. And by whom are
2 you employed and in what capacity?

3 A. I'm employed by the Missouri Public
4 Service Commission, and I am the manager of the
5 tariff and rate design department.

6 Q. And are you the same J Luebbert to -- who
7 caused to sponsor in these proceedings direct,
8 rebuttal, and surrebuttal testimony?

9 A. Yes, I am.

10 Q. And the direct and rebuttal, public and
11 confidential, have been premarked Staff Exhibits 209
12 and 210. And Mr. Luebbert's surrebuttal have been
13 premarked as Staff Exhibit 211.

14 At this time, Mr. Luebbert, do you have
15 any changes or corrections to make to any of those
16 three exhibits?

17 A. I do have a few changes. I think most of
18 them are fairly minor, but I want to make sure that
19 everything is really clear in this case. So on -- in
20 my direct, page 28, line 18, need to replace the word
21 "energy" with the word "capacity." On page 30,
22 line 15, the words "this result" should be deleted.
23 Page 41, line 4, the word "measures" should be
24 replaced with "measured."

25 And then I also had changes that were

1 reflected in schedule JLS-1 attached to my
2 surrebuttal testimony regarding the FAC.

3 In rebuttal page 8, line 7 I have a
4 date that is 12/31/2025. That should actually
5 be 12/31/2027.

6 And in surrebuttal page 19, line 5, there
7 is a reference to Mr. Fortson's rebuttal and that
8 should be a reference to his surrebuttal.

9 Q. Thank you, Mr. Luebbert. Are there any
10 further additions or corrections to make to your
11 testimony at this time?

12 A. I don't believe so.

13 Q. And is the information contained in
14 Exhibits 209, 210, and 211 true and correct to the
15 best of your belief and knowledge?

16 A. Yes.

17 Q. If I were to ask you the same questions
18 within Exhibits 209, 210, and 211 would your answers
19 be the same or substantially similar?

20 A. They would.

21 MR. PRINGLE: Thank you, Mr. Luebbert.
22 And, Judge, like the other witnesses, Mr. Luebbert
23 will be taking the stand again, so at this time I
24 tender the witness for cross-examination.

25 JUDGE PRIDGIN: All right. Mr. Pringle,

1 thank you. Cross-examination. Public Counsel?

2 MS. VANGERPEN: Yes, thank you, your
3 Honor.

4 CROSS-EXAMINATION

5 BY MS. VANGERPEN:

6 Q. Mr. Luebbert, I want to talk to you about
7 benefits. So would you walk through the timeline
8 from the time a participant implements a measure to
9 when they and a nonparticipant receives a benefit?

10 A. Sure. So that timeline is going to vary,
11 and it depends on not only the utility but also the
12 actual energy and demand savings kind of profile
13 for a given measure installation. So I'm going to
14 start -- and I think as we're talking through
15 benefits, it's really important to kind of keep in
16 mind whose benefits you're looking at.

17 In the case of a participant, there may be
18 some immediate bill impacts, right. So if you've
19 installed a measure at your home and you start using
20 less energy the following month, you're going to have
21 some bill savings that are associated with that. But
22 you'll also have an impact through, like in Ameren's
23 case what -- what they -- their rider is called the
24 Energy Efficiency Investment Charge, so your rider
25 EEIC. You're also going to have some impact through

1 that where some costs are going to increase as a
2 result of program costs, throughput disincentive, and
3 earnings opportunity that are tied to that.

4 For a nonparticipant, I think I -- I spent
5 a great dealing of time in my testimony trying to
6 explain kind of the intricacies here, right. And
7 I -- and it's because I think it's so important for
8 everybody to understand that for this case before --
9 before a cycle gets approved. To maximize the
10 opportunity for a nonparticipant to benefit from a
11 MEEIA cycle, it's imperative to be able to identify
12 actual investments that can be avoided and identify
13 the timing of those investments in order to
14 reasonably calculate whether or not they'd have a
15 benefit.

16 Without doing so, the result is -- if
17 there isn't an actual investment avoided and a MEEIA
18 portfolio is largely premised on avoided energy costs
19 from MISO purchases or enabled capacity revenues
20 through the MISO PRA or avoided capacity costs
21 through the MISO PRA, any benefit from that prior to
22 the following Ameren rate case is going to flow
23 through the FAC on the basis of loss-adjusted energy.

24 The reason that's important is that you
25 have -- well, there are -- there are several reasons

1 that's important. One of them is that you have to
2 account for whether or not programs are beneficial to
3 all customers within a class regardless of their
4 participation. And so you end up with this potential
5 for socialization of any of those benefits that flow
6 through the FAC on the basis of loss-adjusted energy
7 not only to other rate classes, but also to very
8 large customers who are the only ones that have the
9 opportunity to opt out of paying the EEIC. It makes
10 it incredibly difficult to demonstrate a
11 nonparticipant net benefit if an avoided investment
12 isn't identified.

13 Q. Okay. I think -- I think I understand.
14 Thank you. So in this particular case, Ameren puts
15 forward a TRC of greater than one that it appears
16 like Staff takes an issue with that. And can you
17 explain why that is?

18 A. Yeah. The -- the issue with Ameren's
19 cost-benefit analysis in this case is really
20 foundational to their application and the flaws that
21 are contained therein. The way that benefits are
22 calculated by Ameren is estimating the energy savings
23 and demand savings from a given measure over the life
24 of that measure.

25 So I'm going to kind of walk through how

1 that works for a -- for a single measure. If you
2 install one measure that you expect to last for ten
3 years and you calculate the estimated energy savings
4 in each of those years and the estimated demand
5 savings in each of those years, that estimate is then
6 multiplied by an avoided cost value in several
7 categories, one of them being the energy and then the
8 other being capacity. So the way that Ameren's
9 calculated their benefits, they multiply their
10 estimated demand savings by a value for avoided
11 capacity costs and add in avoided transmission costs
12 and avoided distribution costs over the entire life
13 of that measure.

14 The problem is that every single one of
15 those calculations in this case depends on the
16 accuracy and reliability of the TRM, the Deemed
17 Savings Tables, and the avoided cost estimates. The
18 TRM and the Deemed Savings Tables aren't accurate or
19 reliable, and the avoided cost estimates are much
20 higher than what is reasonably to be expected for any
21 ratepayer to see as a benefit.

22 So when you're looking at the TRC, all of
23 the benefits that went into that calculation aren't
24 reasonable. And so the resulting calculation,
25 whether it's 4 or .7, the number isn't a reasonable

1 **estimation or approximation of the cost and benefits**
2 **in this case.**

3 MS. VANGERPEN: Thank you, Mr. Luebbert.
4 Nothing further, your Honor.

5 JUDGE PRIDGIN: All right.
6 Ms. VanGerpen, thank you. Any cross from Renew
7 Missouri?

8 MR. LINHARES: No, thank you, your Honor.

9 JUDGE PRIDGIN: NRDC, any cross?

10 MS. RUBENSTEIN: No, thank you, your
11 Honor.

12 JUDGE PRIDGIN: Ameren Missouri?

13 MR. HOLTHAUS: No cross.

14 JUDGE PRIDGIN: All right. Thank you.
15 See if we have any bench questions. Chair Hahn.

16 QUESTIONS

17 BY CHAIR HAHN:

18 Q. Thank you, Mr. Luebbert, appreciate that.
19 I try to write it all, but -- and you're very slow
20 and thorough; I appreciate that very much. Tell me
21 how this calculation that you just described, and you
22 described it as not being reliable because you can't
23 basically rely on the elements that went into the
24 calculation, how is this calculated in previous MEEIA
25 cycles?

1 A. Well, what I was describing as far as the
2 estimation of benefits I think is probably -- I think
3 kind of the process of relying on the TRM to come up
4 with an estimated energy savings amount and an
5 estimated demand savings amount is probably the same
6 process that was done in Cycle 3. What I think -- if
7 you are looking for a large difference between cases,
8 what Staff has come to realize -- well, I -- I think
9 we've known this for some time, but MEEIA's very
10 complicated and what we see within a given company's
11 application doesn't explain it very well. And so we
12 really kind of took a deep dive and started to look
13 at some of the TRM assumptions, because it's really
14 driving all of their assumed benefits that they're --
15 they're wanting you to rely on to say this is a good
16 program or it isn't.

17 As we started to dive through that TRM
18 document and the Deemed Savings Table document in
19 March of last year when they first filed, we knew
20 that there were problems with citations, that there
21 wasn't reasonable citation included for hundreds, if
22 not thousands, of assumptions. And we -- we told the
23 Company very early on, You need to fix this. We've
24 gotta have something that we can have that's
25 reliable.

1 My guess is that may have been a problem
2 in Cycle 3 as well unfortunately. I don't -- I know
3 that we didn't kind of spend the time in testimony
4 describing it, but it doesn't mean that it wasn't an
5 issue before. One of the things that I know that I'm
6 sure you've heard many of the Staff witnesses and
7 maybe some others say is, you know, we're always
8 reserving the right to get smarter and to get better
9 at our job. These are the type of things that the
10 Commission needs to know before they approve
11 something, especially when the Company's asking you
12 to approve the entirety of that TRM document and the
13 entirety of the that Deemed Savings Table document
14 that we know has flaws. We've pointed out a few of
15 them, but not all of them because we -- we didn't
16 have time, right. That's the first part. And I'm
17 sorry that this is a longwinded answer. The first
18 part is the energy savings and demand savings
19 estimate.

20 The seconds part of the product to come up
21 with benefits is avoided costs. And the big thing
22 that's changed here from Cycle 3 to now for Ameren is
23 that they've gone away from their estimate of
24 market-based avoided cost for capacity, and they've
25 pivoted to the cost of new entry or the estimated

1 cost of new entry from MISO. Now, there's a few
2 reasons why that's really important, but one of them
3 is that the Commission in Cycle 3 told Evergy it
4 wasn't reasonable to do so. And yet Ameren's doing
5 it today. Now, the Company isn't avoiding the cost
6 of new entry. They're not assuming that they're
7 avoiding the cost of new entry when they're doing
8 their actual IRP analysis. They're assuming that
9 they're avoiding the market cost from the MISO PRA.

10 An important aspect of that now is the
11 seasonality of the MISO PRA. And that's a new aspect
12 that we didn't have to deal with in Cycle 3, but it's
13 one that we better get a grasp on for Cycle 4 or any
14 future cycle as long as MISO has that -- that
15 construct. Ameren's application just fails to do it.
16 They're looking at summer demand impacts and they
17 largely ignore the demand impacts that occur or might
18 occur or plan -- or, you know, plan to avoid some of
19 those costs in winter, spring, and fall. And those
20 can be the most impactful seasons. It's problematic,
21 and it needs to be planned for. When we're talking
22 about this level of money that are going to come out
23 of ratepayers' pockets to fully fund this -- this
24 project or this application, the justification should
25 be there and it just isn't.

1 JUDGE PRIDGIN: Chair Hahn, thank you.

2 Commissioner Coleman?

3 COMMISSIONER COLEMAN: Thank you.

4 QUESTIONS

5 BY COMMISSIONER COLEMAN:

6 Q. All right. So I may have this wrong and
7 need you to give me some input on it, but when I was
8 driving in this morning, drinking coffee, listening
9 to the testimony and trying to watch the road at the
10 same time, one of the things I think I heard in
11 Ms. Johnson's opening statements was something along
12 the lines that Staff has lots of questions to
13 Ameren's application. And I want to believe I heard
14 a number that was a hundred -- over a hundred
15 questions, over a hundred inquiries and that you all
16 had reached out and Ameren did respond but the
17 responses were not necessarily as forthcoming as
18 Staff would have liked them to be. So if I got that
19 right, my question now is have you ever gotten the
20 information to the level of satisfaction that Staff
21 needs?

22 A. You're asking specifically about this
23 case. Right? I -- I touched on this a little bit,
24 but I think -- I'm really glad that you asked.

25 When we had the initial application from

1 Ameren, the very first data request that I sent, I
2 wrote it, and it said, Provide support and citations
3 for all of the hard-coded numbers that are included
4 in your work papers.

5 We didn't get that. We were told we
6 weren't going to get that. And that was part of the
7 impetus from -- at least from staff's perspective of
8 putting a bit of a pause and seeing if we could bide
9 time so that we could have a reasonably supported
10 application. Now, we went months and months and we
11 had several discussions with Ameren. We explained
12 the issue. And we got the -- the new application, I
13 think it was earlier this year, and a lot of the
14 numbers that were included in those work papers are
15 hard coded again. And so we sent a follow up that
16 was essentially the same question, a little bit pared
17 back because they had provided a little bit more
18 information, but essentially the same question.
19 Provide justification, provide citations for all of
20 these assumptions, hundreds, thousands of assumptions
21 that drive what the estimated demand in energy
22 savings are going to be. They directly impact what
23 the costs are going to flow straight to the
24 ratepayers from Day One for Cycle 4. And they
25 won't -- they can't provide it.

1 What they have provided is a folder full
2 of, I want to say 200 documents, PDF documents with
3 no page citations to any of it saying, This is
4 exactly where we got this assumption for this
5 measure.

6 It's not reasonable. It -- it just isn't
7 reasonable for this level of planned program
8 expenditure to not have a well-thought out and a
9 well-documented plan in place before they ask for the
10 Commission to give them their blessing, give them
11 your blessing. So I think the answer is we've gotten
12 some of the answers -- or some of the questions
13 answered, but we've got some really foundational
14 issues that the Company just can't answer. They
15 don't -- either don't have the answers, or they've
16 refused to provide them.

17 Q. Okay. So that was going to be my next
18 question. Do you think this is a matter of it being
19 difficult for the Company to forecast that
20 information that you're asking?

21 A. Well, for the -- the TRM and the Deemed
22 Savings Table, basically it -- if you want to look at
23 it, it's in their application as Appendix -- I want
24 to say it's Appendix F, G, H, and I. Appendix F is a
25 PDF, but we've -- we've been provided an Excel

1 version, right, but it -- if you look at, it's got
2 just a plethora of different assumptions that are
3 included within that. And the -- the result of that
4 appendix is to come up with a number for energy saved
5 from a single measure if you installed one of them in
6 Year One versus Year Two versus Year Three. You have
7 to be able to provide justification for the
8 assumptions you're using to come up with energy
9 savings from a measure.

10 If you can't do that -- there are other
11 issues, but that's a foundational issue with their
12 application, and it has to be fixed well before -- it
13 should have been fixed prior to them filing their
14 application. And we gave them the heads up that they
15 needed to fix it and they just haven't done it.

16 COMMISSIONER COLEMAN: Thank you. Thank
17 you, Judge.

18 JUDGE PRIDGIN: Commissioner Coleman,
19 thank you. Further bench questions? Commissioner
20 Holsman? Commissioner Kolkmeyer? Commissioner
21 Mitchell? Hearing none. I don't have any questions.
22 Any recross based on bench questions? Public
23 Counsel?

24 MS. VANGERPEN: No, thank you, your
25 Honor.

1 JUDGE PRIDGIN: Renew Missouri?

2 MR. LINHARES: No, thank you, your Honor.

3 JUDGE PRIDGIN: NRDC?

4 MS. RUBENSTEIN: No, thank you.

5 JUDGE PRIDGIN: Ameren Missouri?

6 MR. HOLTHAUS: A few questions, Judge.

7 JUDGE PRIDGIN: When you're ready.

8 QUESTIONS

9 BY MR. HOLTHAUS:

10 Q. Mr. Luebbert, in your discussions with the
11 commissioners you mentioned several times that Staff
12 was dissatisfied with the level of detail of
13 information that it received from Ameren Missouri.
14 To your knowledge, did Staff ever assert its
15 dissatisfaction or claim that Ameren was not
16 complying with its discovery request via a discovery
17 dispute?

18 A. We -- we discussed the potential for --
19 for raising the issue in front of the Commission
20 through a discovery dispute. We didn't, but by --
21 because by the time we got kind of between the timing
22 of direct being filed for the Company and direct and
23 rebuttal being filed for us after the amended
24 application, there were -- there were discussions,
25 and it sounded like there was a potential that they

1 were -- the Company was going to be providing us some
2 of the information, so we kind of held off a little
3 bit. And unfortunately, we held off long enough that
4 we got to the point that it was time to file
5 testimony, and so we did. I documented some of these
6 issues within my testimony, but we didn't formally
7 raise it as a discovery concern in front of the
8 Commission.

9 Q. Thank you. You also discussed with the
10 commissioners the TRM document. To your knowledge,
11 did Staff have any hand in working on that TRM?

12 A. I don't know -- I don't know.

13 Q. To the best of your knowledge, is the TRM
14 a form that is prescribed by a third-party,
15 specifically VIEC, which stands for -- I'm sorry --
16 VEIC which stands for Vermont Energy Investment
17 Corporation?

18 A. I'm sorry, can you repeat your question?
19 You asked if it's a form that was prescribed?

20 Q. Correct. Is -- is the TRM a form prepared
21 by a third-party, VEIC, that Ameren is to fill out?

22 A. I think the TRM, the cover of all three
23 chapters of the TRM have Ameren Missouri on the
24 front. I don't know the -- I don't know that I would
25 characterize it in the way that you've asked the

1 **question.**

2 Q. I misspoke. It's not a form. Is it not a
3 manual that's provided by a third party?

4 **A. It is -- it is three appendices that**
5 **Ameren filed and requested approval for within its**
6 **application.**

7 Q. And do you know if Ameren actually
8 prepared that or was it provided to Ameren by a third
9 party?

10 **A. I don't know.**

11 Q. Okay. You also had some discussion with
12 the commissioners regarding the -- you mentioned a
13 switch from market-based capacity approach to
14 valuing, avoided capacity versus a capacity-based
15 approach, and I wanted to talk about with you a
16 little bit about that. You had also said that
17 Ameren -- Ameren's MEEIA 4 application has not shown
18 that any supply-side resources will be avoided.
19 You -- I believe you evaluated Ameren Missouri's
20 winter capacity position in the analysis presented on
21 pages 21 through 25 of your rebuttal testimony.
22 Correct?

23 **A. Subject to checking the page numbers. I**
24 **know I talked about winter capacity position in my**
25 **rebuttal testimony, but I don't know off -- off the**

1 top of my head which pages number.

2 Q. Would it help if I provided you with a
3 copy of your rebuttal?

4 A. I've got a copy. If you give me a few
5 minutes, I can get there. Okay. I think I'm -- I'm
6 in the general vicinity within my testimony. If
7 you've got a specific question, I'd be happy to
8 answer it.

9 Q. Yes. On page 22 of your rebuttal
10 testimony, lines 8 through 11, you conclude that
11 Ameren Missouri is short on winter capacity in
12 years 2025 through 2027. But then the short position
13 is resolved in 2028 by the addition of a substantial
14 supply-side resource.

15 Did I summarize that correctly, sir?

16 A. I think the -- the line number references
17 are probably -- at lines 8 through 11 I'm talking
18 about a negative winter capacity position, years '25
19 through '27. But then I -- I talked about the summer
20 capacity position a little bit later on.

21 I do want to point out that the basis for
22 all of these charts was the -- the Ameren Missouri
23 preferred resource plan, capacity balance sheets from
24 the IRP. So that was kind of the source data that I
25 was relying on.

1 Q. And did you -- did you add to that source
2 data the 800 megawatt simple-cycle plant that is --
3 that Ameren would like to add in 2028?

4 A. I did not add those values to the document
5 itself. However, whenever I was looking at the
6 actual capacity position, I have included those
7 megawatts within that capacity position consistent
8 with how all of the other resources within a capacity
9 balance sheet are treated.

10 Q. And --

11 A. I -- I followed that same -- same
12 methodology here.

13 Q. And you're aware that that 800 megawatt
14 capacity resource is chiefly intended to address
15 extreme winter weather. Correct?

16 A. If -- if it's chiefly intended to address
17 extreme winter weather, it doesn't take away from the
18 fact that it will exist once it's in rate base and it
19 will be available whenever it's needed. So it, by
20 all accounts, should be accounted for when you're
21 looking at the capacity balance of a utility.

22 Q. Does your analysis reflected in
23 Figures 2, 4, 6, and 7 of your rebuttal testimony
24 reflect normal weather loads or extreme weather
25 loads?

1 **A. So this reflects the load that Ameren**
2 **utilizes in its capacity balance sheets as part of**
3 **the IRP.**

4 Q. And is it your understanding that that
5 Ameren's capacity balance sheet reflected normal
6 weather supply side as compared to normal weather
7 load?

8 **A. I think Mr. Fortson looked into this**
9 **little bit more than I did. It wouldn't surprise me**
10 **if it was weather normalized, but I can't say with**
11 **certainty.**

12 Q. Do you have any reason to doubt that the
13 analysis -- in your analyses reflected in
14 Figures 2, 4, 6 and 7, there is an additional supply-
15 side resource included by way of the 800 megawatt
16 simple-cycle natural gas plant that is intended to
17 address extreme weather and that is being compared to
18 normal weather load?

19 **A. Can I clarify your question?**

20 Q. Please.

21 **A. Are you asking if in Figures 2, 4, 6,**
22 **and 7, if the capacity position I've reflected**
23 **includes the capacity from a simple-cycle addition**
24 **in 2028?**

25 Q. Yes.

1 **A. That's your question?**

2 Q. Yes. That's part of my question.

3 **A. Yes. Yes. They -- those charts all**
4 **include the capacity additions from that plant.**

5 Q. Then the other part of my question is do
6 you have any reason to doubt that those same figures,
7 which are all related to winter capacity position,
8 reflect normal weather loads?

9 **A. If the load that's included in Ameren's**
10 **capacity balance sheets as part of its IRP are**
11 **weather normal loads, then yes, that is the case. I**
12 **relied on Ameren's capacity balance sheets as the**
13 **starting point for looking at these -- these charts.**

14 Q. So assuming that's an accurate assumption,
15 if you were to factor in extreme weather load into
16 these graphs, how would that change your analysis
17 which indicates there's no shortage of winter
18 capacity between 2027 and 2037?

19 **A. It would be highly dependent on when you**
20 **add load, the magnitude of that load addition. Yeah.**
21 **There are a lot of factors there that would have to**
22 **be considered. What time period you're looking at.**
23 **Those are all things that have to be factored in.**

24 Q. Okay. Next I'd like to ask you about your
25 surrebuttal testimony. And this is again relevant to

1 your discussion with the commissioners about a
2 market-based approach. You say at page 8 of your
3 surrebuttal, lines 8 through 11 -- I'll give you a
4 minute to get there. You state, quote, Staff
5 recommends relying on a market-based approach to
6 valuing avoided costs associated with demand
7 reductions because supply-side resource investments
8 are not expected to be avoided or deferred.

9 Now, assume for purposes of this question
10 that a utility submits a MEEIA application to Staff
11 and that application does indeed indicate that
12 supply-side resources are intended to be avoided.
13 Under this scenario, would you still recommend a
14 market-based approach to valuing avoided capacity
15 costs?

16 A. Okay. So your question is assuming that a
17 MEEIA application is -- is before the Commission and
18 Staff's reviewing it and it -- there are reasonable
19 assumptions and reasonable justification that an
20 actual investment can be deferred?

21 Q. Yes.

22 A. Then would we -- would we propose doing a
23 market-based approach?

24 Q. Yes.

25 A. And is -- is the assumption that that

1 utility is operating in the MISO ISO as opposed to
2 maybe an SPP?

3 Q. Yes.

4 A. And that the -- okay. I think in that
5 scenario if -- if the estimates were reasonable, and
6 that is obviously one of -- one of the large issues
7 that we're bringing up in this case is that the --
8 the estimates of energy and demand savings that
9 Ameren's put forward are not reasonable, and if you
10 were actually avoiding the installation of let's say
11 a simple-cycle gas turbine or deferring a
12 simple-cycle gas turbine for two to three years, two
13 to eight years, something like that, I think it would
14 be reasonable to consider alternatives to a
15 market-based approach. Now, how those values are
16 calculated is important, just like everything else
17 within kind of the context of an application, the
18 details are really important, but I think, you know,
19 there's -- there are scenarios that something other
20 than a market-based approach might be reasonable.

21 MR. HOLTHAUS: No further questions.

22 Thank you.

23 JUDGE PRIDGIN: Thank you, Counsel. Any
24 redirect?

25 REDIRECT EXAMINATION

1 BY MR. PRINGLE:

2 Q. Mr. Luebbert, going back to that hypo you
3 just responded to from Ameren, would that be for the
4 duration of the study period?

5 A. Oh, that's -- that's a really good
6 question. The answer -- the short answer is no. It
7 should only be considered for the period of time that
8 you're actually avoiding that investment. To the
9 extent that that investment gets deferred let's say
10 two to three years, right, it might be reasonable to
11 assume that avoided cost of something other than the
12 market-based amount for those first two or three
13 years. But if a new plant is kind of on the heels of
14 that anyway and that can't be deferred any further,
15 then it doesn't make sense to say you're avoiding
16 that plant that we're actually including in rate base
17 right then, right. So yeah, it -- it would only be
18 for the period of time that you're actually avoiding
19 that type of investment. Past that, it doesn't make
20 sense in that scenario to look at something other
21 than the market-based avoided cost for capacity.

22 Q. And what about before that, Mr. Luebbert?

23 A. Prior to avoiding that -- that resource,
24 it wouldn't make sense to do anything other than
25 looking at an avoided capacity cost based on what the

1 results of the MISO PRA and accounting for the
2 seasonality.

3 I think that is a important aspect that
4 we -- we're going to have to keep considering and
5 coming back to because of this -- this change
6 that's happened with MISO. We can't just look at
7 what the -- what the demand impact might be for a
8 single hour in a year. Different measures have
9 different characteristics. Some may have energy
10 savings that occur at a certain time and more
11 frequently during the summer, and others may be
12 better suited for winter. It may be even harder
13 still to find kind of measures that are good at
14 reducing spring peaks because they're -- they may
15 tend to be a little bit more variable.

16 Q. Thank you, Mr. Luebbert. And I kind of
17 wanted to go back to some of the questions that Chair
18 Hahn asked you.

19 A. Sure.

20 Q. When she was asking you about
21 calculations, have transmission and distribution
22 always been included?

23 A. Avoided transmission and distribution have
24 not always been included in utility filings.
25 Obviously that -- there's been some variability in

1 what different utilities have decided to include and
2 how they come up with their estimates, not only among
3 utilities, but among cycles. As we talked about,
4 Ameren kind of changed their methodology for capacity
5 costs. I think they've also changed methodology from
6 what they were using for avoided transmission and
7 distribution costs.

8 That being said, we're in -- we're in a
9 situation with Ameren's current investment strategy
10 of -- and I mentioned it in my testimony -- we're
11 looking at billion of dollars in transmission and
12 distribution investment over the next few years.
13 The -- the best assumption is that that's probably
14 going to continue. You can't avoid costs that are
15 going to happen anyway, so to include those in the
16 benefit analysis just really doesn't make sense in
17 the current environment. And I think that's
18 something that we have to consider.

19 Q. And then also if you could also kind of
20 explain these acronyms as well in this question. Why
21 does it matter that the PRA was used in the IRP, but
22 for here CONE was used?

23 A. Yeah. This is -- this is impactful for a
24 couple of reasons. Let's start with, you know, the
25 requirement that you -- that you're looking at

1 supply-side resources on an equivalent basis as
2 demand side, right. From the perspective -- I think
3 what we heard from Mr. Wills and -- well, I -- from
4 the perspective of looking at what's -- what is
5 actually coming out of the IRP, what Mr. Michels was
6 explaining is that they took -- they took a look at
7 the net capacity position in a given year and they
8 multiplied that by what their assumed market price of
9 capacity was. So obviously a reduction from
10 demand-side programs is going to change that net
11 position.

12 And what we're saying is that you should
13 be using -- you should be looking at the market --
14 the market price of capacity.

15 Now, when you compare that to what they're
16 asking for the Commission to approve in this case, is
17 they're wanting you to approve an avoided capacity
18 cost that's three to five hundred percent of what
19 that actual value is estimated to be over the entire
20 course of a 20-year period. That's not reasonable.
21 The Company hasn't included that when its done its
22 IRP analysis, but they do want to include it for all
23 of their cost effectiveness tests, not only within
24 the course of this application, but through the
25 course of evaluation, measurement, and verification,

1 throughout the entire course of the cycle, three to
2 five years, however long it may be. They want to
3 utilize that value of CONE to look at whether or not
4 it's cost effective.

5 Now, we know that it's not reasonable to
6 assume that they're actually going to be avoiding the
7 cost of CONE for capacity that happens next year.
8 And yet that's what -- that's exactly what Ameren
9 wants you to approve and our recommendation is you
10 shouldn't. You should -- you -- you shouldn't
11 approve any avoided cost that's more than what their
12 expected market price is for capacity.

13 I guess the only other thing, and I'm
14 going to probably sound like a broken record. And we
15 have to account for the seasonality. The seasonality
16 has become so much more important. And frankly,
17 the -- I talked a lot about hard-coded values, right.
18 Ameren's Deemed Savings Table includes a hard-coded
19 value for every single measure to come up with a,
20 quote, unquote, demand impact. That by its nature
21 has to vary by season for a vast majority of the
22 measures, and Ameren doesn't have that within its
23 application. And it has to have that to do -- well,
24 and it needs to be reasonably supported in order to
25 come up with any reasonable estimate of that.

1 Q. Thank you, Mr. Luebbert. And those
2 differences you outlined, how do they relate to
3 the \$4 billion difference Ameren mentioned between
4 Plan C and I?

5 A. I know there's been quite a bit of
6 discussion about looking at Plan C versus Plan I,
7 and -- and frankly within kind of the context of
8 looking at this case, the comparison of those two
9 plans isn't the comparison you need. It doesn't give
10 you that much information. It includes so many
11 assumptions that aren't relevant to this -- this
12 hearing today.

13 Now, first, Am -- or Staff is not
14 proposing for Ameren to never do a MEEIA cycle again.
15 That's not what we've proposed. And, in fact, that's
16 why we took the approach in direct to explain what it
17 might look like to do something reasonable. The
18 expectation is that they're going to come back in for
19 a cycle, even if you reject it or if you modify it in
20 a way that they don't like. They'll go back and
21 they'll try to figure out what they can live with or
22 what they decide they can live with and come back for
23 another application. That's the first one.

24 The second one is the comparison of those
25 two plans, there are so many other moving parts

1 including billions of dollars of generation resources
2 that are being included. I know Mr. Fortson talks
3 about the validity of doing some of those
4 comparisons, and we have issues with that as well.

5 The -- the last piece is that looking at
6 those two plans and just specifically kind of honing
7 in on DSM or demand side, it's looking at doing a
8 level of DSM reductions over a 20-year period versus
9 not doing any at all. And what it isn't looking at
10 is trying to identify the timing and the magnitude of
11 when you can do demand-side reductions in a way that
12 meaningfully benefits ratepayers.

13 Now, if I -- now if I can get others to
14 take away nothing else from this hearing, the timing
15 and the magnitude of any addition or subtraction from
16 a balance position is so important. We have to be
17 accounting for that, and I know you've heard me
18 talking about that in some of the CCN cases. The
19 timing has to be accounted for.

20 Commissioners, I know you asked earlier
21 about the 200 megawatt demand response impact. I
22 mean, speaking of timing, when I'm looking at what
23 their expected demand response impact is --

24 MR. HOLTHAUS: Judge, objection that this
25 is going a little beyond the scope of the

1 commissioners' questions on Mr. Luebbert's appearance
2 here today.

3 JUDGE PRIDGIN: Mr. Pringle?

4 MR. PRINGLE: I believe there was
5 questions about timing from the bench. I would argue
6 that the answer is perfectly in line with questions
7 from the bench.

8 JUDGE PRIDGIN: I'll overrule.

9 THE WITNESS: When we're looking at the
10 demand impact from demand response, Ameren's own
11 capacity balance look in their IRP shows that the
12 impact from demand response is targeted to summer.
13 The impact in the winter is a fraction, and I mean a
14 small fraction, maybe 5 percent, if that, of what the
15 expected impact is in the summer. So when they're
16 talking about the potential for a 200 megawatt drop
17 off in the summer, what you're looking at is maybe,
18 you know, 10 megawatts in the winter. And we don't
19 have a transparent look at what they're looking at in
20 spring and fall, but we know that if that demand
21 response is tied to heating or cooling, that that may
22 not be available to the same extent in spring or
23 fall.

24 Now, one of the things that -- that Staff
25 pushed for as a result of the -- the last extension

1 for Cycle 3 was that Ameren had to start looking at
2 seasons other than winter. Or I'm sorry, other than
3 summer because we knew that this is going to be so
4 much more important going forward as MISO changed
5 it's PRA. We don't see that reflected. It's not
6 accounted for in the application.

7 BY MR. PRINGLE:

8 Q. Thanks, Mr. Luebbert. And this is just --
9 I want to make sure we have this definition in the
10 record, but what is TRM?

11 A. Technical Resource Manual, sometimes
12 called a Technical Reference Manual. In this case
13 when I refer to TRM, I'm talking about the appendices
14 that Ameren attached to their application.

15 Q. And in general, what is the point of a
16 TRM?

17 A. A TRM can be a document to estimate energy
18 or demand savings. Ideally it's going to have the
19 ability to include lots of variables to account for
20 what actually occurs and limit the amount of times
21 that you assume a default value whenever you're
22 determining what -- what actually happens. Whether
23 or not that occurs is -- that can vary by utility and
24 by cycle.

25 Q. And did the TRM submitted by Ameren

1 Missouri in this proceeding, did that match the ideal
2 scenario you just described?

3 A. Well, the TRM that -- that Ameren provided
4 isn't ideal for a lot of reasons. One of them, it's
5 lengthy; it's a lengthy set of three documents. It
6 feeds into the demand -- or the Deemed Savings
7 Tables. It includes a lot of measures that Ameren
8 has said they don't intend to actually implement, and
9 yet they request your approval for. A lot of
10 measures that Ameren's own figures and charts don't
11 consider as a possibility of being included, and yet
12 they request approval for those. But by and large
13 the -- the largest issues is the assumptions that are
14 included within that aren't well-supported. It's a
15 long document, there are a lot of numbers, and Ameren
16 doesn't have the support for it.

17 Q. And what do you mean by Ameren does not
18 have the support for it?

19 A. I'll get -- I'll give you an example, and
20 it is an example that is fairly prevalent through the
21 Deemed Savings Table. So the Deemed Savings Table
22 reportedly takes the TRM equations and provides the
23 formulas in Excel format. In many, many instances
24 the assumptions for a given measure are hard --
25 hard-coded numbers. And so there might be a -- a

1 number with decimal places out to ten, ten places,
2 and there isn't a citation for where that assumption
3 came from. Or maybe there's a citation, but the link
4 doesn't work anymore. Or there's a link that refers
5 to a 2008 appliance study. I think we all know that
6 appliances have changed since 2008.

7 These are the type of examples that are
8 just -- they're prevalent throughout that entire
9 document. And it's not acceptable to then charge
10 ratepayers as if those energy sales would have
11 happened but for the installation of that measure
12 through the throughput disincentive. And it's not
13 reasonable to assume that those energy and demand
14 savings occurred when you're looking at whether or
15 not a program's cost effective, because it's not
16 supported.

17 MR. PRINGLE: Thank you. Thank you,
18 Mr. Luebbert. No further questions from Staff,
19 Judge. Thank you.

20 JUDGE PRIDGIN: Mr. Pringle, thank you.
21 I do think I'm going to have another quick question
22 or two.

23 QUESTIONS

24 BY JUDGE PRIDGIN:

25 Q. Mr. Luebbert, I think you've spoken to the

1 challenges with the hard coding of values in Ameren's
2 TRM which involved deemed savings, do you think
3 there's a more meaningful or more accurate way to
4 account for program savings?

5 A. Well, I -- I guess the answer is yes.
6 And, but I would say that the answer probably depends
7 on the purpose that you're looking for. Staff has
8 offered up an alternative to Ameren's proposed net
9 throughput disincentive which I think would, one,
10 it'll be simpler to implement; two, it won't have the
11 issues that are -- that are relevant and prevalent
12 frankly with the NTD that come from time variant
13 rates, and it'll be based on what actually occurs and
14 not a -- a presumption of what occurs based on a
15 deemed value.

16 Now, that being said, even if you were to
17 move forward with a TRM and Deemed Savings Table,
18 there are simple ways to improve it. Show your work,
19 provide, you know, page-specific citations for the
20 assumptions that you utilized, allow other parties to
21 look and see what those assumptions are so that we
22 can inform the Commission whether or not we think
23 those are reasonable.

24 The evaluators are going to need to do the
25 same thing if the outcome of that evaluation is

1 determining whether or not it's a reasonable
2 estimate. If they're not looking at that, then you
3 should start questioning the results of the
4 evaluation. And I think that's part of -- you know,
5 I don't want to get too far afield from the issues
6 within today, but I think those are all things that
7 we need to be thinking about.

8 JUDGE PRIDGIN: Mr. Luebbert, thank you.
9 Any -- any further bench questions? Recross? Hang
10 on. Well, Mr. Luebbert, I'm sorry.

11 BY JUDGE PRIDGIN:

12 Q. Does the utility have the necessary data
13 to evaluate savings in this manner? I mean, are you
14 speaking to a measured savings model?

15 A. I'm -- I want to make sure I'm answering
16 your question. Do I think that the utility has the
17 ability to provide support for their assumptions in
18 the TRM? I --

19 Q. Yes.

20 A. -- think if they spent the time and they
21 didn't have the expectation of getting an application
22 approved without showing their work, that they would
23 have already done it.

24 I think that -- I think they're capable of
25 doing it. Now, to do it in a timely manner, maybe it

1 takes them finding what the really important measures
2 are and starting there and asking for approval of
3 those and not having this giant document that
4 includes tons of measures that are -- the Company
5 doesn't expect to -- to implement and yet they want
6 you to approve them and approve the ability for them
7 to implement them whenever they want as long as it's
8 within the incentive range that they've also asked
9 you to approve. That's not the model that needs to
10 be taken, right. Show your work, provide the
11 documentation, explain why you're using the
12 assumptions. These are not, you know, groundbreaking
13 concepts. It's the bare minimum.

14 JUDGE PRIDGIN: All right. Mr. Luebbert,
15 thank you. Any further bench questions? Any cross
16 based on my bench questions? Public Counsel?

17 MR. HOLTHAUS: Yes, Judge.

18 JUDGE PRIDGIN: Sorry, Public Counsel.

19 MR. HOLTHAUS: Sorry.

20 JUDGE PRIDGIN: That's all right.

21 MR. HOLTHAUS: Apologies. I jumped the
22 gun there.

23 JUDGE PRIDGIN: Quite all right.

24 MS. VANGERPEN: No. No, thank you, your
25 Honor.

1 JUDGE PRIDGIN: Consumers Council?

2 MR. COFFMAN: No questions.

3 JUDGE PRIDGIN: Renew Missouri?

4 MR. LINHARES: No questions, thank you.

5 JUDGE PRIDGIN: NRDC?

6 MS. RUBENSTEIN: No, thank you.

7 JUDGE PRIDGIN: And Ameren Missouri.

8 RE-CROSS-EXAMINATION

9 BY MR. HOLTHAUS:

10 Q. Mr. Luebbert, real briefly, do you have
11 any reason to doubt that Ameren Missouri did provide
12 Staff with an opportunity to view the TRM before it
13 was filed last year in September of 2023?

14 MR. PRINGLE: Objection; beyond the scope
15 of bench questions.

16 JUDGE PRIDGIN: Yeah. I'm going to
17 sustain that. I don't think I asked about that.

18 MR. HOLTHAUS: No further questions.

19 JUDGE PRIDGIN: Thank you. Redirect?

20 MR. PRINGLE: No redirect, Judge, thank
21 you.

22 JUDGE PRIDGIN: All right, thank you.

23 Mr. Luebbert, you may step down. We seem to be at a
24 very good time for a midafternoon break. I show the
25 time about 3:02 so let's resume about 3:15. Anything

1 further from counsel or from the bench before we take
2 a break? All right. We will be in recess until
3 3:15. Thank you. We're off the record.

4 (Off the record.)

5 JUDGE PRIDGIN: Good afternoon. We are
6 back on the record. A couple of housekeeping
7 matters. Before I forget, because I keep forgetting,
8 as a reminder, I think I put this in a prior order,
9 the Commission's holding a rulemaking hearing
10 tomorrow morning I believe at 10:00 a.m. and so we
11 will not resume this hearing until 1:00 p.m. or
12 perhaps even after if the rulemaking hearing goes
13 later. So I just wanted to remind everyone of that.

14 I will not be on the bench tomorrow; I
15 will be out. Judge Dippell has graciously agreed to
16 preside over the hearing tomorrow and then I will be
17 back with you Wednesday.

18 I'm pretty comfortable with the pace at
19 which we were proceeding, but obviously if we start
20 going slower, we may need to consider to go --
21 consider going late later in the week. I don't
22 intend to do that today I don't think; I think we're
23 about on schedule, but I just wanted to remind you
24 of -- of that, so.

25 Anything from counsel before we proceed

1 to Ms. Mantle taking the stand? All right.

2 Ms. Mantle, if you'll come forward to be sworn
3 please.

4 (Witness sworn.)

5 LENA MANTLE

6 the witness, having been first duly sworn,
7 testified as follows:

8 JUDGE PRIDGIN: Thank you very much.
9 Please have a seat. Ms. VanGerpen, when you're
10 ready.

11 MS. VANGERPEN: Thank you, your Honor.

12 DIRECT EXAMINATION

13 BY MS. VANGERPEN:

14 Q. Good afternoon, Ms. Mantle.

15 A. **Good afternoon.**

16 Q. Can you please state your name and spell
17 it for the record.

18 A. **My name is Lena M. Mantle. Lena is**
19 **L-e-n-a, Mantle is M-a-n-t-l-e.**

20 Q. By whom are you employed and in what
21 capacity?

22 A. **I'm employed by the office of the Public**
23 **Counsel as senior analyst.**

24 Q. Are you the same Lena Mantle who caused to
25 be prepared rebuttal testimony in this case?

1 **A. Yes.**

2 Q. Do you have any corrections or additions
3 to your written testimony?

4 **A. I have one. At the bottom of page 12,**
5 **footnote 16, I -- the case number is EO-2024-0020.**
6 **That's it.**

7 Q. Thank you, Ms. Mantle. If I asked you
8 those same questions that are included in your
9 rebuttal testimony today, would your answers be the
10 same?

11 **A. Yes.**

12 MS. VANGERPEN: Thank you. Your Honor,
13 this is the only time that Ms. Mantle will be with us
14 this week, so I would offer her rebuttal testimony
15 which has been marked as Exhibit 301, 301P and 301C,
16 for the public and confidential versions for
17 admittance. And I would tender the witness for
18 cross.

19 JUDGE PRIDGIN: And I'm sorry, that's
20 Ms. Mantle's rebuttal. Is that correct?

21 MS. VANGERPEN: That is correct, your
22 Honor.

23 JUDGE PRIDGIN: All right. 301, 301P,
24 and 301C have been offered. Any objections? Hearing
25 none, Exhibits 301, 301P, and 301C are admitted into

1 evidence.

2 (OPC Exhibits 301, 301P, and 301C were
3 admitted and made a part of this record.)

4 JUDGE PRIDGIN: Cross-examination.
5 Staff?

6 MR. PRINGLE: Thank you, Judge.

7 CROSS-EXAMINATION

8 BY MR. PRINGLE:

9 Q. Good afternoon, Ms. Mantle.

10 **A. Good afternoon.**

11 Q. So your counsel said you're the person to
12 question about FAC, so I have just a few of those
13 about you. What is the FAC?

14 **A. The FAC is an interim rate mechanism that**
15 **allows, if granted by the Commission, electric**
16 **utilities to return a portion of cost -- or a portion**
17 **of the difference between actual fuel and purchase**
18 **power costs and what was included in rates.**

19 Q. And do you know, was use of an FAC
20 authorized by the General Assembly before the MEEIA
21 statute was passed?

22 **A. Yes, it was.**

23 Q. Are you aware if there has been any prior
24 MEEIA dockets that had the FAC as an issue?

25 **A. There was a MEEIA docket with, I think it**

1 was Evergy West at that time, where there was the
2 subject of a demand response program that had not
3 been called upon. I believe Staff filed imprudence
4 in that case; it was a MEEIA prudence case. And the
5 Company objected and said it was better to be handled
6 in an FAC case. And so when the FAC case came up,
7 the Office of Public Counsel brought that issue to
8 the Commission.

9 Q. And do you know, what did the Commission
10 rule on that issue?

11 A. The Commission found that Evergy West
12 should have taken advantage of its demand response
13 program. It had been paying its customer, but not
14 ever calling on them to reduce their energy. And
15 they found that that was imprudent, and there was an
16 adjustment in the FAC because -- for that MEEIA
17 program.

18 Q. And just to be clear, that was in a MEEIA
19 prudence review?

20 A. There was a MEEIA prudence review, and
21 there was an FAC prudence review. I believe the
22 adjustment due to imprudence was made in the FAC.

23 Q. And I guess then for this matter, what is
24 the concern with the FAC?

25 A. Energy efficiency programs impact the

1 energy and capacity of a utility. If -- if -- the
2 whole idea behind a demand-side program is that the
3 utility will induce customers to use energy in a more
4 cost effective manner. And that should reduce their
5 fuel and purchase power cost. And because there is
6 this interim rate mechanism that returns any savings
7 or recovers any additional cost in between rate
8 cases, the benefits of those energy efficiency
9 programs, until they go into permanent rates, will
10 flow through the FAC regardless of -- I mean, unless
11 the programs are designed -- I don't know how you
12 would do it without it flowing through the FAC.

13 So benefits -- the benefit of saving
14 energy, which means you pay less on the energy
15 market, that flows back to the customers through the
16 FAC.

17 Q. And when should a utility account for
18 that, for that interaction with the FAC and MEEIA?

19 A. It should be accounted for when cost
20 benefit is calculated. It -- and as Mr. Wills said
21 this morning, it does flow the FAC, but when it's in
22 permanent rates, then it's flowed through regular
23 rates too. But it's my understanding that a hundred
24 percent of the benefits are assumed to flow back to
25 the class for which the program was designed, where

1 in actuality because the FAC is based on energy
2 usage, only a portion of that will go back to that
3 customer class. So automatically for -- until those
4 costs get into rates, permanent rates, the customer
5 class will only receive a portion of the benefits,
6 and other customers of the utility regardless of --
7 of whether or not they pay for the program get to
8 receive the benefits.

9 Q. And then if that interaction is not
10 accounted for, should an application be approved?

11 A. No, it should not.

12 MR. PRINGLE: Thank you, Ms. Mantle. No
13 further questions.

14 JUDGE PRIDGIN: Okay. Mr. Pringle, thank
15 you. Any cross from Renew Missouri?

16 MR. LINHARES: No, thank you very much,
17 Judge.

18 JUDGE PRIDGIN: Consumers Council?

19 MR. COFFMAN: No questions, your Honor.

20 JUDGE PRIDGIN: NRDC?

21 MS. RUBENSTEIN: No, thank you.

22 JUDGE PRIDGIN: Ameren Missouri?

23 MS. MOORE: No questions, your Honor.

24 JUDGE PRIDGIN: All right. Thank you.
25 Let me see if we have any bench questions. Chair

1 Hahn, any questions? Commissioner Coleman, any
2 questions? Thank you. Commissioner Kolkmeier?
3 Commissioner Mitchell? I think I have just a few
4 questions for you, Ms. Mantle.

5 QUESTIONS

6 BY JUDGE PRIDGIN:

7 Q. If I could -- do you have your rebuttal
8 testimony with you?

9 **A. Yes.**

10 Q. Could I direct you to page 6 of that.

11 **A. I'm there.**

12 Q. Thank you. On line 8 you state, Customer
13 B uses 100 kilowatt hours each hour.

14 Should that be 100 kilowatts instead?

15 **A. Yes.**

16 Q. Thank you. I believe Mr. Wills was asked
17 some questions, in fact, I think I asked him some
18 questions about your rebuttal on page 26 on Table 9
19 and your schedules where your analysis indicated that
20 MEEIA nonparticipants don't benefit when the average
21 kilowatt hour cost is below the FAC factor. Did you
22 have any comments on his response?

23 **A. His response, he did agree that this**
24 **analysis is correct, but then he went on, if I**
25 **understood correctly, to talk about how he went back**

1 and looked at the energy efficiency measures, and --
2 and surprisingly all of -- almost all of them were in
3 hours that the -- he estimated the average price
4 would be greater, the average price of the kilowatt
5 hour saved would be greater than what was in the
6 calculation of the FAC. I -- I'm not that familiar
7 with all of the measures, but having listened to
8 Mr. Luebbert of the Staff talk about the multitude of
9 measures that they have, I find that hard to believe.
10 But even so, he's the one that did the analysis.

11 The one thing that I would point out too,
12 and that's in this table, is the Company also
13 benefits above what comes through the DSIM, the
14 throughput disincentive, all those -- because of the
15 FAC the Company benefits when there's a reduction in
16 usage at prices that are greater than the average
17 that was used to calculate the FAC. And that's
18 because of the incentive mechanism that the
19 Commission has approved for the utilities for their
20 FAC. So 5 percent of any savings goes back to the
21 Company through this. I do not believe that's
22 accounted for anywhere in MEEIA.

23 Q. And I -- and I don't have a line
24 reference, but I do want to direct you to page 30 of
25 your rebuttal. If you could let me know when you're

1 there please.

2 **A. Okay.**

3 Q. And you -- and you state in reference to
4 your analysis of Mr. Luebbert's direct testimony, The
5 increase in costs for nonparticipants and the Company
6 shown in the third scenario are not intuitive.

7 Can you explain what you mean by the
8 statement beyond what you simply stated in your
9 testimony?

10 **A. We typically think that an inter--**
11 **kilowatt hour of energy saved is a good thing. It's**
12 **going to save money. It's going to save natural gas,**
13 **coal. But, so that's what typically people think of.**
14 **Oh, you're saving a kilowatt hour. You're going to**
15 **save money. And actually if that's saved in let's**
16 **say a time in March when the wind is blowing and**
17 **you've got zero variable costs energy, you're --**
18 **you're not saving anything. Because for one thing**
19 **that's the marginal unit, and so, therefore, you**
20 **know, there's -- it's not a benefit. It's not. It**
21 **may be actually a detriment if the participant**
22 **actually got less services.**

23 So, but like I said, intuitively we think
24 kilowatt hours saved is good and will decrease costs.
25 But at a time when the average cost is below what's

1 in the FAC, that means you've got fewer kilowatt
2 hours under a cost, and it actually results in an
3 increase in the FAC rate.

4 JUDGE PRIDGIN: All right. Thank you. I
5 think those are all the questions I have. Let me see
6 if we can have any recross based on bench questions.
7 Any questions from Staff?

8 MR. PRINGLE: No questions, Judge, thank
9 you.

10 JUDGE PRIDGIN: Thank you. Consumers
11 Council?

12 MR. COFFMAN: No, your Honor.

13 JUDGE PRIDGIN: Renew Missouri?

14 MR. LINHARES: No, thank you, Judge.

15 JUDGE PRIDGIN: NRDC?

16 MS. RUBENSTEIN: No, thank you.

17 JUDGE PRIDGIN: Ameren Missouri?

18 MS. MOORE: No questions. Thank you,
19 your Honor.

20 JUDGE PRIDGIN: Any redirect?

21 MS. VANGERPEN: Just very, very briefly,
22 your Honor.

23 REDIRECT EXAMINATION

24 BY MS. VANGERPEN:

25 Q. Ms. Mantle, you mentioned both in your

1 response to Staff and in response to bench questions
2 about a return of a portion. Could you explain what
3 you mean by that, how a portion of the benefits get
4 returned to the customers through the FAC?

5 A. That portion would be based on, let's say
6 it's the small general service class, just -- that
7 pays for then a hundred dollars for a program, but
8 actually they only use 80 per -- or let's say 10
9 percent the total kilowatt hours in that -- over that
10 time period. That means only 10 percent of the
11 benefits will go to the SGS class even though they
12 paid for a hundred percent of the cost. Ninety
13 percent of the benefits go to the other classes. All
14 the customers benefit whether they're the class that
15 is paying for the program or not.

16 Q. And just so I understand, you also
17 mentioned a 5 percent of savings in your response to
18 the bench questions. Could you explain how that
19 plays into this?

20 A. That 5 percent of the savings is part of
21 the FAC. The Commission has sta -- given the
22 utilities an incentive that they can keep 5 percent
23 of the difference between actual energy cost and the
24 costs that are billed into rates if there's a
25 savings. So if there's a savings of a hundred

1 dollars, so because of the implementation of a
2 program, they save a hundred dollars, then the
3 utility gets to keep five -- five of those dollars
4 and then the other 95 goes back to all the customers,
5 not just the one that -- not just the class that paid
6 for it.

7 MS. VANGERPEN: Thank you, Ms. Mantle.
8 That's very helpful. Nothing further, your Honor.

9 JUDGE PRIDGIN: All right. Thank you.
10 All right. Ms. Mantle, thank you very much. You may
11 step down. I believe Mr. Seaver is the next witness.
12 If you'll come forward to be sworn, please, sir.

13 (Witness sworn.)

14 JORDAN SEAVER

15 the witness, having been first duly sworn,
16 testified as follows:

17 JUDGE PRIDGIN: Thank you very much.
18 Please have a seat. And, Ms. VanGerpen, when you're
19 ready, please.

20 MS. VANGERPEN: Thank you, your Honor.

21 DIRECT EXAMINATION

22 BY MS. VANGERPEN:

23 Q. Good afternoon, Mr. Seaver.

24 A. **Good afternoon.**

25 Q. Please state your name and spell it for

1 the record.

2 **A. Jordan, J-o-r-d-a-n, Seaver, S-e-a-v-e-r.**

3 Q. By whom are you employed and in what
4 capacity?

5 **A. Office of the Public Counsel as a policy
6 analyst.**

7 Q. Are you the same Jordan Seaver who caused
8 to be prepared surrebuttal testimony in this matter?

9 **A. Yes.**

10 Q. Do you have any additions or corrections
11 to your written testimony that has been premarked as
12 Exhibit 302?

13 **A. Yeah, just one minor one. On page 5,
14 line 16 in that second sentence, the second word is
15 "we" and it's italicized; it shouldn't be italicized,
16 just normal font. And that's all.**

17 Q. Thank you. If I asked you those same
18 questions today, would your answers be the same?

19 **A. Yes.**

20 MS. VANGERPEN: Your Honor, this is also
21 Mr. Seavers only time up with us for this hearing, so
22 I offer Exhibit 302 for admittance and tender him for
23 cross.

24 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
25 Exhibit 302 has been offered. Any objections?

1 Exhibit 302 is admitted.

2 (OPC Exhibit 302 was admitted and made a
3 part of this record.)

4 JUDGE PRIDGIN: Cross-examination from
5 Staff?

6 MR. PRINGLE: No questions, Judge. Thank
7 you.

8 JUDGE PRIDGIN: Any questions from
9 Consumers Council?

10 MR. COFFMAN: No, thank you, your Honor.

11 JUDGE PRIDGIN: Renew Missouri?

12 MR. LINHARES: No, thank you, your Honor.

13 JUDGE PRIDGIN: NRDC?

14 MS. RUBENSTEIN: No, thank you.

15 JUDGE PRIDGIN: Ameren Missouri?

16 MS. MOORE: No questions. Thank you,
17 Judge.

18 JUDGE PRIDGIN: All right. I don't think
19 I have any questions. Any bench questions? No bench
20 questions? Commissioner Mitchell, any questions?
21 Hearing none --

22 COMMISSIONER MITCHELL: No, Judge.

23 JUDGE PRIDGIN: All right. Thank you.

24 Mr. Seaver, thank you very much. You may step down.

25 I believe that'll bring us to Dr. Marke. I believe

1 he's the last witness scheduled for today.

2 (Witness sworn.)

3 DR. GEOFF MARKE

4 the witness, having been first duly sworn,
5 testified as follows:

6 JUDGE PRIDGIN: Thank you very much, sir.
7 Please have a seat. Ms. VanGerpen, when you're
8 ready.

9 DIRECT EXAMINATION

10 BY MS. VANGERPEN:

11 Q. Good afternoon, Dr. Marke.

12 A. **Good afternoon.**

13 Q. Please state your name and spell it for
14 the record.

15 A. **My name is Geoff, G-e-o-f-f, Marke, that's**
16 **M-a-r-k-e.**

17 Q. By whom are you employed and in what
18 capacity?

19 A. **The Missouri Office of Public Counsel, I'm**
20 **the chief economist.**

21 Q. Are you the same Dr. Geoff Marke that
22 caused to be prepared direct, rebuttal, surrebuttal
23 testimony in this matter?

24 A. **Yes, I am.**

25 Q. Do you have any corrections or additions

1 to your written testimony?

2 **A. I do not.**

3 Q. If I asked you those same questions today,
4 would your answers be the same?

5 **A. Yes.**

6 MS. VANGERPEN: And, Judge Pridgin, as
7 I've mentioned, Dr. Marke will be up a lot this week,
8 so we are not moving to enter his testimony at this
9 time, but I do tender him for cross.

10 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
11 Cross-examination from Staff?

12 MR. PRINGLE: Yes. Thank you, Judge.

13 CROSS-EXAMINATION

14 BY MR. PRINGLE:

15 Q. Good afternoon, Dr. Marke.

16 **A. Good afternoon.**

17 Q. Now, what are the -- what are the
18 challenges of valuing demand-side investments on an
19 equivalent basis as supply-side investments?

20 **A. Well, that's a good question. So we talk**
21 **about, a lot about how do we value both demand side**
22 **and supply side, and I think for the Commission's**
23 **understanding you need to recognize that there's just**
24 **some fundamental differences between the two that --**
25 **that make this a challenge.**

1 So the first, right off the bat, would be
2 that Missouri's not an energy efficiency resource
3 standard state. So when Renew Missouri got up and
4 started talking about Maine and started talking about
5 Massachusetts and other places, these are states that
6 their legislative body said, You're going to do
7 energy efficiency no matter what. These are your
8 targets and you're going to hit them each and every
9 year.

10 In Missouri it's a voluntary program. In
11 Missouri the munis and co-ops don't do energy
12 efficiency. Those -- that little thing matters. And
13 that's why you hear from Staff and OPC that that
14 second clause of the MEEIA statute that says it needs
15 to show benefits to all participants matters so much.

16 The second thing is gas plants -- it's
17 naturally-occurring energy efficiency. So if there
18 was no MEEIA, people are still going to put in
19 efficient HVACs. People are still going to go ahead
20 and do energy audits and the other things that the
21 program supports. Nobody's going -- there are no
22 naturally-occurring gas plants, okay. Big
23 difference, right. So you -- but that's -- but
24 that's -- that's a second thing.

25 The third issue here is that risk-reward.

1 And Ms. VanGerpen kind of touched on this a little
2 bit here in her opening. You know, we typically talk
3 about, you know, return on equity for an investment.
4 So if you're Ameren, you want to go ahead and build
5 something, you've got to attract capital. So you --
6 the ROE element of that, that equity element is
7 attracting shareholders to go ahead and sell that
8 stock. Now, they expect to get a return. And
9 typically utility investments for the last couple
10 decades, anywhere between 8 and 10 percent, somewhere
11 around those ranges, depending on the risk model
12 that's embedded within that, and interest rates and
13 everything else.

14 In this case shareholders aren't putting
15 up any capital. There -- there is no capital being
16 put up. It's being put up entirely by ratepayers.
17 So this is singularly unique in the sense that
18 ratepayers are effectively the investors on this.

19 So from an investment standpoint, the next
20 question is is well, what's the risk. Well, the risk
21 is -- is pretty considerable because Ameren's got two
22 parts to this case. And it's easy to get the two
23 confused. There's the demand side; there's the
24 energy side. So when Ameren came up and said, Hey,
25 we're going to be short 200 megawatts if you don't

1 approve this, like, we're -- we're in trouble, that's
2 a very short term look. And as Mr. Luebbert talked
3 about, there's seasonal issues, you know, involved
4 with that and some certain assumptions. But that's
5 all demand response. That's just telling large,
6 industrial customers, Hey, we're going to cut your
7 power for a couple hours during peak hours and then
8 you can turn it back on. It's a very reliable
9 source. We did that before MEEIA. It's just a
10 curtailable rate. There's tariff in place for that.
11 It's nothing special. If you look at the germination
12 of how demand response became part of MEEIA, you
13 know, that's a separate and side story.

14 But, so the risk there is how important is
15 it for us to actually point to an actual deferral of
16 investment. Are we going to not be able to build
17 something steel in the ground, right. So that second
18 part, that's a big part of this. Because if you just
19 take demand response out of the MEEIA application,
20 that cost-benefit ratio goes out the window. It's
21 extremely cost effective just to tell people, those
22 industrial customers, Don't do this. It's all of the
23 other bids that become much, much more complicated.

24 And consider this. It's dependent on not
25 one, not two, not three, not four, put multiple

1 MEEIAs going forward. So it's a sunk-cost argument
2 that we're not going to be able to defer anything off
3 of this investment. We're going to have to do the
4 exact same thing again in another three years, in
5 another three years, in another three years. And if
6 you do that collectively, then we might be able to
7 postpone something for a little bit longer.

8 That -- the assumptions there come with a
9 lot of risk. And again, the ratepayers are putting
10 their skin in the game on this. Their -- their skin
11 is on the line here because if it doesn't come to
12 fruition, if things don't move forward, then that's
13 money we would otherwise have either gone in our
14 pockets or we could have put toward supply-side
15 investment where we have some certainty surrounding
16 that.

17 One element that bears just talking about
18 just very briefly on that is that the profit motive
19 on this. So it makes sense to go ahead and assign a
20 decent size ROE to investors, right. They want
21 something they could otherwise invest in something
22 else. The profit motive on this case if Ameren hits
23 all of their targets, and the extras that they have
24 put on there is close to 20 percent of an ROE. Now,
25 consider that for a second. A 20 percent ROE where

1 there's no skin in the game. So ratepayers have to
2 bear the risk and then have to pay a financial reward
3 to shareholders on top of it at roughly double what
4 they would on a supply-side investment. So this is
5 the sort of stuff that gives us heart palpitations
6 when we say we're valuing it on an equivalent basis.

7 There's one -- there's two other things
8 I'd like to focus on on that question, and that's --
9 so we talked about it's not being an energy
10 efficiency resource state. We talked about the
11 multiple applications. We talked about the
12 risk-reward. The fourth thing would be what -- you
13 gotta ask yourself this question, putting aside --
14 and I agree with everything Mr. Luebbert said. But
15 putting aside all of his stuff, if you just dismissed
16 it out of hand and said, you know, I agree with
17 Ameren more than I do with Mr. Luebbert on those
18 issues, ask yourself this. If there was no MEEIA,
19 would these programs -- would people adopt stuff in
20 the absence of this.

21 Now, consider for a moment the tax
22 incentives associated from the IRA are up to \$8,000.
23 At most, an Ameren rebate is \$900. We've gotta --
24 we'll talk more about this on EM&V, but that
25 attribution, how much do you give the \$8,000 credit

1 to and how much do you give the \$900 credit to in
2 Ameren? It's lopsided. And if you factor all of
3 that in, we have very little confidence with the TRC.
4 And I say this because there's a timing issue with
5 the TRC. We talk about the TRC in the present day,
6 and what we're talking about is a ratio that came
7 together from a market potential study. That market
8 potential study, huge volume, right here, all right.
9 All of that predates the IRA. All of that predates
10 the federal government going ahead and giving out
11 tons of incentives, tons of investments moving
12 forward. It predates a number of issues and
13 challenges.

14 And if you don't want to read the hundreds
15 of pages of testimony, I absolutely sympathize with
16 it, but those challenges are articulated in my
17 surrebuttal in just like the first five pages.
18 There's 13 of them.

19 That's why we look at that TRC, and we
20 can't -- we don't have a lot of confidence in it.
21 There's a TRC that happens again. It happens on the
22 back end. We don't talk about that, but that TRC is
23 more reflective of what actually happened. So think
24 about the TRC that we're talking about right now.
25 It's aspirational. We think that this is what will

1 happen moving forward. That back-end TRC has to take
2 into account all the free ridership and the
3 attribution that could fall through with this.

4 So I'll leave it at those in terms of
5 challenges of making demand side on an equivalent
6 basis of supply side. Now, there are ways moving
7 forward to value demand-side management that I
8 articulate in my testimony. It's just -- it's not
9 this.

10 Q. And thank you for that answer, Dr. Marke.
11 And you brought up the TRC. Were you present during
12 Ameren Missouri's opening statement?

13 A. I was.

14 Q. Do you recall discussion about the TRC
15 score being at one?

16 A. Yes.

17 Q. I guess -- I guess my question to you is
18 how can a TRC score hit one, but still not show
19 benefits to all?

20 A. Right. I mean, the simple answer is that
21 we don't actually agree with -- with the TRC, and
22 that's total resource cost analysis. When you're
23 making sense of these programs, how collectively
24 we've made sense of these programs in the United
25 States, I want to make -- just provide an

1 illustrative example for you to work from. It's
2 perspective. So the California cost effective test
3 is -- it's about five different tests. And the best
4 way of looking at it is imagine you've got five
5 lenses of sunglasses in front of you. One's blue
6 tinted, one's red tinted, and so forth. You put it
7 on and it distorts what you see and how you look at
8 things. Each of these tests focus on a different
9 element. So which test is best, which is
10 appropriate. I mean, the answer to that is all the
11 above. We need to look at all the tests to get a
12 holistic perspective of this.

13 We say the TRC is the preferred test, and
14 that's what our statute says. So when you look at
15 the TRC, and I mentioned this before, we don't agree
16 with those numbers because we challenge the
17 assumptions behind the savings actually materializing
18 at the level that they're talking about.

19 But another way of looking at this, and
20 this goes back to Mr. Mitchell -- or Commissioner
21 Mitchell's question about the RIM test, which is one
22 of the five. So it's called the ratepayer impact
23 measure test. The ratepayer impact measurement test
24 is what I believe most people would say is the
25 knee-jerk reaction when you think about cost and

1 benefits.

2 So when we think about cost and benefits,
3 the benefits are the exact same in the RIM test that
4 they are in the TRC. That's -- that's consistent.
5 It's the costs that are different. So what are costs
6 being born by ratepayers. You know the three-legged
7 stool analogy. Those are the costs. It's program
8 costs, it's lost revenues, it's the earnings
9 opportunity. Those are costs that are flown through
10 the actual surcharge and that come on customers'
11 bills. The TRC does not look at the throughput
12 disincentive. It does not look at the earnings
13 opportunity. It looks at one element, program
14 overhead cost and the incremental cost associated
15 with bringing that measure on. So you're missing a
16 huge chunk of that cost at the end of the day.

17 Now, what's a challenge there is if --
18 when we have customers call up to our office and ask
19 about the MEEIA surcharge, you know, one of the
20 things that you have to wrestle with is does MEEIA
21 result in rate increases or decreases. Well, it's an
22 increase. I mean, it's -- no matter how you slice
23 it, it's an increase. We justified it collectively
24 and the General Assembly moved forward with proposing
25 this statute under the premise that the bills will

1 decrease overall for customers if we do this. Even
2 though rates increase, your energy use goes down.
3 That works if you're a participant. That works if
4 you take advantage of it. It doesn't work if you
5 don't have the money or you're not taking advantage
6 of these programs. And that effectively just means
7 their rates increase.

8 And that's the struggle with it. That's
9 the struggle that I hear from the Commission with
10 some of these programs that are not being done well
11 or at the full capacity level. That's the challenge.
12 Again, I think there are ways forward, of moving it,
13 but that's the struggle.

14 And the last point I'll say to
15 Mr. Pringle's, you know, question here, it's that
16 deferral investment. Again, we've got to go 20 years
17 out to the future. I can't even tell you what things
18 are going to look like in November, but we're sitting
19 here saying, Yeah, 20 years, this is good to go with
20 what it is based off of a manual that was done that
21 predates all the IRA, all this other stuff. That's
22 what we're going to hang our hat on. I get it. It's
23 a lot of -- it's a labor intensive and time-consuming
24 activity, but it doesn't give us confidence in the
25 inputs.

1 Q. And, Dr. Marke, just some clarification
2 when you were talking about back-end TRC. Even
3 assuming an application is approved and TRC is
4 handled on the back end, wouldn't that TRC still be
5 subject to any flaws or mistakes that were within the
6 application prior to approval?

7 A. Yes. We talk about -- we've -- we've
8 given a lot of lip service to the different cycles.
9 So Cycle 1 was completely different. We had a lost
10 revenue sharing mechanism that had no cap. I mean,
11 really the Commission hit the reset button on MEEIA
12 entirely after Cycle 1; there were so many problems
13 with it.

14 Then we hit Cycle 2. Unfortunately -- it
15 made sense when we -- when we moved forward with
16 Cycle 2. Unfortunately two days after Cycle 2 was
17 approved, Noranda went down. So we needed the -- we
18 needed to avoid the cost. And then all of a sudden
19 we were really long on generation, so we weren't
20 avoiding anything.

21 We did Cycle 3, and that again was an
22 agreement that came up between the parties moving
23 forward. And then we had three additional years that
24 were just one-year extension. And those one-year
25 extensions are so completely different than what

1 Cycle 3 was. Now, the one common thread you've got
2 through each one of those is an evolution. We've
3 adapted just like you should in a market to changing
4 circumstances.

5 What's being proposed in Cycle 4 here is
6 to go back three additional years to how things were
7 in that application. From our perspective that's
8 moving backwards. That's not accurately taking in
9 consideration what has occurred and what's really
10 facing us moving forward.

11 Q. And I guess, Dr. Marke, when it comes to
12 trying to capture savings as accurately as possible,
13 what options exist in your expert opinion to
14 demonstrate progress toward the goal of achieving all
15 cost-effective demand-side savings?

16 A. I mean, I'm concerned. Like, let me just
17 be flat out, like, I'm concerned about the generation
18 shortfall. I think the Commission is too. I think
19 you're seeing, you know, proactive effort on the
20 Commission's part on that issue. And I can hear
21 in -- if I was going into this blindly and hearing
22 everything, I would have trepidation about moving off
23 of something like the demand-side management. Again,
24 the devil's in the details in what problems you're
25 trying to actually solve for.

1 So we spent a considerable amount of time
2 looking at what takes other place in other states and
3 how other utilities deal with this issue. I can
4 confidently say in Missouri we -- we do a lot of
5 labor and time-intensive work. I can -- for all of
6 the cases and the issues that I work on in front of
7 the Commission, this takes up most of my time, you
8 know. I think it takes up a huge amount of time for
9 Staff. Think about the volume of testimony. And
10 it's all done on an expedited schedule. A rate case,
11 I get almost year to go ahead and prepare and do the
12 discovery. A MEEIA case, boom. Roll out, you know,
13 let's go ahead and weigh in on this.

14 So looking at other states, how do other
15 states do this, what's a best practice effectively.
16 You look at the states that we could emulate,
17 assuming you don't have an energy efficiency resource
18 standard. The best states in my opinion are ones
19 that are done across the state.

20 So again, think of the TRC. There's
21 avoided energy and capacity costs are the benefits,
22 and the costs are the incremental costs associated
23 with the measure and the administrative overhead. So
24 how do we minimize those two elements, the
25 incremental measure cost. One way of doing that is

1 by economies of scale. So again, just lean on what a
2 natural monopoly is. Instead of having an Ameren
3 program, an Evergy program, a Liberty program, a
4 Spire program, what if we just had a Missouri
5 program. All of a sudden we are slashing that
6 administrative overhead. All of a sudden instead of
7 marketing it, instead of trying to do five different
8 programs with duplicative services, we have a
9 statewide program. Massachusetts, Maine, Wisconsin,
10 these are all states that have achieved good
11 demand-side management and have brought those costs,
12 those overall costs, down as a result of that.

13 The second element of that is how can we
14 lower the costs of these measures themselves. And I
15 struggle with this. Like PAYS has had -- has had
16 problems with this. I'll be, you know, more than
17 happy to talk about that when we get to the programs
18 section. But the short answer is that after COVID
19 hit, there were supply chain constrains, and the
20 price of everything went up. Interest rates went up.
21 Inflation went up. It's expensive. And if you look
22 at -- we have, we've looked at the market saturation
23 of what an HVAC costs in Kansas City versus in
24 St. Louis versus in Joplin versus just rural
25 Missouri. And it varies considerably.

1 One way of bringing that down is just
2 through using economies of scale and bulk buying.
3 Again, a statewide program could go ahead and do
4 that. You get that purchasing power where you -- all
5 of a sudden we're bringing 30, 40 percent of those
6 costs down through bulk buying. You might want to
7 ask yourself, like -- and I've been asked this by the
8 utilities -- well, what happens if we buy a bunch of
9 Energy Star HVACs and they don't sell, right. Are we
10 just stuck with that equipment. It's a fair
11 question.

12 And my answer to that is we have another
13 entity in this state who's tasked with actually
14 implementing energy efficient HVACs in
15 weatherization. We have about close to 30 community
16 action agencies across the state that right now buy
17 those HVACs at retail costs from Lowe's where they
18 could buy it at wholesale costs if we had leftover
19 HVACs. Those are all cost savings that could take
20 place. And I'm not saying like you could just wave a
21 wand and do it because quite frankly the -- what's
22 been agreed to in the past is much richer than what
23 would otherwise be here. But if the Commission is at
24 all interested in that, I mean, just give the
25 direction to the stakeholders. We have a history of

1 **working together after these facts, and getting that**
2 **direction can go a long way.**

3 MR. PRINGLE: Thank you for that,
4 Dr. Marke. No further questions from Staff.

5 JUDGE PRIDGIN: All right. Mr. Pringle,
6 thank you. Any cross from Consumers Council?

7 MR. COFFMAN: No questions, your Honor.

8 JUDGE PRIDGIN: Renew Missouri?

9 MR. LINHARES: Perhaps just a few, Judge.

10 CROSS-EXAMINATION

11 BY MR. LINHARES:

12 Q. So, Dr. Marke, at the end of your response
13 there to Mr. Pringle you were mentioning what a
14 statewide energy efficiency program or regime might
15 look like. And I want to ask you about that concept.
16 I want to stay away from asking you to speculate, but
17 ask your opinion of what you would prefer to see as
18 an alternative here. So you mentioned a statewide
19 energy efficiency program. Can you explain further
20 what that would look like?

21 A. So if I had a magic wand and was doing
22 this with also let's say being pragmatic about it
23 too, like realistic, you know, and my testimony goes
24 into this in surrebuttal to some extent, but it would
25 be -- you would have a bridge program. We would have

1 a bridge program here for a couple years for the
2 utility to effectively transfer that program into a
3 third-party operator. I believe it was former
4 chairman Robert Kenney during Cycle 1 who said, you
5 know, I still struggle with the idea of the utilities
6 conducting these programs when it should be held by
7 somebody else. There just seems to be a conflict of
8 interest.

9 And this is coming from, you know, the
10 president of Xcel Colorado at this point, right. The
11 man, you know, is well-versed on the utility side. I
12 agree with that. Most states actually agree with
13 that. You have some other entity do this, and you
14 make the investment. In that sense, Mr. Linhares, it
15 would be, you know, Evergy, Ameren, Liberty who quite
16 frankly really need something like this. They would
17 all be investing into this. We'd all have a
18 position. We'd all -- let me rephrase this. We
19 would copy best practices. Mass Saves, Focus Energy
20 in Wisconsin all have a blueprint for how to move
21 forward with this.

22 Q. Well, that -- this is where I want to stop
23 you.

24 A. Okay.

25 Q. So I'm -- I, you know, in an ideal world a

1 huge fan of this concept, but those states that you
2 mentioned have statutes on the books requiring some
3 of this stuff. I'm not sure about Wisconsin, but I
4 think so. I think they have an all cost-effective
5 energy efficiency requirement. Regardless, they
6 have -- they have a statewide program in place with a
7 third-party implementer. We do not have such statute
8 on the books. So are you contemplating a legislative
9 change with this --

10 A. I believe --

11 Q. -- proposal?

12 A. -- it would -- it would ultimately have to
13 be a legislative change, and that's why I would
14 recommend like a two-year bridge program to move
15 forward with that.

16 You know, and I realize that comes with a
17 degree of risk. I would counter that by saying the
18 risk borne by ratepayers in approving the application
19 that's in front of the Commission is infinitely
20 greater. There's -- there is no downside to the
21 utility in not pursuing energy efficiency or a MEEIA
22 program. It's only upside. It's just like leaving
23 that \$20 on the street sort of concept. Anything
24 they get is more than nothing. And I think that the
25 financial incentive is there for the utilities to

1 move forward with a program like that. And then
2 ultimately that's at the will of the General
3 Assembly, but I think it does help to have the
4 consumer advocate office come out and publicly say
5 that this is a path forward, for what that's worth.
6 And maybe that's nothing.

7 MR. LINHARES: Okay. Well, okay. Those
8 are -- those are all my questions for now. Thank
9 you.

10 JUDGE PRIDGIN: All right. Thank you.
11 Any cross from NRDC?

12 MS. RUBENSTEIN: No, thank you.

13 JUDGE PRIDGIN: Hearing none, any cross
14 from Ameren Missouri?

15 MS. MOORE: Yes, I have a few follow-up
16 questions. Thank you, your Honor.

17 CROSS-EXAMINATION

18 BY MS. MOORE:

19 Q. Good afternoon, Dr. Marke. How are you.
20 Good.

21 A. Doing well, thanks.

22 Q. Previously you were talking about the TRM
23 manual. Is it your understanding that Ameren's
24 TRM manual that was filed in this case is based on
25 the 2017 statewide TRM?

1 **A. I don't -- I don't think I was talking**
2 **about the TRM. I can if you like. Yes.**

3 Q. And were you involved in that?

4 **A. I was.**

5 Q. And who was the third party who drafted
6 that TRM?

7 **A. Vermont something I believe. Yeah.**

8 Q. Yeah. So they would have been the ones
9 that developed all the deemed tables and the links?

10 **A. That's correct.**

11 Q. All right. Thank you. Now, you said you
12 have the market potential study up there?

13 **A. I do.**

14 Q. Could you please turn to page 20.

15 **A. I see it.**

16 Q. Yeah. So up there in measure costs, there
17 are some bullet points.

18 **A. Oh, I'm sorry. Hold on a second. My page**
19 **numbers are different than the ones over at -- hold**
20 **on. Sorry. My pagination is on here and it's**
21 **covering it. I believe I've got it. Page 20?**

22 Q. Correct.

23 **A. Okay.**

24 Q. All right. Do you see that paragraph
25 after the three bullets on the top of the page, the

1 Illinois TRM and secondary sources program
2 evaluation?

3 **A. Yes.**

4 Q. And then there's a discussion about the
5 cost and savings for measures.

6 **A. I do.**

7 Q. That discussion. Okay. On page -- or
8 there there's that footnote 30. Could you please
9 read that for me?

10 **A. EO-2023-009 expressed tax credits as part**
11 **of the Inflation Reduction Act were considered in the**
12 **energy efficiency measure characterization.**

13 Q. So the MPS did take some consideration of
14 the IRS? I -- IRA?

15 **A. I would say the operative word is some.**

16 Q. Yes. But I believe you -- didn't you just
17 say that the MPS did not consider any of the IRA
18 measured impacts? I'm not sure impacts was your
19 word, but.

20 **A. If I did, then -- then I misspoke.**

21 Q. All right. Thank you. I don't have an
22 extra copy. Did you review the Company's Appendix A,
23 the revised Appendix A?

24 **A. I am familiar with it. It was not the**
25 **central focus of my testimony.**

1 Q. All right. So for that TRC -- the TRC
2 test, did you -- did I hear you right that you said
3 the earnings opportunity wasn't included in that
4 calculation?

5 A. Yes.

6 Q. All right. So then it's safe to assume
7 you didn't read footnote one to that TRC?

8 A. So I am aware that Mr. Wills factored in a
9 T -- the earnings opportunity example with that as
10 well.

11 Q. Yes.

12 A. Right.

13 Q. Because footnote one indicates on page 12
14 I believe of the TRC that the earnings opportunity
15 was included. Would you agree that -- would you
16 agree to that subject to check?

17 A. I would need to check that. I would
18 need -- and not just that there's a footnotes that
19 exists in it, but whether or not that earnings
20 opportunity includes the full --

21 Q. It includes the targets.

22 A. Does it include the bonus? It does not
23 include the bonus. Okay. So it includes some of
24 the earnings opportunity potential.

25 Q. Correct.

1 Because I felt like Mr. Luebbert did a heck of a job,
2 and quite honestly my testimony doesn't address
3 anything that J or Sarah talk about in their
4 analysis.

5 So, you know, I raised my concerns
6 surrounding the principal-agent issue, my concerns
7 around operational efficiencies, the rebound effect,
8 naturally-occurring saturation. So let me just
9 briefly talk about those -- those assumptions and why
10 that -- that calls into question the actual deferral
11 on things. And again, think of it terms of in no
12 MEEIA's approved, will energy efficiency still occur.
13 Yes, it will. I mean, like again, the IRA, the tax
14 funds, tax rebates, the program itself, it's all
15 moving forward with options.

16 The principal-agent issue is a legit
17 challenge that we haven't raised historically. And
18 again, you know, as Mr. Luebbert talked about, we
19 reserve the right to get better at this. You know,
20 that's an issue of, you know, there's a perverse
21 incentive to -- to upcharge effectively customers on
22 what is going in. So oversizing your HVAC than what
23 you need for a home. All of that impacts ultimately
24 the savings that could actually be claimed here that
25 are taking place.

1 A rebound effect, just simply put, the
2 easiest analogy is to think of it as used to call --
3 used to be called colloquially as like the Prius
4 effect. Any sorts of savings that you got from
5 driving around in a Prius were offset by the fact
6 that you drove the Prius more, right. And there's
7 all sorts of, like, huge, rich, empirical literature
8 that dates back, you know, more than a hundred years
9 quite frankly that that exists with -- as you move
10 forward with more efficiencies, you're using more.

11 The operational efficiencies like right
12 now are deemed energy that's supporting the TRM
13 essentially assumes that these measures are going to
14 be operating at their useful life at the same level
15 that when they were installed. I can tell you right
16 now most people don't change their air filters at the
17 same level that they're supposed to. And that has an
18 impact on your efficiency. It's got to work harder
19 if it's filled with stuff. And that's also operating
20 under the assumption that your ductwork works, that
21 all of these things work.

22 Now, EM&V doesn't look at that stuff at
23 any length today. We could. We could do randomized
24 control tests. We could go down that path if we
25 want, but it's going to come at great cost, great

1 work, great energy, probably litigation on the EM&V
2 side. And these are the reasons collectively why --
3 and I don't want to speak for Staff, but they
4 supported it, why we got to where we got for those
5 one-year extensions. Our one-year extensions
6 basically were designed to have strong measures, cut
7 the fat out, and minimize all of the litigation
8 issues that could be associated with EM&V.

9 That's not on the table anymore. I mean,
10 what's on the table in front of you is a prospective
11 EM&V, right. They're saying that we want to do this
12 now. We want -- we want certainty on what the
13 savings are going to be moving forward and have that
14 agreement. That's -- I mean, that's -- I would say
15 that's fundamentally against regulation if you want
16 to get down to it in the concept of used and useful,
17 right. You know, we don't allow investment and
18 earnings off of stuff that isn't used and useful, but
19 we are doing it on the MEEIA side by going ahead and
20 providing that earnings opportunity on a year-to-year
21 basis moving forward.

22 We take -- I've got a lot of issues on the
23 assumptions baked into the measures themselves. So
24 operationally, principal-agent issues, rebound
25 effect, and then just saturation. Again, and I can't

1 stress this enough, a lot of the testimony was very
2 critical of Staff and OPC, that we were -- that the
3 DE-sponsored programs, that we were saying that the
4 DE-sponsored programs were enough to deal with energy
5 efficiency than the MEEIA programs. I think those
6 are illustrative, and that's important, in part
7 because DEs have that 20 percent cap on
8 administrative overhead where we're close to 50
9 percent on Ameren.

10 I mean, my gosh. Government gets accused
11 all the time of being inefficient and wasteful, okay.
12 I mean, that's why we have an investor-owned model,
13 right. And you're seeing more than twice the
14 administrative overhead on the investor-owned side.
15 That's problematic to me. And that -- those are
16 issues we have raised in the past. So I'm -- I'm
17 hoping I'm asked [sic] the question that was posed.
18 But those -- those are generally the issues.

19 CHAIR HAHN: That's helpful. Thank you.

20 JUDGE PRIDGIN: Chair Hahn, thank you.

21 Further bench questions? Commissioner Coleman?

22 Commissioner Kolkmeyer? Commissioner Mitchell?

23 COMMISSIONER MITCHELL: No, Judge.

24 JUDGE PRIDGIN: All right. Thank you. I
25 think I might have just a couple questions.

1 QUESTIONS

2 BY JUDGE PRIDGIN:

3 Q. Dr. Marke, could I direct you to page 44
4 of your surrebuttal please.5 **A. I'm there.**6 Q. And I do not have a line reference, I'm
7 sorry, but I'm referring to your testimony on that
8 page that talks about the impact of current market
9 saturation of energy efficiency appliances and unique
10 increases in demand such as data centers. Do you see
11 that?12 **A. Page 44 of my surrebuttal?**13 Q. I believe so. And if you cannot find
14 it --15 **A. I'm just looking for the data center. I**
16 **don't see that.**17 Q. And that might not be in the question.
18 That might be in the question --19 **A. Okay. All right. Sure. I'm sorry,**
20 **Judge, could you please just repeat the question.**21 Q. Sure. Well, I mean, without getting to
22 the question, I mean, on that page, I mean, you refer
23 to the impact of market saturation of energy
24 efficiency appliances and unique increases in demand.25 **A. Okay.**

1 Q. And I guess one question would be what do
2 you foresee could be the potential impact of data
3 centers in Ameren's service area to its load and
4 resource adequacy?

5 A. I mean, that's -- that's the billion
6 dollar-plus question. I mean, that was -- that was
7 the question in NARUC here this last week. It just
8 seems like we were all kind of caught off guard
9 with -- with the data center problem that's inundated
10 across the United States. I was listening to -- I
11 was watching the news the other day and Bill Gates
12 was talking about AI and moving forward and asked on
13 the question of energy. And he minimized it and
14 said, Well, you know, data centers are only going to
15 account for about 10 percent increase in energy use.
16 And I'm sitting there, like, 10 percent. Like,
17 that's -- that's an enormous amount of generation
18 that you just can't come online like that.

19 So the statute, you know, in policy level
20 we talk about, you know, moving towards all cost
21 effective demand-side management. And I want to use
22 that demand-side management as sort of a blanket
23 term. I think it can be applied to a lot of things.
24 We've -- we're looking at it pretty narrowly here
25 just in rebated measures. But, I mean, the easiest

1 way -- and I realize -- I'm going to couch this by
2 saying that there are operational challenges that'll
3 be associated with this that are worth discussing,
4 but it's pricing. I mean, you -- you know, you can
5 price electricity. You give that price signal to a
6 customer. That's going to change behavior. And
7 we've seen that through empirical studies. We've
8 seen that in other industries, that that can have an
9 impact on curbing usage.

10 We've -- I've talked -- particularly in my
11 Every case, I've talked to considerably -- I've
12 spent a lot of time working on something called the
13 Urban Heat Island, some mitigation efforts there. I
14 think all of that is potential ways of getting that
15 all cost effective application forward. And I think
16 we need to consider all of them moving forward to
17 meet the load, the expected load moving forward.
18 Even if AI -- and AI is going to materialize, you
19 know. We've got huge concerns about stranded assets
20 associated with that, but it is going to materialize.

21 I would say another way of dealing with
22 that is -- energy -- give me one second; I lost my
23 train of thought here. So pricing electricity, we
24 talked about thinking outside the box in terms of
25 stuff like the Urban Heat Island and like

1 holistically challenging ourselves to go ahead and
2 mitigate those efforts. Man, there's one more thing
3 that was on the tip of my tongue and I can't think of
4 it at the moment.

5 I think we need to be cognizant of, you
6 know, with all of this. I -- I -- the challenge that
7 we have in front of us is not just how you value this
8 demand-side management, but how you value it in the
9 context of everything that's taking place. A lot of
10 utility regulation or cases that come in front of the
11 Commission like to do this within a vacuum. So
12 within a vacuum, we might say, Oh, this makes sense.
13 You have to look at it in its totality.

14 I go back to the RIM test as a perfect
15 example of that. In this setting you'll hear the
16 utility say that the RIM test is absolutely awful and
17 you shouldn't look at it. This -- that same exact
18 test is what's utilized when you talk -- start
19 talking about EV charging stations. You should use
20 the RIM test. We used to always joke that you can't
21 have the same Company witness for the EV charging in
22 the same room as the Company witness for the MEEIA
23 programs because they contradict each other. Because
24 in a vacuum, it might make sense, but if you look at
25 it in its totality, you start to see the

1 contradictions and you start to see the policy issues
2 that undermine each other moving forward.

3 At the end of the day though from a
4 utility perspective, it's pretty straightforward.
5 Are we making money off of it. And in this case, oh,
6 my gosh, yes. Like, it is -- it is handsomely rich
7 that they're moving forward. I don't know how
8 ratepayers deal with that moving forward. I don't
9 know how ratepayers absorb all of the demand side,
10 you know, talk that we're talking about along with
11 FERC 1920 where it says we need to spend multi-
12 billions of dollars on transmission to go ahead and
13 move it. How do we support that with PISA that
14 enables all this distribution investment moving
15 forward. Something's gotta give. And when you look
16 at states where that something's gotta give, almost
17 entirely the first thing that gives is energy
18 efficiency.

19 It's -- look no further than Iowa. I
20 mean, Iowa passed a statute. They went ahead and
21 said, okay, you can still keep doing energy
22 efficiency programs, but it's got to pass the RIM
23 test. And if it doesn't pass the RIM test, then any
24 customer can opt out of it. Like, that's a bold
25 move, I mean, like at the end of the day. And

1 quite frankly, like, I understand it. Because again,
2 it's -- it's the challenge that you have in ensuring
3 the statutory requirement that this results in
4 benefits to all customer regardless of whether or not
5 they participate. Absent that, then we're just
6 needlessly increasing rates.

7 Q. Could the annual MEEIA load reduction
8 support the load for any of these data centers?

9 A. No. No. I mean, you've got one potential
10 study here, you know. There -- there are other
11 potential studies. There are other potential studies
12 in this state. And some of those studies are
13 completely different than what's articulated here.
14 Evergy, for example. When you look at their market
15 potential, you go out three years. If you're at this
16 level of what we've historically done, their market
17 potential comes down here for the next three years.
18 And you know what the next three years look after
19 that? Even smaller and even smaller.

20 And the reason is, like, and -- look -- go
21 to Lowe's this weekend. Try to find an incandescent
22 light bulb. They're not there, okay. I get it. It
23 is expensive out there. It is expensive for
24 everything. But the point of MEEIA is that
25 attribution. So regardless of the cost of these

1 measures, if my HVAC goes down, I am getting some
2 sort of efficient HVAC because that's what's on the
3 market. And if it's not on the market, that will be
4 that much more of a true statement a year from now
5 and another year from now and another year from now.

6 I've had people kind of push back on me
7 with that assertion by saying the whole recent
8 Chevron issue that you can walk back on it, the next
9 administration might roll this stuff back. That
10 could very well be. It's not going to change how GE
11 is already moving forward on things, okay. Like to
12 revert back to a more inefficient option is just no
13 longer on the plans for them. You're -- it's just
14 going to be more efficient moving forward. MEEIA
15 made sense in 2009. It is a challenge the mental
16 gymnastics we have to go through in 2024.

17 JUDGE PRIDGIN: All right. Dr. Marke,
18 thank you. I don't believe I have any further
19 questions. Let me see if we have any recross based
20 on bench questions. Anything from Staff?

21 RECROSS-EXAMINATION

22 BY MR. PRINGLE:

23 Q. Dr. Marke, is a utility better off
24 retaining future investment opportunity by
25 implementing programs that do not defer investments?

1 A. Yes. Yes. I mean, utilities, this is a
2 cost-plus regulation. That's what we talk that
3 about. This is cost-plus regulation of the United
4 States. Utilities are incentivized, I would argue
5 perversely, to build out. That's how they make
6 money. They get a return on those investments.

7 Q. And would you say that the ratepayers
8 would be harmed in that instance?

9 A. That is an ever present challenge. Which
10 look no further than really like the last -- you've
11 got -- the history of regulation in this state's
12 fascinating. You've got a hundred-plus years where
13 we've effectively done things a certain way. And the
14 last, like, 15 years, you've got all of this enabling
15 legislation to go ahead and make things quicker and
16 quicker and quicker. The problem with that is we
17 just don't have the time and resources to actually
18 verify and to make sure that things are what they say
19 they are.

20 When Mr. Luebbert talked about the
21 challenges with hard-coded numbers, understand, like,
22 that is how Staff works. You -- they get a proposal
23 from the utility and they're asked, Does this make
24 sense. Well, they reserve engineer it. They walk
25 back the calculations to see if it makes sense. If

1 they're not able to do it -- and, you know, Ameren
2 and rightfully so sits there and says, Well, did you
3 make that a cross issue. The reality of it is is if
4 we did, what time would we have had to make that a
5 germane issue in front of you. We were going to
6 hearing in the next couple weeks. Because there's
7 just no time. And then we were on top of Everygy
8 testimony and Liberty.

9 Like, I -- I -- I -- it concerns me in
10 how -- I think there's a path forward and it makes
11 sense, but it comes at a great cost and potential
12 risk to ratepayers who again are bearing the entire
13 risk of this endeavor. This is all upside for the
14 utility.

15 MR. PRINGLE: Thank you for that,
16 Dr. Marke. No further questions from Staff. Thank
17 you, Judge.

18 JUDGE PRIDGIN: Mr. Pringle, thank you.
19 Any cross from Consumers Council?

20 MR. COFFMAN: No questions.

21 JUDGE PRIDGIN: Renew Missouri?

22 MR. LINHARES: No, thank you.

23 JUDGE PRIDGIN: NRDC?

24 MS. RUBENSTEIN: No questions, thank you.

25 JUDGE PRIDGIN: Ameren Missouri?

1 MS. MOORE: Yes. I have a few follow-up
2 on your questions, your Honor.

3 RECROSS-EXAMINATION

4 BY MS. MOORE:

5 Q. I believe on page 42 of your surrebuttal
6 testimony too you mention the opt-out provision for
7 Iowa customers. Are you aware of any customers who
8 have opted out or the Iowa Utilities Board granting
9 that?

10 A. Am I aware of Iowa customers that -- I am
11 not aware of Iowa -- I haven't spoken to Iowa
12 customers that have opted out.

13 Q. Let me -- let me refine your
14 understanding. Is it your understanding that
15 customers have the choice today to opt out, or is
16 there a trigger?

17 A. It's the RIM test. That's what I said.
18 If it doesn't pass the RIM test, that option is then
19 opened up.

20 Q. All right. Has the Iowa Utility Board
21 opened up that option for any utility customers that
22 you're aware of?

23 A. Well, it didn't pass the RIM test, I'm
24 assuming that they didn't. I mean, if -- listen, if
25 the Ameren program didn't -- if Ameren's program

1 passed the RIM test, if it was above a 1.0, we would
2 not be sitting here today arguing about all the
3 intricacies. We -- what you would have is a healthy
4 program. What you would have is an ideal setting.
5 What you would have is us sitting there talking about
6 why are these targets so low. There's no testimony
7 about why the targets are so low outside of the NRDC
8 who's not really an active participant in these
9 settings.

10 Q. Does MEEIA require the Company to set new
11 targets?

12 A. Yes.

13 Q. So --

14 A. We don't -- I mean, you -- Ameren has
15 complete control over their application. We don't --
16 we don't have preset targets in this state.

17 Q. All right. Thank you. So, but moving
18 back to your testimony, is it your testimony that the
19 IUB, when considering an energy efficiency plan, uses
20 only the RIM test, or they use the RIM test to allow
21 customers to opt out?

22 A. I would suspect Iowa looks at all of the
23 tests.

24 Q. When they're determining it. So they
25 don't use any one test in approving a plan?

1 **A.** Iowa can approve a plan with -- however
2 Iowa sees fit. What I know is statutorily if that
3 plan does not pass the RIM test, then that triggers
4 this clause that says customers can now opt out,
5 because you can't guarantee that, you know, the
6 benefits are going to materialize for you if you're a
7 nonparticipant.

8 **Q.** Right. But is that same provision here in
9 Missouri?

10 **A.** **No. I mean --**

11 **Q.** And what is the preferred cost test under
12 the Commission rules?

13 **A.** **The TRC.**

14 MS. MOORE: Thank you. I have no further
15 questions.

16 JUDGE PRIDGIN: Ms. Moore, thank you.
17 Any redirect, Ms. VanGerpen?

18 MS. VANGERPEN: Yes, just briefly.

19 REDIRECT EXAMINATION

20 BY MS. VANGERPEN:

21 **Q.** So first, Dr. Marke, I want to go back to
22 your suggestions about the statewide program. I know
23 you had mentioned in response to some questions from
24 Mr. Linhares that you thought that statewide program
25 would likely require a legislative change and you

1 suggested that there might be a path forward in doing
2 a bridge program until we could work on that
3 legislative change. Would your proposal for a bridge
4 program include any customer protections if that
5 legislation didn't pass?

6 A. And those are -- those protections are
7 largely articulated in my surrebuttal testimony. I
8 mean, what I would say is that this -- the suggestion
9 for -- for a -- for a statewide program did not
10 materialize out of thin air. Ameren Missouri,
11 Evergy, Renew Missouri, PSC Staff, OPC, NAACP, NRDC,
12 Sierra Club, all of these participants were involved
13 in -- in a competitive grant that was won by the
14 Rocky Mountain Institute, that was rewarded by the
15 Rocky Mountain Institute called the e-Accelerator
16 program, where we specifically looked at converting
17 into a statewide program. We spent a good six, seven
18 months. That was an application that was put
19 forward by myself and Renew Missouri's director James
20 Owen. We got -- we were one of three that were
21 adopted in 2022. We did the work on it. We looked
22 at other states and how they -- how they governed the
23 systems. We mapped out a path forward.

24 But the reality is this. There is no
25 incentive for the utility to move to that until

1 they're told to. It's so rich right now that you --
2 we effectively need guidance from the Commission to
3 go ahead and say no more, to see if there's an
4 appetite for something like that. And that there's
5 where we stalled out and that's why -- where we are
6 today.

7 Q. Great. Thank you. So my last questions
8 are just going to be kind of clarifying questions.
9 So in your responses to Staff's initial cross
10 questions, you were talking about the profit margin
11 and you mentioned a 20 percent profit margin. Is
12 that 20 percent the percentage of EO and program
13 costs that Commissioner Mitchell was discussing with
14 myself during openings this morning?

15 A. Page 50 of my surrebuttal testimony breaks
16 down, you know, the cost assumptions there. But I've
17 got 70; I actually think it's a little bit larger
18 than 70 based off of comments by Mr. Wills made
19 earlier today and my own recollection of, I think
20 it's Appendix G, you know, that includes that.
21 It's -- but, yeah, but that's -- it's
22 approximately 20 percent.

23 Q. Okay. Great. Thank you. And next are
24 just to define some things to make sure they're clear
25 in the record. You mentioned NARUC. Could you

1 define what that -- what you mean by that?

2 **A. The National Association of Regulatory**
3 **Utility Commissioners.**

4 Q. And you mentioned a NARUC meeting for the
5 last week. Could you --

6 **A. This was the mid-year NARUC conference**
7 **that was held in West Palm Beach in Florida.**

8 Q. Thank you.

9 **A. Yeah.**

10 Q. Thank you. You also mentioned PISA.
11 Could you explain what you mean by PISA?

12 **A. It is an acronym short for Plant**
13 **In-service Accounting. It is largely a product of**
14 **legislative -- legislation that was passed several**
15 **years ago that has since been modified and will**
16 **probably be modified in the future again, that**
17 **incentivizes investment on the distribution,**
18 **transmission, and certain supply-side investments on**
19 **an expedited level.**

20 Q. Thank you. And you also mentioned FERC.
21 Could you explain what you mean by FERC?

22 **A. Federal Energy Regulatory Commission.**
23 **FERC largely regulates transmission and the RTO**
24 **interplay.**

25 Q. Thank you. And then lastly when you were

1 discussing the Evergy market potential study with I
2 believe Judge Pridgin, you were kind of showing
3 various levels of potential. Could you explain in
4 words what levels you were showing with your hands?

5 A. I think the Commission acutely got the
6 concept that these targets are getting lower, you
7 know, moving forward. You're right. And they're
8 going to be lower moving forward, you know. All
9 things being equal if you're -- if you're an investor
10 of a utility with this, I want the highest possible
11 reward and the lowest possible target. That's --
12 that's a challenge.

13 And again, if we were in a healthy
14 environment, that's where the vast majority of this
15 testimony would focus on. We'd be talking about,
16 well, can't your targets be bigger, can't we go ahead
17 and defer more. I -- I mean, try to find that in my
18 testimony. I've thrown that out the window
19 effectively just trying to focus on the challenges
20 inherent with all of the naturally occurring, all of
21 the different attribution issues moving forward that
22 just put more and more risk onto ratepayers.

23 So I -- yeah. Ameren's going to have to
24 build. They're going to have to build a lot more.
25 And ratepayers, if this is approved, I mean,

1 they're -- they're in -- in line for a huge rate
2 increase. I believe we did some internal
3 calculations I think in -- this is public knowledge.
4 I mean, Ameren's in for a rate case right now. The
5 request that Ameren's putting forward is largely
6 equivalent to what they're asking for here, about 15
7 percent. That sounds a lot better than saying 30
8 percent rate increase, right. But that's really in
9 front of the Commission here in a pretty short amount
10 of time. It's not 15 percent; it's 30 percent if we
11 look at both of these.

12 Now, in the rate case we can sit there and
13 I can point to tangible investments. I can sit there
14 and say, Yep, put wires in, right. We put, you know,
15 solar plant over there.

16 With this stuff, it becomes -- it's a
17 counterfactual. And that's so difficult to go ahead
18 and -- and prove and will require, I mean, quite
19 honestly just an enormous amount of time and energy.
20 You can -- you know, to me this explains why Staff
21 and OPC put so much testimony and so many witnesses
22 on this issue. Because if approved, it will be -- it
23 will be tough on customers.

24 Q. So just to follow up on that with one last
25 question, so if you have concerns with reliability

1 going forward which is more likely to increase
2 reliability for customers, that money spent on a
3 generation plant or the demand-side programs?

4 A. Good question. Both. Okay. And I'm
5 going to couch that. Approve that to MEEIA inside
6 management. That 200 megawatt shortfall, get the
7 demand. I'm not arguing against it. Like, go ahead
8 and approve the demand response. There's an
9 immediate need. It meets the MISO capacity. You're
10 able to go ahead and do that. Now, we've taken issue
11 with that long term because long term we see a market
12 alternative in ARCs. But that ship has sailed here
13 for a window, a period of time anyway. So take care
14 of that issue.

15 It's the other part of this, which is the
16 huge part effectively that we're talking about. And
17 again, you take that demand response out of these
18 programs and all of a sudden this is not a very
19 attractive portfolio. In that sense, build. I
20 can -- I'll put it this way. I wouldn't want to be a
21 commissioner when we have rolling blackouts. And if
22 I can point to supply-side investment and, you know,
23 Chairman Hahn was a hundred percent right two week --
24 or was it Chairman Hahn -- Chairwoman Hahn or
25 Commissioner Holsman. Several weeks ago we were in

1 here talking about Evergy and their need to build.

2 You know, to me the sanity check is
3 whether or not you actually have an application in
4 front of SBP or MISO. It's gotta be both. And
5 that's -- and that I guess would be consistent with
6 the statute of valuing demand side on an equivalent
7 basis of supply side. I think you just need to
8 evolve the demand-side management programs, and
9 that's going to take some time.

10 MS. VANGERPEN: Thank you, Dr. Marke. No
11 further questions, your Honor.

12 JUDGE PRIDGIN: Ms. VanGerpen, thank you.
13 Dr. Marke, thank you very much. You may step down.

14 And that is the end of today's scheduled
15 witnesses. As a reminder because of the rulemaking
16 hearing, we will not begin tomorrow until 1:00 p.m.
17 Also Wednesday the Commission has agenda, I believe
18 at 9:00, so I would look for a start time closer
19 to 10:00 a.m. on Wednesday. We are -- we are
20 currently on schedule. If we fall behind, we may
21 need to work late some evenings, but so far, so good.

22 Is there anything further from counsel or
23 the bench before we go off the record? All right.
24 Hearing nothing, that concludes today's hearing. We
25 will resume tomorrow at 1:00 p.m. Thank you. We're

1 off the record.

2 (Off the record at 4:36 p.m.)

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