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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)

TUESDAY, JULY 23, 2024

1:00 P.M.

Governor Office Building
200 Madison Street
Jefferson City, Missouri 65101

VOLUME 4

NANCY DIPPELL, 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.: 169919

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APPEARANCES

MR. TRAVIS J. PRINGLE
travis.pringle@psc.mo.gov
MS. TRACY D. JOHNSON
tracy.johnson@psc.mo.gov
Public Service Commission
200 Madison Street
P.O. Box 360
573.751.4140
Jefferson City, Missouri 65102-0360
For: Staff of the Missouri Public Service
Commission

MS. LINDSAY VANGERPEN
lindsay.vangerpen@opc.mo.gov
Office of the Public Counsel
200 Madison Street
P.O. Box 2230
Jefferson City, Missouri 65102
573.751.5324
For: Office of the Public Counsel

MR. WILLIAM HOLTHAUS
MS. JENNIFER HERNANDEZ
MS. JENNIFER MOORE
jmoore499a@ameren.com
Ameren Missouri
1901 Chouteau Avenue
St. Louis, Missouri 63103-3003
314.621.3222
For: Ameren Missouri

MR. ANDREW J. LINHARES
andrew@renewmo.org
Renew Missouri
3115 S. Grand Avenue, Suite 600
St. Louis, Missouri 63118
314.471.9973
For: Renew Missouri

MR. JOHN B. COFFMAN
john@johncoffman.net
Consumers Council of Missouri
871 Tuxedo Boulevard
St. Louis, Missouri 63119
573.424.6779
For: Consumers Council of Missouri

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APPEARANCES CONTINUED

MS. SARAH RUBENSTEIN
MR. BRUCE MORRISON
srubenstein@greatriverslaw.org
Great Rivers Environmental Law Center
319 N. Fourth Street, Suite 800
St. Louis, Missouri 63102
314.231.4181
For: Natural Resources Defense Council

1 Proceedings began at 1:00 p.m.:

2 JUDGE DIPPELL: Let's go ahead then and
3 go on the record. Okay. Good afternoon. This is
4 the continuation of Case EO-2023-0136. I am Nancy
5 Dippell, and I am the regulatory law judge who's
6 going to be presiding this afternoon. Judge Pridgin
7 will be back tomorrow.

8 And it's my understanding that you got
9 through the issues yesterday that you had intended
10 and today, even though we're getting kind of a late
11 start because of other conflicts, we're going to
12 begin with issues -- the IRA and market dynamics. If
13 at any point I get things mixed up or incorrect, feel
14 free to correct me. Otherwise, I would ask anyone
15 online to be sure that you're muted unless you need
16 to talk. And I would ask anybody in the room to be
17 sure and mute your mobile devices and computers and
18 so forth and so on. And last reminder, if you need
19 to speak, be sure that you are speaking into a
20 microphone and have identified yourself for the court
21 reporter or are known to the court reporter. And
22 that will make the transcript go a lot smoother.

23 I am joined currently by Commissioner
24 Mitchell and Commissioner Holsman is online, and I'm
25 expecting the other commissioners to join us as the

1 day progresses.

2 So you all are doing mini opening
3 statements as I'm informed, so we can -- unless
4 there's any preliminaries, we can begin with that.

5 MS. HERNANDEZ: Yes, Judge Dippell. This
6 is Jennifer Hernandez for Ameren Missouri. We do
7 have a couple of preliminary matters we'd like to
8 bring up with the Commission. Well, and I'll bring
9 up this. It somewhat feels preemptive, but because
10 of the way that we're going through and doing witness
11 questions before we admit the testimony, it seems
12 like I need to bring up things related to the
13 testimony before we get to the witness testifying
14 today.

15 JUDGE DIPPELL: Okay.

16 MS. HERNANDEZ: So just prefacing what
17 I'm going to say based on that. We'd like to renew
18 our motion to strike that we filed May 16th just in
19 regards to the portions of the rebuttal testimony of
20 Mark Kiesling. And that is based on the fact that
21 portions of his testimony are based on hearsay. Now,
22 we do realize that the Commission issued an order
23 regarding the motion to strike, but we would just
24 like to bring to the Commission's attention on page 2
25 of its order it states, In addition, the technical

1 rules of evidence such as excluding hearsay do not
2 apply at the Commission.

3 And Ameren Missouri believes that's not
4 true. There are several Missouri statutes that
5 provide, like Section 386.410 does, that the
6 technical rules of evidence do not apply before an
7 administrative body covered by the statute. But the
8 question is what is a technical rule of evidence.
9 And the prohibition against the admission of hearsay
10 is clearly not a technical rule of evidence, but a
11 fundamental one.

12 And if I can provide some case law, in
13 State, ex rel. Simmons, the Missouri Court of Appeals
14 in addressing the Relator's contention that the
15 tribunal's adverse decision below -- or discussed was
16 based upon hearsay evidence, they stated, Interwoven
17 with the basic point raised is the contention that
18 the Commission's decision was based upon hearsay
19 evidence, conclusions of witnesses, and inflammatory
20 matter. We recognize that in dealing with hearings
21 before an administrative official or tribunal, our
22 courts have declared and ruled that technical rules
23 of evidence do not control. While leading questions
24 and other informalities may be permitted, it does not
25 follow that the fundamental rules of evidence can be

1 abrogated or nullified. Thus, hearsay evidence and
2 conclusions based upon hearsay do not satisfy the
3 competent and substantial evidence upon the whole
4 record requirement essential to the validity of a
5 final decision.

6 And there's other cases such as Speer
7 versus City of Joplin that also discuss these
8 principles. Although technical rules of evidence are
9 not controlling in administrative hearings,
10 fundamental rules of evidence apply.

11 And the Commission has relied upon
12 Simmons and Speer in the past. I'll just cite
13 some of the cases. Application of Russell, that was
14 a 1981 case; Shepherd versus KCPL -- KCPL -- and L,
15 sorry, GMO, and that was a 2011 case. McFarland
16 versus KCP&L GMO, that was a 2013 case. Lee versus
17 Missouri American Water, that was 2009 case. And
18 Staff versus Heartland Health Systems Inc., that
19 was -- appears to be a 2004 case.

20 So again, we do believe that hearsay
21 should be stricken and not relied on by the
22 Commission in that it is not a technical rule of
23 evidence, but a fundamental rule of evidence.

24 JUDGE DIPPELL: Are there any responses?
25 Staff?

1 MR. PRINGLE: Yes, Judge, briefly from
2 Staff. Looking at the Commission's order regarding
3 that May 16th motion to strike based on hearsay, the
4 quote from the judge about the tenet rule of evidence
5 applying, that is just a portion. A -- probably a
6 very relevant portion of the order states, quote,
7 Further, the Commission agreed with Staff that
8 getting information from the utility customers is an
9 important part of its regulatory functions. Ameren
10 Missouri has information about the customer
11 Mr. Kiesling refers to in his rebuttal, and Ameren
12 Missouri may respond in surrebuttal if it wishes, end
13 quote.

14 This hearsay is again, this has to do
15 with a customer of Ameren Missouri who came to Staff.
16 And the Commission has already ruled that that
17 information is a key part of the regulatory function.

18 JUDGE DIPPELL: Are there any other
19 responses?

20 MS. HERNANDEZ: I would think, your
21 Honor, that there are ways to get customer
22 information into the record other than just including
23 it in a testimony, not allowing the other parties an
24 opportunity to cross-examine that witness. There's
25 the subpoena power. If there is something relevant

1 that the Staff would like to put on, they can always
2 subpoena a witness that's not included in the list of
3 witnesses to testify at the hearing. And I still
4 think it goes back to what are the fundamental rules
5 of evidence.

6 JUDGE DIPPELL: Okay. Your motion is
7 renewed and overruled. And the -- we'll go forward
8 with the testimony.

9 MS. HERNANDEZ: Sorry. Your Honor, I do
10 have one other motion to put before the Commission
11 and that is a motion to strike the corrected
12 testimony of Mark Kiesling. And that was filed
13 Friday, this past Friday at 5:34 p.m., the last
14 business day before this hearing was to begin. And
15 it purports to be corrected testimony of Mark
16 Kiesling, but if you look at what they're trying to
17 allegedly correct, it's not a year correction or, you
18 know, a change of date or, I said calculated and it
19 should be calculates. It's doing a 180 change in
20 position in what they had filed in testimony.

21 And that puts Ameren Missouri at a
22 disadvantage because we have not been allowed to
23 respond to that change of position in our own
24 testimony. And so we would ask the Commission to
25 strike that -- I don't like to say the word

1 "corrected testimony" because I think it's not
2 corrected testimony; I think it's a change in
3 testimony. But the document itself is called notice
4 of corrected testimony. So I'd ask the Commission to
5 strike what's in that notice of corrected testimony.

6 And if the Commission declines that, we
7 would ask that Ameren Missouri be allowed the
8 opportunity to provide live evidence at the hearing
9 based on what this corrected testimony is about. I
10 think our witness would be -- would testify with the
11 issues that are to come on Friday.

12 JUDGE DIPPELL: And that was going to be
13 my question. Is this in regards to testimony today,
14 or is this for a later issue?

15 MS. HERNANDEZ: Well, it is in regard to
16 a witness that is appearing today; that's why I
17 thought it was appropriate to bring it up before the
18 witness took the stand for the first time. But I
19 think if the Commission were to allow us to provide
20 live testimony in response to again what, quotations,
21 corrected testimony, I think it would come -- our
22 witness would testify on Friday in the Programs
23 portion.

24 JUDGE DIPPELL: But I guess that I'm
25 still a little confused about the particular portions

1 of the testimony that were corrected or changed. Is
2 that dealing with today's issues?

3 MR. PRINGLE: If I may, Judge. I can --

4 JUDGE DIPPELL: Go ahead.

5 MR. PRINGLE: -- provide some guidance on
6 that.

7 Yeah. The 11-step process at the center
8 of the corrections, that would not be part of the
9 issues for today with -- for the Inflation Reduction
10 Act. I do agree with Ameren's counsel that it would
11 be better addressed during the Programs section.
12 The 11-step process is a process to change incentives
13 from measures outside of a MEEIA application, so
14 really it's a process that would be put into place if
15 this application is approved.

16 JUDGE DIPPELL: All right. And does
17 Staff have a response at this time to the objection?

18 MR. PRINGLE: Yes, Judge, yeah. This was
19 a correction that was discovered prior to the
20 deposition of Mark Kiesling. Staff did make the
21 Company aware of the correction back sometime right
22 before the deposition of Mr. Kiesling. If the
23 Ameren -- Ameren's witness who responded to
24 Mr. Kiesling in surrebuttal, Mr. Graser, if he would
25 like to do live surrebuttal to correct his

1 surrebuttal in response to these corrections, Staff
2 would have no objection to that.

3 JUDGE DIPPELL: And, Ms. Hernandez, was
4 the witness, the live testimony witness, was that --

5 MS. HERNANDEZ: I think it would be
6 Timothy Via. Or Via. I'm sorry.

7 JUDGE DIPPELL: And Staff would object to
8 Mr. Via?

9 MR. PRINGLE: If it's Mr. Via -- I was
10 under the assumption it was Mr. Graser. But if it's
11 Mr. Via, whichever Ameren witness needs to correct
12 their surrebuttal to -- to respond to these
13 corrections, Staff has no objection to that.

14 MS. HERNANDEZ: And it -- it wouldn't be
15 correcting anything in our testimony. It would just
16 be allowed to respond to Staff's new testimony.

17 JUDGE DIPPELL: I understand. I -- I
18 hate to keep you hanging, but I'm reluctant to make a
19 ruling on that objection at this time. So I'm going
20 to hold -- hold ruling on that for now and either get
21 you a ruling later today or Judge Pridgin will rule
22 first thing in the morning.

23 MS. HERNANDEZ: Thank you, Judge.

24 MR. PRINGLE: And, Judge, also again
25 Mr. Kiesling, he will be taking the stand for the

1 last issue which is Programs on, scheduled currently
2 for Friday, so yes, his -- his testimony, we won't be
3 moving to enter any of it until Friday at the
4 earliest.

5 JUDGE DIPPELL: Thank you. Are there any
6 other preliminary matters? I appreciate you bringing
7 those up, Ms. Hernandez. All right. Then I think we
8 are ready to begin with opening statements for this
9 issue. And I think we start with the Company.

10 MS. HERNANDEZ: Good afternoon. May it
11 please the commission. Again, this is Jennifer
12 Hernandez with Ameren Missouri. And we're starting
13 off this afternoon with the issue does Ameren
14 Missouri's MEEIA Cycle 4 amended application
15 sufficiently address the interaction of the Inflation
16 Reduction Act, IRA, as it's shortened and other
17 market dynamics within -- with MEEIA.

18 Ameren Missouri completed a comprehensive
19 demand-side management market -- market potential
20 study in April of 2023. The study identified and
21 developed two portfolios for inclusion and further
22 analysis in the IRP. Those two portfolios, being the
23 realistic achievable potential, RAP, and maximum
24 achievable potential, MAP, portfolios. Total
25 potential in each sector was developed after a

1 careful assessment of baseline market conditions for
2 residential and business customers across relevant
3 dimensions of housing type and income level. This
4 included an assessment of the penetration and
5 saturation of the type and efficiency level of
6 various end-use technologies already in use with an
7 Ameren Missouri service testimony -- service
8 territory, excuse me.

9 As a final check, the MAP and RAP results
10 from the 2023 market potential study were benchmarked
11 against a national U.S. Department of Energy database
12 of 20-year potential studies and a peer benchmark
13 against 10 comparable utility program -- programs.
14 That analysis confirmed that the values in the
15 portfolios are in line with industry expectations.

16 Ameren Missouri does not have its head in
17 the sand. As the DSM landscape for utilities
18 steadily evolves, there continue to be outside
19 variables that impact the ability of energy
20 efficiency opportunities for Ameren Missouri to
21 pursue going forward. Ameren Missouri continues to
22 stay abreast of local and national changes in
23 building codes and appliance efficiency standards and
24 designs its programs accordingly.

25 The DSM potential developed as part of

1 this analysis explicitly accounts for known changes
2 to federal standards. Staff has repeatedly asked the
3 Commission to look at the details in this case. And
4 we agree, the Commission should look at the details.
5 But we would say you need to look at the relevant
6 details.

7 While this is an issue in the issue list,
8 Ameren Missouri disagrees that this is an issue for
9 resolution in this case. The MEEIA statute does not
10 prevent a utility from providing MEEIA energy
11 efficiency programs if and when -- and I think I need
12 to emphasize that -- if and when other types of
13 nonutility energy efficiency rebates, credits, or
14 programs are being offered.

15 As Renew Missouri pointed out, the impact
16 is a solvable issue to resolve when the IRA details
17 are available and how the IRA might complement the
18 plan can be determined. Ameren Missouri witness
19 Timothy Via testimony, his testimony addresses how
20 these programs can be successfully implemented and
21 coexist, and I encourage you to ask him any questions
22 you have today.

23 Additionally, there is uncertainty as to
24 when the IRA dollars will be distributed to Missouri,
25 how much will be available to Ameren Missouri

1 customers, and when the IRA credits or rebates will
2 be available from the Missouri Department of Energy
3 during the MEEIA 4 Cycle, whether it starts early in
4 the MEEIA 4 Cycle or will those dollars, if they are
5 available, come towards the end of the cycle. I
6 encourage you to ask Ameren witness Antonio Lozano
7 questions on these issues.

8 And to the extent that there are any EM&V
9 questions regarding attributes, please ask Neil
10 Graser whether the EM -- EM&V process is flexible
11 enough to address how the plan will be evaluated if
12 funds are stacked and braided. Thank you.

13 JUDGE DIPPELL: Thank you. Are there any
14 commissioner questions for Ms. Hernandez at this
15 point? Don't see any. Thank you.

16 MS. HERNANDEZ: Thank you.

17 JUDGE DIPPELL: Staff, do you have an
18 opening?

19 MR. PRINGLE: Yes, Judge, thank you. May
20 it please the Commission. Good afternoon, Judge
21 Dippell. Good afternoon, Commissioners. My name is
22 Travis Pringle, and I represent the Staff of the
23 Commission in these proceeding. The Inflation
24 Reduction Act passed into law in 2022 offers numerous
25 energy efficiency upgrades, including upgrades for

1 HVAC units, weatherization materials, and a number of
2 other prescriptive energy efficiency measures. The
3 similarity between programs offered through MEEIA and
4 the IRA increases the potential for what is called
5 free ridership.

6 The Missouri Division of Energy will
7 handle the distribution of IRA funds and anticipates
8 these funds will become available in 2025 to
9 implement and launch programs. Without a detailed
10 plan from Ameren Missouri to account for the IRA,
11 problems will arise.

12 In terms of the IRA, Staff witness Mark
13 Kiesling has put forward testimony outlining the free
14 ridership problems that will arise if the IRA is not
15 properly accounted for within Ameren's MEEIA
16 portfolio. Free ridership is a problem when program
17 participants that would have completed energy
18 efficiency upgrade regardless of available incentives
19 still get credit for those incentives. Mr. Kiesling
20 provides an example of free ridership from an Ameren
21 customer. The customer became aware of the \$2,000
22 tax credit offered through the IRA to replace his
23 heat pump. Ameren Missouri, through its MEEIA
24 program, also offered a \$500 rebate if this customer
25 were to replace their existing heat pump. Though

1 the \$2,000 tax credit through the IRA was the
2 motivating factor for this customer to upgrade their
3 heat pump --

4 MS. HERNANDEZ: Your Honor, I hate to
5 interrupt, but just for the record, he's going to
6 include his hearsay that we're arguing, or
7 information that we say is hearsay in his opening
8 statement. Again, I apologize; I just think I need
9 to, again, bring up that objection just to preserve
10 the record.

11 JUDGE DIPPELL: And your objection --

12 MS. HERNANDEZ: And I apologize.

13 JUDGE DIPPELL: -- is noted and overruled.
14 Go ahead, Mr. Pringle.

15 MR. PRINGLE: Thank you, Judge. Though
16 the \$2,000 tax credit from the IRA was the
17 motivate -- motivating factor for this customer to
18 replace their heat unit, taking that \$500 rebate
19 through Ameren will allow Ameren to attribute all the
20 savings from the replacement of this heat pump
21 towards its MEEIA program, even though the IRA was
22 the primary driver and the rebate from Ameren was
23 just the cherry on top for this customer.

24 Now, to account for this interaction for
25 this free ridership problem, Ameren Missouri witness

1 Neil Graser put forward that Ameren will account for
2 it through the independent third-party evaluators
3 they employ through the EM&V. Staff is not convinced
4 this will be the accurate way to account for free
5 ridership. In the past, evaluators typically follow
6 up with surveys months after the incentives have been
7 received.

8 Staff's own independent evaluator,
9 Evergreen Economics, stated that this typical
10 self-report approach through surveys should not be
11 attempted for a net attribution analysis in this
12 situation, agreeing with Staff that this method would
13 not be effective given the likelihood that
14 participants will be unable to determine the relative
15 influence of each incentive months after the
16 incentives have been received. Evergreen goes on to
17 suggest that IRA projects be excluded entirely from
18 Ameren Missouri's savings claims. However, if
19 participants in both IRA and MEEIA programs are going
20 to be included, Evergreen recommends a negotiated
21 net-to-gross ratio that is very low, roughly 10
22 percent, to reflect the dominant influence provided
23 by the superior IRA incentives.

24 Without a detailed plan to account for
25 the accuracy of free ridership, including detailed

1 calculations including the net-to-gross ratio
2 calculations, ratepayers will take on evermore risk
3 through an inflated net throughput disincentive and
4 earnings opportunity that credits Ameren Missouri
5 with all these savings, regardless of Ameren's actual
6 role.

7 Now, Staff witness Sarah Lange and
8 Dr. Hari Poudel can provide more information about
9 the calculations of the net throughput disincentive
10 and the earnings opportunity when those issues arise
11 later in these proceedings, and I encourage you to
12 ask them.

13 Now, you've also heard talk about
14 blending. Renew Missouri included that in their
15 opening statement yesterday. Blending would pretty
16 much mix the IRA and the MEEIA incentives together.
17 If the Commission were to approve such a request,
18 there would be no way to account -- to account for
19 the free ridership pro -- problem. Staff strongly
20 disagrees with such an approach.

21 Now, today you'll have Staff witness Mark
22 Kiesling taking the stand to answer any questions you
23 have may have about Staff's concerns with the IRA. I
24 implore you to ask him questions, take advantage of
25 his expertise on this subject. And at this time I

1 can take any questions you may have.

2 JUDGE DIPPELL: Are there any
3 commissioner questions for Mr. Pringle? All right.

4 Thank you --

5 MR. PRINGLE: Thank you, Judge.

6 JUDGE DIPPELL: -- Mr. Pringle.

7 MR. PRINGLE: Thank you, Commissioners.

8 JUDGE DIPPELL: Is there an opening from
9 Renew?

10 MR. LINHARES: Yes, very briefly, Judge.
11 So, may it please the Commission. My name is Andrew
12 Linhares. I spoke about this issue briefly
13 yesterday, and again I want to express our support
14 for Ameren -- Ameren Missouri's application here and
15 their position on this issue.

16 As I stated yesterday, Renew Missouri
17 encourages the stacking or braiding of utility and
18 federal resources, particularly in the case of
19 income-eligible programs as I believe that represents
20 the first opportunity to meaningfully eliminate the
21 upfront cost barrier for some customers who as of yet
22 have not enjoyed participation in MEEIA. And as well
23 I want to advocate for a flexible approach to the
24 attribution issue in the case of dual incentives of
25 this kind. This is clearly something contemplated by

1 the Department of Energy and by the other states who
2 are a bit of ahead of Missouri in this process as the
3 exhibits that I entered into the case yesterday I
4 think will -- will show.

5 Now, we've heard from Staff witness Mark
6 Kiesling and we've been discussing that here in the
7 opening. And Mr. Kiesling's testimony includes an
8 anecdote that represents kind of the prototypical
9 case for free ridership, which is the subject of the
10 hearsay objection here. But nevertheless, I want to
11 take his anecdote seriously and admit that yes, that
12 is the textbook case of free ridership.

13 And I want to challenge that there's
14 another case here where the utility, through its
15 contractors, through its -- sometimes it has a free
16 home evaluation like in the case of the Pay as You
17 Save program, the utility often connects customers to
18 additional resources that are out there just by
19 virtue of being the monopoly utility over the -- over
20 the territory and customers who get connected to a
21 utility program, they then learn of all these other
22 resources that are out there. I believe there is a
23 strong argument to be made that a lot of the
24 resources from the federal government will not be
25 getting to customers without the involvement of the

1 utility just by their position in the market and
2 their energy efficiency infrastructure.

3 So I -- I don't want to exhaustively go
4 into that point, but I just encourage openness to
5 that concept that they -- the prominence and the
6 function of the utility in the marketplace plays a
7 role such that you can argue that a measure would not
8 take place but for the involvement of the utility.
9 And that can even be true in the case where the
10 utility incentive is a much smaller slice of the pie
11 than say a federal incentive.

12 So with that, I'm happy to take
13 questions. I will refer you to the rebuttal and
14 surrebuttal testimony of Dave -- of Emily Piontek and
15 the rebuttal and surrebuttal testimony of Dana Gray
16 entered as exhibits in this case as well. And again,
17 happy to entertain any questions here.

18 JUDGE DIPPELL: Thank you. Are there any
19 commissioner questions? I don't see any. Thank you,
20 Mr. Linhares. All right. Is there anyone here for
21 NRDC?

22 MR. MORRISON: Judge, good afternoon.
23 It's Bruce Morrison for NRDC. NRDC does not have an
24 opening statement on this issue. And Sarah
25 Rubenstein will be coming on the call probably within

1 the next hour and I'll be dropping off, also for
2 NRDC. So I may disappear on you, but NRDC will
3 continue to be represented by Sarah Rubenstein.

4 JUDGE DIPPELL: All right. Thank you.
5 Is there anyone from MECG? Consumers Council?
6 Officer of the Public Counsel?

7 MS. VANGERPEN: Yes, Judge. Good
8 afternoon, Commissioners, Judge Dippell. My name is
9 Lindsay VanGerpen, and I'm here on behalf of the
10 Office of the Public Counsel. May it please the
11 Commission. The first issue that we are addressing
12 today is the Inflation Reduction Act or the IRA and
13 other market dynamics. This issue boils down to
14 really two things: Alternatives and a changed
15 market.

16 The IRA, as I am certain you are all
17 well-aware, is a piece of federal legislation that is
18 aimed at addressing several key issues including
19 climate and energy. It addresses these issues by, in
20 many instances, offering direct incentives and
21 generous tax breaks to individuals in hopes that they
22 will become more energy efficient. The IRA also
23 requires participants to limit their administrative
24 costs to 20 percent.

25 So what about other market dynamics.

1 These are things like codes and standards which force
2 the adoption of energy -- of efficient equipment by
3 eliminating the sale of inefficient equipment or
4 imposing a fine for failing to meet efficiency
5 standards. Market dynamics also encompass other
6 programs that seek to induce energy efficiency
7 changes. Those are programs like the low-income
8 weatherization assistance program, or LIWAP, or the
9 low interest loan program offered by the Missouri
10 Department of Natural Resources.

11 But market dynamics can also include
12 other things, changes to the market like this
13 Commission's decision to allow aggregators of retail
14 customers or ARCs to participate in Missouri. This
15 is all to say the world relating to energy efficiency
16 is changing rapidly. The diminishing supply of
17 inefficient equipment is only getting smaller, and
18 not only that, but the IRA attempts to hasten the
19 transition to efficient equipment by lowering,
20 significantly in many instances, the cost barrier to
21 replacing that inefficient equipment.

22 To justify the extremely large costs that
23 we're talking about here, which is over a bill --
24 half a billion dollars, Ameren's MEEIA programs
25 should attempt to make changes where they otherwise

1 may not occur. As Dr. Marke explains in his
2 surrebuttal testimony, energy efficiency changes will
3 continue to happen even without MEEIA. The market
4 has changed, and in many cases efficient is the only
5 option. We are reaching a point of diminishing
6 returns. We should allow the alternatives and the
7 changed markets to work. Ameren's ratepayers should
8 not be required to pay for programs for which a
9 market alternatives exist. They're facing enough
10 costs elsewhere.

11 The OPC's witness on this issue is
12 Dr. Geoff Marke. He's submitted extensive testimony
13 on this issue, and I encourage you to ask him any
14 questions that you may have. And I'm happy to take
15 any questions that you have as well.

16 JUDGE DIPPELL: Are there any
17 commissioner questions? All right. Thank you.

18 MS. VANGERPEN: Thank you.

19 JUDGE DIPPELL: Okay. I believe that
20 concludes the openings, and we can begin with
21 witnesses. Would the Company like to call its first
22 witness?

23 MS. MOORE: Yes, your Honor. We call an
24 Antonio Lozano. And Mr. Lozano was sworn in
25 yesterday.

1 JUDGE DIPPELL: Thank you for that
2 reminder.

3 (Witness previously sworn.)

4 ANTONIO LOZANO

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

7 MS. MOORE: And his testimony has been
8 introduced and I would still consider him tendered
9 for cross-examination.

10 JUDGE DIPPELL: All right. Thank you.
11 Mr. Lozano, you were previously sworn, so you remain
12 under oath for these proceedings.

13 Before we begin, I actually I -- it
14 dawned on me that I hadn't mentioned a couple of
15 housekeeping things with regard to stopping and
16 starting the hearing today. Because the Commission
17 has a local public hearing this evening, we will have
18 to stop the hearing today at 5:00, so that the
19 Commission can prepare for that. Also the Commission
20 has its agenda meeting scheduled for 9:00 a.m. in the
21 morning, so unfortunately you won't be able to be
22 get -- to get going again until 10:00 in the morning.
23 So that's going to squeeze you all for time, but I
24 wanted to bring that up just to keep that in mind as
25 cross-examination and so forth goes.

1 So with that, I'm sorry to interrupt, go
2 ahead. You -- you tendered this witness for cross?

3 MS. MOORE: Yes, your Honor.

4 JUDGE DIPPELL: All right then. Is there
5 cross-examination from Renew Missouri?

6 MR. LINHARES: None, thank you, judge.

7 JUDGE DIPPELL: And I will just call the
8 people that weren't present earlier. And if they're
9 present, speak up, and if not, I'll move on. So
10 NRDC? MECG?

11 MR. MORRISON: No -- no -- sorry, Judge,
12 I was a little late there.

13 JUDGE DIPPELL: I'm sorry.

14 MR. MORRISON: NRDC has no
15 cross-examination.

16 JUDGE DIPPELL: I'm sorry, Mr. Morrison.
17 And I knew you were there and I went on anyway.
18 MECG? Consumers Council? Does Staff have cross
19 examination?

20 MR. PRINGLE: Yes, Judge, thank you.

21 CROSS-EXAMINATION

22 BY MR. PRINGLE:

23 Q. Good afternoon, Mr. Lozano.

24 A. Good afternoon.

25 Q. Now, let me if know you're the best

1 witness to ask this question, but, so Ameren's
2 current MEEIA application contemplates a retro --
3 retrospective EM&V. Correct?

4 A. It does.

5 Q. Now, if the Commission were to reject a
6 retro -- a prospective EM&V, would that change the
7 Company's position on the IRA?

8 A. I'd have to think about that a little bit
9 more. Can you provide a little more context on the
10 question please?

11 Q. Let's say if, for example, a MEEIA
12 application is approved for Cycle 4 based on a
13 retrospective EM&V, would the Company's approach to
14 the IRA remain the same as within the current
15 application or would it adjust?

16 A. What part of the approach?

17 Q. Let's say when it comes to the idea of --
18 well, attributing incentives to prospective programs.

19 A. Attributing incentives -- are you
20 referencing Mr. Graser's discussion on -- on how it's
21 handled in the process?

22 Q. A little bit of that, yeah. Like, right
23 now Mr. Graser has the independent evaluator survey
24 approach. Correct?

25 A. I think that generally characterizes it,

1 yes.

2 Q. So I guess then would you be able to
3 answer right now if EM&V was retrospective instead of
4 prospective, would the Company still just go forward
5 with that approach?

6 A. I -- first of all, I don't think I would
7 be able to answer that for certain. Certainly we
8 would -- we would want to talk, as a company would
9 want to talk with our experts. I do think it's
10 important to understand that making sure, you know,
11 what actually happens through those surveys and other
12 parts of the process, that's the broader point that
13 we are trying to make there, which I believe is
14 appropriate, versus, you know, blanket attribution.
15 And I -- I believe that that is an important point
16 for -- for everybody to understand.

17 Q. Okay. So you are saying the Company does
18 believe that more precise -- I guess more precise
19 assumptions is better?

20 A. I believe understanding what happened and
21 applying what happened is better.

22 Q. And also can you testify as to how the IRA
23 would potentially impact the net-to-gross ratios?

24 A. I think that remains to be seen. The --
25 the majority of it, specifically on the rebate side,

1 is very unknown at this point.

2 I attended a meeting at Midwest Energy
3 Efficiency Alliance meeting on June 26th where both
4 the U.S. Department of Energy as well as Missouri
5 State Energy Office were represented. At that
6 meeting Nora Maxwell for Missouri State Energy Office
7 stated, and she had slides to back this up, that at
8 the earliest those rebates would be available is
9 April 2026. And that was only going to be the case
10 if they had early administration funding by the end
11 of that week. And she stated that was very unlikely.

12 Given all that, it was very clear that
13 when money would be available, how money would be
14 allocated, and for what time periods, that was all --
15 still remained -- well, that was all still up in the
16 air. Given the fact that that was up in the air,
17 what impacts it should have on attribution I think is
18 still up in the air as well.

19 Q. Well, based on what you know today, do you
20 believe it is more likely to increase or decrease
21 that ratio?

22 A. What ratio?

23 Q. The net to gross.

24 A. For what time period?

25 Q. I guess in general.

1 A. In general? So we -- we have an
2 agreed-upon net to gross for 2024. Are you
3 referencing compared to the agreed-upon net to gross
4 for 2024?

5 Q. Correct.

6 A. Again, I would -- it would be best talking
7 to our experts there since I'm not the day-to-day
8 details of that.

9 Q. And would that be --

10 A. But to be clear in going back to what I
11 referenced just a little bit ago, that is an agreed
12 upon that does not get refined after the fact,
13 refined based off of answers like those surveys. So
14 it is -- that's a hard question to answer without
15 going back and looking into those details.

16 Q. And were you saying the -- is Mr. Graser
17 the better witness to ask those questions of?

18 A. Yeah.

19 MR. PRINGLE: Thank you, Mr. Lozano. No
20 further questions, Judge.

21 JUDGE DIPPELL: All right. Are there any
22 cross-examination from OPC?

23 MS. VANGERPEN: Not at this time. Thank
24 you, Judge.

25 JUDGE DIPPELL: Is there -- are there any

1 commissioner questions for this witness?

2 Commissioner Coleman.

3 QUESTIONS

4 BY COMMISSIONER COLEMAN:

5 Q. Would you remind me what your position is?

6 A. Yes, ma'am. Director of energy efficiency
7 and demand response.

8 Q. Okay. I've got a question, just trying to
9 decide who to ask.

10 A. Okay.

11 COMMISSIONER COLEMAN: Thank you very
12 much.

13 THE WITNESS: You're welcome.

14 JUDGE DIPPELL: Are there any other
15 commissioner questions? All right. Are there -- is
16 there any further cross-examination based on
17 Commissioner Coleman's question? Don't see any. Is
18 there any redirect?

19 MS. MOORE: No, your Honor. Thank you.

20 JUDGE DIPPELL: All right. I believe
21 that concludes your testimony on this issue. Ameren
22 may call its next witness.

23 MS. HERNANDEZ: Ameren Missouri calls
24 Timothy Via. And he has not testified yet, Mr. Via
25 has not, so he will need to be sworn in.

1 JUDGE DIPPELL: Thank you.

2 (Witness sworn.)

3 TIMOTHY VIA

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

6 JUDGE DIPPELL: And if you could just
7 spell your name for the court reporter, that would be
8 helpful.

9 THE WITNESS: Timothy, T-i-m-o-t-h-y.
10 Last name is Via, V as in victor, i-a.

11 JUDGE DIPPELL: Thank you. You may go
12 ahead.

13 DIRECT EXAMINATION

14 BY MS. HERNANDEZ:

15 Q. Good afternoon. Can you identify yourself
16 for the court reporter please.

17 A. Yes. My name is Timothy Via, manager of
18 energy efficiency strategy for Ameren Missouri.

19 Q. And are you the same Timothy Via that
20 caused to be prepared testimony in this case, direct
21 testimony that's been marked Exhibit 1 -- 107,
22 rebuttal testimony marked as Exhibit 108, and
23 surrebuttal testimony marked Exhibit 109?

24 A. Yes.

25 Q. And do you have any corrections or changes

1 to make to that testimony?

2 A. No, I do not.

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

6 A. Yes.

7 Q. And are those responses in your testimony
8 true and accurate to the best of your knowledge,
9 information, and belief?

10 A. Yes, they are.

11 MS. HERNANDEZ: Okay. Just because of
12 procedure, I will not offer those documents at this
13 time. He's going to -- Mr. Via's going to testify on
14 other issues so I will reserve offering those
15 exhibits and I will tender him for cross at this
16 time.

17 JUDGE DIPPELL: And can you repeat those
18 exhibit numbers for me please?

19 MS. HERNANDEZ: Sure. Direct was 107,
20 rebuttal was 108, and surrebuttal was 109.

21 JUDGE DIPPELL: All right. Is there any
22 cross-examination from Renew Missouri? NRDC?

23 MS. RUBENSTEIN: No, thank you.

24 JUDGE DIPPELL: MECG? Consumer Council?

25 MR. COFFMAN: No questions, your Honor.

1 JUDGE DIPPELL: And let me just go back
2 to NRDC. Ms. Rubenstein, could you just identify
3 yourself for the court reporter.

4 MS. RUBENSTEIN: Certainly. Sarah
5 Rubenstein.

6 JUDGE DIPPELL: All right. And
7 Mr. Coffman, the same.

8 MR. COFFMAN: I'm sorry?

9 JUDGE DIPPELL: Oh, I'm sorry. I was --
10 I didn't see you sitting there. Can you -- I thought
11 you were online.

12 MR. COFFMAN: No, I'm hiding.

13 JUDGE DIPPELL: You snuck in. Okay. Is
14 there any cross-examination from Staff?

15 MR. PRINGLE: Yes, Judge.

16 CROSS-EXAMINATION

17 BY MR. PRINGLE:

18 Q. Good afternoon, Mr. Via.

19 A. Good afternoon.

20 Q. And I guess I'm going to ask you, like, a
21 question I also asked Mr. Lozano. Are -- do you have
22 a position on if the Commission were to approve a
23 MEEIA application with retrospective, not prospective
24 EM&V, would that change the Company's position on the
25 IRA?

1 A. I would say it depends on what position on
2 the IRA that you're looking at as there's multiple
3 positions on the IRA with the rebates as pertains to
4 income-eligible customers versus market-rate
5 customers.

6 Q. I guess for attribution purposes, would it
7 change for either one?

8 A. I think based on this filing, it would be
9 highly unlikely that that position would change based
10 on the uncertainty of the IRA rebates being
11 implemented and being available by the cycle that we
12 filed.

13 Q. And under the current application, the
14 cycle would run through, is it 2025 to 2028?

15 A. The current -- our current amended filing
16 is '25 through '27.

17 Q. And does Ameren believe that no IRA funds
18 would be available whatsoever during that period?

19 A. Well, based on as Mr. Lozano testified, at
20 a MEEIA conference when we talked to Nora Maxwell
21 with the State Energy Office, it is highly likely
22 that rebates will be available before '26. What
23 we've seen in other jurisdictions, there's only
24 one -- been one jurisdiction that has started
25 administering IRA rebates, that being NYSEDA in New

1 York. Within what they initiated and started is just
2 an income-eligible piece of their rebate and saying
3 that likely that the rebates to the market-rate
4 customers will come a year after.

5 So based on that we likely say, if they're
6 saying best case scenario is late '26 for Missouri
7 for market rate, it would likely be '27 or beyond,
8 so, therefore, outside the scope of our MEEIA
9 application.

10 Q. Well, I guess but from those conversations
11 you do believe that rebates will be available no
12 later than 2026?

13 A. I believe that rebates possibly, without a
14 lot of uncertainty, would be available at that time.

15 Q. And with MEEIA -- with Ameren's proposed
16 MEEIA running through 2027, those rebates would be
17 available with MEEIA rebates. Correct?

18 A. I mean, I think -- what we proposed, what
19 I proposed and what I proposed in my testimony is a
20 braiding of those programs within that, within
21 that cycle. I think that's the most effective
22 approach, specifically within the low income sector
23 as our market potential study shows that there's
24 over 400,000 of our customers that are in greater
25 need of that. So I think the best approach to serve

1 that -- that population is the braiding of funds of
2 both utility and federal funds.

3 Q. And setting aside the income-eligible
4 programs, if the Commission were to approve braiding,
5 does Ameren have a plan to account for free
6 ridership?

7 A. That would be addressed or -- or better
8 addressed by Mr. Graser.

9 MR. PRINGLE: Thank you, sir. One moment,
10 Judge. Thank you for your time. No further
11 questions.

12 JUDGE DIPPELL: Thank you. Is there any
13 cross-examination from Public Counsel?

14 MS. VANGERPEN: Not at this time. Thank
15 you, Judge.

16 JUDGE DIPPELL: Is there any -- are there
17 any questions from the commissioners? All right. I
18 have just a few questions.

19 QUESTIONS

20 BY JUDGE DIPPELL:

21 Q. Yesterday some questions were asked of
22 Mr. Lozano, and he could -- he could not answer them,
23 and so I'm going to go -- go down the line until I
24 find an Ameren witness that can. So just let me know
25 if this isn't your area of expertise. So the revised

1 MEEIA 2025-2027 plan included in Ameren's amended
2 application. Are you familiar with that?

3 A. Yes, ma'am, I am.

4 Q. On page 22 in describing the single-family
5 income-eligible program states, A community products
6 delivery channel will also be made available to an
7 income-eligible communities that will offer
8 discounted LEDs through retail establishments and
9 community-based organizations such as local food
10 banks.

11 How -- how would it work to specifically
12 target Ameren Missouri's single-family
13 income-eligible customers at retail establishments?

14 A. Well, this is -- and I can address
15 that, similar to our approach in -- earlier in the
16 MEEIA 2019-21 cycle, we had a community lighting
17 program. That lighting program looks at
18 income-eligible customers throughout our territory
19 and we look at retail establishments that, more
20 likely to target those customers. That would be your
21 Family Dollars, your Dollar Stores, your Goodwill
22 stores, Dollar Tree stores, and those types of
23 avenues. We're also looking at a certain percentage
24 of customers within zip codes that meet our
25 income-eligible standard. And that is where we're

1 looking at targeting that.

2 And one of the reasons that we're looking
3 to offer that up is based on our market potential
4 study, there still is a gap between customers -- or
5 low-income customers and what we consider market-rate
6 customers as far as getting LEDs into their homes,
7 into the sockets into their homes.

8 Q. And has the -- has the light bulb program
9 available to consumers in prior MEEIAs, has that kind
10 of exhausted the light bulb program?

11 A. We discontinued the market rate
12 residential lighting program in -- at the end of 2021
13 but we still see that there's still a gap. When I
14 say there's still a gap, part of our single-family
15 income-eligible and multi-family income-eligible
16 programs, we actually go into those properties and
17 replace inefficient lighting with LEDs. We're still
18 seeing a notable amount of LEDs that -- that can be
19 installed as we're replacing, still replacing
20 incandescent and halogen light bulbs within those
21 establishments.

22 Q. And can you explain in revised Appendix D
23 incentive ranges the difference between the low and
24 the high incentives and how the amounts were
25 determined?

1 A. Yes. The incentive ranges is based on
2 looking at incremental costs of those measures.
3 Incremental costs being from the base measure to the
4 cost of the most inefficient measure. We utilize
5 those incentive ranges to find out the -- to be
6 flexible in our approach as looking at the incentive
7 that'll drive participants to move towards installing
8 a more efficient piece of equipment.

9 Q. And last question, still referring to
10 revised Appendix D. How will it be determined if a
11 customer is eligible for the low or high incentive?
12 For example, on page 4, LED night light, 0 -- or .15
13 cents versus \$7 and a power strip, \$10 versus \$30.

14 A. Yeah. What we do is when we file, before
15 we launch the programs, we would actually file -- I
16 mean, not file. We'll actually have the actual
17 incentive that we would have, and we'll have it
18 posted on our website.

19 So for a power strip on our online store,
20 for instance, we may have an incentive of \$10. If
21 we're not driving that or the price goes up, like
22 what we're seeing on some equipment, we may look in
23 and based on our implementation on what's drivers or
24 looking at other utility programs throughout the
25 country and see that we have to move that incentive

1 to up to say \$12 to get that to move. So what we
2 would do -- what -- filing an incentive range gives
3 us that flexibility to change that. And we would
4 change that through our 11-step process working with
5 Staff and OPC and other stakeholders and implement
6 that stage. But we would not have to file that. We
7 would just have to update our website with the new
8 incentive as opposed to filing a whole new incentive
9 sheet.

10 JUDGE DIPPELL: Okay. Are there any
11 other commissioner questions? Okay. Are there any
12 further cross-examination questions based on
13 questions from the bench? Renew Missouri? NRDC?

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

15 JUDGE DIPPELL: I'm sorry.

16 MS. RUBENSTEIN: Thank you, Judge --

17 JUDGE DIPPELL: I'm sorry, Mr. Linhares.
18 Were you saying you had questions or you didn't have
19 questions?

20 MR. LINHARES: I have none. Sorry. I
21 was slow to the mute button there.

22 JUDGE DIPPELL: That's all right. And
23 Ms. Rubenstein?

24 MS. RUBENSTEIN: No questions. Thank
25 you, Judge.

1 JUDGE DIPPELL: MCEG? Consumers Council?

2 MR. COFFMAN: No questions, your Honor.

3 JUDGE DIPPELL: Staff?

4 MR. PRINGLE: Yes, Judge.

5 RE-CROSS-EXAMINATION

6 BY MR. PRINGLE:

7 Q. And just to be clear when you were saying
8 market rate in response to questions from the bench,
9 Mr. Via, did -- does that mean all
10 non-income-eligible customers when you refer to
11 market rate?

12 A. What I was referring to how we've
13 identified the income-eligible customers. So
14 basically when we was looking at zip codes, we were
15 looking at -- we were looking at zip codes with a
16 high percentage of or income-eligible customers, yes.
17 And those that are not classified or identified as
18 income eligible being considered as market rate.

19 Q. Okay. So, yeah. So the market rate was
20 used to determine who was income eligible?

21 A. Well, base -- what we do is determine what
22 income eligible based on zip code, not -- we don't
23 define what market rate is.

24 Q. And then also when it comes to the
25 incentive ranges, do you model for the low and high

1 incentives of those ranges?

2 A. We model based on best practices utilizing
3 information from our implementation contractor as
4 well as modeling, looking at programs throughout the
5 country.

6 Q. So do you know, does best practices, does
7 that include modeling for both the low and the high
8 end of the incentive range?

9 A. They pro -- within that, they provide an
10 incentive to drive the market.

11 I guess I can give you an example of that.
12 Our multi-family income-eligible program which we --
13 it's a comprehensive program that we just started a
14 few years ago, we used incentive to drive, to get
15 participation in that. We used like a dollar per
16 kilowatt hour say for the savings to drive, to equate
17 for the incentive. We saw that that was providing
18 more incentive for the program than is needed, so,
19 therefore, we went in and did an incentive change and
20 lowered that incentive to where now the incentive is
21 more applicable. We're still driving and we're still
22 achieving and overachieving, but we're not paying
23 overach -- overincentivizing those customers or those
24 property owners to move forward with those
25 incentives.

1 Q. And thank you for that, sir. And actually
2 when it comes to that analysis, did any of your
3 cost-benefit analyses utilize the high end of an
4 incentive range?

5 A. I'm not -- I'm not the expert on what --
6 what the incentives was that was used, but they are
7 in the documentation that was filed as part of this
8 plan.

9 Q. Do you know who would be the better
10 witness to ask that question of?

11 A. It would likely be either Neil Graser or
12 someone from his team.

13 MR. PRINGLE: Thank you, sir. No further
14 questions, Judge.

15 JUDGE DIPPELL: Is there any further
16 cross-examination from OPC?

17 MS. VANGERPEN: No, thank you, Judge.

18 JUDGE DIPPELL: Is there any redirect?

19 MS. HERNANDEZ: No, thank you.

20 JUDGE DIPPELL: All right. I believe
21 that concludes your testimony on this issue. And you
22 may step down.

23 THE WITNESS: Thank you.

24 JUDGE DIPPELL: Ameren want to call its
25 next witness?

1 MS. MOORE: Yes. The company calls Neil
2 Graser. Graser. We've been doing it to him all
3 afternoon. And this is his first time appearing as
4 well and he hasn't been sworn in.

5 JUDGE DIPPELL: Thank you.

6 (Witness sworn.)

7 NEIL GRASER

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

10 JUDGE DIPPELL: And could you just spell
11 name for the court reporter please.

12 THE WITNESS: Neil, N-e-i-l, Graser,
13 G-r-a-s-e-r.

14 JUDGE DIPPELL: Thank you. And you may
15 go ahead, Ameren.

16 DIRECT EXAMINATION

17 BY MS. MOORE:

18 Q. All right. Good afternoon, Mr. Graser.
19 Could you please state your name for the record.

20 A. Neil Graser.

21 Q. And by whom are you employed and in what
22 capacity?

23 A. Ameren Missouri as manager of energy
24 analytics.

25 Q. And in this proceeding did you prepare

1 rebuttal and surrebuttal testimony that has been
2 identified as Ameren Exhibit 110 for your rebuttal
3 testimony and Ameren Exhibit 111 for your surrebuttal
4 testimony?

5 A. I did.

6 Q. And if I were to ask you those -- I beg
7 your pardon. Do you have any changes to those
8 testimony?

9 A. I do not.

10 Q. And if I were to ask you the same
11 questions that are contained in those -- in that
12 testimony, would your answers be the same or
13 substantially the same?

14 A. Yes.

15 Q. And are those answers true to the best of
16 your knowledge?

17 A. Yes.

18 MS. MOORE: With that, I tender Mr. Graser
19 for cross-examination, your Honor.

20 JUDGE DIPPELL: All right. Is there any
21 cross-examination from Renew Missouri?

22 MR. LINHARES: No. Thank you very much.

23 JUDGE DIPPELL: NRDC?

24 MS. RUBENSTEIN: No, thank you, Judge.

25 JUDGE DIPPELL: MECG? Consumer Council?

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

2 JUDGE DIPPELL: Staff?

3 MR. PRINGLE: Yes, Judge, thank you.

4 CROSS-EXAMINATION

5 BY MR. PRINGLE:

6 Q. Good afternoon, Mr. Graser.

7 A. Good afternoon.

8 Q. And I'm probably going to sound like a
9 broken record here, but I got a few questions I've
10 been asking today. If the Commission were to approve
11 a MEEIA Cycle 4 for Ameren and base EM&V on
12 retrospective rather than a prospective basis, would
13 that change Ameren's approach to attribution in the
14 IRA?

15 A. I don't know that for sure. I think that
16 would be something we would have to discuss as a
17 company.

18 Q. And then also do you know what net to
19 gross was assumed for -- well, each measure in the
20 application's TRC?

21 A. I believe it was around a .79 to .80,
22 which is in line with what we have historically seen.

23 Q. What was that high range again, sorry? It
24 was .79 to?

25 A. .80. I think there was a couple decimals

1 in there I can't recall off the top of my head.

2 Q. And then are you aware of how the IRA
3 impacted -- impacts that net to gross?

4 A. Are you specifically referring to free
5 ridership?

6 Q. Free ridership is more a Staff-specific
7 concern, but just really any kind of accounting for
8 the IRA.

9 A. Well, just I guess as a general con --
10 education, so net to gross is essentially an
11 assessment of savings attribution, so it's typically
12 defined as a formula. It's one minus free ridership
13 and then plus any spillover. And so free ridership I
14 think has been brought up several times and so
15 that's, you know, customers that take advantage of
16 our incentives that otherwise would not -- or that
17 otherwise would have installed those same measures.
18 And spillover is a, where customers participate in
19 energy efficiency measures, whether they're in our
20 programs or not in our programs, there's different
21 types of spillover, without taking advantage of our
22 incentives.

23 Q. And so I guess from that answer, it's for
24 the most part Ameren's continuing on as it always has
25 when it comes to free ridership?

1 A. Well, the last couple years there have
2 been negotiated net-to-gross assumptions with no
3 true-ups. We proposed in this application that we
4 would move back to measuring the free ridership
5 spillover to calculate a net to gross to use instead
6 of a deemed net to gross.

7 Q. And it was in your rebuttal testimony that
8 you put forward the -- Ameren's plan to measure the
9 free ridership. Correct?

10 A. That is correct.

11 Q. And that's going to be done through
12 surveys through the independent evaluator?

13 A. That is -- yes.

14 Q. Is that how Ameren has handled the free
15 ridership problem in the past?

16 A. Primarily, yes.

17 Q. And then also when it comes to, back to
18 the incentive ranges, do you model for the low and
19 high incentives of those incentives ranges?

20 A. I do not know off the top of my head.

21 Q. And then also going back to those ranges,
22 did any -- or are you aware if any cost-benefit
23 analyses utilized the high end of an incentive range?

24 A. I am not aware, I'm sorry.

25 MR. PRINGLE: Thank you for your time,

1 sir. No further questions, Judge.

2 JUDGE DIPPELL: Is there any
3 cross-examination from Public Counsel?

4 MS. VANGERPEN: No, thank you, Judge.

5 JUDGE DIPPELL: Are there any
6 commissioner questions for these -- this witness? I
7 don't have any questions --

8 COMMISSIONER HOLSMAN: No questions,
9 Judge.

10 JUDGE DIPPELL: Oh, sorry. Go ahead.

11 COMMISSIONER HOLSMAN: No questions,
12 Judge. Sorry, I was just -- couldn't hit the mute
13 button fast enough.

14 JUDGE DIPPELL: Thank you, Commissioner
15 Holsman. All right then. Is there any redirect?

16 MS. MOORE: No, your Honor.

17 JUDGE DIPPELL: Okay. I believe that
18 concludes your testimony on this issue. That's the
19 last witness for Ameren on this issue. Correct?

20 MS. MOORE: That is correct, your Honor.

21 JUDGE DIPPELL: Would Staff like to call
22 its witness?

23 MR. PRINGLE: Yes, thank you, Judge.
24 Staff calls Mark Kiesling to the stand. And this
25 will be Mr. Kiesling's first time on the stand, so

1 I'll have to go through the whole direct.

2 JUDGE DIPPELL: All right.

3 (Witness sworn.)

4 MARK KIESLING

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

7 JUDGE DIPPELL: If you could state -- or
8 spell your name for the court reporter please.

9 THE WITNESS: Okay. It's Mark, M-a-r-k,
10 Kiesling, K-i-e-s-l-i-n-g.

11 JUDGE DIPPELL: Go ahead.

12 MR. PRINGLE: Thank you, Judge.

13 DIRECT EXAMINATION

14 BY MR. PRINGLE:

15 Q. Good afternoon, Mr. Kiesling.

16 A. Good afternoon.

17 Q. And by whom are you employed and in what
18 capacity, sir?

19 A. The Missouri Public Service Commission as
20 a senior research data analyst.

21 Q. And, Mr. Kiesling, are you the same Mark
22 Kiesling who caused to prepare direct, rebuttal
23 and -- well, direct, corrected rebuttal, and
24 surrebuttal testimony in these proceedings premarked
25 as Staff Exhibits 212, 213, and 214?

1 A. Yes.

2 Q. At this time do you have any corrections
3 to Exhibits 212, 213, or 214?

4 A. No.

5 Q. If I were to ask you the same questions
6 within Exhibits 212, 213, and 214, would your answers
7 be similar or substantially similar to those
8 contained therein?

9 A. Yes.

10 Q. And also are your answers true and correct
11 to the best of your belief and knowledge?

12 A. Yes.

13 MR. PRINGLE: Thank you, Mr. Kiesling.
14 Mr. Kiesling will be taking the stand a few more
15 times during these proceedings so at this time I
16 tender him for cross-examination.

17 JUDGE DIPPELL: Thank you. Mr. Pringle,
18 could you give me the numbers and which testimony
19 those belong to again?

20 MR. PRINGLE: Yes, Judge. Exhibit 212
21 would be Mr. Kiesling's direct, 213 would be
22 Mr. Kiesling's corrected rebuttal, and 214 would be
23 Mr. Kiesling's surrebuttal.

24 JUDGE DIPPELL: Thank you. I
25 misunderstood one of your numbers earlier. Is there

1 any cross-examination from Public Counsel?

2 MS. VANGERPEN: Yes, just briefly, Judge.

3 CROSS-EXAMINATION

4 BY MS. VANGERPEN:

5 Q. Good afternoon, Mr. Kiesling.

6 A. Good afternoon.

7 Q. How -- could you explain to the Commission
8 how the IRA complicates Ameren Missouri's amended
9 application in Staff's view?

10 A. In Staff's view --

11 MS. HERNANDEZ: I'm going to object, your
12 Honor. This is friendly cross-examination.

13 JUDGE DIPPELL: And I'm going to
14 overrule. You can proceed, but try to keep things
15 not repetitive.

16 MS. VANGERPEN: Thank you.

17 THE WITNESS: In Staff's view the IRA
18 just presents a lot of potential issues with the
19 potential for free ridership. The IRA presents a big
20 problem with individuals moving forward with energy
21 efficiency projects and using the IRA as the driver
22 and then potentially going back and getting the
23 rebates that Ameren offers and then Ameren being able
24 to take full advantage and getting full credit for
25 those projects even though their MEEIA programs

1 aren't the driving factor.

2 MS. VANGERPEN: No further questions.

3 Thank you, Judge.

4 JUDGE DIPPELL: Is there any
5 cross-examination? MECG? Consumers Council?

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

7 JUDGE DIPPELL: Renew Missouri?

8 MR. LINHARES: Yes, just briefly.

9 CROSS-EXAMINATION

10 BY MR. LINHARES:

11 Q. Good morning, Mr. Kiesling.

12 A. Good afternoon.

13 Q. So I want to talk to you about free
14 ridership in this -- in the case of IRA incentives.
15 Are you aware of the other approaches that -- rather
16 approaches that other states are taking to this very
17 issue?

18 A. Not currently.

19 Q. Okay. And have you reviewed any documents
20 from third-party sources about this issue of how to
21 approach attribution and the issue of free ridership
22 in this case?

23 A. Outside of visiting with and meeting with
24 Staff's outside consultant that helps with EM&V
25 process, no.

1 Q. Are you aware of the frameworks used for
2 attribution in the case where low-income
3 weatherization money is being put towards measures
4 that might be incentivized by utility programs? Are
5 you aware of that approach?

6 A. I am not familiar with that, no.

7 Q. Okay. I want to ask you a hypothetical if
8 you're all right with that. Your testimony gives
9 the -- an anecdotal story about a utility incentive,
10 and it's used to illustrate the free ridership
11 concept. I want to ask you a hypothetical question.
12 Let's say a customer has been brought to a utility
13 and they had no knowledge of the utility programs,
14 but they are -- a community action agency is dealing
15 with them. They're a single-family low-income
16 homeowner with a very inefficient house and they're
17 asking for bill assistance and the community action
18 agency sends them the utility's way.

19 The utility gives them a free home energy
20 evaluation and a list of measures that they can
21 install, offers them financing, offers them a, you
22 know, a nearly a thousand dollar rebate for a new
23 expensive but very efficient air source heat pump or
24 mini-split system. And the customer says yes to all
25 this because it's going to get financed by the

1 utility, they're linked up to a contractor through
2 the utility. And then the utility lets them know,
3 Oh, by the way, there's also a new federal incentive
4 where you could, based on your income, you could get
5 up to \$4,000 for this \$13,000.

6 In that case would you say that the
7 utility is a cause of that measure happening?

8 A. Not necessarily. You'd have to see if the
9 individual would have went through with the project
10 without knowing about the \$4,000. Obviously that
11 added on would probably be a game changer. So once
12 again, you're getting potentially attribution for the
13 utility because of the \$4,000.

14 Q. Well, I've already said that the customer
15 has, in this -- in this hypothetical, we're talking
16 about a hypothetical here, I don't think it's that
17 far afield because we have many stories of this. But
18 I've said that the -- I've stipulated that the
19 customer didn't have any knowledge of the utility
20 program or the federal government program in this
21 case. And the -- the utility as the only actor in
22 the space with any advertising or outreach budget has
23 informed the customer both of its own rebate and the
24 federal rebate. Would you say the utility is a cause
25 of that measure occurring?

1 A. Possibly.

2 Q. I'm not asking about attribution. I'm
3 asking about whether it's a cause of the measure
4 occurring.

5 A. Possibly. I -- I would think the
6 community action agency would be aware of the IRA
7 funding because they're -- they're always looking
8 for, you know, funding sources. And DOE is going to
9 do everything they can to promote the IRA. So I'd be
10 a little surprised that a community action agency
11 wouldn't be aware of it.

12 Q. Fair enough. Are you aware, do you have
13 general knowledge of energy efficiency programs that
14 are currently being offered by the Missouri Division
15 of Energy within the Department of Natural Resources?

16 A. Not an extensive knowledge, no.

17 Q. Are you aware that there have been
18 programs offered by Department of Ener -- Division of
19 Energy for many years?

20 A. No. I was not aware of that.

21 Q. And do you think that you would be --
22 well, I'm not going to ask you to further speculate.

23 I have no further questions. Thank you
24 very much.

25 JUDGE DIPPELL: Thank you. Is there any

1 cross-examination from NRDC?

2 MS. RUBENSTEIN: No, thank you, Judge.

3 JUDGE DIPPELL: From Ameren?

4 MS. HERNANDEZ: Yes, thank you.

5 CROSS-EXAMINATION

6 BY MS. HERNANDEZ:

7 Q. Good afternoon.

8 A. Good afternoon.

9 Q. If you could turn to your direct
10 testimony, page 2.

11 A. Okay.

12 Q. Starting at -- starting at line 19, you
13 talk about some other programs that you say promote
14 energy efficiency, and you provide one example of
15 this being the low-interest loan program offered by
16 the Missouri Department of Natural Resources. Do you
17 see your testimony on that?

18 A. Yes.

19 Q. Okay. Now, these low-interest loans that
20 you mention, they are not available to residential
21 customers. Correct?

22 A. I'm not a hundred percent sure on that.

23 Q. Well, your testimony states that these
24 funds help municipalities, school districts, and
25 other organizations to allow them to help upgrade

1 their particular areas to energy efficiency --
2 energy-efficient products. So residential customers
3 are not included in that description. Correct?

4 A. Not that description, but I don't know if
5 they're not -- if it's eli -- if residents are
6 eligible or not.

7 Q. Okay. Do you know whether for-profit
8 commercial or industrial customers are eligible for
9 these DNR loans?

10 A. I'm not aware of if they are or not.

11 Q. Would you agree with me that Ameren has
12 approximately 1.2 million electric customers?

13 A. Sounds around that number, yes.

14 Q. Okay. And do you know the percentage of
15 those 1.2 million electric customers that are either
16 municipalities, school districts, or other non-profit
17 organizations?

18 A. I do not know that exact percentage.

19 Q. On the IRA, that is a tax credit.

20 Correct?

21 A. Potentially.

22 Q. Do you know how many Ameren Missouri
23 customers would qualify for that tax credit?

24 A. Not off the top of my head, no. I would
25 assume the majority of the low income to middle

1 income would be eligible, and I don't know what
2 percentage that -- of Ameren customers that would be.

3 Q. But that's an assumption. Right?

4 A. What assumption?

5 Q. Well, your previous answer you said you
6 assumed that the majority of low-income customers.

7 A. I said the low income and middle income
8 Ameren customers would be eligible.

9 Q. So an IRA tax credit, you would -- a
10 customer, if they received an IRA tax credit, they
11 would apply that to their tax liability. Correct?

12 A. Yes.

13 Q. And if you do not have a tax liability,
14 you cannot use the IRA tax credit. Is that correct?

15 A. If -- depending on if your liability,
16 yeah, is not high enough, you wouldn't be able to use
17 it.

18 Q. Now, Ameren Missouri did not include any
19 window measures in its proposed MEEIA 4 plan.

20 Correct?

21 A. What do you mean by window measures?

22 Q. Rebates on windows, more energy-efficient
23 windows.

24 A. Not that I'm aware of, no.

25 Q. Do energy-efficient windows qualify for an

1 IRA tax credit?

2 A. I'm not a hundred percent sure.

3 MS. HERNANDEZ: Nothing further. Thank
4 you.

5 JUDGE DIPPELL: Are there any
6 commissioner questions for this witness?
7 Commissioner Coleman.

8 COMMISSIONER COLEMAN: Thank you.

9 QUESTIONS

10 BY COMMISSIONER COLEMAN:

11 Q. Hi.

12 A. Hello.

13 Q. So Renew Missouri, Mr. Linhares, asked you
14 quite a few questions that dealt with utility,
15 federal funding, a variety of things. And it just
16 made me wonder, based on the interaction of energy
17 efficiency programs, community action agencies which
18 he mentioned, federal programs, do you think that
19 MEEIA programs should be independent of federal
20 government programs? Do you have an opinion?

21 A. As far as --

22 Q. Well --

23 A. -- like braiding them together or?

24 Q. Stacking them on top of each other.

25 A. Staff believes, yeah, they should not be

1 braided. They should at least be separated if
2 they're going to be applied to a particular
3 project.

4 COMMISSIONER COLEMAN: Okay. Thanks. I'm
5 really interested in Geoff Marke's response to that
6 question. So get ready. Thanks. Thank you, Judge.

7 JUDGE DIPPELL: Are there any other
8 commissioner questions? All right. Is there further
9 cross-examination based on the Commissioner's
10 questions from OPC?

11 MS. VANGERPEN: No, thank you, your
12 Honor.

13 JUDGE DIPPELL: MECG? Consumers Council?

14 MR. COFFMAN: No, thank you.

15 JUDGE DIPPELL: Renew Missouri?

16 MR. LINHARES: No, thank you.

17 JUDGE DIPPELL: NRDC?

18 MS. RUBENSTEIN: No, thank you.

19 JUDGE DIPPELL: Ameren?

20 MS. HERNANDEZ: No, thank you.

21 JUDGE DIPPELL: Is there any redirect? I
22 guess that -- or I'm sorry, yeah. Is there any
23 redirect?

24 MR. PRINGLE: Yes, Judge, thank you.

25 REDIRECT EXAMINATION

1 BY MR. PRINGLE:

2 Q. And, Mr. Kiesling, just for the record
3 what is braiding?

4 A. It would be where a particular MEEIA
5 program is braided with some IRA funding to help fund
6 a particular upgrade.

7 Q. And if the Commission were to approve some
8 kind of braiding or stacking as it's been called,
9 how -- how can free ridership be accounted for in
10 that instance?

11 A. It would be very difficult, if not
12 impossible, to account for it.

13 Q. And then also if stacking is not allowed,
14 is there any risk of federal funds going
15 underutilized?

16 A. No.

17 Q. When it comes to the distribution of IRA
18 funds, what info's been provided to you through
19 discussions with Division of Energy?

20 A. As far as when they're going to be
21 available or?

22 Q. Yes.

23 A. They're targeting sometime in 2025.

24 Q. And then just a follow up on Renew
25 Missouri's hypothetical they asked you. Would it be

1 appropriate to attribute all of the savings to Ameren
2 even if Ameren made the customer aware of the IRA?

3 A. Yes.

4 MR. PRINGLE: Thank you, Mr. Kiesling. No
5 further questions, Judge.

6 JUDGE DIPPELL: Thank you. I believe
7 that concludes your testimony on this issue. You may
8 step down. And that was Staff's only witness on this
9 issue. Correct? That's what's on the list, so I
10 will have OPC go ahead and call your witness. And
11 Mr. Marke's already up here. Have you testified
12 before?

13 THE WITNESS: I have.

14 JUDGE DIPPELL: All right. Then you
15 remain under oath for our purposes and I will let OPC
16 go ahead.

17 (Witness previously sworn.)

18 DR. GEOFF MARKE

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

21 MS. VANGERPEN: Thank you, Judge Dippell.
22 Dr. Marke has testified previously in this hearing
23 and we have gone through his testimony. He will
24 testify again, so we have not yet entered his
25 testimony into the record, but we would consider him

1 subject to cross.

2 JUDGE DIPPELL: Thank you. Is there
3 cross-examination from Staff?

4 MR. PRINGLE: Yes, Judge.

5 CROSS-EXAMINATION

6 BY MR. PRINGLE:

7 Q. Dr. Marke, I'm going to kind of follow up
8 with you with a question I've been asking throughout
9 this issue. Depending upon if the Commission orders
10 prospective or retrospective EM&V, how could that
11 change the approach with the IRA and attribution?

12 A. It's a good question. And --

13 MS. MOORE: Your Honor, I'm going to renew
14 my objection. I was thinking the question was going
15 somewhere, but again, we have more friendly cross.

16 JUDGE DIPPELL: And I'm going to overrule
17 that objection. Go ahead.

18 THE WITNESS: So just to provide just a
19 little basis for what the issue is that we're talking
20 about here, the general question with these MEEIA
21 programs is how much can we attribute to Ameren
22 Missouri for their efforts, all right. At the end of
23 the day, their earnings opportunity's dependent on
24 them showing evidence that Ameren's work is credited
25 and not some other endeavor, the free ridership

1 issue. We do this through EM&V. Historically we've
2 done this through a retrospective EM&V which is the
3 entire year takes place and then we send out surveys
4 and questions and we follow up with it and that
5 becomes the basis for this net-to-gross ratio.

6 So if the Company gets say .5, that means
7 they effectively have to sell twice as many HVACs or
8 light bulbs to equal one light bulb, right. Fifty
9 percent's being attributed to free riders; 50
10 percent's being attributed to Ameren Missouri.
11 They've got to work harder.

12 When Mr. Graser talks about spillover,
13 he's adding on points to that net-to-gross ratio.
14 He's saying that because Ameren existed and you took
15 advantage of the light bulb program, you became aware
16 of energy efficiency and then you decided to put on a
17 window, which is what Ms. Moore was talking about.
18 The window's not rebated through the program, but
19 that window presumably would have never have been put
20 in place but for Ameren's program. And that's the
21 dance that we do with EM&V.

22 The challenge here is that we got
23 introduced with the IRA, the Inflation Reduction Act,
24 which induced an enormous amount of capital money
25 into various states. Now, some states have rejected

1 it, like Florida, entirely. And we are not in a
2 position right now in Missouri where it's been fully
3 implemented, but the goal is to have something out
4 early in 2025 is my understanding.

5 What's lost in this discussion, what you
6 haven't heard a lot about is -- that's about \$160
7 million. It's \$160 million between two programs,
8 one's focusing on electrification and heat pumps
9 which does fall under the umbrella of Ameren
10 Missouri. The other half of it is weatherization
11 models, so an HVAC, ductwork, these sort of things.

12 There's an even larger amount of money
13 that's just tax breaks. So tax breaks have always
14 been around, you know, to a larger extent, but the
15 level of tax breaks is something we've never seen
16 before. You know, it -- up to \$8,000 in tax breaks.
17 So it's a significant chunk of money. And for good
18 reason that's what HVAC contractors and other
19 entities are using to advertise their programs. You
20 get these huge rebates.

21 So what -- the challenge here from our
22 end is -- that's great, first of all. If that's
23 inducing energy efficiency, that's all fine and good.
24 And it's taxpayer dollars so it's not being realized
25 on ratepayers' bills which is even better. But the

1 problem is, well, how much can we attribute to Ameren
2 Missouri and how much can we attribute to the IRA.

3 So this is a subset question. If
4 historically what we've done is we wait until
5 everything plays out and then we argue out it or we
6 try to settle it out. What Ameren Missouri's
7 proposing here is a prospective approach which is,
8 Let's agree on a number beforehand and then we'll
9 modify it. But that number will apply to the first
10 year of savings and then we'll modify to the second
11 year and to the third year. It effectively gives
12 them some certainty moving forward as to what that
13 is. Now, what that number is is a real, real
14 challenge.

15 So I'm going to go back, Mr. Pringle.
16 Your question was the retrospective and prospective.
17 I can't remember exactly what.

18 Q. Yes. When it comes to attribution and the
19 IRA, how would a prospective versus retrospective
20 EM&V work?

21 A. Well, the prospective, I mean, really
22 comes down to this, like, we look to you guys for
23 guidance in saying, All right, what's that number. I
24 mean, that -- that's a challenging task to sit down
25 there, you know. I mean, and your response might --

1 may be, you know, parties need to work together to
2 figure out a number. Or alternatively it's what
3 Staff is recommending which is, We'll deal with it in
4 EM&V.

5 I mean, the -- the inherent problem with
6 that is we're just kicking the can down the road, so
7 we'll -- we'll just litigate it in a year from now
8 because chances are -- I mean, maybe we can come to
9 an agreement, but the Delta between what the impact
10 is with the IRA funds versus what the impact is on
11 just Ameren amongst other issues makes it a very
12 difficult problem to solve.

13 MR. PRINGLE: Thank you for that,
14 Dr. Marke. No further questions at this time, Judge.

15 JUDGE DIPPELL: Is there any
16 cross-examination from Consumers Council?

17 MR. COFFMAN: No, your Honor.

18 JUDGE DIPPELL: MECG? Renew Missouri?

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

20 JUDGE DIPPELL: NRDC?

21 MS. RUBENSTEIN: No, thank you, Judge.

22 JUDGE DIPPELL: Ameren?

23 MS. MOORE: Yes, I have a few questions.

24 Thank you, your Honor.

25 CROSS-EXAMINATION

1 BY MS. MOORE:

2 Q. Sorry, Dr. Marke. Mr. Pringle started
3 asking some questions that triggered a few;
4 otherwise, I wouldn't have had some for you. For
5 income-eligible programs, do you think they should be
6 evaluated for free ridership?

7 A. No. I mean, generally it's no. This is a
8 tough issue to -- to address. We have historically
9 not -- we've historically given full credit for
10 low-income programs under the premise that they just
11 would not happen regardless. Without it, they just
12 wouldn't happen, so there is no free rider
13 motivation. The rub there is that -- then it
14 become -- it's not cost effective. I mean, the
15 program, the low-income programs just don't fit that
16 ratio because it's just all incentives that we're
17 throwing out there. We justify those programs
18 because the statute says that we need to go ahead and
19 have programs for all customers and it's largely
20 offset with programs that are really more cost
21 effective.

22 So in this case, you know, we mentioned
23 yesterday that the demand response programs are doing
24 a lot of the heavy lifting in terms of cost
25 effectiveness. Well, low-income programs is one of

1 those that's being propped up by other programs that
2 are more cost effective. So if you look at the
3 portfolio as a whole, it is more cost effective than
4 it otherwise would be if you started breaking it
5 apart in its various components.

6 Q. Right. So if it's -- free ridership isn't
7 evaluated for the income-eligible programs, then do
8 you have a problem with braiding or stacking those
9 programs with federal programs?

10 A. What problem are we trying to solve for
11 here?

12 Q. Well, that's what I'm asking. I think the
13 issue that you had with the IRA, that is the free
14 ridership, and so you've taken that free ridership
15 issue and you just said it was appropriate to do so
16 for income-eligible programs. And now if we --
17 that's not an issue, then my next question for you is
18 the stacking and braiding of those programs to
19 synergize the federal funds with the energy
20 efficiency programs, do you have an objection to
21 that?

22 A. So I -- in my testimony what I did is I've
23 laid out three options for the Commission. And, you
24 know, my recommendation ultimately is to look at the
25 totality of this and reject the application. So

1 think of it as a decision tree. You say yes or no to
2 the application. If we say no, then we don't have to
3 deal with all the other questions. If we say yes,
4 then it opens up just a host of many, many different
5 questions that are all interdependent.

6 The problem with braiding is, it is
7 twofold. And again, the -- it's because of the
8 framework we have in Missouri. And if the framework
9 in Missouri is -- it's not a resource standard state
10 and it has to be attributed to the utility. Oh, and
11 by the way it's a very generous, you know, earnings
12 opportunity that's associated with that. At a macro
13 level I can sit back and ask myself, absent Ameren
14 Missouri programs will there still be weatherization.
15 Yes. Will there still be IRA funds through the
16 Division of Energy. Yes. That gives me -- that
17 gives me pause with going ahead and signing off the
18 rich reward that Ameren Missouri is asking for.

19 It's different on low income than it is on
20 nonlow-income customers. And that's -- that's where
21 I've got a problem with the braiding.

22 Q. So to the -- to answer the question, you
23 have an issue with braiding for the low income --
24 income -- excuse me -- income-eligible programs?

25 A. No. I didn't say the low income. I

1 said -- there's a difference again between -- I'll
2 put it -- let me rephrase.

3 Q. The question is just -- let's just isolate
4 the income-eligible program.

5 A. The IRA income eligible or the Ameren
6 Missouri's income eligible?

7 Q. Well, but again, they can -- they
8 complement each other, do they not? So the question
9 then is --

10 A. I don't -- I don't necessarily think they
11 do.

12 Q. So then you do have a problem stacking the
13 federal --

14 A. Let me --

15 Q. -- the federal incentives with Ameren
16 Missouri's program?

17 A. I can see where this gets very confusing,
18 so let -- let me try to just clear up the air on what
19 the different levels that we're talking about.
20 Low-income weatherization is free. All things being
21 equal when I recommend programs, do that. All right.
22 If you're an income-eligible household, take
23 advantage of the low-income weatherization. Don't
24 mess with any of the rebates. Don't mess with any of
25 this because you're paying out-of-pocket expense.

1 That's the ideal setting, all right. That's --
2 regardless of the IRA or Ameren's programs. I just
3 don't think they should be involved.

4 Ameren Missouri's got a low-income
5 program. I'm objecting to that because we're paying
6 a lot of money for overhead whenever there's an
7 alternative right there that's significantly cheaper.

8 The IRA funds contemplate the funding that
9 DE is administrating is dealing with low income and
10 moderate-income customer households. So that's a
11 rebate. Those programs are designed acutely. And I
12 think Ameren's, you know -- Ms. Hernandez caught it.
13 Those programs are designed around people that
14 generally don't pay taxes. So they don't get to take
15 advantage of the tax breaks that are out there.
16 Those customers are generally -- I have -- I've
17 basically chalked that up as a nonissue for the most
18 part.

19 I had an opportunity to speak at the
20 public forum for the Division of Energy and where
21 they were soliciting feedback on how these funds
22 should be administered. In the next issue that we're
23 going to talk about is the administrative overhead,
24 but it had been brought up earlier that DE's only cap
25 at 20 percent administrative overhead. My

1 recommendation for how to administer a program this
2 big where it's gotta be capped at 20 percent and it's
3 gotta go across the entire state and it's gotta focus
4 on low and moderate income, how do you make that
5 happen. The recommendation that I gave was you go
6 through the community action agencies. The community
7 action agencies already exist. They've already got
8 applications. You -- that's the only way that I see
9 them being able to achieve their targets.

10 It's all of the other issues. And the
11 other issues, what I mean are the tax breaks. So
12 again, if I get an \$8,000 tax rebate for my energy
13 efficiency, that's a lot of money. That's going to
14 motivate me to go ahead and get a more efficient
15 appliance than I otherwise would.

16 Q. And I --

17 A. And I think that needs to be reflected.

18 Q. That's you. We're talking about
19 income-eligible customers and the programs that
20 pertain to them.

21 A. I -- maybe I wasn't clear. Like, I don't
22 have a problem with the DE-administered funds. I've
23 got a problem with the tax breaks on that end.

24 Q. Right. I -- again, do we know how many
25 income-eligible customers would benefit from a tax

1 break or would it --

2 A. None.

3 Q. Right. So then --

4 A. Right.

5 Q. -- for income-eligible programs, that
6 doesn't factor in as an issue?

7 A. Agree.

8 Q. So I guess what I'm wondering is right now
9 income-eligible programs are stacked where we work --
10 Ameren Missouri works with Spire. Correct?

11 A. Uh-huh.

12 Q. And we take advantage of the gas savings
13 and coordinate, and Spire's energy efficiency
14 programs complement Ameren Missouri's electric
15 programs for those customers in the same service
16 territory. And they're able to take advantage of
17 both energy efficiency programs and stack or braid
18 those two programs together to better provide
19 income-eligible customers with the ability to make
20 energy and gas savings.

21 A. So two things on that. Those programs are
22 limited to multi-family, so it's -- multi-family is a
23 very unique subset that is very difficult -- it's
24 what we call principle -- it's not principle-agent;
25 that's --

1 Q. Well, correct, but --

2 A. -- another issue.

3 Q. -- they still reach income-eligible
4 customers, whether it's single family or income
5 eligible multi-family.

6 A. Well, Spire and Ameren don't combine
7 together on the single family. They combine together
8 on the multi-family. I'm just clarifying that, so.

9 Q. But whether -- right. But I guess my
10 point is that those programs, whether they -- serving
11 a multi-family problem, still provide customer
12 benefits by braiding those programs?

13 A. They do.

14 MS. MOORE: I have no further questions.

15 JUDGE DIPPELL: Are there any commission
16 questions for this witness? Commissioner Coleman?

17 COMMISSIONER COLEMAN: I think Dr. Marke
18 answered my question. Thank you.

19 COMMISSIONER MITCHELL: I've got a
20 question, Judge. So --

21 JUDGE DIPPELL: Commissioner Mitchell,
22 can you just pull the microphone down there.

23 COMMISSIONER MITCHELL: Is that better?

24 JUDGE DIPPELL: Thank you. Yes.

25 QUESTIONS

1 BY COMMISSIONER MITCHELL:

2 Q. So based on what you said, is it fair to
3 say that there's no objection to the customers
4 leveraging and taking advantage of any program that
5 they can. The problem really before us is how do you
6 untangle how to attribute credit for that program
7 under the MEEIA. And so what would be the downside
8 of tracking all of the tax breaks and rebates and
9 every, you know, every other incentive and then
10 attributing the credit to MEEIA based on how much
11 cash came in from each source?

12 A. So the downside is it -- it's an
13 opportunity cost. It is time and labor intensive the
14 amount of surveys and the EM&V that would need to be
15 conducted to, you know, get a representative sample
16 size to look at that. And then there's going to be
17 disagreements as to, you know, how that was
18 conducted, what's -- what's in, you know, involved in
19 that process.

20 I don't -- again, I'm going on record. I
21 don't think the DE dollar amount is an issue. I
22 really don't. It's -- it's dollars that are
23 ultimately targeted at low or moderate-income
24 customers that just can't afford it. They're -- it
25 is not going to have a material impact one way or the

1 other on the final results.

2 The tax breaks I think can have a material
3 impact. I -- I do believe that, that for
4 customers -- and if you look at who historically
5 participates in these programs, it's more affluent
6 customers. That's -- that's just the reality.
7 That's a lot of savings are being attributed to that.
8 That's -- that is one big concern with the IRA.

9 So when Mr. Linhares talks about, well,
10 other states have moved forward with adopting full
11 braiding, again, the devil's in the details. The two
12 states that he referenced are both statewide
13 programs. They're both -- you know, they've --
14 they're both EERS, you know, programs where they're
15 mandated by the State to meet certain savings. We
16 don't have that in Missouri. It is -- it is very
17 much, you know, the Show-Me state. Show us the
18 rewards. Show us that you actually produce this.
19 Show us that you actually made this happen or else.

20 So I'm sympathetic to Ameren, you know, on
21 one end in wanting to have the prospective element.
22 I am very sympathetic to the Commission then being
23 posed with the task of, all right, what's that
24 number, Commission. There are no answers on this to
25 my knowledge. We have sought out responses from

1 ACEEE. We've tried to get guidance from federal
2 levels. Even the report that Mr. Linhares introduced
3 yesterday, I read that last night, all it does is
4 show different frameworks. There's no recommendation
5 one way or the other because at the end of the day,
6 these are negotiated or sense-making points for the
7 stakeholders involved.

8 So when I ask, you know, what problem are
9 we trying to solve for, if we are -- if we're trying
10 to just get the most energy-efficient appliances and
11 things in place regardless of who needs them or who
12 would do it regard -- you know, regardless of the
13 circumstances, then braid it. That's an EERS
14 perspective. That's one that's in line with the
15 current administration that's promoting the IRA.

16 If -- if it is more of a, We're only going
17 to reward utilities for the effort that they've put
18 forward here, then that's a retrospective, but it --
19 but it comes at a cost. And it is a cost that we've
20 known about this; we've wrestled with this problem
21 for several years. And this is why we've had
22 one-year extensions where we've abandoned
23 retrospective EM&V largely and just focused on
24 deemed -- an agreed-to amount because it's just time
25 and labor intensive.

1 And it's just one issue. I mean, I know
2 we're going to talk about more about EM&V, but I
3 raise about nine other separate issues that
4 complicate attribution.

5 COMMISSIONER MITCHELL: Thank you.

6 JUDGE DIPPELL: Are there any other
7 commission questions? I have just a few on here if
8 the commissioners online don't have anything.

9 COMMISSIONER HOLSMAN: No questions,
10 Judge.

11 JUDGE DIPPELL: Okay.

12 QUESTIONS

13 BY JUDGE DIPPELL:

14 Q. So, Dr. Marke, are you familiar with the
15 versions of the International Building Code? Are you
16 familiar with --

17 A. In general, yes.

18 Q. Do you know what the current edition of
19 the International Building Code is?

20 A. Like -- well, I mean, there are -- there
21 are different standards that have been adopted by
22 different municipalities and states. I'm not sure
23 what the highest standard is that's out there, but
24 we're -- we're not operating at it.

25 Q. And do you know what the latest released

1 version of the International Energy Conservation
2 Code, the IECC, is?

3 A. Same response. I mean, there are
4 iterations, and some places have adopted various -- I
5 would say adopted. There's a difference between
6 adopting and enforcing too. Some place adopt it but
7 never enforce it.

8 Q. And the same with the American Society of
9 Heating, Refrigerating, and Air Conditioning Engineer
10 or ASHRAE?

11 A. I am -- I am familiar with ASHRAE and the
12 levels, yes.

13 Q. And, but you're not familiar with what
14 their specific current version that's published?

15 A. Again, it's the same response. There are
16 different ASHRAE levels. It's what sort of appetite
17 does your governing body have to adopt and enforce
18 that.

19 Q. And you -- you kind of touched on this,
20 but has Missouri adopted or mandated a statewide
21 building code for residential or commercial
22 buildings?

23 A. No. Missouri's home rule state, so it's
24 going to be left at the individual municipal level.
25 In general, we're u -- there's only a handful of

1 states that operate like that, so. Yeah, I'll leave
2 it at that.

3 Q. And similar for a statewide energy code?

4 A. Same.

5 Q. Has every jurisdiction within Ameren's
6 territory adopted building codes?

7 A. No. The big one has though, and that's
8 St. Louis.

9 Q. And do you know what edition of the
10 building codes St. Louis has adopted?

11 A. It's in my testimony. If you give me a
12 second.

13 Q. And I'm going to ask you the same
14 questions with regard to energy codes. Do you know
15 if jurisdictions within Ameren's territory have
16 adopted energy codes?

17 A. No. I mean, in general, codes and --
18 codes and standards at the state level have not been
19 enforced or applied in the state of Missouri.

20 Q. But the specific jurisdictions?

21 A. St. Louis, St. Louis County, Kansas City,
22 your larger municipalities.

23 Q. So they haven't enforced those either?

24 A. So St. Louis is starting to. It would be
25 building codes, and it's going to be commercial. And

1 it's -- it's not going on apply to residential
2 domiciles. It'll be larger commercial buildings.
3 The -- there's a provision that allows them to be
4 fined, and again, it's in my testimony, I can't find
5 it at the moment, but it is something like a thousand
6 dollars or \$500 a day if they're not up to the
7 standard. Now, whether or not that is actually
8 enforced is another question, but that would go into
9 effect this next year.

10 Q. And so that's just recently come into --

11 A. I wouldn't say recently. It -- that's
12 been an effort that's been adopted now for several
13 years, but the -- the penalty factor is just now
14 starting up. They haven't -- they've had a time to
15 build it. In Kansas City they haven't gotten to the
16 point of actually enforcing a penalty; it's just a
17 benchmarking standard at this point.

18 Q. But Ameren doesn't supply Kansas City.
19 Correct?

20 A. No. I'm sorry. The question was about
21 Missouri, so.

22 Q. Yeah. And do you know what percentage or
23 number of Ameren's customers are located within
24 jurisdictions that have adopted energy codes?

25 A. I mean, I could make an educated guess,

1 but I don't know off the top of my head. And it
2 would be limited to -- so the codes would be limited
3 to commercial and -- commercial buildings within the
4 St. Louis and St. Louis County area.

5 Q. And so is that the same for building codes
6 and energy codes?

7 A. It's building code. I'm not sure that
8 there's an energy code. I guess I'm not familiar
9 with what an energy code is.

10 Q. Well, that was the -- what I was asking.
11 Apparently -- now I've lost it. Energy conservation
12 code. International Energy Conservation Code, IECC,
13 and the Society of Heating, Refrigerating --

14 A. Right.

15 Q. -- and Air Conditioning Engineers.

16 A. Right. So there are several different
17 codes out there. I would say that there are building
18 codes that have been adopted with that, and maybe I'm
19 using that term interchangeably. Usually when you
20 start talking about energy codes, in my mind that is
21 typically talking about more of a safety issue in
22 terms of voltage that's taking place that engineers
23 need to meet up. So that -- to me that's a separate
24 issue than what we're talking about.

25 Q. Okay. And then -- well, first of all you

1 mentioned EM&V, and I'm not sure we've talked about
2 that today. Can you just define that term?

3 A. Evaluation, measurement, and verification.
4 We'll -- I think we've got a whole day just for that.

5 Q. And you've spoken about EM&V challenges.
6 Given that Ameren has applied AMI to nearly all of
7 their customers, do you believe there's a better or
8 more accurate way to measure actual savings rather
9 than deeming or stipulating prospective values?

10 A. There should be. We've -- we've -- yes, I
11 mean, is the short answer is that we should be able
12 to triangulate data, actual build savings data that's
13 associated with that. The challenges become
14 normalizing it for weather, normalizing it for the
15 economy, for people that move in and out of
16 residence, you know, the -- the actual area. There's
17 a lot of noise I guess is what I would say. It's --
18 you should absolutely use it. It's a good data
19 point.

20 We have had statewide collaboratives here
21 at the PSC discussing how to implement and how to
22 move forward with that. Mr. Wills yesterday talked
23 about confounding variables. So these are outside
24 factors that influence, you know, that -- that
25 number. One of the confounding variables to that

1 analysis would be time of use rates, so how much can
2 we attribute time of use rates to the measure itself
3 to, you know, all of these other things that are in
4 play here. So there's just a lot of uncertainty
5 that's associated with that. It's, again, one of the
6 reasons why we elected to do what we did for the
7 one-year extensions.

8 Q. And I guess I'm jumping ahead a little.
9 We are going to talk about EM -- EM&V all day
10 tomorrow, so.

11 A. Right.

12 JUDGE DIPPELL: Perhaps these questions
13 are better saved for that. Are there any other
14 commissioner questions? All right. Is there further
15 cross-examination based on questions from the bench
16 from Staff?

17 MR. PRINGLE: Yes, Judge, thank you.

18 RECROSS-EXAMINATION

19 BY MR. PRINGLE:

20 Q. Dr. Marke, Commissioner Mitchell was
21 asking you some questions about attribution. I guess
22 if EM&V eventually shows overattribution to Ameren,
23 can the programs be undone?

24 A. Let me see if I understand the question.
25 If EM&V shows that the programs are attributed to

1 Ameren?

2 Q. Correct.

3 A. So Ameren -- Ameren's responsible for the
4 programs.

5 Q. Uh-huh. Yes.

6 A. Okay.

7 Q. And then second part of the question is if
8 EM&V determines that the Ameren programs were
9 overattributed?

10 A. Overattributed. I guess I don't
11 understand what that term means.

12 Q. Let's say that in the end we think that
13 the Ameren MEEIA program was the primary driver, got
14 the proper attribution, but then during the survey
15 cycle we find out, oh, wait, that was not the primary
16 driver; it was the IRA.

17 A. Oh, so the problem -- it's -- that's a
18 good -- that's the problem with prospective EM&V. So
19 if we prospectively say, Hey, you know, historically
20 our net to gross has been .8 and we think .8 should
21 be this one too. And then we actually do the EM&V
22 and we say, Oh, no, actually it was only maybe 20
23 percent can be attributed to Ameren. Well, we're
24 locked in. The prospective says it's .8, and that's
25 what we've got. So that's -- you've overstated the

1 savings attributed to Ameren Missouri by 60 percent.
2 And that results in a lot of risk to ratepayers of
3 overpaying. So that's -- that's the risk-reward
4 problem you've got with that uncertainty.

5 Q. And also -- now, this -- it may be -- this
6 may be a question better reserved for EM&V, but I
7 think we've kind of got into it with Judge Dippell's
8 questions. Let's say if EM&V does not -- does not
9 fully evaluate let's say income-eligible net to
10 gross, would that result in the benefits being fully
11 attributed to Ameren Missouri?

12 A. If --

13 MS. MOORE: I'm going to object that's --
14 that was a separate line of questioning that we had
15 earlier and wasn't related to any of the bench
16 questions, so this one's beyond the scope.

17 MR. PRINGLE: Tying into EM&V, Judge, just
18 trying to close the door on that one.

19 JUDGE DIPPELL: I think that's a little
20 more specific to tomorrow's cross-examination.

21 MR. PRINGLE: I will save that question
22 for EM&V, Judge.

23 JUDGE DIPPELL: Thank you.

24 MR. PRINGLE: Thank you, Dr. Marke. No
25 further questions.

1 JUDGE DIPPELL: Is there any recross from
2 Consumers Council?

3 MR. COFFMAN: Yes, I have a couple.

4 RECROSS-EXAMINATION

5 BY MR. COFFMAN:

6 Q. Dr. Marke, you, in your answer to
7 Commissioner Mitchell's questions, you got into some
8 distinction about the beneficiaries of MEEIA programs
9 between affluent customers and lower-income
10 customers. Just so the record is clear here, is
11 Ameren -- does -- is Ameren Missouri proposing that
12 its MEEIA surcharge be applied to low-income
13 customers?

14 A. No.

15 Q. Okay. And when you say -- and when you
16 answer that way, we're talking about customers that
17 Ameren knows about, that is, they are receiving
18 LIHEAP assistance. Is that right?

19 A. Yes.

20 Q. But that isn't necessarily all low-income
21 customers, is it?

22 A. It's not.

23 Q. And do you have an idea of how -- what the
24 penetration is in Missouri of LIHEAP funding to
25 low-income --

1 A. It's not enough to cover the need, I mean,
2 just flat out.

3 Q. So -- so there are numerous, in fact maybe
4 most low-income customers are still receiving a
5 surcharge, at least statistically, even though folks
6 who have reached out and received LIHEAP assistance
7 are not charged the MEEIA surcharge. Is that
8 correct?

9 A. That's correct.

10 Q. And that's been in effect for a few of
11 these MEEIA cycles. Correct?

12 A. That is correct.

13 Q. And is that -- what -- in your mind what
14 is the rationale behind that decision? Is it -- is
15 it what you were saying earlier about the fact that
16 there are so many challenges to low-income families
17 that they don't often wind up having the means, you
18 know, to actually invest in these programs, to
19 benefit from most of the MEEIA programs?

20 A. The short answer's yes. It's just
21 out-of-pocket expense.

22 It's -- when we -- again, context is
23 important. When this statute was passed, it was a
24 different world and everything was light bulb based.
25 And the difference between light bulbs and everything

1 else we're talking about here is you can go buy a
2 light bulb at Lowe's and install it yourself. It
3 becomes much more difficult as soon as those light
4 bulb savings disappear. The savings have to
5 materialize from somewhere else. Well, that
6 somewhere else is A, much more expensive. Replacing
7 a heat pump or an HVAC, I mean, you're talking
8 thousands and thousands and thousands of dollars, let
9 alone installation costs and everything that's tied
10 to do that. It is -- it is much more challenging for
11 customers that just don't have that disposable
12 income.

13 MR. COFFMAN: Okay. Thank you. I think
14 that helps clarify the record. I appreciate that.
15 Thank you.

16 JUDGE DIPPELL: Anything from MECG?
17 Renew Missouri?

18 MR. LINHARES: No, thank you.

19 JUDGE DIPPELL: NRDC?

20 MS. RUBENSTEIN: No, thank you, Judge.

21 JUDGE DIPPELL: And any further
22 cross-examination based on bench questions from
23 Ameren?

24 MS. MOORE: No, your Honor. Thank you.

25 JUDGE DIPPELL: Is there any redirect?

1 MS. VANGERPEN: Yes, just very briefly,
2 Judge.

3 REDIRECT EXAMINATION

4 BY MS. VANGERPEN:

5 Q. Dr. Marke, in your conversations with
6 Judge Dippell, she was talking to you about building
7 codes. And you had mentioned that St. Louis has
8 adopted building codes. What part of St. Louis were
9 you talking about there?

10 A. Commercial building codes?

11 Q. Uh-huh. Yes.

12 A. The city.

13 Q. So is it limited to just St. Louis City,
14 or does it include St. Louis County as well?

15 A. I'm -- I know it's St. Louis City; I think
16 it's St. Louis County. Again, my -- I don't know
17 which testimony it is is my problem.

18 Q. I believe you talk about that in your
19 direct testimony.

20 A. Direct.

21 Q. And I would direct you to page 42.

22 A. Do you happen to have a copy? I don't
23 seem to --

24 Q. Not one that -- not a clean copy, I do
25 not.

1 A. I can bring it up on my phone if you give
2 me a second.

3 JUDGE DIPPELL: If it's not easily
4 accessible, I can let your counsel clarify that
5 later.

6 THE WITNESS: Okay.

7 MS. VANGERPEN: Thank you, Judge.

8 BY MS. VANGERPEN:

9 Q. Okay. So moving on, now I want you to
10 think about when you were first being questioned by
11 counsel for Ameren and you were talking about -- she
12 asked you a question about braiding with Spire. And
13 you had mentioned that there were two issues that you
14 had wanted to discuss about that braiding with Spire.
15 You had mentioned first that it was limited to multi-
16 family, but then I think the conversation moved on
17 before you could mention that second one. So I
18 wanted you to have -- I wanted you to have an
19 opportunity to clarify that second.

20 A. Ms. VanGerpen, I'm not sure what that
21 second was now that you mention it. I mean, the
22 issue is that it's a multi-family problem; it's a
23 niche program. I can tell you that we have, whenever
24 possible, in historic cases, we have tried to
25 minimize overhead costs. And sometimes that -- you

1 know, my whole argument yesterday was how do you make
2 these programs more cost effective is you combine it
3 and do a statewide program. So to the extent
4 possible, that's what we're arguing for.

5 The problem -- the tension with that is,
6 again, it's the framework that MEEIA is. And it's a
7 framework that's based off of attribution. I don't
8 have a concern on the low-income side because it's
9 largely, it's such a small dollar amount at the end
10 of the day relative to what we're talking about here.
11 It's -- again, my concern on this is the attractive
12 tax breaks that one can get off of this, and that was
13 articulated I guess in the anecdotal example that
14 Staff gave. I think that's very real.

15 And I'll just -- one quick point on that.
16 I had mentioned before that Florida's rejected these
17 federal programs in doing that. If Missouri were to
18 do that, I don't think my position would change at
19 all. Because, again, like, these are federal tax
20 breaks. So even if, you know, the State of Missouri
21 decides that, you know, they don't want to do any,
22 you know, strings-attached handout from the federal
23 government, people can still get that return, that --
24 that break on their federal taxes.

25 Q. And, Dr. Marke, thank you. That's

1 actually where I wanted to end today or for this --
2 for this issue. So you mentioned the IRA includes
3 both tax breaks and direct incentives. Those tax
4 breaks, when are those available?

5 A. They're available right now.

6 Q. And --

7 A. So, yeah. Like, everything that was
8 talked about, the uncertainty about DE moving forward
9 with this, again, I -- I personally believe it's a
10 nonissue. I -- there's an argument to be made on
11 both sides with it, but it -- in the great scheme of
12 things when we're talking about the dollar amount, I
13 think the tax issue is much more of a concern.

14 MS. VANGERPEN: Thank you, Dr. Marke.
15 That's all I have. Thank you, Judge Dippell.

16 JUDGE DIPPELL: Thank you. That will
17 concludes your testimony on this issue, Dr. Marke,
18 and you may step down.

19 Since that concludes that issue, I
20 think this is a good place to take a brief break.
21 It is about five after 3:00. If we could come back
22 at 3:15. Let's go off the record.

23 (Off the record.)

24 JUDGE DIPPELL: Let's go back on the
25 record. All right. So we are ready to move on to

1 the next issue, Administrative Overhead. Are there
2 mini openings for that also? Yes. Okay. Then let's
3 begin with Ameren.

4 MR. HOLTHAUS: Good afternoon. May it
5 please the Commission. Next on the schedule is issue
6 number three, Administrative Overhead. And the
7 question as framed in the parties' list of issues is
8 what should be included as administrative costs and,
9 alternatively, should the Commission modify the
10 proposed programs to place a cap on administrative
11 costs if the portfolio is determined cost effective.

12 Ameren believes its administrative costs
13 are reasonable in light of the challenges inherent to
14 implementing MEEIA programs, and Ameren witness
15 Timothy Via can explain these challenges further in
16 his testimony.

17 OPC advocates that the 20 percent cap
18 applicable to certain nonprofit government agencies
19 such as the Missouri Division of Energy should also
20 apply to Ameren. Ameren understands, however, that
21 these nonprofit agencies receive donations to
22 supplement their available funds to support
23 administrative costs and implement their programs.
24 Further, the details of the programs offered by the
25 nonprofit government agencies and how they compare to

1 Ameren Missouri's programs have not been explained in
2 this case. For example, are these nonprofit agencies
3 required to prepare a market potential study similar
4 in nature to what Ameren Missouri prepares? Are
5 these nongovernment agencies required to do
6 evaluation, measurement, and verification in the same
7 fashion that Ameren Missouri is so required?

8 These are elements that add to Ameren
9 Missouri's administrative burden. Without knowing
10 these details, the Commission can't be convinced that
11 this comparison to nonprofit agencies is an apples-
12 to-apples comparison or whether a 20 percent cap is
13 feasible in the utility context. Thank you.

14 JUDGE DIPPELL: Before you go away, let
15 me just make sure there's no questions. Are there
16 any questions for Ameren at this point? Okay. No
17 questions. Thank you. Staff, do you have an
18 opening?

19 MS. JOHNSON: Thank you, Judge. Staff
20 defers to OPC on this issue and supports the position
21 of the OPC, so we'll defer to Ms. VanGerpen for our
22 opening.

23 JUDGE DIPPELL: Thank you. Is there an
24 opening from Renew Missouri?

25 MR. LINHARES: No opening on this issue.

1 Thank you, Judge.

2 JUDGE DIPPELL: From NRDC?

3 MS. RUBENSTEIN: No, not on this issue,
4 thank you.

5 JUDGE DIPPELL: Anyone from MCEG?
6 Consumers Council? Office of Public Counsel?

7 MS. VANGERPEN: Yes, just briefly, your
8 Honor. Good afternoon, again, Chair Hahn,
9 Commissioners, and Judge Dippell.

10 So the issue of administrative costs
11 needs little introduction. This issue is fairly
12 straightforward as we see it. If this Commission
13 approves Ameren's amended application, should there
14 be a cap included on administrative costs, and the
15 answer, to the OPC, is yes, absolutely. As Dr. Marke
16 explained in his surrebuttal testimony, historically
17 about 45 percent of the total program costs of
18 Ameren's MEEIA programs is spent on administrative
19 overhead. With this current application, that means
20 that Ameren will spend about \$166.5 million on
21 administrative costs.

22 The Inflation Reduction Act that we just
23 spent some time talking about, it includes a cap --
24 it includes many of the same programs and caps
25 administrative costs at just 20 percent. If the

1 federal government thinks that these types of
2 programs can be administered with 20 percent of the
3 budget, why can't Ameren. This -- these overinflated
4 administrative costs are yet another reason why the
5 OPC asks this Commission to reject Ameren's amended
6 application. And again, I would encourage you to ask
7 questions that you might have to Dr. Marke.

8 JUDGE DIPPELL: Thank you. Are there any
9 commissioner questions for OPC at this point? Not
10 seeing any.

11 COMMISSIONER HOLSMAN: Judge, this is
12 Commissioner Holsman.

13 JUDGE DIPPELL: Oh, Commissioner Holsman,
14 go ahead.

15 QUESTIONS

16 BY COMMISSIONER HOLSMAN:

17 Q. Just clar -- for clarification, did you
18 say 45 or 48?

19 A. Historically it's been about 45 percent,
20 Commissioner.

21 COMMISSIONER HOLSMAN: Forty-five. Okay.
22 Thank you. That's all.

23 JUDGE DIPPELL: Okay. Thank you.

24 MS. VANGERPEN: Thank you.

25 JUDGE DIPPELL: Now, it's on the list

1 there are two witnesses. Would Ameren like to go
2 ahead and call its witness.

3 MS. HERNANDEZ: Ameren Missouri calls
4 Timothy Via.

5 JUDGE DIPPELL: And, Mr. Via, you were
6 previously sworn, so you remain under oath for our
7 proceeding here.

8 THE WITNESS: Okay.

9 (Witness previously sworn.)

10 TIMOTHY VIA

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

13 THE WITNESS: Okay.

14 JUDGE DIPPELL: You may go ahead if you
15 have anything additional.

16 MS. HERNANDEZ: No. We introduced the
17 exhibits when Mr. Via took the stand earlier, so
18 we'll just tender for cross.

19 JUDGE DIPPELL: All right. Then we're
20 ready for cross-examination. Is there any
21 cross-examination from Renew Missouri?

22 MR. LINHARES: None, thank you, your
23 Honor.

24 JUDGE DIPPELL: NRDC?

25 MS. RUBENSTEIN: No, thank you, Judge.

1 JUDGE DIPPELL: MCEG? Consumers Council?

2 Staff?

3 MS. JOHNSON: None from Staff, Judge.

4 JUDGE DIPPELL: Office of the Public

5 Counsel?

6 MS. VANGERPEN: No, thank you, Judge.

7 JUDGE DIPPELL: Are there any
8 commissioner questions for this witness? Chair Hahn.

9 QUESTIONS

10 BY CHAIR HAHN:

11 Q. Good afternoon. Help me understand this
12 issue a little bit better. OPC just mentioned that
13 about 45 percent of the costs historically have been
14 administrative and the application going forward, my
15 understanding was that this request was a little
16 over 600 million in MEEIA programs. How much do you
17 anticipate spending in administrative costs moving
18 forward in this cycle?

19 A. Yes. First, I'd just like to clarify a
20 couple things. Yes, per our filing, the
21 administrative costs, what they speak of, was roughly
22 at 45 percent, but that 45 percent covers a lot of
23 factors. One, that 45 percent includes EM&V and
24 market potential study costs. You remove that cost,
25 you're down to under 40 percent. That cost also

1 includes the way we model our demand response
2 programs. If you -- now, if you're removing the
3 other overhead plus removing the demand response
4 which is -- which is modeled as all admin, now you're
5 below 30 percent of cost. This is some of the costs
6 that those federal government programs does not have
7 to account for. They do not have to do an EM&V or
8 whatnot. They -- or some of those types of things
9 that we're doing.

10 One thing, we have income-eligible
11 programs that we talked about earlier. What is
12 modeled in our plan is for program implementer clause
13 is at 22 percent.

14 And we've talked about braiding and the
15 stacking and the benefits of that. Braiding -- we
16 currently braid or stack or partnership with Spire in
17 our programs. We do partnership with that for our
18 multi-family income-eligible program as well as our
19 single-family income-eligible program. Within that
20 partnership we're getting -- our customers are
21 prov -- are getting benefits by lower admin costs
22 because Spire is paying their fair share of those --
23 of those benefits in that program.

24 To give you an example, you have a family,
25 a family of four that participates -- single-family

1 income-eligible family of four participates in our
2 program through our single-family program. They
3 receive -- part of that assessment goes out assesses
4 them and they find out, based on that assessment they
5 can get, achieve a new HVAC system, they can achieve
6 a new furnace, they can achieve thermostat, whatnot.
7 Those -- those costs are shared between us and Spire.

8 For an easier example, we've -- we had
9 over 3,000 customers participate in our program last
10 year. If all 3,000 of those customers receive a
11 smart thermostat, the installation cost of that smart
12 thermostat is \$200. If that cost is split between us
13 and Spire, it's actually a 53/47 percent split, then,
14 therefore, it's roughly a -- say for easy math, a
15 hundred dollars each. If we do 3,000, that's \$3,000
16 that's saved by stacking or braiding those incentives
17 working with Spire that our electric customers do not
18 have to pay. Also there's lower admin costs that our
19 customers do not have to pay because Spire is -- is
20 bringing in admin costs for us to administer that
21 program.

22 So there is opportunities like that. And
23 that's not accounted for in our plan in our numbers
24 because we do not have control over Spire's budget
25 and what they can offer up. But we've had this

1 partnership for now going on six years, so we
2 anticipate them moving forward with us. But that's
3 also an opportunity to lower that.

4 Now, I gave the example on the smart
5 thermostat. We also share costs on measures that
6 we're doing with air sealing. We're also sharing
7 measures what we're doing with ceiling insulation,
8 floor insulation and other type of dual measures.
9 And I think what I would say from this is, I have
10 firsthand experience with this because I actually ran
11 those programs, so I understand the benefits that --
12 that provide of braiding though programs, bringing
13 that together to benefit the customer.

14 Other benefits that I see for the
15 customers of those types of programs is they --
16 throughout those programs, we -- they look at 20
17 to 30 percent energy savings per year from those
18 programs, because we're doing comprehensive-type
19 programs. That's like eliminating two to three bills
20 a year for these customers, not accounting additional
21 savings for the gas savings that those customers
22 have. That is the true benefit of the program.
23 That's the true benefit we see going forward if we
24 braid the programs, some of the benefits that can
25 happen from that.

1 Q. You had mentioned that EM&V, the market
2 potential study, and the DR modeling are included in
3 administrative costs and if they were excluded, the
4 administrative costs would be less than 30 percent.
5 Do you know exactly what number they would be?

6 A. I think my team sent me the number. It
7 would be roughly 26 percent.

8 Q. And then currently how much do you pay in
9 contractors to administer these programs? Is it --
10 or -- and how much is in marketing?

11 A. That would be the 26 percent that I quoted
12 and that is all-in costs. What we implement the
13 programs is turnkey for our programs, so they provide
14 the programs, marketing, reporting, all of those
15 factors that's included within that.

16 Q. Could Ameren reduce its cost to those
17 contractors if Ameren did the marketing in-house?

18 A. It's -- well, I guess I'd go back. The
19 marketing -- I'm not the marketing person in there,
20 in our group, but I think there's a combination of
21 the marketing, what is done by our implementation
22 contractor and what is overseen by our internal
23 marketing as they have other communication that goes
24 out to our customers.

25 Q. What has Ameren done to help or look at

1 reducing administrative costs?

2 A. I would look at a couple of things we look
3 at. As one, as I mentioned of working with Spire
4 to -- to build those relationships and to partner
5 with them to offer programs and such like that.

6 There's also efficiencies that we've
7 gained through reporting, through -- really one of
8 the biggest gains would be a longer term. If you --
9 if you clearly look at what -- what was mentioned, it
10 was like 45 or -- 45 percent, what you see in the
11 one-year extensions, even though I think it's been
12 great working with Staff and OPC to come up with an
13 extension that -- that provides continuation of our
14 program, that has come as a cost. And when I say
15 it's a cost, it's more risk on implementation
16 contractors that go up for a one-year contract. So
17 if you look over time, you would see that the admin
18 costs for a three year, it would go down. Like what
19 we have in our plan, it would go down roughly a
20 percentage a year for those three years. But if you
21 look at the one-year extensions, you would see the
22 admin costs has increased over that time because
23 you're just guaranteeing a one-year extension for
24 that.

25 Q. If the Commission hypothetically were to

1 order the 20 percent administrative cost as suggested
2 by OPC, how would Ameren go about complying with
3 that?

4 A. Base -- I would say based on my
5 experience, I think 20 percent would be unrealistic.
6 And I think you do not have an apples-and-apples
7 comparison between what we're administering and what
8 we're doing and what the federal guidelines is. We
9 talked about earlier in the open that our -- that
10 federal guidelines, federal agencies, they also use
11 other funding, whether it's donated funds or other
12 funds to help support and add additional cost to the
13 admin.

14 Even in the past, we've worked with Staff
15 and OPC to changes where we provide funds to
16 weatherization agencies where they needed additional
17 funds to ramp up for federal funding where we
18 provided that fund to cover admin costs for
19 additional training for customers. We also provide
20 our funds for additional above that 20 percent to go
21 into walkaway issues. So if customers having issues
22 with a hole in their roof or whether it's wiring or
23 ventilation, then they can utilize those funds for
24 that. That's part of the additional admin costs, and
25 I think that's some of that that you may not see

1 accounted for in the 20 percent guideline.

2 Q. I think earlier it was suggested that
3 potentially Ameren could partner with community
4 action agencies to reduce cost to administer these
5 benefits. Has Ameren partnered with community action
6 agencies for similar programs before, or is that
7 something you're open to or how would you go about
8 doing that?

9 A. I think that would be something we're open
10 with. What we look at right now to support our
11 programs, we do have open communication with them.
12 So they do provide us like high-risk customers that
13 may need assistance, and we'll work them to get them
14 enrolled in our program, see if we can help.

15 Also one of the things we look at in our
16 program, we're in direct parallel with our energy
17 assistance programs, and that's our energy assistance
18 programs with Ameren Missouri as well as with Spire.
19 So even when we look into neighborhoods for our
20 single-family income-eligible program or our multi-
21 family pro -- we normally go in with that first
22 because those customers, they're not looking for us
23 or looking, saying, How we can we upgrade our system.
24 They're in need for getting -- getting out of arrears
25 or not getting in disconnection. So we normally go

1 there and that helps give us goodwill to move the
2 program; now we have some confidence to move forward
3 with those customers.

4 CHAIR HAHN: Okay. Thank you.

5 THE WITNESS: Thank you.

6 JUDGE DIPPELL: Are there any other
7 commissioner questions?

8 COMMISSIONER HOLSMAN: Judge, I have a
9 question.

10 JUDGE DIPPELL: Go ahead, Commissioner
11 Holsman.

12 COMMISSIONER HOLSMAN: Thank you.

13 QUESTIONS

14 BY COMMISSIONER HOLSMAN:

15 Q. Thank you for your testimony today. We've
16 heard that OPC has suggested doing some sort of
17 statewide program that would potentially require
18 legislation but that could be, you know, put together
19 for some efficiencies. If Ameren was to participate
20 in a statewide program, do you think that that would
21 help get some of those admin costs down and make
22 the 20 percent more realistic if there was pooling of
23 resources among all the utilities?

24 A. I can't answer that based on that. I can
25 only answer based on what's in front of us with the

1 current MEEIA statute.

2 Q. Has Ameren ever considered looking at
3 doing a statewide program?

4 A. We're part of a collaborative right now
5 with the PAYS program where -- that's looking to see
6 how we can work together statewide to create
7 efficiencies and whatnot. But as of right now, that
8 hasn't resulted in increased participation of
9 customers.

10 COMMISSIONER HOLSMAN: Okay. Thank you.
11 And thank you, Judge.

12 JUDGE DIPPELL: Are there other
13 commissioner questions? Commission Mitchell, did you
14 have a question?

15 COMMISSIONER MITCHELL: Commissioner
16 Holsman beat me to it.

17 JUDGE DIPPELL: Commissioner Holsman beat
18 you. Okay. I have just one question.

19 QUESTIONS

20 BY JUDGE DIPPELL:

21 Q. So you stated that the 20 percent wasn't
22 necessarily a reasonable cap. Do you have a figure
23 for if the Commission were to order a cap, what would
24 be reasonable?

25 A. No. I mean, I think what we look at is we

1 normally hold our contractors to what we have within
2 our filing. Both our -- our filing and our work of
3 our contractors is based on performance, so if they
4 do not perform, then they do not get paid and,
5 therefore, customers are not paying for
6 underperformance. So what we see is based on -- is
7 best practice in what we're seeing within the
8 industry as we move forward for those admin.

9 As I mentioned, if you rule out the -- the
10 DR portion that is modeled as all admin and you --
11 and the EM&V and like potential study costs and those
12 types of costs that are not applicable to those
13 agencies, then we're roughly, then we're below 30
14 percent at this current time.

15 But I can't address that what would be in
16 the future. We just look at based on the -- our plan
17 was somewhat -- was -- well, it's not somewhat. Our
18 plan was put together in looking at market-indicative
19 prices as we sent out an RFP to the industry. And
20 what we landed on is with these contractors, but we
21 also look at the budgets that were submitted by
22 various contractors as we zone in and work with those
23 selected contractors to put together our plan. So we
24 feel that the budgets that we have within -- the
25 admin budgets that we have is indicative of

1 market-based pricing based on going out to market.

2 JUDGE DIPPELL: Are there other
3 commissioner questions? Chair Hahn.

4 QUESTIONS

5 BY CHAIR HAHN:

6 Q. If the Commission were to order
7 administrative costs at 26 percent or below, which is
8 what you say you spend minus those other things,
9 would Ameren Missouri continue to implement MEEIA, or
10 would you not implement the MEEIA programs?

11 A. I can't address that question. That would
12 be one we'd have to go and discuss with the team.

13 Q. Have you discussed internally with your
14 team about other ways that you could potentially
15 address reducing administrative costs? You talked
16 about contractors. Have you thought about trying to
17 hire teams within Ameren to do this that could
18 potentially be more cost effective than using
19 contractors?

20 A. At this time we -- we've not looked at
21 that alternative that I'm aware of.

22 CHAIR HAHN: I'm grappling with this a
23 little bit because I'm used to working with state
24 agencies on federal grants where there are
25 administrative caps of 3 percent. So when I hear

1 administrative costs in the 30s and 40 percents, I'm
2 trying to figure out what can be done differently
3 because -- even specifically for energy assistance
4 programs. So I don't know. Might be worthwhile,
5 something to explore.

6 JUDGE DIPPELL: Any other commissioner
7 questions? Commission Coleman.

8 QUESTIONS

9 BY COMMISSIONER COLEMAN:

10 Q. I'm sorry that I've missed a little bit of
11 this line of questioning, but if there was to be a
12 cap, what do you think a reasonable one is, in case
13 that question hasn't been answer -- asked yet?

14 A. I think that was asked, but basically my
15 response was looking at -- because we did
16 market-indicative pricing, we went out to the market
17 through an RFP evaluating over 40 proposals that were
18 sent in. We feel that what we have in the plan is
19 the best marketplace price to implement our portfolio
20 programs.

21 Q. And that's what percentage?

22 A. As I broke down the percentages, it's
23 the -- the implementation contractor piece of it is
24 roughly a little bit over 26 percent, I forget the
25 decimal place, but roughly around that, the

1 implementation contractor piece of the admin.

2 COMMISSIONER COLEMAN: Okay. Thank you.
3 Thank you.

4 JUDGE DIPPELL: Any other commission
5 questions?

6 COMMISSIONER MITCHELL: Just one.

7 QUESTIONS

8 BY COMMISSIONER MITCHELL:

9 Q. I just want to make sure I understand. So
10 at roughly a 45 percent admin charge and a 15 percent
11 earning opportunity out of the \$600 million program,
12 about 240 of that actually, 240 million out of 600
13 actually reaches the customer in some meaningful way?

14 A. Well, our plan was -- is \$370 million is
15 the proposed program cost --

16 Q. Three seventy.

17 A. -- of our plan. Yes.

18 COMMISSIONER MITCHELL: I think we
19 heard 600 yesterday, so I'm glad you said that.
20 Thank you.

21 JUDGE DIPPELL: All right. Okay. Is
22 there any recross based on questions from the bench
23 from Renew Missouri?

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

25 JUDGE DIPPELL: NRDC?

1 MS. RUBENSTEIN: No, thank you, Judge.

2 JUDGE DIPPELL: MCEG? Consumers Council?
3 Staff?

4 MS. JOHNSON: Yes, Judge, just a few.

5 RECROSS-EXAMINATION

6 BY MS. JOHNSON:

7 Q. You spoke about your team. How many
8 people are employed by Ameren for energy efficiency?

9 A. I do not have that exact number.

10 Q. Is it more than ten?

11 A. For -- I do not know the exact number,
12 but.

13 Q. Okay.

14 A. Yes.

15 Q. Thanks. Whenever you were speaking with
16 Chair Hahn, you were talking about costs modeled in
17 your plan.

18 A. Right.

19 Q. What's the upper limit of admin costs as
20 proposed by Ameren?

21 A. Can you rephrase the question or
22 clarification?

23 Q. Sure. What's the dollar value of the high
24 end of the admin costs proposed by Ameren?

25 A. I'm not sure if I understand your question

1 exactly.

2 Q. Okay. Maybe this one will help. Where
3 can the Commission find those numbers in the proposed
4 tariff sheets?

5 A. In App -- in Appendix A of our filing it
6 has the ad -- costs broken out by program costs, by
7 admin costs, and it also has the other program costs
8 broken out in tables within Appendix A.

9 Q. And where are those numbers in the tariff
10 sheets?

11 A. Those numbers, I'd have to review the
12 tariff sheets, but I don't think those numbers were
13 provided in the tariff sheets. They're part of our
14 filing to -- to provide the max flexibility to
15 provide the benefits to our customers.

16 Q. So you're not bound by those numbers then?

17 A. We're bound by those numbers because
18 that -- if the Commission sees fit to move forward,
19 then that would be the numbers that would be tied to
20 and the goals that we'd be seeking to get the max
21 benefits of that we've identified over \$300 million
22 in benefits for our customers.

23 Q. With the flexibility that's built into
24 your application as well. Correct?

25 A. With the?

1 Q. With the flexibility that's built into
2 your application as well?

3 A. Well, I mean, I think the flexibility is
4 as we move forward, and I think one of the things we
5 look at is -- the Commissioner asked earlier about
6 things that we're doing to improve our programs.
7 Things that we're doing to improve our program is
8 simplifying processes for our programs to move
9 forward. I think you look at our standard program,
10 we're simplifying the application to make it easier.

11 I think one of the commissioners mentioned
12 yesterday that our single-family -- well, not a
13 single-family -- our small-business direct install
14 was not hitting target, but those numbers that we
15 report is based on what was approved, even though
16 we're improving processes and you might have
17 small-business direct -- small-business customers
18 participate in our -- our standard program through a
19 simplified application process. So that simplified
20 application process means you're also reducing costs.
21 You're reducing admin costs over the long run. So
22 we're --

23 Q. Thanks. Mr. Via.

24 A. -- we're operating those --

25 Q. Thank --

1 A. -- types of things.

2 Q. -- you for your answer.

3 I just want to clarify. The numbers that
4 Ameren is bound to in their tariff sheets do not
5 include the administrative overhead costs or any cap
6 that would be included. Correct?

7 A. At this time within our filing, we do not
8 include a cap on admin.

9 Q. And the tariff sheets don't include one
10 either?

11 A. At this time we do -- we did not include a
12 cap on admin as part of our application.

13 Q. Thank you.

14 Oh, just one second, Judge.

15 Oh, my question is about your \$370 million
16 number that you provided to Commissioner Mitchell.
17 Does that include maximum earning opportunities or
18 throughput disincentive cost? Is that a maximum?

19 A. No. The cost -- I was asked about the
20 program cost. And what I was saying is our plan
21 is \$370 million of program costs.

22 Q. And what's the maximum?

23 A. \$370 million is the maximum program cost.

24 Q. Not 600 million?

25 A. No.

1 Q. Is the 600 million the entire program
2 cost? Or excuse me, the entire application cost?

3 A. No. There -- there is costs for -- if you
4 look at -- if you break it down, the 370 million is
5 program costs. There's costs for earnings
6 opportunity, the target. I do not have the exact
7 number in front of me. And then there's throughput
8 disincentive costs, but those three together does not
9 add up to \$600 million.

10 MS. JOHNSON: Okay. We'll leave that
11 explanation for another day. Thank you. Nothing
12 further, Judge.

13 JUDGE DIPPELL: Is there any
14 cross-examination based on bench questions from OPC?

15 MS. VANGERPEN: Just very briefly, your
16 Honor. Thank you.

17 CROSS-EXAMINATION

18 BY MS. VANGERPEN:

19 Q. Good afternoon again, Mr. Via.

20 A. Good afternoon.

21 Q. I actually went to pick up where Staff was
22 following up on Commissioner's Mitchell questions
23 about the \$370 million. So to clarify, the 45
24 percent admin costs that you referenced in response
25 to Chair Hahn's questions, is that included in the

1 program costs, the \$370 million program costs?

2 A. Yes. That's part of the 370 million, yes.

3 Q. Okay. So if we removed that 45 percent of
4 admin costs, that would bring us down to about \$203
5 million for incentives. Is that correct?

6 A. That's correct.

7 Q. Okay. And again, that -- that is one pot
8 of money and then in addition we would have the EO
9 and the throughput disincentive as part of this
10 application as well. Is that correct?

11 A. Correct.

12 Q. Okay. So this application would include
13 all three of those pots: The program costs pot of
14 course broken down into admins and then -- admin
15 costs and incentive costs as well?

16 A. Correct.

17 Q. Okay. Great. Thank you. And then I want
18 to follow up on Commissioner Holsman's questions
19 about the statewide program. Do you remember that
20 conversation?

21 A. Yes.

22 Q. Okay. He asked you a question, if there
23 could be a reduction in administrative costs with
24 that statewide program. Do you remember that?

25 A. Yes.

1 Q. And -- and you mentioned that it would be
2 uncertain if -- if there would be a reduction in
3 admin costs.

4 A. Correct.

5 Q. Okay. But then in your questions -- when
6 you were -- in your discussion with Chair Hahn, you
7 had mentioned a braiding with Spire --

8 A. Correct.

9 Q. -- and a reduction in admin costs --

10 A. Correct.

11 Q. -- because of that braiding with Spire.

12 A. Correct.

13 Q. Okay. So you're uncertain though if we
14 were to move everything to a statewide program where
15 everyone worked together, you're uncertain if there
16 would be a reduction in admin costs there?

17 A. Yeah. When I was speaking to the
18 partnership with Spire, I was speaking of firsthand
19 because I ran those programs, I managed those
20 programs, so I can be specific about the benefits and
21 the cost savings associated with that.

22 Going out with different utilities, with
23 different I guess -- I guess priorities of those
24 utilities, not knowing those priorities, going out to
25 have an implementer -- implementation across the

1 state, whatnot, I cannot speak to that.

2 MS. VANGERPEN: Okay. That's all I have.
3 Thank you, your Honor.

4 JUDGE DIPPELL: Is there any redirect?

5 MS. HERNANDEZ: No questions, thank you.

6 JUDGE DIPPELL: And let me just briefly
7 clarify because counsel from Public Counsel mentioned
8 EO, and that's earnings opportunity. Is that
9 correct?

10 MS. VANGERPEN: That's correct. I
11 apologize, Judge Dippell.

12 JUDGE DIPPELL: That's fine. Just trying
13 to keep all of our acronyms straight. I believe that
14 concludes your testimony on this issue and you may
15 step down, Mr. Via.

16 THE WITNESS: All right. Thank you.

17 JUDGE DIPPELL: And then the last witness
18 on this issue is Mr. Marke has returned back to the
19 stand, and you are still under oath.

20 (Witness previously sworn.)

21 DR. GEOFF MARKE
22 the witness, having been first duly sworn,
23 testified as follows:

24 JUDGE DIPPELL: Was there anything
25 further from Public Counsel before we begin

1 cross-examination of Mr. Marke?

2 MS. VANGERPEN: No, Judge Dippell. We --
3 again, we would tender him for cross.

4 JUDGE DIPPELL: Thank you. Is there any
5 cross-examination from Staff?

6 MS. JOHNSON: Yes, please, Judge,
7 briefly.

8 CROSS-EXAMINATION

9 BY MS. JOHNSON:

10 Q. Good afternoon, Dr. Marke.

11 A. Good afternoon.

12 Q. If you were to assume that Ameren's
13 portfolio is to be cost effective, should there be a
14 cap on the administrative overhead cost for the
15 programs included?

16 MS. MOORE: Again, your Honor, I'm going
17 to object to friendly cross. His testimony already
18 outlines this and this is only done to bolster his
19 testimony.

20 JUDGE DIPPELL: I will overrule.

21 MS. MOORE: Thank you, Judge.

22 THE WITNESS: So the administrative cost
23 overruns are a concern. I think for the obvious
24 example, you know, that's been articulated is the
25 Division of Energy being able to be capped at 20

1 percent as a state agency and then to have that more
2 than double on the investor-end side, it raises
3 efficiency issues.

4 BY MS. JOHNSON:

5 Q. And we've heard today that the IRA has a
6 cap. Correct?

7 A. That's correct.

8 Q. Do you feel the IRA cap is in line with
9 what a cap should be if one were put in place?

10 A. That's a good question. I personally
11 think the IRA will have -- will struggle to
12 meaningfully spend down that money with the 20
13 percent cap, but that's what they have to do. And
14 again, it's a state agency. I mean, how you do that,
15 there are efficiencies to be gained again from how
16 you market this, you know, setting up a web page,
17 getting that information out there. It would be a
18 challenge, but clearly the federal government feels
19 like that's the bar or the standard that they should
20 be held to.

21 Q. Thank you. In your opinion how can we
22 ensure that Ameren efficiently uses the funds that
23 ratepayers are forced to pay for energy efficiency
24 under this application?

25 A. By having these uncomfortable

1 conversations. I mean, quite frankly, like just --
2 and Staff talks about details and this is -- this
3 is a big detail. You know, we're talking about
4 the -- the efficiency of these programs at the end
5 of the day. We want -- we want to be prudent
6 stewards of, you know, finite money. You know, I
7 often say that, you know, we can solve about any
8 problem; we just can't solve every problem. So we've
9 got to be very diligent about what we use our capital
10 for.

11 Q. Do you feel that having a discrete
12 administrative cap for each program listed in the
13 tariff would assist in a prudence review?

14 A. Well, definitely it would make things
15 easier. You know, the challenge here is that not all
16 these programs are equal. You know, I talked before
17 about, like, light bulbs being something, like,
18 fairly simple that you go ahead and administer and we
19 could see those energy savings. As, you know,
20 Mr. Via had pointed out, you know, the administrative
21 overhead for niche groups like, you know, low income
22 tends to be much more cost intensive in terms of
23 administrative overhead than it otherwise is for an
24 affluent group. That -- that's going to impact the
25 ratio. It's going to impact, you know, the cost

1 effectiveness of these programs.

2 The -- the easiest issue for the
3 Commission's consideration is to really look at any
4 prudence review that Staff does. Staff does a great
5 job of breaking down these administrative overhead
6 costs per program. And it's eye opening, I mean,
7 quite frankly.

8 You might have, you know, I think Ameren
9 proposing something like 30-some-odd programs or
10 subsets of programs. And when you look to see, well,
11 how much -- and in some cases it's almost a hundred
12 percent. Like, there are no incentives associated
13 with that. All the education programs are
14 effectively just administrative overhead. That's
15 just a marketing technique that you throw out there.
16 Which is again why, when we had the one-year
17 extensions, we cut all of that fat. Like, that was
18 the rationale behind it is we're going to minimize
19 the cost for EM&V, which is considerable, by cutting
20 out the fat and just focusing on the -- the prime
21 beef programs effectively, the HVAC programs, the,
22 you know, building shell measures.

23 This application throws that away and it
24 moves back to, you know, a framework that we just
25 believe is not relevant anymore.

1 Q. I'd like to clarify. You heard my
2 conversation with Mr. Via about the difference
3 between the caps listed in Appendix A and caps
4 identified in a tariff being binding on the Company.
5 Can you elaborate on that?

6 A. So the tariff being the -- the operative
7 word here, I mean, is, you know, from a legal
8 perspective, to be able to hold them accountable for,
9 you know, the numbers that are in place. So the
10 challenge here I think from -- from a Commission
11 standpoint is determining, you know, what we include
12 in with program costs.

13 And Ameren's testimony yesterday, you
14 know, suggested that, you know, as these savings
15 become tougher and tougher to get, I think we all
16 recognize -- I don't think anybody's challenging
17 that, that this is tougher to get the savings that we
18 historically got from light bulbs, it's going to be
19 more expensive. So I -- I struggle conceptually
20 sitting here saying, Well, you know, we've got to
21 spend three dollars to give away a dollar. And
22 that's -- that's the challenge.

23 That just seems like a -- programs get cut
24 all the time because of that at the federal level. I
25 mean, there's, you know, the GAO is dedicated to

1 looking at, you know, these hard questions.

2 Government Accounting Office, sorry, probably verify
3 that.

4 MS. JOHNSON: All right. That's all.
5 Thank you. Nothing further.

6 JUDGE DIPPELL: Is there any
7 cross-examination from Consumers Council? MEGC?
8 Renew Missouri?

9 MR. LINHARES: No, thank you.

10 JUDGE DIPPELL: NRDC?

11 MS. RUBENSTEIN: No, thank you.

12 JUDGE DIPPELL: From Ameren?

13 MS. MOORE: If I could just have one
14 moment; I want to verify something first.

15 CROSS-EXAMINATION

16 BY MS. MOORE:

17 Q. I just have one question to follow up
18 based on Staff counsel's question. And in the
19 previous MEEIA prudencies review, there hasn't been
20 any finding of imprudence regarding administrative
21 costs. Correct?

22 A. I don't believe we've raised that issue.

23 MS. MOORE: All right. Thank you.

24 JUDGE DIPPELL: Are there any
25 commissioner questions? Commission -- Chair Hahn.

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QUESTIONS

BY CHAIR HAHN:

Q. Dr. Marke, if you could help me with some of the big numbers here that I got from Commissioner Mitchell. In this program application there's \$370 million of program costs which include administrative costs. 203 million of that would be incentives that are -- dollars actually going to customers for upgrades. How much is the proposed earnings opportunity cost?

A. It's a little over \$70 million.

Q. Okay. And then what about the throughput disincentive cost?

A. 121 million is the MEEIA Cycle -- it's the three MEEIA cycle averages, so give or take. The lost revenues are going to vary depending on the measures that are rebated. You know, an HVAC's going to produce more than a light bulb, so. But 121 million I think is a -- is an approximate number. So page 50 of my surrebuttal has all of this information.

CHAIR HAHN: Thank you. Page 50. Great. Thank you.

JUDGE DIPPELL: Are there any other commissioner questions?

1 COMMISSIONER HOLSMAN: Judge, this is
2 Commissioner Holsman.

3 JUDGE DIPPELL: Go ahead, Commissioner.

4 COMMISSIONER HOLSMAN: Thank you.

5 QUESTIONS

6 BY COMMISSIONER HOLSMAN:

7 Q. Thank you, Mr. Marke. Can you talk a
8 little bit about what savings you think are some of
9 the low-hanging fruit if there was a statewide
10 program where you had some of the duplication that
11 was going to be consolidated?

12 A. So Mr. Via I think correctly pointed out
13 that Spire -- the -- having programs together with
14 Spire and Ameren has resulted in cost savings for
15 Spire customers and for Ameren customers. I would
16 argue that same logic, which is just economies of
17 scale, just increases as that pot gets bigger. If
18 you've got more utilities that are involved in this,
19 you're doing this across the statewide program,
20 you're cutting out two huge components, which are the
21 cost -- literally the cost inputs into the TRC.

22 So the one is administrative overhead.
23 Instead of having duplicative administrative
24 overheads across each one of our utilities which has
25 each -- each has an individual contractor, each one

1 has an individual EM&V, that's -- those are cost
2 savings right off the bat in just cutting duplicative
3 program administrative overhead.

4 The other one, which I think is even more
5 valuable, is the option of negotiated bulk buying.
6 And that -- that is -- that is a huge, huge issue
7 when you consider that most of the big measures are
8 thousand-dollar-plus measures to move energy
9 efficiency savings. So the ability to go ahead and
10 get a bunch of HVACs at wholesale cost versus retail
11 cost, you know, 30, 40 percent reductions. I mean,
12 it's very significant, which would move the bottom
13 line.

14 There's also --

15 Q. Thank you --

16 A. -- I would also say marketing too.

17 You look at like good states, you know,
18 that do that, having a centralized message just
19 saying like, you know, Missouri Saves, you know, or
20 Show Me Savings, you know -- you know, which probably
21 should trademark that. Like, that's a -- that's a
22 very, you know, that is something that I think, you
23 know, rings and you could get that to customers; it
24 would help all Missouri citizens.

25 Q. Thank you. Is including the cost for EM&V

1 and the DR report, is that -- is that a cost that's
2 the product of legislation? Is that a requirement
3 that it be included in administrative costs?

4 A. No, it's not. I'm -- I mean, it --
5 we're -- it's not an incentive. So, you know,
6 typically we look at, you know, benefits or
7 incentives. Another way of looking at this is think
8 of that in terms of supply-side investments. So on
9 supply-side investments, we talk about op-ex and
10 cap-ex. Cap-ex, the utility gets a return on their
11 investment. In this case the cap-ex would be the
12 rebates and the op-ex would be the administrative
13 overhead. And typically utilities do not -- they
14 don't get a return on operational expense.

15 Q. And I think -- would you agree that if a
16 statewide efficiency program were to be pursued, it
17 would require legislative action?

18 A. I -- I mean, that would be the easiest. I
19 mean, that's a loaded statement. I don't think
20 necessarily think getting the statute would be the
21 easiest, but assuming you get a statutory change,
22 that would be the easiest to implement is just having
23 some assurance across the board like that. I -- I
24 think -- that was ultimately the conclusion the
25 stakeholders came to when we were doing the

1 eAccelerator program is that it would ultimately
2 require statutory changes.

3 Q. Do you -- do you envision a statewide
4 program shifting some of the admin costs to a state
5 agency? Is that -- is that the vision that you would
6 have for a statewide program is that it would
7 actually be ran by the Department of Energy or have
8 some of those admin costs be absorbed by State?

9 A. It's a great question. No. It would be
10 my recommendation -- so what's fascinating about this
11 question is is that you've got Ameren Missouri's
12 program that's being put forward here for the next
13 three years. And then separate and aside, the
14 Division of Energy has a program that they're putting
15 forward.

16 Now, for all practical intents and
17 purposes, they're the same entity in terms of -- I
18 don't mean to minimize this, but they're check
19 writers. Like, you're writing a check. We're then
20 handing that off to a third party to go ahead and
21 administer these programs. The difference between
22 the two is that DE -- DE's check writing is capped
23 at 20 percent, and they're not earning any lost
24 revenues or an earnings opportunity on it. All of
25 that is baked into the Ameren application, and it --

1 it results in a very bloated program that, from our
2 perspective, it just becomes ultimately just a wealth
3 transfer. So the question is --

4 Q. Okay.

5 A. -- is whether or not DE should be doing
6 it.

7 I would expect DE would be a partner or
8 one of the stakeholders involved. And if I had a
9 magic wand, it would be -- it would be -- we'd mirror
10 the program in Massachusetts which is called Mass
11 Saves. There's effectively all the utilities, the
12 OPC, the PSC, DE all have a seat at the table. But
13 we would send out a competitive RFP for a third party
14 to administer these programs. And that's -- that to
15 me is the best practice. So when Mr. Linhares talks
16 about other states that have moved forward already
17 with these programs, it's because they have a
18 statewide program in place.

19 Q. Would you then recommend that legislation
20 to include the braiding and the stacking if the
21 administration was done in the way that you envision
22 it to be done?

23 A. Yes.

24 COMMISSIONER HOLSMAN: Okay. I have no
25 further questions. Thank you, Judge.

1 JUDGE DIPPELL: Thank you. Are there any
2 other commissioner questions?

3 COMMISSIONER MITCHELL: Just one or
4 two --

5 JUDGE DIPPELL: Commissioner Mitchell.

6 COMMISSIONER MITCHELL: -- for me.

7 QUESTIONS

8 BY COMMISSIONER MITCHELL:

9 Q. Do you know of other states off of the top
10 of your head that -- that actually do this?

11 A. Yes.

12 Q. That have statewide programs?

13 A. So the three that -- there's four
14 technically. I mean, it's Oregon, Maine,
15 Massachusetts, and Wisconsin. They're all a little
16 bit different, but they're all statewide programs run
17 by a third party.

18 Q. And do you have any, you know, feel for
19 how they've done in terms of reducing overhead costs
20 and --

21 A. Oh, yeah.

22 Q. -- delivering --

23 A. Very well. Like, these are top ACEEE
24 programs. I mean, I -- we interact with consumer
25 advocates; that's sort of my sanity check in states

1 across America. And all of their consumer advocates
2 support the programs that they're -- that they --
3 there's a good return on investment. It's -- it --
4 there's a process in place that isn't as labor
5 intensive as what we do here in Missouri.

6 Q. And do you have a feel for how they do in
7 terms of customer participation in the programs?

8 A. They're very strong, yeah.

9 Q. COMMISSIONER MITCHELL: Thank you.

10 JUDGE DIPPELL: Any other commissioner
11 questions?

12 QUESTIONS

13 BY JUDGE DIPPELL:

14 Q. I just have one -- one question for you,
15 Dr. Marke. OPC has proposed a 20 percent cap on
16 administrative costs for all programs. Correct?
17 Except for PAYS.

18 A. Right.

19 Q. And that should, OPC has recommended, be
20 capped at 35 percent?

21 A. That's right.

22 Q. How does your proposed cap limit take into
23 consideration when the cap is met relative to when
24 the program goals are achieved?

25 A. So the easiest issue would be just at the

1 end of the year, because that's when they're
2 collecting it and we can -- we can true that up.

3 There's two ways of technically doing it.
4 The Commission could elect to do that through the
5 EM&V process. I would argue that would probably be
6 the less -- less efficient way. The easiest way to
7 do that would probably be through the prudence review
8 process. That's just the Commission sets a cap
9 number and the -- the Commission Staff does exactly
10 what they've always been doing and they just break
11 down the differences between program overhead versus
12 incentives. At the end of the day, if that number
13 exceeds it, then those are num -- those are dollars
14 that would be disallowed as imprudent.

15 JUDGE DIPPELL: Okay. Thank you. Is
16 there any further cross-examination based on
17 questions from the bench from Staff?

18 MS. JOHNSON: Nothing further, Judge,
19 thank you.

20 JUDGE DIPPELL: Consumers Council? MECG?
21 Renew Missouri?

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

23 JUDGE DIPPELL: NRDC?

24 MS. RUBENSTEIN: No, thank you, Judge.

25 JUDGE DIPPELL: Ameren?

1 FURTHER RECROSS EXAMINATION

2 BY MS. MOORE:

3 Q. I just want to follow up on your
4 calculation for the 600 million. I'm sorry, did you
5 say the throughput disincentive was 85 million?

6 A. No.

7 Q. Did you look at the amended application?

8 A. So I didn't say -- I said 121 million.

9 Q. Could you look at page 66 of the amended
10 application?

11 A. I don't have the amended application in
12 front of me.

13 Q. Will you accept, subject to check, that
14 the maximum amount for the throughput disincentive
15 is 85 million?

16 A. You have a -- you have a cap on your
17 throughput disincentive? That seems --

18 Q. I think we discussed this yesterday as
19 well in terms of the earning opportunity, the
20 maximum amount of 70 -- or \$70 million you haven't
21 seen the -- Ameren hit that, have -- in previous
22 MEEIA cycles. So in other words --

23 A. I'm --

24 Q. -- that 70 million is just a target in
25 past MEEIA cycles; the Company hasn't met that

1 maximum target?

2 A. My understanding is if you do everything
3 that you're supposed to do, it's a little over \$70
4 million. Whether the Company gets exactly a little
5 over \$70 million or close to it, my professional
6 experience with Ameren is they get darn close to it
7 if not to it.

8 Now, as far as a cap on the lost revenues,
9 I can test that. I don't think there is any cap on
10 lost revenues, and I would be shocked to find out
11 that there is. I -- I don't know how you would
12 calculate it absent -- I mean, you've got to go --

13 Q. But your --

14 A. -- you've got a rebate --

15 Q. -- throughput disincentive was at 125
16 million?

17 A. One. So if I may explain where that
18 number came from.

19 Q. Yes.

20 A. That 121 is the average of your -- each
21 subsequent MEEIA cycle you've had. I took all of the
22 lost revenue --

23 Q. But I thought we were talking about this
24 application.

25 A. So nobody today knows what your lost

1 revenue dollar amount's going to be until you do it.
2 So I am operating under the assumption that your
3 application is more or less in line with what you've
4 done before. I think reasonable minds can say that
5 there might be a variance say 10, 20 percent or 20
6 million one way or the other, but it is a good proxy
7 from my professional perspective.

8 Q. But what is included in the plan?

9 A. Nothing.

10 Q. So you didn't -- you're not aware of the
11 paragraph on page 66 that outlines how the throughput
12 disincentive was calculated using the past five years
13 of the customers' bills over 12 months and the
14 Company had estimated that for 85 million?

15 MS. VANGERPEN: Judge Dippell, I'm going
16 to object here. Dr. Marke has said that he doesn't
17 have the amended application in front of him, and so
18 if Ameren wants to continue this, I would ask that
19 they at least make that available to him.

20 JUDGE DIPPELL: We can get that
21 available, but she was in the process of asking him
22 if he was familiar with that particular paragraph.
23 If he's -- if he can't recall it, then yes, let's get
24 the amended application.

25 THE WITNESS: I will take you at your

1 word that it says that. I don't agree with it based
2 off of your historical performance. So --

3 BY MS. MOORE:

4 Q. Well, that's okay. We've identified what
5 the discrepancy is.

6 A. Okay.

7 Q. But then, yeah. I couldn't do this off
8 the top of my head, but I think our numbers, there's
9 a disparity there. There's a Delta between -- okay.

10 Your Honor, I have no further questions.

11 JUDGE DIPPELL: And just for the record,
12 Dr. Marke was shaking his head yes --

13 THE WITNESS: I was shaking my head yes
14 in confirmation, yes, sorry.

15 JUDGE DIPPELL: -- in agreement.

16 All right. All right. Well, I believe
17 that is -- oh, I'm sorry. Is there redirect?

18 MS. VANGERPEN: Not at this time, thank
19 you, your Honor.

20 JUDGE DIPPELL: Okay. Then that
21 concludes your testimony on this issue, Dr. Marke,
22 and you may step down. And we can proceed then with
23 our final issue for the day which is Earnings
24 Opportunity.

25 MS. VANGERPEN: Judge Dippell, could we

1 ask for just a short five-minute recess before we
2 start the next issue please?

3 JUDGE DIPPELL: Sure.

4 MS. VANGERPEN: Thank you.

5 JUDGE DIPPELL: Let's go ahead and take a
6 very short break, five minutes, come back at 20
7 after.

8 (Off the record.)

9 JUDGE DIPPELL: Let's go ahead and go
10 back on the record. Okay. We have returned, and we
11 are ready to begin our next issue which is Earnings
12 Opportunity. And I guess are there mini opening
13 statements for Earnings Opportunity? Yes. Okay.
14 Then let's begin with the Company.

15 MR. HOLTHAUS: May it please the
16 Commission. As Judge Dippell noted, next on the
17 schedule is issue four, Earnings Opportunity.

18 Staff has raised the question if the
19 Commission determines that Ameren Missouri may
20 implement a fourth MEEIA cycle, should the Commission
21 authorize an earnings opportunity. Under the MEEIA
22 statute, Section 393.1075.3, the answer is yes. And
23 the statute doesn't leave room for debate on this.
24 MEEIA provides, The Commission shall provide timely
25 earnings opportunities associated with

1 cost-effective, measurable, and verifiable efficiency
2 savings. In addition, the Commission rules provide
3 that the Commission shall order any earnings
4 opportunity component of a demand-side programs
5 investment mechanism simultaneously with the
6 approval of the demand-side programs in accordance
7 with 4 CSR 240-20.094.

8 In its position statement filed last week
9 OPC acknowledges this statutory earnings opportunity
10 requirement. Staff, on the other hand, argues that
11 Ameren Missouri should only receiving an earnings
12 opportunity to the extent that the MEEIA 4 cycle
13 reduces, defers, or avoids future investment
14 opportunities. The MEEIA statute, however, simply
15 does not require this.

16 Ameren's revised Appendix N outlines the
17 performance metrics that trigger Ameren Missouri's
18 earnings opportunity. This proposed earnings
19 opportunity is structured similar to the earnings
20 opportunity from the first three years of the third
21 MEEIA cycle. The fourth MEEIA cycle includes an EM&V
22 process for measurable and verifiable energy savings
23 to verify Ameren met the performance metric.

24 Now, to check the reasonableness of
25 Ameren's earnings opportunity, Ameren conducted a

1 benchmarking study and an analysis of foregone
2 earnings. Ameren's proposal is the only proposal
3 that aligns Ameren Missouri's incentives with the
4 interest of Ameren Missouri's customers in using
5 energy more efficiently.

6 Staff and OPC frame the earnings
7 opportunity as an additional layer of compensation
8 stacked on top of earnings that Ameren Missouri
9 recovers on investments in capital projects. The
10 earnings opportunity, however, recognizes that
11 demand-side resources are part of a portfolio of
12 resources used to meet customers' energy and capacity
13 requirements. The earnings opportunity component of
14 the demand-side programs investment mechanism, or
15 DSIM, is intended to result in treating the
16 demand-side elements of the portfolio on an equal
17 footing with the supply-side elements of that
18 portfolio by creating earnings to substitute for
19 earnings on the incremental supply-side investments
20 that would have to be made absent these demand-side
21 management programs.

22 Importantly Ameren Missouri estimates
23 approximately 4 billion in avoided net present value
24 of revenue requirement associated with the
25 implementation of MEEIA over the coming 20 years.

1 The concept is that the utility shares the savings
2 with customers as an incentive for the utility to
3 encourage customers to use less electricity.

4 Staff and OPC argue that Ameren Missouri
5 gets all the reward and bears no risk. By
6 implementing demand-side programs, however, Ameren is
7 bearing real risk to its revenue new requirement by
8 encouraging customers to use less electricity. This
9 is a detail that Staff and OPC have omitted.

10 Moreover, Ameren Missouri is obligated to
11 the spend the MEEIA investments prudently. And if it
12 fails to do so, then the Commission may, through a
13 prudence review, make Ameren Missouri bear the risk
14 for imprudent spending.

15 Staff and OPC also focus on the customers
16 bearing risk of the performance of these programs,
17 but this stands in stark contrast to the risk that
18 customers would bear of an expected 4 billion
19 increase in the net present value of revenue
20 requirement absent these programs.

21 JUDGE DIPPELL: Are there any questions
22 for Ameren's attorney? I don't see any. Thank you.
23 Is there an opening statement from Staff?

24 MS. JOHNSON: Yes, please. Good
25 afternoon. May it please the Commission. Again, I'm

1 Tracy Johnson from Staff Counsel's Office, and I'd
2 like to provide you with a brief run through of the
3 earnings opportunity issue from the perspective of
4 Staff. That's issue number four in this case.

5 So first off, the MEEIA statute. You
6 heard Ameren's attorney cite to it for you, and I'd
7 like to read a section specifically. So this is
8 subsection 3 of 393.1075 and it says under subpart 3
9 of sub 3, Provide timely earnings opportunities
10 associated with cost-effective, measurable, and
11 verifiable efficiency savings.

12 Cost effective, measurable, and
13 verifiable. Yesterday we struggled to establish cost
14 effectiveness. We struggled with how to measure
15 benefits. We struggled with how we could possibly
16 verify assumptions that were made in documents that
17 Ameren uses to support a large portion of the
18 analysis required for this application. But to
19 continue, let's assume the statutory burden has been
20 met by Ameren in this application, even though Staff
21 is not of the opinion that it does meet the statutory
22 requirements.

23 Now I'd like to discuss the foundation of
24 an earnings opportunity. An earnings opportunity is
25 to compensate shareholders for a return not earned on

1 an investment not made if a MEEIA cycle is not
2 reducing, deferring, or avoiding investment
3 opportunities. An earnings opportunity would not be
4 appropriate even if that cycle was initially assumed
5 to do so and an earnings opportunity was originally
6 included in the program design.

7 We established yesterday in our
8 conversation with Mr. Lozano that we're not talking
9 about an investment opportunity being avoided or
10 reduced. There might be a deferral. So to keep
11 things simple, I'm going to stick to a discussion of
12 deferral. As is our task at hand, let's get to the
13 details. We're starting with some major assumptions.
14 Statutory requirements for an earnings opportunity
15 are met. And an even bigger assumption, a deferral
16 of a supply-side resource will take place.

17 So if we clear those two hurdles, I want
18 you to watch out for an oversimplification here.
19 Avoided costs for ratepayers, that's funds not needed
20 if a supply-side resource is not built, do not
21 automatically result in earnings opportunities for
22 shareholders. Earnings opportunities for
23 shareholders are the portion of their investment they
24 would have received back as a return if they had been
25 able to invest in the new build in the first place.

1 Earnings opportunity is designed to make shareholders
2 whole for losing out on the chance to invest. This
3 means they must have lost out on making the
4 investment in the first place. Since Ameren cannot
5 identify a supply-side investment that's being
6 reduced or avoided and this application only very
7 shakily suggests that there might be a deferral, it's
8 highly unlikely that an earning opportunity is
9 warranted here. Shareholders are not losing out on
10 any investment opportunity in this Cycle 4
11 application.

12 But since we've assumed statutory
13 compliance and assumed the deferral of the
14 unidentified supply-side build that may or may not
15 happen, let's keep going and discuss assumed earnings
16 opportunity from an assumed deferral. Are you with
17 me? How long would this hypothetical deferral be
18 for? A few years? So the lost investment
19 opportunity would be limited to a portion of a return
20 shareholders would have earned on the theoretical
21 investment during those few years of deferral time
22 that allegedly might occur because of the MEEIA cycle
23 opportunity to invest that was lost.

24 That opportunity to invest is not lost
25 forever. The shareholders will have plenty of

1 options to make money off future investments because,
2 as you heard yesterday, the supply side of things is
3 not decreasing. And it appears for this application
4 from all the assumptions that we've had to make to
5 get to this point, the supply side isn't being
6 deferred at all.

7 With the devil being in the details as
8 we've talked about, let's look over one more set of
9 details regarding Ameren's ability to impact the huge
10 earnings opportunity in this application. In
11 Appendix N to this application the earnings
12 opportunity is grouped into four groups, four buckets
13 if you will. All the programs in the energy
14 efficiency portfolio are organized into just those
15 four buckets. You heard Dr. Marke -- realize -- or
16 excuse me -- recognize that there's over 30-some-odd
17 programs in this portfolio organized into just four
18 buckets.

19 Okay. Now pay attention to this bait and
20 switch. The application is based on a specific
21 number of measures for each program that have
22 individual targets per program. But the earnings
23 opportunity is calculated using only those four
24 buckets with benchmarks that are set by Ameren and
25 with an application that allows for the flexibility

1 for Ameren to move programs across buckets to
2 maximize their earnings opportunity despite
3 underperforming programs instead of what should be
4 the focus, ratepayer benefits.

5 Staff is not all right with all of the
6 assumptions that we've made. Statutory requirements
7 are not met, deferral of supply-side investments have
8 not been proved, and the earnings opportunity is not
9 warranted. Thank you. I'm happy to take questions.

10 JUDGE DIPPELL: Are there any commission
11 questions? I don't see any. Thank you.

12 MS. JOHNSON: Thank you.

13 JUDGE DIPPELL: Is there an opening from
14 Renew Missouri?

15 MR. LINHARES: I have no opening in this
16 topic, thank you.

17 JUDGE DIPPELL: NRDC? Not hearing
18 anything. MECG? Consumers Council? Office of
19 Public Counsel?

20 MS. VANGERPEN: Yes.

21 JUDGE DIPPELL: Go ahead.

22 MS. VANGERPEN: Good afternoon, again,
23 Chair Hahn, Judge Dippell, Commissioners. We've
24 reached the issue of Earnings Opportunity.

25 Again, as I mentioned in my main opening,

1 the best way to think about this issue is through the
2 lens of risk and reward. You might remember from my
3 main opening that I had a teeter-totter up on my
4 slide. Here Ameren's ratepayers effectively bear 100
5 percent of the risk of the MEEIA -- that the MEEIA
6 programs will not work. They fund the program costs
7 themselves as well as the throughput disincentive and
8 the earnings opportunity. If the programs fail to
9 induce the savings that Ameren has promised, those
10 same ratepayers will also face higher rates that
11 accompany the need to build additional generation.
12 It's a very heavy load to bear.

13 But who gets the sure reward with MEEIA.
14 Ameren's shareholders do. They are the ones who
15 receive the earnings opportunity. In this case
16 specifically Ameren's earnings opportunity asks that
17 its shareholders recover approximately 19 percent of
18 the program costs as an earnings opportunity. If we
19 remove the admin costs that we just talked about from
20 those program costs, that return percentage increases
21 significantly. This is certainly a much better
22 return than the 8 to 10 percent those shareholders
23 would get in most rate cases where they actually bear
24 some risk. Ameren's earnings opportunity is not in
25 line with the risk that it bears when it comes to

1 MEEIA. Rather, Ameren's ratepayers bear the risk,
2 but Ameren's shareholders get the reward.

3 Again, I would encourage you to ask any
4 questions that you have of the OPC's Dr. Geoff Marke,
5 and I'm happy to answer any questions that you have.

6 JUDGE DIPPELL: Any commission questions
7 at this time? Don't see any. Thank you.

8 MS. VANGERPEN: Thank you.

9 JUDGE DIPPELL: Okay. I have on the
10 witness list Steve Wills for Ameren. Is that
11 correct?

12 MS. HERNANDEZ: Correct.

13 JUDGE DIPPELL: And has Mr. Wills
14 testified already?

15 MS. HERNANDEZ: He has.

16 JUDGE DIPPELL: Then you were previously
17 sworn and will remain under oath for our purposes of
18 this proceeding.

19 (Witness previously sworn.)

20 STEVEN WILLS

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

23 JUDGE DIPPELL: Any other preliminaries
24 before cross-examination?

25 MS. HERNANDEZ: No.

1 JUDGE DIPPELL: All right. Is there any
2 cross-examination from Renew?

3 MR. LINHARES: No, thank you.

4 JUDGE DIPPELL: NRDC?

5 MS. RUBENSTEIN: No, thank you.

6 JUDGE DIPPELL: Consumers Council? MECG?
7 Staff?

8 MS. JOHNSON: No, thank you.

9 JUDGE DIPPELL: Office of Public Counsel?

10 MS. VANGERPEN: No, thank you.

11 JUDGE DIPPELL: Are there any
12 commissioner questions for Mr. Wills?

13 COMMISSIONER MITCHELL: Judge, I have
14 just one.

15 QUESTIONS

16 BY COMMISSIONER MITCHELL:

17 Q. Can you just sort of walk me through or
18 help me understand the 4 billion in cost avoidance?

19 A. Yeah. I'd be happy to do that at a high
20 level. Mr. Michels is going to testify right after
21 me, is our, really our IRP expert who wrote the nuts
22 and bolts where those calculations happen, but
23 essentially in our integrated resource plan -- and
24 again, I'll -- I'll give you a certain level of depth
25 and if you need more of it, I'd invite you to --

1 Q. Sure.

2 A. -- talk to Mr. Michels --

3 Q. Fair enough.

4 A. -- about that.

5 So, you know, we look at a variety of
6 options for how we're going to meet our customers'
7 needs going forward, considering a variety of
8 different supply-side technologies that we might
9 invest in, in addition to demand-side resources. So
10 these programs that you hear -- hearing about today,
11 these are all different ways that we can meet our
12 customers' needs. And we develop a variety of
13 portfolios of resources to test the relative
14 strengths and weaknesses of those in terms of cost
15 and other -- other metrics that are important to help
16 us determine on our preferred resource plan for how
17 we're going to meet customers' needs going forward on
18 a cost-effective basis.

19 So when you look at that, the integrated
20 resource plan where you have a variety of portfolios,
21 our preferred resource plan includes this investment
22 in energy efficiency that we're all here talking
23 about today. The comparison of demand side to supply
24 side is best characterized in our IRP by another plan
25 that we've developed that includes no -- no

1 demand-side programs. So it's -- the needs of
2 customers are -- are filled with different resources.

3 So our preferred plan is one called Plan
4 C; it's just -- they're just labeling of our plans,
5 of the different approaches and mix of resources that
6 we might deploy to meet our customers' needs. Plan C
7 is our preferred plan that includes this. If you
8 look at Plan I which is the no-DSM plan, so there's
9 no investment in ener -- in demand-side programs,
10 there are two additional supply-side resources. One
11 is a gas combustion turbine, and one is a gas
12 combined-cycle unit that are added to the 20-year
13 planning horizon if we're not doing demand-side
14 programs. And there's also a movement in years of
15 a -- of another gas unit, I believe the combined
16 cycle from 2032 or '3. Mr. Michels would know the
17 years perfectly off the top of his head I'm sure, but
18 I believe it's 2033 to 2038, subject to Mr. Michels'
19 confirmation on -- on that I have the years correct
20 on that.

21 So what we do then is with those plans is
22 we run those through -- and Mr. Michels could tell
23 you exactly how many different scenarios of -- of
24 market prices, fuel prices, you know, environmental
25 regulations, a variety -- a host of different

1 planning environment assumptions so we can see in
2 high price energy markets, in low price energy
3 markets, across the spectrum of different potential
4 future outcomes, which -- you know, what will be the
5 cost of this plan. So there are a lot of
6 assumptions, but there's also a lot of testing of
7 ranges of assumptions in there and -- and, you know,
8 testing it across different alternate futures.

9 So what we do is we bring that back --
10 bring those cost calculations back, calculating the
11 revenue requirement under each of these plans, under
12 each of these scenarios and bring that back to a
13 probability weighted average net present value of
14 revenue requirement for each -- for each of the
15 plans. And what that is is the -- the expected value
16 of the cost of serving our customers given this
17 approach that's reflected on that resource plan.

18 And so when you compare the net present
19 value of the revenue requirement that in -- which of
20 Plan C, which is our preferred plan that includes
21 demand-side management, versus that Plan I which is
22 our plan that has the two additional gas plants and
23 the deferral of a third gas plant explicitly tied to
24 demand-side savings, the -- the net present value
25 of revenue requirement is four point -- I think

1 it's 4.197 -- I might have decimals wrong -- higher
2 in Plan I than it is in Plan C. So that's where that
3 number is coming from.

4 Q. So fair to say that that assumes that no
5 energy efficiency programs would go forward in the
6 future from now on, or is that just for this
7 three-year period?

8 A. That's a -- that's a look at no
9 demand-side programs going forward. What we've seen
10 is that demand-side programs, they -- they're not
11 things that you turn on and off really easily and
12 that you can add a lumpy addition that, Oh, I'm going
13 to go -- if I need 500 megawatts, I'm not going to
14 get 500 megawatts deployed.

15 So the way we analyze demand-side programs
16 is with a sustained investment in that because, you
17 know, this resources is deployed in a million
18 different micro-transactions where one -- one
19 residential customer puts in a new air conditioner, a
20 business invests in new process control equipment.
21 So you can't go out and do all of those things at
22 once, so you look at building that resource across
23 time. So the -- the look that we make at our
24 demand-side programs considers a sustained investment
25 in that to achieve those savings over time that are

1 capable of deferring -- deferring and avoiding future
2 resources.

3 If you look in my -- in my rebuttal
4 testimony, in our last portfolio, our MEEIA 3 plan
5 that was approved, in our application there we did an
6 approach where we looked at piecemeal if you stopped
7 and started each of the programs, you know, in these
8 three-year cycles you did one cycle but not another,
9 and what you always found was that it was the
10 compounding effect that created the greatest, you
11 know, deferral of future resources, rather than just
12 waiting and doing the, you know, a cycle -- you know,
13 skipping a cycle and doing additional cycles in the
14 future.

15 So we really genuinely believe that this
16 resource has to be a commitment that you sustain over
17 time and you build again through these hundreds of
18 thousands or millions or however many micro-
19 transactions are happening with individual customers,
20 taking these actions to reduce their energy
21 consumption.

22 COMMISSIONER MITCHELL: Thank you.

23 JUDGE DIPPELL: Were there any other
24 commissioner questions? Chair Hahn.

25 QUESTIONS

1 BY CHAIR HAHN:

2 Q. I had a different one, but I'm going to
3 pick up first where Commissioner Mitchell left off.
4 So the plan with no demand-side management, does that
5 get rid of all -- that gets rid of demand-side
6 management which is separate from energy efficiency.
7 So does it get rid of all of that and that combined
8 effect is the two additional plants, or does it get
9 rid of one or the other?

10 A. So demand-side management, when I use that
11 term it's an umbrella over energy efficiency and
12 demand response. So if you're thinking of demand
13 response --

14 Q. Demand response.

15 A. -- typically --

16 Q. Thank you.

17 A. Yeah. Demand-side management is kind of
18 an umbrella term we use for both of those. So
19 it's -- yeah. It's getting rid -- it's both.

20 Q. Okay. So it would get rid of both. But
21 if the Commission chose to keep the demand response
22 programs in place and not the energy efficiency
23 programs, what would your thought be about that --
24 the outcome of that?

25 A. I don't know that we have -- I mean,

1 Mr. Michels might know something I don't know about a
2 scenario that we've run on that. I mean, I think if
3 you look at our planned savings here, the capacity
4 savings for this plan are about, I mean, very
5 ballpark, roughly 50/50 between energy efficiency and
6 demand response. I'm sure the record shows exactly
7 what that split is, so, but just to give you an order
8 of magnitude, I think it's about half and half.

9 So, I mean, I think they're both -- you
10 know, we talked about yesterday that the demand
11 response is immediate, right. We have that resource
12 next year. So it's more of a short -- a short term
13 whether we have -- you know, we'll -- it'll impact
14 our needs on a short-term basis. The energy
15 efficiency will impact our -- our needs in I'd say
16 roughly equal amounts, but over a long term rather
17 than a short-term horizon.

18 Q. Okay. Thank you for that.

19 A. Uh-huh.

20 Q. Also the one question that came up that
21 Ms. Johnson highlighted in her opening was about the
22 programs being in buckets, but that the programs
23 could be moved between the buckets to hit the
24 earnings opportunity targets. Talk to me about that.

25 A. Yeah. I'll talk to you -- I will -- I'll

1 answer your question. I do think you should also
2 talk with Mr. Lozano about that as he -- as he
3 manages the programs. But I think -- I'll try to
4 channel a little bit of what I think Mr. Lozano would
5 say is that, you know, we're not doing that -- we're
6 not asking for that flexibility to -- to hit an
7 earnings goal. We're doing it to achieve savings
8 targets that produce the savings for customers.

9 I mentioned this is, you know, thousand --
10 I said millions; I -- I don't know that it's
11 literally millions of micro-trans -- but it's
12 thousands or tens of thousands of individual customer
13 actions. We're -- we're forecasting those in this
14 process, right. And so, you know, I think Staff
15 would like us to tell the exact number of each
16 measure of each type in each program that we're going
17 to put in three, five years out. The reality of
18 these programs is that when you're dealing with a
19 million different customers on systems who each have
20 their own needs and their own opportunities to save
21 energy, you have to design these programs with some
22 flexibility to check and adjust and meet customers
23 where they are to produce the savings.

24 So the -- the flexibility that we're
25 requesting is not about, hey, how can I make sure I

1 get my earnings. It's how can I actually avoid
2 energy and avoid capacity by adjusting to market
3 conditions and being able to deliver the measures
4 that are needed in the market at any given time.
5 And yeah, we could put a number in the tariff that
6 says you'll do exactly this many air conditions, but
7 that -- that's not a conducive way to actually
8 operate a marketing program where you have to
9 actually go out and recruit participation. And you
10 may have to adjust -- adjust to marketing conditions.

11 Q. How is this approach, the bucket approach,
12 you know, this conversation similar or different to
13 Cycle 3 and how it was done?

14 A. Again, I might defer a little bit to
15 Mr. Lozano. I -- I believe it's very similar, but
16 I -- he'd be closer to the details on the comparisons
17 between the two cycles.

18 CHAIR HAHN: Thank you.

19 JUDGE DIPPELL: Are there any other
20 commissioner questions? All right. Is there further
21 cross-examination based on those bench questions from
22 Renew?

23 MR. LINHARES: No, thank you, your Honor.

24 JUDGE DIPPELL: NRDC?

25 MS. RUBENSTEIN: No thank you.

1 JUDGE DIPPELL: MCG or Consumers
2 Council? Staff?

3 MS. JOHNSON: Nothing further.

4 JUDGE DIPPELL: Public Counsel?

5 MS. VANGERPEN: No, thank you.

6 JUDGE DIPPELL: Is there redirect?

7 MS. HERNANDEZ: No, thank you.

8 JUDGE DIPPELL: All right. I think that
9 concludes your testimony on this issue, Mr. Wills.
10 You may step down.

11 THE WITNESS: Thank you.

12 JUDGE DIPPELL: Given that it's ten
13 till 5:00 let me ask quickly if there are any of the
14 witnesses for this issue that you're like, we're not
15 going to have any cross-examination for these
16 witnesses? Not seeing anybody taking me up on that
17 one. So, okay. I think we probably will just go
18 ahead and conclude for the night since we just have
19 about ten minutes before 5:00 and we can let
20 everybody get where they need to be for the local
21 public hearing later.

22 Are there any other preliminary or any
23 conclusory matters for the day? I still have an
24 outstanding motion to strike, and I will relay that
25 to Judge Pridgin. And we will plan to resume this

1 hearing at 10:00 in morning. Are there any other
2 issues before we adjourn for the evening? Okay.
3 Seeing none, we will go off the record.

4 (Off the record at 4:50 p.m.)
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CERTIFICATE OF REPORTER

STATE OF MISSOURI)
COUNTY OF CALLAWAY)

I, Shelley L. Bartels, a Certified Court Reporter, CCR No. 679, do hereby certify that I was authorized to and did stenographically report the transcript of proceedings; and that the foregoing transcript, pages 1 through 170, is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, or attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 30th day of July, 2024.



Shelley L. Bartels, CCR 679

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