

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
Rulemaking Hearing

In the Matter of the Commission's)
Proposed Rule 20 CSR 4240-10.155 and)
Proposed Rescissions of 20 CSR)
4240-20.015, 40.015, 40.016, and)
80.015 Relating to Affiliate) File No.
Transactions for Electrical) OX-2025-0104
Corporations, Gas Corporations,)
Heating Companies, Certain Water)
Corporations and Certain Sewer)
Corporations)

In the Matter of the Commission's)
Proposed Rule 20 CSR 4240-10.165 and)
Proposed Rescissions of 20 CSR) File No.
4240-20.017, 40.017, and 80.017) OX-2025-0105
Relating to HVAC Services Affiliate)
Transactions)

In the Matter of the Commission's)
Proposed Rule 20 CSR 4240-10.175)
Relating to Customer Information of)
Electrical Corporations, Gas) File No.
Corporations, Heating Companies,) OX-2025-0106
Certain Water Corporations and)
Certain Sewer Corporations)

Tuesday, December 10, 2024
10:00 a.m. - 12:15 p.m. and 1:45 p.m. - 2:17 p.m.

James C. Kirkpatrick Building
600 West Main Street, Room 139
Jefferson City, MO 65109 and WebEx

VOLUME 2 (Pages 1-118)

NANCY DIPPELL, Presiding
CHIEF REGULATORY LAW JUDGE

KAYLA HAHN, Chair
JOHN MITCHELL, Commissioner

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1 The following proceedings began at 10:00 a.m.:

2 JUDGE DIPPELL: Okay. Let's go ahead then and
3 it's ten o'clock so let's go ahead and go on the record.

4 Good morning. We are in Room 139 of the James
5 C. Kirkpatrick Building. This is a rulemaking hearing
6 for the Public Service Commission. My name is Nancy
7 Dippell and I'm the Regulatory Law Judge presiding over
8 these hearings today.

9 We're here in three Commission cases, which
10 are OX-2025-0104, 0105, and 0106. And those cases
11 involve a number of rules -- proposed rules and proposed
12 rescissions, and I'm not going to read through all of
13 the case captions, because we're on a bit of a time
14 crunch today. We have a local public hearing in another
15 case going on today and we want those who want to
16 participate in that and the Commissioners to be able to
17 participate in that.

18 So we will at some point, if this hearing goes
19 to 12:00 or later, we will need to take a lunch break
20 and return after a while to finish the comments.

21 But basically today we're going to start with
22 the first case and take comments on those proposed rules
23 and rescissions and then we'll go to the next case and
24 take comments on that and then finally the third case.
25 That way we can try to keep all your comments straight.

1 I appreciate those of you that filed written
2 comments and also were here on Friday, December 6, we
3 had the first of these hearings. Because of a bit of a
4 scheduling error in the publication, we kept the record
5 open from Friday to receive comments on those rules also
6 today so that everyone's comments would be considered
7 and we could have it all in one place for the most part.

8 We did receive some comments on Friday and, of
9 course, those will be considered as will all of the
10 written comments.

11 I have Chair Hahn with me today and some of
12 the Commissioners online. I know Commissioner Mitchell
13 was online. There may be other Commissioners as we go.
14 I'm going to dispense with -- There's no need to take
15 entries of appearance since this is a rule comment
16 hearing. It's not a contested case. There's no
17 witnesses. I won't swear you in. Anyone can give
18 comments. You don't need to be represented by an
19 attorney. The attorneys are welcome to give comments.

20 And we have a lot of different parties in the
21 audience today. I know a lot of you want to make
22 comments. And so I will not belabor that.

23 I think that's about it. Chair Hahn, did you
24 have anything before we begin?

25 CHAIR HAHN: Good morning, everyone. Thank

1 you all for attending this rulemaking hearing. I am
2 thankful for your comments, though they're quite
3 extensive, and I want to especially say thanks to our
4 staff for bringing this rule out of a 2018 workshop to
5 bring it to completion. So thank you so much and thank
6 you for the comments, look forward to hearing from you
7 today.

8 JUDGE DIPPELL: And I will mention when you
9 give comments, I would like you to state your name and
10 if you represent someone who you represent but to mainly
11 if you're not seated near a microphone, if you could
12 come down to the podium, please, so that everyone online
13 can hear, the court reporter can hear, and we can get
14 all of the comments taken down.

15 Are there any questions from anyone before we
16 begin? Okay. Well, we will begin with In the Matter of
17 the Commission's Proposed Rule 20 CSR 4240-10.155 and
18 Proposed Rescissions of 20.015, 40.015, 40.016 and
19 80.015 Relating to Affiliate Transactions for Electrical
20 Corporations, Gas Corporations, Heating Companies,
21 Certain Water Corporations and Certain Sewer
22 Corporations.

23 I spoke with our staff before we began. They
24 preferred to go at the end of the comments. I know OPC
25 had some presentations during part of the comments. Did

1 OPC want to lead us off?

2 MS. VanGERPEN: Yes, Judge, that's fine. Just
3 as a point of -- or just as a question, would you prefer
4 us to give our comments from our seat here or to go to
5 the podium?

6 JUDGE DIPPELL: As long as you speak into the
7 microphone, you may stay at the table, that's fine.

8 MS. VanGERPEN: I think we may do both, if
9 that's okay.

10 JUDGE DIPPELL: That's fine as well.

11 MS. VanGERPEN: All right. Thank you, Judge.

12 JUDGE DIPPELL: If you could give your name,
13 and so forth, for the court reporter and the record.

14 MS. VanGERPEN: Sure. My name is Lindsay
15 VanGerpen, and I'm an attorney with the Office of the
16 Public Counsel, and I'm joined this morning by John
17 Clizer who's also an attorney with the OPC.

18 Good morning, Commissioners, Judge Dippell.
19 My name is Lindsay VanGerpen, and I'm here this morning
20 on behalf of the OPC. The OPC appreciates the
21 opportunity to speak today to give comments on these
22 three very important rules. And you will hear from me
23 at least three times this morning as I'll give a short
24 overview of the OPC's positions in each of these cases.
25 You'll also hear from some other members of the OPC as

1 they address more specific issues.

2 So beginning with the affiliate transaction
3 rule, the OPC has submitted its written comments and
4 continues to support most of its suggested modifications
5 to the Commission's proposed rule.

6 Ms. Lena Mantle's memorandum describes the
7 OPC's 20 proposed modifications and the rationale for
8 each of those modifications. She is also here this
9 morning. I encourage you to ask her any questions that
10 you may have. Ms. Mantle is certainly a wealth of
11 knowledge and it is no exaggeration to say that she
12 helped write the book on affiliate transactions as she
13 is one of the authors of the current affiliate
14 transaction rules. She has over 40 years of experience
15 in this field, including 29 years with the Commission
16 staff.

17 Mr. John Clizer, as I mentioned, is also one
18 of the attorneys with the OPC and he will be speaking
19 here in just a moment about the OPC's comments with
20 regard to Section (2)(F). Mr. Clizer will explain the
21 OPC has updated its modification of this provision in
22 light of the comments that were made. As you will see,
23 the OPC, we're not trying to create an unworkable
24 standard but we're trying to ensure that the Commission
25 has the information necessary to make informed decisions

1 that balance the interests of all involved.

2 So before I turn this over to Mr. Clizer, is
3 there any questions for me?

4 JUDGE DIPPELL: Are there any Commissioner
5 questions? Those of you online just speak up if you
6 have questions. I don't think we do right at the
7 moment.

8 MS. VanGERPEN: Thank you.

9 MR. CLIZER: Brian. Good morning. As my
10 compatriot Ms. VanGerpen already indicated, my name is
11 John Clizer, and I will be speaking specifically with
12 regard to the proposed revisions to Section (2)(F).

13 So I'm just going to go over a little bit at
14 the beginning of just a brief overview of the affiliate
15 transaction rule kind of to set the groundwork for why I
16 believe this is important.

17 To start with, just what is the purpose of
18 this rule. The purpose of this rule is to prevent a
19 utility from subsidizing its nonregulated operations.
20 That's not me talking. That's the stated purpose from
21 the purpose section. Really the general operation, the
22 core element of that rule is really boiled down to just
23 Section (2)(A) which simply says "A covered utility
24 shall not provide a financial advantage to an
25 affiliate."

1 That is the core impetus behind the rule that
2 prevents the subsidization from occurring. So what is a
3 financial advantage? It's a little bit complicated.
4 You'll sometimes hear it referred to as the asymmetric
5 pricing system, but the basic way is when a utility is
6 buying from the affiliate, you have to pay above the
7 lesser of fair market price or fully distributed cost;
8 and when you're selling, you have to pay below the
9 greater of fair market price or fully distributed cost.

10 Now, I'm just going to talk in terms of
11 selling. It's relatively easy to understand that the
12 inverse occurs when you're buying. The general gist of
13 the idea is you shouldn't have a utility paying more
14 than it needs to for goods and services, because if they
15 are, they're subsidizing.

16 Let's look at a basic simple example. We're
17 going to talk about a generic utility called Missouri
18 Utility Company and it's owned by a parent company.
19 We'll call it American Utility Company. For the sake of
20 this example, I'm going to say that American Utility
21 owns two other subsidiaries: American Support Co. and
22 Iowa Utility Company, Iowa, of course, doing business in
23 Iowa as you would imagine.

24 Now, under the definition, all three --
25 actually all four of these are qualified as affiliates.

1 They all belong to common control of American Utility
2 Company. So this is a very simple affiliate structure
3 that you might expect any number of our utilities to
4 operate under.

5 Let's assume for the sake of argument that
6 Missouri Utility Company is going out to try and figure
7 out how to acquire accounting services, for example. So
8 the first thing it would do is it would say what would
9 it cost to hire up the number of people we need to do
10 those accounting services ourselves. Let's say that
11 they come to that and say it's about a million dollars.
12 They then turn around and ask their support company how
13 much would it cost for you to provide the services, and
14 that number is \$500,000. That's obviously below what it
15 would cost the utility company to provide itself as the
16 fully distributed cost. So that box is checked.

17 Let's say, for example, that in this scenario
18 the utility was to go to market and it found that there
19 was a generic accounting firm that was able to do it for
20 \$400,000. Now, under that scenario, we now have a fair
21 market price for those costs, which is 400,000. So the
22 utility really isn't supposed to contract with its
23 support company because it costs \$100,000 more. That's
24 how the rule currently is supposed to work. So what
25 happens with (2)(F). Now, the language in (2)(F), which

1 it's rather large, effectively says that as long as a
2 utility is buying from its support services company at
3 fully distributed cost, the rule just doesn't apply, or
4 rather the core element (2)(A) just doesn't apply.

5 It also says that if it's buying from another
6 regulated entity at fully distributed cost, again,
7 Section (2)(A) just doesn't apply.

8 So if we return to the example I just gave,
9 under this scenario the utility would be able to
10 contract with its support company over the alternative
11 and cost customers \$100,000 more. That would just be
12 how that would work. And that really kind of underlies
13 the core problem as the OPC sees for why this
14 elimination of (2)(A) is a detriment.

15 Now, there is another example I want to kind
16 of run through, and that has to deal with the second
17 half of (2)(F). This is the regulated utility dealing
18 with other regulated entities.

19 Let's assume, for example, that Missouri
20 Utility Company enters into an agreement to buy energy
21 from Iowa through a PPA, which is at the cost for Iowa
22 to produce the energy but above the SPP market price.
23 Again, under the rule as written, they can just do that.
24 They can pay more than the market price for the energy
25 they're buying from Iowa as long as they can show that

1 it's at the cost of whatever it is for Iowa to produce.
2 And that is a direct example of subsidization. I mean,
3 there's just no way around it. Again, that's something
4 that we think shouldn't be something the Commission is
5 promoting.

6 Now, there is a safeguard in place here. I
7 just want to touch on this very briefly. That safeguard
8 is the language that effectively says that the
9 Commission can after a hearing find that whatever is
10 happening is against the purpose and intent of the
11 affiliate transaction rule.

12 Now, I believe that this doesn't work for two
13 reasons. The first is that your providing a financial
14 advantage is always against the purpose and intent of
15 the affiliate transaction rule and that much more
16 importantly because of the changes to the rule's
17 evidentiary standards you effectively eliminated the
18 ability for the Commission, its staff or any other party
19 to determine what fair market price is under either of
20 these scenarios.

21 The first one is relatively easy to
22 understand. Again, the purpose of the rule is to
23 prevent subsidization. The definition of subsidization
24 is to gift money or other property by way of financial
25 aid so the second you start providing a financial

1 advantage you are by definition subsidizing. So again,
2 providing a financial advantage is by definition against
3 the purpose of the rule.

4 The second issue is a little bit more
5 difficult to grasp relatively, but the short version is
6 that the changes that have been made to the evidentiary
7 standards all include a provision they don't apply in
8 the event that (2)(F) is applicable which means that as
9 soon as you have an affiliate buying from its shared
10 services company or another regulated entity, all
11 determination of fair market price just drops out. You
12 have no evidentiary burden to establish what fair market
13 price is whatsoever, and that will effectively mean that
14 it's going to be impossible to establish or that the
15 utility is, in fact, costing customers more because
16 there will be no evidence in the record at all to
17 examine the fair market price.

18 Now, that's kind of where I was intending to
19 end this. But as was stated, Ameren Missouri sort of
20 filed their comments last night. And despite what
21 seemed to be a little bit of unnecessary hostility, when
22 we read the comments, honestly they did make some points
23 and it's worth bringing up those points and kind of
24 discussing them because as Ms. VanGerpen said, the OPC
25 isn't interested in making an unworkable rule. We want

1 this to work. In fact, I would say that I want
2 utilities to have support service companies. They do
3 provide a lot of benefit and they should use them. The
4 purpose of the OPC's comments was never to prevent that
5 or rather to make it too difficult to work.

6 So at a high level, I want to address the
7 idea, and this is echoed actually in the comments
8 provided by staff, everybody seems to be operating under
9 the assumption that because a support services company
10 isn't operated for profit it just automatically doesn't
11 matter, you don't have to worry about it being
12 overcharged. That frankly just doesn't make any sense.

13 **A support services company could still**
14 **overcharge even if it's not operating by a profit simply**
15 **because its employees are being paid more than the**
16 **average of what their employees would normally be paid.**
17 **That is a concern that the Commission and its staff and**
18 **other parties like the OPC would want to investigate,**
19 **you know, are the costs of the support services company**
20 **reasonable. But the problem is because the support**
21 **services company isn't itself a regulated entity, it's**
22 **not subject to a prudence review. So the only way you**
23 **can understand whether or not the costs being charged by**
24 **the services company are reasonable is to compare them**
25 **to third-party alternatives. And that's really kind of**

1 why the affiliate transaction rule works.

2 Now, another issue that was sort of raised by
3 Ameren was the idea that if this rule is in place, the
4 company will have to go to market, it will have to get
5 competitive bids for every element of its service
6 company and that's going to cost a massive amount of
7 time, energy, and if you do get a low ball bid and then
8 suddenly we're stuck with that and we have to fire all
9 the people in the support service company.

10 I want to make this clear. None of that is
11 the case. It has always been a part of the rule that
12 you don't have to do competitive bids, and the OPC is
13 stressing we're not asking for competitive bids.

14 I want to especially draw attention to this.
15 The existing rule Section (3)(A) states that when a
16 regulated utility is buying goods and services, it can
17 either use competitive bids or demonstrate why
18 competitive bids are not necessary nor appropriate. The
19 OPC was always fine with this language. So if the issue
20 from the companies is they don't want to have to do
21 competitive bidding because it's burdensome, we agree.
22 You shouldn't. You should literally use another method.
23 And in fact, the rule outlines what that other method
24 could well be.

25 Under (3)(D), it basically says that in order

1 to meet the requirements, you need to follow your CAM
2 and when you follow your CAM, you can use benchmarking
3 practices to achieve compliance. That is a very simple
4 straight forward way that you can eliminate a lot of the
5 concern that surrounds this rule. All the support
6 services company ever needs to do is establish that what
7 they're charging are relatively consistent with the
8 market standard and they can do that through
9 benchmarking.

10 I want to draw attention to the proposed
11 language in this rule that has the definition of fair
12 market price to again point out that the staff is
13 already aware of this because they themselves have said
14 yes, you can use benchmarking, price inquiries or other
15 reasonable methods for achieving the standard for fair
16 market price. In fact, the staff definition goes so far
17 as to say if there's no readily available comparative
18 market price, then the FMP is just the fully distributed
19 cost of the providing entity.

20 So again, if you're a support services company
21 or you have a utility that has a support services
22 company and they want to say we don't think we can go to
23 market for this support company, then you automatically
24 just use the fully distributed cost of the support
25 services company.

1 So having Section (2)(F) that just says the
2 rule no longer applies is unnecessary because the rule
3 that you've written already solves the problem by saying
4 yep, you don't have to go to market, you don't have to
5 go do -- all you have to do is prove that these are
6 relatively comparative to market norms.

7 Again, that's really what I want to stress to
8 you. All the OPC is asking, the bare minimum, is that a
9 utility that has a support services company can
10 demonstrate that the costs being charged are within
11 market norms, the customers aren't being overcharged.
12 And the obvious middle ground to do that is to maintain
13 Section (2)(A) and just include the language that staff
14 already has that says hey, the utility can use
15 benchmarking. And if you can't use benchmarking, if
16 there's literally nothing available, then you can go to
17 fully distributed cost. It literally accomplishes the
18 exact goal that (2)(F) is attempting to do without
19 needing to use (2)(F).

20 So to summarize. With (2)(F) in place, you
21 eliminated all oversight regarding what it costs the
22 utility to provide corporate support services. The
23 evidentiary standards are gone. As soon as that support
24 services company can show that it's not making a profit,
25 no one has to show anything regarding what those costs

1 could be. They might be two, three, five times the
2 cost. Doesn't matter. Without (2)(F), you still have
3 to show that the corporate support service costs are
4 being benchmarked against something in the market.

5 What is the evidentiary standards? Again,
6 they don't exist with (2)(F); but without (2)(F), you
7 can use benchmarking or other similar standards to meet
8 your goal. The third point is again just to say with
9 regard to the second part of (2)(F), the part that says
10 between regulated entities, with that in place a
11 regulated entity can subsidize another regulated entity
12 as long as they establish fully distributed cost. Even
13 if they are selling above -- sorry, selling below market
14 price or buying above market price, as long as it's
15 fully distributed cost they can subsidize. That part
16 shouldn't be allowed just flat out. That is literally
17 just subsidization and it shouldn't be happening.

18 So in conclusion, I just want to raise this
19 basic question to the Commission. How will you know if
20 the shared service company costs are reasonable if there
21 is no prudence evaluation and the affiliate rule doesn't
22 apply to them? The answer is that there is no answer at
23 this point. There's no way to determine whether or not
24 the costs being charged by a shared service company are
25 reasonable because you can't establish what their costs

1 are based off of with a prudence review, because you
2 can't review the services company, and there's no
3 affiliate transaction rule, there's no evidentiary
4 requirements. So it's just whatever its cost, that gets
5 passed on.

6 The OPC believes that these can be solved by
7 removing (2)(F) and allowing for the existing language
8 that effectively says you can use benchmarking and in
9 the event that you can't, you can use fully distributed
10 cost, that that is the simple solution that resolves
11 this problem. That was the conclusion. Does anybody
12 have any questions?

13 JUDGE DIPPELL: Can we get a copy of your
14 PowerPoint --

15 MR. CLIZER: Absolutely.

16 JUDGE DIPPELL: -- to put it in the record.

17 MR. CLIZER: The one thing I would ask, this
18 is going to be a bit weird, but there's one point where
19 I have this graph three or four times and it's just a
20 trick of how the PowerPoint works. I will omit that so
21 it just shows up once. With that edit, I'll be happy to
22 supply this to you.

23 JUDGE DIPPELL: I will mark that just as
24 Exhibit 1 for today's hearing, and we will get that from
25 you.

1 (EXHIBIT 1 WAS MARKED FOR IDENTIFICATION.)

2 JUDGE DIPPELL: Are there any Commissioner
3 questions? Chair Hahn.

4 CHAIR HAHN: Good morning, Mr. Clizer. How do
5 you respond to Ameren's comment that these services are
6 provided at cost to no profit and with no profit to
7 those service companies?

8 MR. CLIZER: Again, well, first of all, I'm
9 not disagreeing with that. The OPC has never disagreed
10 with that. The principal problem is that that doesn't
11 resolve the complete issue, because there's still the
12 opportunity or rather the possibility that support
13 services costs might be overcharged. A basic example of
14 that could be if the support services company is paying
15 more than the average wage for whatever individual
16 they're hiring, I'll use an accountant as an example.
17 Again, that isn't a profit to the company. It's just an
18 increase of costs. And all the OPC is saying is we
19 should be doing something to benchmark that. Like you
20 should have something to compare that to.

21 But yeah, no, they're not making a profit and
22 that's fine. That's why we support the service company
23 as a general principal. We just want a standard for
24 them to be applied against to show that the costs being
25 incurred are, in fact, within market norms. I don't

1 feel like that's a terribly high burden.

2 CHAIR HAHN: Thank you, Mr. Clizer.

3 JUDGE DIPPELL: Any other Commissioner
4 questions? All right. Thank you, Mr. Clizer. That
5 concludes OPC's comments for this part.

6 All right. I didn't do a sign-up sheet or
7 anything like that. So I'll just kind of start with the
8 next table maybe.

9 Mr. Fischer, did you have any comments you
10 wanted to make?

11 MR. FISCHER: My client Evergy did file some
12 written comments basically concurring with Ameren's
13 comments. So I think it might be appropriate to have
14 Ameren go next.

15 JUDGE DIPPELL: All right. Would Ameren like
16 to give comments?

17 MR. LOWERY: Yes, Judge. Thank you. I'm Jim
18 Lowery. I'll be giving brief comments on behalf of
19 Ameren Missouri this morning. With me today is Mr. Tom
20 Byrne, who is the former senior director of regulatory
21 affairs for Ameren Missouri, who's going to provide most
22 of our comments on this particular topic on the
23 affiliate transaction rule.

24 Our comments today will build on the comments
25 we filed last Friday. We also filed responsive comments

1 that Mr. Clizer referred to in advance of this hearing
2 frankly as a means to reduce hearing time and consuming
3 transcript space so that we didn't have to verbally
4 state all of the things that we put in those responsive
5 comments yesterday.

6 I think the Commission's practice in the past
7 has been to mark such responsive comments as an exhibit
8 and make them part of the hearing record. I have a
9 flash drive for the court reporter that I was going to
10 give to her. If it pleases the Commission to do that,
11 and I guess it sounds like we have an Exhibit 1, I might
12 suggest that our two documents, which will be the
13 comments filed yesterday and exhibits supporting them,
14 be marked as Exhibits 2 and 3. I was going to suggest
15 maybe AT2 and 3. But since you're segregating the
16 records, maybe it doesn't matter. I would ask that
17 those comments be made part of the hearing record that
18 were filed yesterday as Exhibits 2 and 3.

19 JUDGE DIPPELL: I will mark those comments as
20 Exhibits 2 and 3. Since those are the same comments
21 that you filed, we won't need the flash drive.

22 MR. LOWERY: That's fine.

23 JUDGE DIPPELL: I appreciate it.

24 (EXHIBITS 2 AND 3 WERE MARKED FOR
25 IDENTIFICATION.)

1 MR. LOWERY: As I mentioned, the primary
2 commenter today will be Mr. Byrne, but I did want to
3 touch on just one issue first and then I'll turn it over
4 to Mr. Byrne to address the rest of the issues.

5 In a nutshell, our December 6 comments we had
6 suggested an edit to subsection (2)(F)2 that was
7 designed to allow us to share information as part of,
8 quote, day-to-day communications with affiliates for the
9 purpose of improving service operations or efficiency.
10 I view these as, you know, the engineers at Ameren
11 Missouri and Ameren Illinois sharing best practices and
12 things they've learned, they use a lot of common
13 equipment or just other types of things like that that
14 might literally have been prohibited by the rule because
15 of the provisions relating to provision of information
16 if we didn't have essentially an exception.

17 Staff filed comments today as a matter of fact
18 and they agreed with that language. I think it is
19 important that we recognize that we have benefits from
20 having holding companies with utilities that have common
21 standards and use a lot of the same equipment and they
22 learn things from each other. We don't want to stifle
23 that by a technicality in the rules. So we've urged the
24 Commission to adopt that provision. Other than that,
25 the issues about service company and those kinds of

1 things I'm going to turn it over to Mr. Byrne and let
2 him address those issues on our behalf this morning
3 unless somebody has some questions about this
4 information issue that I raised.

5 JUDGE DIPPELL: Any questions? I don't
6 believe so. Go ahead.

7 MR. LOWERY: Thank you. I'll turn it over to
8 Mr. Byrne at this time.

9 MR. BYRNE: Good morning, Commissioners and
10 Judge Dippell. As Mr. Lowery said, I'm Tom Byrne,
11 former senior director of regulatory affairs for Ameren
12 Missouri. And as Mr. Lowery said, Ameren Missouri filed
13 two sets of written comments and I won't address all the
14 things in there but I would like to hit some of the
15 highlights in terms of our response to Mr. Clizer's
16 comments on Section (2)(F) of the rule.

17 First of all, I think we disagree with several
18 of the points that Mr. Clizer made and we also think
19 that if (2)(F) is amended in the way that the Office of
20 Public Counsel suggests it will be a significant problem
21 for all the utilities that use a service company or even
22 I think Everygy doesn't use a service company but it gets
23 corporate support services from a utility, sister
24 utility.

25 Some of the things we disagree with in

1 Mr. Clizer's presentation, first of all, we don't
2 believe there's any financial advantage and that's the
3 purpose of the rule is to prevent the utilities from
4 providing a financial advantage to their affiliates at
5 the expense of the customers of the regulated utility.
6 We do not think if a service company provides a
7 corporate support service at cost with no profit, we do
8 not think that constitutes a financial advantage. So
9 the whole premise of the problem he's trying to solve we
10 believe does not exist when there's a corporate service
11 company that provides at-cost services.

12 Mr. Clizer also said that service company
13 transactions would not be subject to a prudence review
14 by the Commission, and we disagree with that as well.
15 In our case, for example, in our rate cases, the staff
16 and the other parties and the Commission exhaustively
17 examine transactions with the service company. The
18 information is subject to discovery. There are
19 thousands of data requests that ask questions about the
20 service company and there's a prudence review. If there
21 are imprudently incurred costs, they will be disallowed.
22 So we disagree with that.

23 Also, the fact that these costs are set in a
24 rate case provide Ameren Missouri with a pretty strong
25 incentive to keep them low because once the costs are

1 set, due to regulatory lag any movement in the costs
2 affects our bottom line. So Ameren Missouri and other
3 Missouri utilities that are getting these shared support
4 services have a financial incentive to keep them as low
5 as possible already.

6 We also disagree, Mr. Clizer said that the
7 provision in Rule (2)(F) that would allow the Commission
8 to eliminate the exclusions that are provided for in the
9 rule if they have a case, have a hearing and find that
10 the purposes of the rule are not being satisfied. He
11 said that was completely ineffective. We disagree with
12 that. We think that would be an effective way for the
13 Commission to make sure that customers aren't
14 overpaying. So we think there are lots of protections
15 that already exist and as a result there's no need to
16 make the changes to Section (2)(F) that he proposes.

17 And I think really to understand why (2)(F) is
18 there, you need to take a look at the history of
19 affiliate transactions in the United States and in
20 Missouri. And in Ameren's case when Ameren Corporation
21 was formed in 1997, when we acquired a central loan for
22 a public service company we had to get approval of the
23 FERC at the federal level and we had to get approval
24 with the Missouri Commission at the state level.

25 And at the time, federal law required us to

1 set up a services company and they required shared
2 corporate services to be provided at cost with no
3 profit. So that's the way we set up the company and
4 that's the way FERC approved it and that's the way the
5 Missouri Commission approved it. You know, it wasn't
6 just Ameren Corporation that was set up this way. It
7 was basically every utility around the country is set up
8 this way. So ever since 1997 -- well, and I guess the
9 reason they, maybe this is obvious, but the reason they
10 approved that is there are huge benefits from having
11 shared corporate services and corporate services are a
12 lot of things by the way. It's legal services,
13 accounting services, IT services, financial services,
14 human resources services, any kind of support like that
15 that could be provided from a central service company to
16 multiple utilities. And so, you know, the obvious
17 advantage is that the FERC and the Missouri Commission
18 recognized is there's much greater efficiencies if
19 you've got a central services company rather than having
20 each utility have their own legal department,
21 environmental department, IT department. It just
22 creates efficiencies. And the fact that the customers
23 can't be charged a profit, they can only be charged the
24 cost of that service make sure that they're not going to
25 be taken advantage of.

1 Since 1997, that's what we've been doing and
2 that's what other utilities in the state have been
3 doing. We've been providing services from the service
4 company at cost. So the rule that the staff has drafted
5 basically preserves the status quo. And what OPC is
6 attempting to do is they're attempting to change the
7 status quo again based on the false premise that there's
8 the opportunity to provide a financial advantage even
9 when the affiliate is only charging the cost of the
10 services provided.

11 So you know, we also think the practicalities
12 of if you adopted the OPC's proposal, I think there are
13 significant practical problems. First of all, all the
14 utilities would have to hire a team of people to
15 administer, to put RFPs together, you know, to the
16 extent the market was being tested. I guess Mr. Clizer
17 raised the issue of benchmarking. Benchmarking is a
18 pretty imprecise method of seeing what the market is
19 like.

20 I think the rule would probably require us to
21 go out and get bids for all these services if it was
22 changed in the way that he says it should be. We'd have
23 to hire people to do RFPs, to review the RFPs, to
24 contract if they were outside people that want to
25 contract and administer the contracts. That would be no

1 small undertaking.

2 Second, we think the most likely result is
3 nobody would win any bids because third-party
4 contractors who have to earn a profit almost certainly
5 can't compete with a service company that's providing
6 services at costs. So we think one thing that would
7 happen is maybe nobody would bid on any of these
8 contracts.

9 Even worse what might happen is a third party
10 might submit a low ball bid, a below cost bid even to
11 try to get their foot in the door for service to Ameren
12 Missouri and if they did that and if we ended up hiring
13 them, you know, what would we have to do. We would have
14 an accounting -- Say, for example, an accounting firm
15 gives us a low ball bid for a two-year contract to do
16 all of our accounting. Say they win the bid. We'd have
17 to fire all of our accountants who have all this
18 experience. And then say it was a two-year contract.
19 At the end of the two years, we would have no internal
20 accounting department to compete against outside
21 services.

22 So we also think to the extent that we're
23 changing services in midstream, it's very disruptive to
24 do business. You lose continuity. You lose employees
25 who know what they're doing. Balls get dropped. So

1 it's not in customers' interests. We think all of these
2 things in the long run would make the costs go up for
3 customers, not down. Anyway, we're strongly opposed to
4 what Mr. Clizer is proposing.

5 The bottom line is we think there's value in
6 having a consistent group of dedicated employees who
7 provide service over decades rather than having the
8 possibility of switching back and forth among service
9 providers for such important things as accounting, legal
10 services, environmental services and things like that.
11 So we think the way this worked for the last 27 years
12 has been successful and in customers' best interests and
13 we think the Office of the Public Counsel's efforts to
14 undermine the status quo through this proposed
15 rulemaking change should be rejected. Thank you.

16 JUDGE DIPPELL: Any questions from the
17 Commissioners? Just one moment, Mr. Clizer. Mr.
18 Clizer, you wanted to make a response?

19 MR. CLIZER: I will do it very briefly. I
20 don't want to make this dragged out. Two key points.
21 First of all, again, the rule does not require
22 competitive bidding. The OPC is not asking for
23 competitive bidding. The rule explicitly states you can
24 use benchmarking to reach compliance. Everything that
25 he says, this massive strong-man argument about how we

1 have to do competitive bidding and that's going to cost
2 money and it's going to cause all of us to lose it is
3 completely false. Never been required. I do not
4 understand why the companies feel like they have to do
5 competitive bidding when the rule explicitly states they
6 don't.

7 Number two, he's mentioned multiple times that
8 they're asking to maintain status quo. I want to make
9 it clear the OPC's position is to maintain the rule as
10 it currently exists. We are the status quo. What staff
11 is proposing is to change the status quo to say that
12 fair market price no longer needs to be considered for
13 certain cases. We are asking for the status quo. That
14 is it. Thank you.

15 JUDGE DIPPELL: Thank you. Anything further
16 from Ameren?

17 MR. BYRNE: We disagree with that but no.

18 JUDGE DIPPELL: Was there any comments from
19 Everyy at this point?

20 MR. FISCHER: I won't burden the record with
21 additional comments. I think Mr. Lowery and Mr. Byrne
22 did a nice job. Thank you.

23 JUDGE DIPPELL: Thank you. We'll go across to
24 the next table. Any comments?

25 MS. NIEMEIER: Yes. Good morning. Rachel

1 Niemeier for Missouri American Water Company. We
2 appreciate the opportunity to make comments on the rules
3 today. We filed our written comments on the affiliated
4 transactions. We are supportive of the comments filed
5 by other utilities as well. From Missouri American's
6 perspective, we are not currently under an affiliated
7 transaction rule. We believe that the status quo should
8 be maintained.

9 The current practice is effective and it does
10 not need to go under a new rule. We filed a CAM that is
11 reviewable. We are different from other utilities and
12 so there's a reason we're excluded. We think that
13 should continue. And the vast majority of our
14 transactions with affiliates are for corporate services
15 support. That said, we did provide comments to the
16 proposed rule specifically around the evidentiary
17 standard, the information required from the affiliated
18 entities in part seven and access to those in part
19 eight, and we also had minor changes to the
20 recordkeeping sections.

21 We support staff's inclusion of (2)(F). We
22 support Ameren's support for that as well. Mr. Byrne
23 made some excellent points about the potential effects
24 on the business if OPC's position were to take effect.
25 And we support Ameren's response to OPC that was filed

1 and entered as Exhibits 2 and 3 today.

2 JUDGE DIPPELL: That's all?

3 MS. NIEMEIER: Yes, that's all of our
4 comments. We don't need to belabor the record. We
5 filed our written comments. We don't want to take up
6 too much time today.

7 JUDGE DIPPELL: Appreciate it. I'm just going
8 to look at Chair Hahn and Commissioner Mitchell. If you
9 have comments, just jump in and interrupt at any time.
10 Otherwise, we'll just --

11 COMMISSIONER MITCHELL: I do have one, Judge.

12 JUDGE DIPPELL: I'm sorry. You had a comment?

13 COMMISSIONER MITCHELL: I do.

14 JUDGE DIPPELL: Go ahead.

15 COMMISSIONER MITCHELL: Just back to Evergy
16 and Ameren. Under the current rule, what is the, I
17 guess the assurance that the services that are being
18 provided are being provided at market rates?

19 MR. LOWERY: Commissioner, this is Jim Lowery.
20 In every one of our rate -- well, a couple things. Mr.
21 Clizer, for example, gave the example of well, what if
22 you're paying more than market for accountants. In
23 every one of our rate cases for as long as I can
24 remember, and in part because of the Atmos decision
25 which is a decision of the Missouri Supreme Court about

1 10 or 12 years ago that basically said there's no
2 presumption of prudence for affiliate transactions. We
3 put on extensive information that shows that over the
4 history of Ameren our costs have been substantially
5 lower with the structure that we have and the service
6 company that we have than they would have expected to
7 have been had we not formed Ameren and we were not
8 sharing services and sharing these costs across
9 different affiliates. And I think that OPC and others
10 would argue that we actually have the burden of
11 establishing the reasonableness of those costs. So in
12 every rate case we provide that information, we get
13 dozens or hundreds of data requests that call for
14 information about the AMS costs, Ameren Services Company
15 costs that are part of our cost of service. We answer
16 those. We do not in any way, shape or form restrict
17 access to the information because AMS is technically not
18 regulated. We always provide that information. And the
19 Commission, staff and all the other parties can audit
20 and take whatever position they want about the
21 reasonableness of those costs. And frankly there have
22 been almost no claim over the -- I've been doing this
23 for 25 plus years for Ameren, that those costs are not
24 reasonable.

25 And the other thing that I would mention,

1 Mr. Byrne touched on this, Ameren Corporation, Ameren
2 Services Company, Ameren Missouri have no incentive to
3 have their service company pay more for employees or
4 whatever or to provide those services at a higher cost.
5 In fact, they have a disincentive to do so because
6 between rate cases if those costs go up, that goes right
7 to the consolidated entity's bottom line because a level
8 of cost is baked into rates and if you're out for two or
9 three years and those costs go up, just normal wage
10 increases, for example, every dollar of that increase is
11 going right to reduce Ameren Missouri's and the other
12 affiliates and ultimately Ameren Corporation's bottom
13 line.

14 I think all of those things taken together, as
15 staff recognized when they proposed this and as staff
16 comments filed this morning confirm, just simply don't
17 call for the application of this rule to those service
18 companies. The purpose of the rule has always been, and
19 I think the Commission has said this, to prevent
20 subsidization. If you're not transferring money into
21 Ameren Corporation's pockets, at the end of the day
22 there is no subsidization. We shouldn't have a rule
23 that is applying to a transaction that really was never
24 within the purpose of the rule.

25 JUDGE DIPPELL: Mr. Clizer, you also wanted to

1 respond to Commissioner Mitchell's question?

2 MR. CLIZER: Well, to Commissioner Mitchell's
3 question and to Ameren's response. Again, the existing
4 rule right now imposes the fair market price standard
5 which means that everything that you hear about what
6 happens right now is under a rule that is consistent
7 with what the OPC is asking for. They have to provide
8 that evidence because the rule says they have to provide
9 that evidence.

10 The changes being proposed by the Commission
11 staff eliminates that evidentiary standard. As soon as
12 they are receiving services from a service company at
13 fully distributed cost under the proposed rule, every
14 piece of evidence he's referring to he's eliminated from
15 the affiliate transaction rule as a requirement. So
16 just putting that on the table. Everything he said
17 about what they're doing right now is because the rule
18 is written the way that it is and not the way staff is
19 proposing to change it.

20 Second, Ameren has said several times that
21 they have an incentive to keep costs low because of
22 regulatory lag. It's actually the exact opposite. What
23 Mr. Lowery and Mr. Byrne haven't stated is that if costs
24 go down in between rate cases, that flows to the
25 company's bottom line as well. So the company actually

1 has an incentive to increase wages during a rate case
2 and then decrease them after the rate case to generate
3 an additional profit flow for the company.

4 JUDGE DIPPELL: Commissioner Mitchell, did
5 that answer your questions or did you have others?

6 COMMISSIONER MITCHELL: Just one more and
7 maybe back to Mr. Clizer. To your knowledge, in our
8 rate cases has the Commission ever objected to those
9 affiliate costs?

10 MR. CLIZER: I don't think so. And frankly,
11 that's not my issue here. I have no -- I want to say
12 this again. I have no problem with the utility using a
13 support services company. All I'm asking for is to
14 maintain the evidentiary standard of requiring them to
15 show that it's being consistent with market price. I'm
16 not asking for the objection, not telling them not to,
17 don't want that to happen. To my knowledge, no, they
18 haven't objected, to my knowledge. If they have, I
19 don't know either.

20 COMMISSIONER MITCHELL: What would you say to
21 them in practice how would that be demonstrated?

22 MR. CLIZER: If I was advising the utilities,
23 I would point to the existing rule language in (3)(A)
24 and (3)(D) and state that they should be using a
25 benchmarking practice. Effectively all they need to do

1 is say hey, this is how much we pay our support services
2 company personnel, here's how much, I don't know if you
3 use a state or national average wage is, they're
4 comparable. It's literally that simple. If you can
5 show that you're paying your support services accountant
6 the same that any other Missouri accountant would be
7 paid, you've met the qualifications of the rule as it
8 exists with the fair market price standard intact. In
9 fact, and I apologize, I don't want to speak for Spire
10 Missouri, but we worked very hard with Spire to come up
11 with a solution to their CAM. The solution that we came
12 up with in my opinion was to focus on using that
13 benchmarking practice. And I know that Spire has kind
14 of filed comments that they don't want to change their
15 CAM. I agree with that. I think that their CAM works
16 well because it accomplishes the exact goal that I'm
17 talking about using the existing language of the rule.
18 Again, spire may choose to disagree, but that's my
19 answer. Does that answer your question?

20 COMMISSIONER MITCHELL: It does. And maybe a
21 follow-up question back to Evergy and Ameren. What
22 would be your viewpoint on establishing a benchmarking
23 practice?

24 MR. BYRNE: Well, I guess we don't think
25 benchmarking -- I mean, it can be useful but it isn't

1 always the best way to measure the market. So I think
2 one of the significant things that we disagree with Mr.
3 Clizer on is I don't think the fact that the Missouri
4 Public Service Commission, the parties can review all of
5 our costs in a rate case has anything to do with what
6 this rule says. Even if there was no rule at all, the
7 Commission and the staff and the Office of Public
8 Counsel would be able to exhaustively review our costs
9 and they would be able -- if they thought benchmarks
10 were relevant and they wanted to use benchmarks to
11 challenge costs from an affiliate, they certainly could
12 do that. They have access to all the information to do
13 that. That's a legitimate. Even if there was no
14 affiliate transaction rule at all, our costs are a
15 legitimate line of inquiry in any rate case.

16 MR. CLIZER: Under the rule as proposed, as
17 soon as you're getting a service company with fully
18 distributed cost, that closes the analysis, because the
19 affiliate transaction rule no longer applies at that
20 point. And the rule states that there are no longer an
21 evidentiary burden to establish fair market price at
22 all. That is the change that is being proposed here.
23 So while that may be the case now, while the utility
24 might have to provide that information now under the
25 existing rule, that is the change is to eliminate that

1 standard.

2 MR. LOWERY: I have to say that statement is
3 completely incorrect. As Mr. Byrne said, if there was
4 no affiliate transaction rule, ultimately we bear the
5 burden of persuasion to establish that our cost of
6 services in a rate case results in just and reasonable
7 rates. And nothing about the affiliate transaction rule
8 either enhances or takes away from the Commission's
9 responsibility and authority in a rate case to determine
10 those costs.

11 The other thing I would say very briefly is if
12 the current rule that is applying this asymmetric
13 pricing to service companies is not an issue, then why
14 has the Commission found it necessary to give utilities
15 variances from the rule so they can actually operate the
16 way they're structured and why did staff and the company
17 when we've had variances pending for several years
18 because this rulemaking has been going on and all the
19 parties agreed it would more sense to let the rulemaking
20 play out, why then are variances thought to be necessary
21 by the staff in order for us to operate the way we've
22 operated our holding company structure for the last 30
23 years. Essentially if you take OPC's suggestion, we're
24 going to be back in a situation where the rule is sort
25 of a square peg in a round hole. It's trying to prevent

1 a subsidy that does not exist and you're going to have
2 to deal with permanent variances, which is essentially
3 what you've had in the past.

4 JUDGE DIPPELL: Okay.

5 COMMISSIONER MITCHELL: Thank you.

6 JUDGE DIPPELL: Did you have anything else,
7 Commissioner Mitchell?

8 COMMISSIONER MITCHELL: No.

9 JUDGE DIPPELL: Thank you. All right. I
10 think we understand everybody's point of view from that
11 point. I'll get to you in a minute, Mr. Coffman, and
12 you have any further questions. Did Spire have any
13 comments?

14 MR. DANDAMUDI: Your Honor, David Yonce will
15 comment for Spire.

16 THE COURT REPORTER: How do I spell your last
17 name?

18 MR. YONCE: David Yonce, on behalf of Spire.
19 It's Y-o-n-c-e.

20 Thank you, Chair and Commissioners, for the
21 opportunity to comment today. I will be brief. I
22 really have three points that I'd like to make. The
23 first is really just our concerns really stem from how
24 the proposed rules will affect our existing cost
25 allocation manuals that have been drafted and approved

1 by the Commission under the current rule. So the three
2 points, the first is really simply related to the
3 required reporting. The current proposed rule suggests
4 that the affiliate transaction report and the CAM would
5 be filed on May 15. We currently have a variance to
6 that. So we would propose language that would allow for
7 a different date if it was agreed to between the
8 Commission and the utility within the CAM.

9 The second point that I would like to make is
10 because the existing rule will be rescinded upon the
11 effective date of the proposed rule, really any
12 variances under the existing rule contained in existing
13 CAMs and approved would cease to be effective at the
14 effective date of the proposed rule. So really what
15 we're suggesting and to Mr. Clizer's point we spent a
16 lot of time on our CAM, we've worked very hard to get
17 our CAM where it's at with all the parties. So we would
18 propose to add language which would continue variances
19 granted under our existing CAMs so that upon the
20 effective date of this rule that those wouldn't just go
21 away.

22 Finally, we did add just some very brief
23 clarity on some of the definitions around derivatives.
24 I won't go into those details. We did file comments on
25 the record. All of that is there. That's my comments.

1 JUDGE DIPPELL: Thank you. Are there
2 questions from the Commission?

3 MR. YONCE: Thank you.

4 JUDGE DIPPELL: All right. Who is next?
5 Mr. Coffman.

6 MR. COFFMAN: Good morning. John Coffman
7 appearing here today on behalf of Consumers Council of
8 Missouri. Generally we are supportive of the Office of
9 Public Counsel's position in this case. We did not file
10 any written comments, but we do have a great
11 appreciation for the affiliate transaction rule. We
12 think it has worked very well since it was unanimously
13 supported by the Missouri Supreme Court in the Atmos
14 case, and I think it is important to preserve that
15 status quo which has served us well and which has helped
16 keep rates at a relatively reasonable level by imposing
17 that asymmetrical pricing. And the proposed rule does
18 seem to change the status quo to create this exception
19 and our concern is that would become a loophole where
20 this requirement to show either cost or fair market
21 value or show both would no longer be required.

22 As Mr. Byrne and Mr. Lowery talk about, there
23 is the opportunity in a rate case to challenge those
24 issues but there would no longer be the requirement to
25 produce the evidence. They talked about they still bear

1 the burden of persuasion but they would no longer have
2 the burden to show something with regard to the fair
3 market value. We think it's important that if cost of
4 service ratemaking is to work that there be a
5 requirement for that information to be produced so that
6 other parties can analyze it.

7 Consumers Council would probably err even on
8 the side of requiring more competitive bids, but we are
9 supportive of Public Counsel's position and we think
10 that that is reasonable that if you either have to do
11 competitive bids or show something, benchmarking or
12 something other than just being given the opportunity to
13 not show anything with regard to the fair market value.
14 So we would just ask the Commission to remember that
15 this is monopoly ratemaking, there are captive customers
16 there. We think that this insistence that least cost
17 services are proven in some way or that there's some
18 evidence is very important. So we fear that if the
19 proposed rule is adopted that it will lead to higher
20 utility rates. That's our comments.

21 JUDGE DIPPELL: Are there any Commission
22 questions for Mr. Coffman? Thank you.

23 MR. OPITZ: Good morning. May it please the
24 Commission. Tim Opitz on behalf of Midwest Energy
25 Consumers Group. I just want to comment briefly I guess

1 in support of the prefiled comments related to Section
2 (2)(F) of the Office of Public Counsel and in part in
3 support of the comments of Ameren Missouri, their
4 initial prefiled comments related to that.

5 In my mind, I think that moving (2)(F) under
6 Section (2)(B) as OPC initially proposed does two
7 things. It preserves the exception for corporate
8 services that this new rule is trying to implement and
9 that it also makes clear, at least in my mind, that the
10 utility or the covered entity isn't supposed to be using
11 FDC to provide an advantage or subsidy in any way. And
12 I know Mr. Clizer kind of in his initial remarks
13 referenced a few possible scenarios that, you know, made
14 Ameren or the other utilities may say are fantastical or
15 imagined. I want to make sure that there is that
16 restriction in mind that they're not providing a subsidy
17 but while also providing this exception for corporate
18 shared services at FDC that will hopefully provide some
19 advantage to ratepayers.

20 And then the second point was Mr. Lowery's
21 initial filed comments I believe on the 6th talked about
22 this information provision and how there can be
23 collaboration in the day-to-day operations and I think
24 that's a reasonable accommodation to make if we are to
25 move that (2)(F) under (2)(B) as OPC initially proposed.

1 That's all the comments I have.

2 JUDGE DIPPELL: Thank you. Are there any
3 Commissioner questions? Thank you, Mr. Opitz.

4 MR. OPITZ: Thank you.

5 JUDGE DIPPELL: Anyone else that wish to
6 comment about this rule? All right. Does staff have
7 comments regarding this rule?

8 MR. JOHNSON: Thank you, Judge. Staff does
9 have comments. I'm Mark Johnson providing comments on
10 behalf of the staff of the Missouri Public Service
11 Commission. I have with me today Scott Stacey and Kim
12 Bowlin, who's our director of our financial and business
13 services division.

14 This rule or the changes to this rule have
15 been a long time coming. The original affiliate
16 transaction rule was promulgated in 2003, primarily due
17 to rumblings that the state would move towards a
18 regulated --

19 THE COURT REPORTER: I'm sorry. Can you
20 repeat that again.

21 MR. JOHNSON: Yeah. The original affiliate
22 transaction rule, which was promulgated in 2003,
23 primarily in response to a belief that our state was
24 moving towards more of a regulated competitive
25 environment in the electric sector. Well, that never

1 really happened, but nonetheless the affiliate
2 transaction rule does serve an important purpose. That
3 purpose has been discussed at length today to prevent
4 subsidization of nonregulated affiliates to our utility
5 companies.

6 Staff is very thankful for the comments that
7 have been submitted in this case. Staff has reviewed
8 those comments and submitted this morning responsive
9 comments relating to I think it was about 25 or 30
10 recommendations. Generally staff is supportive of the
11 majority of those comments. I can go through those
12 individually or I can allow our comments to speak for
13 themselves. I think probably we'll let those comments
14 speak for themselves.

15 However, I do want to touch just briefly on
16 the subject of (2)(F). So several of our utilities in
17 the state utilize a service company model. Staff
18 through its experience has come to the conclusion that
19 companies with the service company model typically
20 benefit from economies of scale.

21 Regulated utilities utilize this model. Also
22 private industry utilizes this model. There's a good
23 reason for it. The provision of these -- the use of the
24 service company structure can be reasonably assumed to
25 be less costly in most situations and arrangements in

1 which the utility receives goods and services from
2 unaffiliated entities at market value or from providing
3 these services itself.

4 Now, the provision of the service and goods at
5 lower costs are due to the inherent economies of scale
6 available in the offering of a centralized service
7 company to multiple entities and a requirement to
8 transact with a service company at fully distributed
9 costs and serves these transactions will not include a
10 profit margin for the charges associated with the
11 provisions of the goods and services unlike the case
12 with unaffiliated independent third-party vendors.

13 I do want to point out that there's been
14 discussion that removing the requirement to utilize bids
15 or benchmarking or some other standard to measure these
16 costs could increase costs to ratepayers. In staff's
17 experience, we find that highly unlikely. These costs
18 will continue to be reviewed by the Commission and, in
19 fact, what this change primarily does is simply to treat
20 costs associated with service companies the same way we
21 treat costs the utilities incur in their normal
22 business.

23 During a rate case, staff investigates and
24 reviews all costs incurred by a utility. That will not
25 change. In fact, we currently do that for costs the

1 utilities incur from their service companies. We will
2 continue to request discovery and information regarding
3 those costs and we will determine whether or not staff
4 believes those costs are appropriate and reasonable. If
5 they are not, we will recommend adjustments or
6 reductions or exclusions to those costs.

7 The changes in addition to the service company
8 change staff believes are necessary. The prior rule in
9 my experience has been complicated and difficult to
10 administer. You can see that by the fact that not all
11 of our utilities currently have Commission-approved
12 CAMs. I think only three or four of them currently do.

13 This rule will clearly articulate when a CAM
14 needs to be filed, how it will be approved and what
15 needs to go into that CAM and staff is fully supportive
16 of this rule with the changes outlined in its prefiled
17 comments. Thank you. I'm happy to answer any
18 questions.

19 JUDGE DIPPELL: You filed comments this
20 morning. Should we also -- Perhaps we should also mark
21 that as an exhibit like we did with Ameren's responsive
22 comments.

23 MR. JOHNSON: Yes, I would agree with that,
24 Judge.

25 JUDGE DIPPELL: So I believe that would be

1 Exhibit 4. So I will mark the comments filed by staff
2 as Exhibit 4.

3 (EXHIBIT 4 WAS MARKED FOR IDENTIFICATION.)

4 JUDGE DIPPELL: Are there any Commissioner
5 questions for staff?

6 All right. Mr. Clizer, you had a response?

7 MR. CLIZER: Actually I have a question if at
8 all possible, because I would love for staff to be able
9 to placate my concerns. So I really just want to ask
10 quite simply how is staff going to determine the
11 reasonableness of the shared service company costs by
12 comparing it against something if the rule has
13 eliminated the need for the company to put forward any
14 fair market price evaluations? What are you comparing
15 your reasonableness of your costs against?

16 MR. JOHNSON: Staff compares it to historical
17 data, it compares it to other costs that it has access
18 to or benchmarks. We utilize several benchmarking
19 devices within the context of a rate case. For example,
20 payroll, we will utilize the Merrick system and other
21 industry standards for payroll. I also have Kim Bowlin
22 here. If she can actually expound on that at all.

23 JUDGE DIPPELL: Kim, go ahead and come up to
24 the podium, please.

25 MS. BOWLIN: We can evaluate costs from other

1 utilities, compare them to the ones that are in front of
2 us for a case. We can also use like Mr. Johnson said
3 Merrick that provides payroll data. There's also other
4 studies available we can utilize to see what cost, a
5 benchmarking cost should be.

6 MR. CLIZER: And why can't the utilities use
7 that then to meet that standard of the rule?

8 MS. BOWLIN: I don't know that they would have
9 the same capability or time or effort to. Staff would
10 be willing to do this in a rate case.

11 MR. LOWERY: Judge, I think I'm going to
12 interpose an objection if Mr. Clizer is going to start
13 cross-examining staff's representatives today. That's
14 not how this process works.

15 JUDGE DIPPELL: Well, Mr. Lowery, we're here
16 to take comments and understand people's issues with the
17 rules. So I'm not going to allow Mr. Clizer to
18 cross-examine --

19 MR. CLIZER: I'm done.

20 JUDGE DIPPELL: -- but I think it was a
21 reasonable question. I think Ms. Bowlin answered it.
22 Thank you, Ms. Bowlin.

23 Are there any other comments or responses to
24 the previous comments about this particular rule? Not
25 seeing any. Any further Commissioner questions?

1 All right. Well, I think we can move on then
2 to our second Commission case, which is OX-2025-0105,
3 and that is In the Matter of the Commission's Proposed
4 Rule 20 CSR 4240-10.165 and Proposed Rescissions of 20
5 CSR 4240-20.017, 40.017, and 80.017 Relating to HVAC
6 Services Affiliate Transactions.

7 We'll just kind of go down the line as we did
8 before. Are there any OPC comments regarding this rule?

9 MS. VanGERPEN: Just very briefly, Your Honor.
10 Again, my name is Lindsay VanGerpen. I'm an attorney
11 with the OPC. The OPC has submitted written comments in
12 this case as well. We just had one suggested
13 modification. It was just adding a word so that the
14 definition used the defined term which was covered
15 utility, and so that is our only comment but I'm happy
16 to take any questions.

17 JUDGE DIPPELL: All right. Any Commission
18 questions? I'm not seeing any.

19 Are there any comments from Ameren regarding
20 this rule?

21 MR. LOWERY: We don't have any comments on
22 this rule. Thank you, Judge.

23 JUDGE DIPPELL: Thank you. Or Everygy?

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

25 JUDGE DIPPELL: Anything from Missouri

1 American?

2 MS. NIEMEIER: No, thank you.

3 JUDGE DIPPELL: Spire.

4 MR. DANDAMUDI: No, ma'am.

5 JUDGE DIPPELL: Mr. Coffman is no longer here.
6 Mr. Opitz. Did staff have any -- Was there anyone else
7 that had any comment about this rule? Did staff have
8 any comments about this rule?

9 MR. STACEY: Thank you, Judge. Scott Stacey
10 for staff counsel's office here for staff. Staff is in
11 support of the proposed rule of 20 CSR 4240-10.165, and
12 the rule prescribes the requirement for HVAC services
13 respecting affiliated entities and regulated electrical
14 corporations, gas corporations and heating companies
15 when such covered utilities participate in affiliate
16 transactions with an HVAC affiliated entity.

17 Staff has previously filed comments with
18 staff's response to the comments that were filed by OPC.
19 And based on the review of staff, staff is in agreement
20 with that change to add that language of a covered
21 utility. That's all I have, Judge. Any questions?

22 JUDGE DIPPELL: So there were no new comments
23 besides those we already marked as an exhibit, correct?

24 MR. STACEY: That is correct.

25 JUDGE DIPPELL: Are there any Commissioner

1 questions for staff? I'm not hearing any. So anything
2 further on this rule? I'm not seeing anything further.
3 So we can move on.

4 And I do apologize to everyone. This is a
5 nice room but there's a little bit of an echo. So when
6 you speak quickly and not directly into the microphone,
7 it's sometimes a little hard to -- it takes just a
8 second to discern. So just kind of try to slow down
9 everyone and we will get through.

10 So we can go ahead then and move on to the
11 last case, which is OX-2025-0106 In the Matter of the
12 Commission's Proposed Rule 20 CSR 4240-10.175 Relating
13 to Customer Information of Electrical Corporations, Gas
14 Corporations, Heating Companies, Certain Water
15 Corporations and Certain Sewer Corporations. And again,
16 I will just go down our list. I believe Public Counsel,
17 you had maybe another presentation for us.

18 MS. VanGERPEN: Good morning. Yes, we do. So
19 I will turn this over to begin to Dr. Geoff Marke from
20 the OPC and then I will speak after him.

21 DR. MARKE: Good morning. My name is Geoff
22 Marke and that's G-e-o-f-f M-a-r-k-e. I'm the chief
23 economist with the Missouri Office of Public Counsel.

24 I appreciate the opportunity to provide
25 comments. I'm cognizant of the time and will plow

1 through.

2 Customer information, our comments. Just a
3 quick preclude as to how we got here, at least from my
4 perspective. It really starts about six years, five
5 months and 27 days ago.

6 That was actually when direct testimony was
7 due in case ER-2018-0145 and 0146. This was Kansas City
8 Power & Light and Greater Missouri Operations rate case.
9 My review at the time the context is important.
10 Utilities at that point were aggressively pursuing AMI
11 investment. We looked at best practices around with
12 other states. Privacy became a germane issue that was
13 relevant for many commissions that were wrestling at
14 that time.

15 My review of the Commission rules produced for
16 the entirety of the rule, so 400 plus pages. I was able
17 to find the words privacy twice in the Commission rules.
18 They were both in telecom and specifically over
19 universal services. At the time I had proposed in that
20 rate case that the Commission consider opening up a
21 docket for rulemaking over privacy.

22 My suggestion was to open it up in Chapter 13
23 as opposed to the affiliate transactions. Staff
24 disagreed and I think it's neither here nor there
25 whether or not we deal with it in the affiliate or the

1 billing rules.

2 On the 27th, so roughly a little over a week
3 after that, a rulemaking workshop docket was opened up
4 in AW-2018-0393 and it was granted by the Commission.
5 So shortly thereafter various parties filed comments.
6 Those included the ACLU, state representative Bill Kidd,
7 the attorney general at the time and current Senator
8 Josh Hawley, our office, the utilities being regulated
9 by the state, Consumer Council, Arch City Defenders.
10 It's a pretty diverse group that all had top of mind
11 issues over customer information and privacy.

12 That rulemaking workshop was fairly labor
13 intensive for about a quarter where staff produced not
14 only draft rules once, twice and then another third time
15 in 2020, where parties were able to provide comments.
16 However, there was a lull for a good four years, eight
17 months and 20 days. I only raise that for this real
18 point in that the tone and tenor of my experience with
19 working with the utilities has changed drastically over
20 that time span.

21 If you look at -- If one were so inclined to
22 go ahead and look at the tape recording of the workshop,
23 you would find that the top of mind was over whether or
24 not customer data could be commoditized and who
25 ultimately owned that. I can speak from experience with

1 having worked with a number of -- with all of our
2 utilities quite frankly on their cyber security
3 practices that the tone and tenor of utility practices
4 has changed in part because they recognize the great
5 liability that's inherent with getting a lot of
6 information and being able to secure it in today's
7 digital artificial intelligent enabled world.

8 So what does the public think about data
9 privacy? I think that's important for the Public
10 Service Commission to consider. And last night I
11 provided -- I conducted a literature review on my own.
12 The first one I'd like to point out is the KPMG review
13 that was produced in 2021. KPMG found out that 86
14 percent of US respondents say data privacy is a growing
15 concern for them.

16 48 percent of respondents say they would be
17 more comfortable with companies collecting and using
18 their personal data if it was made fully anonymous. 40
19 percent of respondents say they would be willing to
20 share personal data if they knew exactly how it would be
21 used and by whom. Yet only 52 percent of business
22 leaders say their company has taken active steps to
23 demonstrate how consumer data will be used.

24 I direct people to the first block quote that
25 I took from that article. Generally only -- was found

1 that only 12 percent of the U.S. population would
2 actively share their data to make online ads more
3 relevant. Only 17 percent said they would do it to help
4 businesses create better products, and only 30 percent
5 would do it for, quote, the greater good.

6 With those numbers in mind, KPMG recommended
7 the following three recommendations: Be more explicit
8 and transparent about how customer data will be used.
9 Give consumers more direct control over their personal
10 data. And make data anonymous to whatever extent
11 possible. OPC shares those sentiments.

12 In 2023, Pew Research provided an annual
13 report on How Americans View Data Privacy. Importantly,
14 72 percent of respondents were actually in favor of more
15 government regulation of companies and what they can do
16 with customers' personal information. Just 7 percent
17 said there should be less regulation. In fact, only 21
18 percent of U.S. adults are confident that those with
19 access to their personal information will do what is
20 right. 81 percent of U.S. adults are concerned about
21 how companies use their data and how it's collected
22 about them. 61 percent of users agree that privacy
23 policies are ineffective at explaining how companies use
24 their data.

25 More recently, and this is just from two

1 months ago, Consumer Reports provided their quarterly
2 American Experiences Survey. In that they posed the
3 question would you support or oppose a law that
4 regulates how companies can collect, store, share and
5 use people's personal data. 78 percent of respondents
6 said that they would support such a law. Importantly,
7 this occurs across partisan alliance where 81 percent of
8 Democratic or Democratic-leaning respondents would
9 support such a law and 79 percent -- looking at that
10 number now, that doesn't make sense. I'm going to go
11 ahead and cross check that, but that's on me. Which, if
12 any, of those consumer protection topics are most
13 interested in (choosing up to three)? I'm sorry. this
14 is the second question they posed. I want to pause,
15 just allow everybody to look at this real carefully
16 here.

17 Respondents here could choose three things
18 effectively -- up to three customer protections that
19 they would advocate for. This includes anything from,
20 you know, unsafe toys, contaminated lead in food or
21 plastics, use of artificial intelligence, contamination
22 for e coli or salmonella. The number one point that
23 consumers wanted protection over advocating for laws
24 that would prevent companies from sharing people's
25 personal data without their knowledge.

1 The 2024 Data Privacy Benchmark Study by Cisco
2 is often referenced by leaders within this industry.
3 Keep in mind the purpose for economic regulation is to
4 provide a proxy for the market. How does the market
5 respond to this? According to Cisco, 94 percent of
6 organizations say their customers won't buy from them if
7 their data is not properly protected.

8 Perhaps more concerning is this point. 48
9 percent of companies are entering non-public information
10 about the company into Generative AI or Artificial
11 Intelligent apps.

12 Why is that problematic? Well, what kind of
13 information is being entered in by companies? 62
14 percent of that information is about internal processes,
15 48 percent non-public information about the company, 45
16 percent over employee names or information or 38 percent
17 on customer names or information. I'm not sure how
18 familiar the Commission or the people in this room are
19 with the various publicly available AI apps that are out
20 there today, but the ability to process and synthesize
21 information at an orders of magnitude rate is really
22 unprecedented and raises all sorts of concerns. Right
23 now companies today are utilizing either commercialized
24 AI products to synthesize information or worse-case
25 scenario are using apps that are available online.

1 I point to the next point, the next number
2 here as illustrative controls that are put in place.
3 Most companies that utilize gen AI either have
4 limitations on data, tools or verification requirements.
5 27 percent do not permit gen AI at all.

6 My understanding is I believe that's the
7 policy of the state at the moment. I know that I can't
8 log onto my computer and use an AI, I can't use ChatGPT
9 or any other AI program out of concerns over privacy. I
10 would extend the same concerns if those are valid
11 concerns over how customers or potential breaches of
12 customer information, I think the same thing would apply
13 to our regulated covered utilities.

14 But it's not all doom and gloom. From the
15 Cisco study, the impact of privacy laws on organizations
16 globally, not just in the United States, is
17 overwhelmingly positive. On a whole globally 80 percent
18 of companies surveyed said that having laws and
19 regulations in place around data privacy and AI in
20 particular provide a positive impact to their bottom
21 line. That number is even greater in the United States
22 at 86 percent.

23 So what can go wrong? The 2024 IBM Cost of
24 Data Breach Report suggests that global averages have
25 increased exponentially year over year at \$4.88 million

1 currently. And the U.S. is close to \$9.5 million. And
2 46 percent of those breaches involved customer
3 information.

4 Notably the costs and the average cost of the
5 data breach can be broken down into four components.
6 I'll note just this bottom one in particular. That's
7 lost business accounts for 30 percent of the average
8 costs related to a data breach. I would point out again
9 that these are captive customers of utilities. You
10 can't choose the utility service that you have. So this
11 is again a real cost that's borne by lacks privacy or
12 potential breaches that can take place that don't
13 necessarily apply to our regulated covered utilities.

14 Quick info graphic on data breaches. This is
15 from 2021. I'll just note even more than three years
16 removed, you know, at that point it was 17.2 billion
17 number was the number of records lost in transactions
18 according to data breaches. You'll note that those are
19 higher on web-based platforms. They're lowest on health
20 care and gaming. I'll also note that health care and
21 gaming tend to be more heavily regulated industries.
22 This is taken from my KCPL rate case from 2016. This is
23 a graphical representation from the National Institute
24 of Standards and Technology. It's effectively a
25 Guidelines for Smart Grid Cyber Security. In here what

1 you see is identification of household activities from
2 electric energy usage data or interval data. The real
3 concern here is that with enough data and finite data at
4 that I can effectively look at any given occupant and
5 find out a lot of information let alone what patterns
6 they use their appliances, when they're home or not
7 home, and there's a visual of that. So why is this
8 important from a regulation perspective in utilities in
9 particular? The most concrete example that I would
10 posit out there is the threat, potential threat related
11 to domestic violence concerns. The ability for an
12 abuser to keep tabs on a victim's electric usage data or
13 to be notified if service is about to be disconnected or
14 that they are behind on their payment can lead to
15 harassment and potential life-threatening outcomes.

16 Today absent any security measures or
17 directions from the Commission, we're concerned that
18 that potential outcome is heightened given the ability
19 of both AI and interval data. So would Missouri be an
20 outlier if it adopted stronger consumer protections
21 related to customer information?

22 As of July 2024, 20 U.S. states have passed
23 comprehensive data privacy laws. Those states are
24 listed. I will say that my review of states not listed
25 there but they're Public Service Commissions is

1 obviously much greater than that. A lot of our initial
2 rules were, in fact, taken from the state of Illinois
3 who does not have a comprehensive data privacy law but
4 does have Commission rules on the books. Some utilities
5 have been proactive in this.

6 For example, ComEd in Chicago's Anonymous Data
7 Service provides customer-level interval usage data
8 assembled for all customers (by customer delivery class)
9 in a five-digit zip code. Specific retail customer
10 identifiers, including but not limited to name, address,
11 and electric account number, are omitted from the
12 assembled data.

13 Some Commissions have been reactive. In 2012,
14 the New York Public Service Commission ruled against New
15 York State Electric & Gas and Rochester Gas and Electric
16 stating our investigation found that both utilities
17 failed to meet industry standards and best practices to
18 protect personally identifiable information of
19 customers, said Commission Chairman Garry Brown.

20 As a result, we are directing the companies to
21 immediately take action to address the vulnerabilities
22 on its computer billing and records systems currently
23 used to take and maintain confidential information.
24 Based upon the investigation's findings, the companies
25 should further refine policies, processes and procedures

1 regarding confidentiality safeguards. The companies
2 should minimize access to the most sensitive personally
3 identifiable information by maintaining a strictly need
4 to know standard for contractors and employees alike.

5 I'll move on to the next. Sorry. Here we go.
6 The companies should conduct, at least annually, an
7 incident response exercise simulating a breach of such
8 data. The companies should establish a protocol for
9 notification of regulators in the event of any
10 significant cyber incident involving a possible
11 compromise of customer data; and the company should
12 promptly implement steps to ensure the security of all
13 data stored on company mobile computers and removable
14 data storage media.

15 Five months ago in Florida, NARUC had their
16 mid-year conference in that they passed the following
17 resolution related to customer energy usage data
18 specifically for multi-tenant properties. That language
19 is as follows: I'll point to the specific relevant
20 language here from my perspective. To authorize the
21 sharing of their usage information with appropriate
22 consent and privacy protections with property owners,
23 identified third parties, and implementers of federal
24 programs and grants, to the extent provided for under
25 state law and regulations and (2) utilities to develop

1 procedures and methods to identify customer accounts
2 associated with multi-tenant properties to facilitate
3 property owners' access to available federal funding and
4 other resources to reduce building-wide and tenant
5 energy consumption.

6 The resolution specifically calls out --

7 THE COURT REPORTER: Could you stop for just a
8 second.

9 DR. MARKE: Yes.

10 JUDGE DIPPELL: We're taking just a short
11 break here for our court reporter to hook up her
12 machine.

13 THE COURT REPORTER: Okay. Thank you.

14 DR. MARKE: Whereas appropriate consumer
15 protections are needed for any sharing of customer usage
16 information, customer usage information cannot be used
17 for marketing or to create data profiles to target
18 customers for increasing profits. Customer data may
19 only be disclosed to third parties with clear customer
20 permission. Data protections and privacy safeguards are
21 important for the preservation of public trust with the
22 Department of Energy, utilities, and other programs.

23 Additionally, whereas states and utilities
24 should develop simple mechanisms for customers to make
25 educated decisions regarding the intentional

1 authorization to disclose their energy data. In places
2 where no such policy is in place, individual customers
3 should be able to access their own data and disclose
4 them to a third-party provider.

5 Our recommendations are consistent both with
6 what NARUC had put forward five months ago, with what
7 KPMG has recommended for best practices for companies
8 across the globe, and specifically I want to say that
9 our rules are being moved forward here with an eye
10 towards future-proofing emerging threats and
11 safeguarding captive customers.

12 Customers want data privacy and more
13 regulatory oversight over data privacy. The companies
14 overwhelmingly see privacy laws and regulations as
15 creating a positive impact to their bottom line.
16 Data breaches and associated costs are increasing
17 year-over-year. The potential privacy risks associated
18 with AI cannot be overstated and are emerging at a rapid
19 clip. Customer consent, transparency in obtaining,
20 storing, erasing data, and following a data minimization
21 mindset will limit liability, build customer trust, and
22 support the Commission's statutory directive to protect
23 the public.

24 We take the proposed rules put forward and OPC
25 is making seven singular recommendations here for the

1 Commission's consideration which Ms. VanGerpen will
2 discuss more in detail. This is at the point where I
3 pass the baton off to her, but I'll pause real quick to
4 see if there's any questions for what I've put forward.

5 JUDGE DIPPELL: Are there Commissioner
6 questions for Dr. Marke? I had just a couple of quick
7 questions. Can you just -- I'm familiar with Pew Trust.
8 Can you just tell me who KPMG and Cisco are?

9 DR. MARKE: Sure. Cisco is an enterprise
10 software system with another arm that's focused with
11 consulting largely on IT projects. KPMG is a dual firm
12 of both auditing and consulting services. The report
13 reference there for KPMG is on the consulting side,
14 specifically over data privacy.

15 JUDGE DIPPELL: And I'm going to mark your
16 PowerPoint as Exhibit 5 for this hearing and we'll get a
17 copy.

18 DR. MARKE: Absolutely. Thank you.

19 (EXHIBIT 5 WAS MARKED FOR IDENTIFICATION.)

20 JUDGE DIPPELL: Ms. VanGerpen, now the OPC
21 filed its points in its comments, correct, its seven
22 points?

23 MS. VanGERPEN: We actually only had six
24 points with our written comments, and so that's what I
25 was going to address today is we have read the other

1 comments and Ameren's responsive comments and we do have
2 a few modifications to what we have filed as our
3 position. I'd like to address those for just a few
4 minutes if that's okay.

5 JUDGE DIPPELL: Yes, go ahead.

6 MS. VanGERPEN: Thank you. So again for my
7 part of our oral comments today I'd like to just go
8 through and address the changes that the OPC would like
9 to make to its written comments. In fact, Brian, if I
10 could have Dr. Marke's presentation put back up, I'll
11 put the seven points that we have up here on the screen
12 that might just be a little bit easier to follow along.

13 So to begin my discussion today, I actually
14 brought along copies of a redlined rule that would show
15 the changes that I'll walk through today. If I could
16 have just a minute to pass those out.

17 JUDGE DIPPELL: Go ahead. And this is
18 different than anything you filed already, correct?

19 MS. VanGERPEN: It is, Your Honor.

20 JUDGE DIPPELL: So I will mark that as Exhibit
21 6.

22 MS. VanGERPEN: Thank you.

23 JUDGE DIPPELL: So that's a redlined version
24 of 10.175.

25 MS. VanGERPEN: That is correct.

1 (EXHIBIT 6 WAS MARKED FOR IDENTIFICATION.)

2 MS. VanGERPEN: So with this document, the
3 text that is in red and underlined is what was included
4 in our December 1 written comments and the text that is
5 in the purplish color is what is changed from those
6 written comments in light of the comments that have been
7 received.

8 So just to briefly walk through these, as the
9 OPC's first suggested modification was to add a
10 definition of aggregated customer information, the OPC's
11 original proposed definition included a number of
12 customers to include both residential and nonresidential
13 as well as a limitation on the amount of the overall
14 load attributable to each customer included in that
15 group, and we propose those limits to ensure that no
16 single customer can be individually identified.

17 But as you can see on this exhibit, the OPC
18 has heard the feedback from stakeholders that perhaps
19 that 15 customer residential limit was too high, and so
20 for that reason the OPC has limited this definition now
21 to five residential customers with no individual
22 customer's load exceeding 50 percent of the data in the
23 aggregate.

24 Our second proposed modification is to add a
25 definition of consent. As addressed in our written

1 comments, we view this as perhaps our most important
2 modification. The Commission's rule proposed suggested
3 that specific customer information be made available
4 only upon consent of the customer or as otherwise
5 provided by law or Commission rules or orders. However,
6 without a definition of consent, it's difficult to know
7 what that actually means. So our proposed definition
8 addresses not only the medium of consent but also its
9 applicability to ongoing or successive transactions.

10 We also included language regarding the
11 rescission of the consent and the utility's maintenance
12 of records around a customer's consent.

13 Now, in light of other parties' comments, the
14 OPC has two proposed modifications to its proposed
15 definition of consent. The first is to add the word
16 electronic to recognize that customers may give consent
17 electronically. This was suggested by both Renew
18 Missouri and then supported by Ameren Missouri.

19 We do suggest including that electronic
20 permission slightly differently than Renew Missouri and
21 that is to ensure that the Commission is able to opine
22 on the form on which a utility requests permission to
23 share data. So we suggest including it after the word
24 written so that that qualifier that the Commission
25 improve the form on which the utility request customer's

1 consent to the disclosure of their information also
2 applies to any electronic form.

3 Renew Missouri also asked that language be
4 included around the continuing nature of consent for
5 ongoing or successive transactions, and Ameren Missouri
6 agreed with that language. And we have no opposition to
7 that. So that is the purple language -- the purple
8 sentence in (1)(B) there.

9 For our third proposed modification, it's
10 surrounding the utility related services. So Spire and
11 Ameren Missouri pointed to a concern about the
12 applicability of the rule to the sharing of information
13 in furtherance of utility related service. With some
14 minor grammatical edits, Spire suggested adding the
15 definition of utility related service found in staff's
16 third draft rule previously filed in the working group
17 case AW-2018-0393 that Dr. Marke referenced.

18 And we agree with that definition. So that's
19 been included here as (1)(E). Along that same line, we
20 suggest following Spire's lead and just incorporating
21 the entirety of the utility related service standard
22 from staff's third draft rule. So that has been
23 incorporated here as Section (2)(F). That language is
24 pulled directly from staff's third draft rule filed in
25 that working group case.

1 For our fourth modification, this is the
2 standard applicable to aggregate customer information in
3 Section (2)(B). As we explained in our written
4 comments, we found the phrase upon similar terms and
5 conditions to be sort of ambiguous. We understood the
6 Commission's proposed rule as saying that customer
7 consent was not required for aggregated or general
8 customer information but that the information would be
9 provided to affiliated or unaffiliated entities under
10 similar terms and conditions. It appears that other
11 parties may have had a different understanding of that
12 phrase.

13 So in furtherance of our understanding, we've
14 proposed some clarifying language here that makes it
15 clear that the information will be provided upon request
16 and under the same terms and conditions applicable to
17 all entities receiving such information unless otherwise
18 ordered by the Commission.

19 For our fifth modification, we suggest adding
20 language clarifying that utility customers maintain
21 ownership of their information at all times. This is
22 Section (2)(E). In response, Ameren Missouri suggested
23 adding language that recognizes that a utility needs to
24 use a customer's information to provide service and we
25 don't oppose that change. So it's been included here in

1 the purple language for (2)(E).

2 For our sixth modification, it was regarding
3 the notifications provided to staff and OPC in the event
4 a utility experiences a breach or a breach of security.
5 So these breaches are no longer unique and, in fact,
6 have unfortunately become quite commonplace, they can be
7 devastating for customers whose information is
8 compromised.

9 In the event one of the Commission's regulated
10 utilities experiences such a breach, it will be
11 important for the Commission to understand what happened
12 and what information was given to the utility's
13 customers. So the OPC suggests including language that
14 in the event a utility experiences a breach of security,
15 the utility provides both staff and OPC both the notices
16 that it sends to customers as well as all drafts
17 including the final draft of any reports pertaining to
18 the breach itself.

19 In its response, Ameren Missouri suggested
20 that while it didn't oppose providing the notices, it
21 only wanted to provide the final draft of the report.
22 Staff did not oppose the OPC's proposed edits or Ameren
23 Missouri's objection to not providing those work in
24 progress drafts, but staff did recommend that the
25 utility retain all work in progress drafts for possible

1 future review.

2 You'll see here in Exhibit 1 that the OPC has
3 maintained its originally proposed language which would
4 request -- or which would require the utilities to
5 provide all drafts of any report detailing the data
6 breach.

7 The OPC finds it important to remind everyone
8 that both staff and OPC are subject to the nondisclosure
9 provisions in Section 386.480, RSMo. So while we
10 understand that there might be numerous drafts and those
11 drafts could contain confidential information, it's
12 certainly not something that staff and OPC are
13 unfamiliar with handling confidential information and
14 under that statute it would be a misdemeanor for either
15 of us to disclose that information.

16 Further, it's important for both staff and OPC
17 to have access to those drafts to ensure that we can
18 track any changes that have been made to the reports
19 throughout the drafting process as there have been
20 instances where questionable material changes have been
21 made throughout the drafting process and the realization
22 of that has only come out throughout discovery. So
23 without these prior drafts there would be no way to know
24 when and whether those types of changes have been made
25 without conducting that additional discovery.

1 However, if the Commission does not accept the
2 OPC's proposal to include language that the utility
3 provide those work in progress drafts as a matter of
4 course, then the OPC would suggest that the Commission
5 include language requiring the utilities to at least
6 maintain those work in progress drafts for possible
7 future review as staff kind of alluded to in their
8 responsive comments.

9 And finally, for our seventh proposed
10 modification we have suggested adding language around a
11 customer data privacy policy. In recognition of the
12 responsive comments to this provision, the OPC with this
13 proposed rule in Exhibit 1 suggests leaving out the
14 language that the Commission approve those policies. So
15 this proposal simply states that the covered utilities
16 shall maintain and submit to the Commission the
17 utility's current customer data privacy policy and the
18 revisions thereto so there would be no Commission
19 approval of the policy.

20 We have also slightly changed subsection (10)
21 there in response to Ameren Missouri's concerns about
22 the need to change the policy each time they would share
23 information with a different individual person or
24 entity. We understand that that could be burdensome.
25 So with these changes, it would only ask the policy to

1 identify the types of persons or entities that would
2 receive that information as opposed to the individual
3 person or entity that would receive that information.

4 So with these, Commissioners and Judge
5 Dippell, I hope that you can see that we are trying to
6 be reasonable. We have heard the responsive comments.
7 We have reviewed those. And as Dr. Marke explained in
8 his presentation, the protection of a customer's
9 information is important. In arriving at our proposed
10 modifications including those updated modifications in
11 Exhibit 1, we have tried to balance the interests of all
12 involved. So before I leave you for what may be the
13 last time, I want to again offer to answer any questions
14 and we do have the other OPC representatives here as
15 well.

16 JUDGE DIPPELL: Are there any questions from
17 the Commissioners for OPC? I just had one question, Ms.
18 VanGerpen, with what are somewhat extensive proposed
19 revisions, has Office of Public Counsel examined any of
20 the fiscal costs to any of these changes either private
21 or public?

22 MS. VanGERPEN: I'm going turn that over to
23 Dr. Marke.

24 DR. MARKE: To the changes that we are putting
25 forward today?

1 JUDGE DIPPELL: That you're proposing.

2 DR. MARKE: No. I will say that the changes
3 that we've put forward today are all responses
4 effectively from the utilities themselves or were
5 included in the one case in previously drafted rules by
6 the staff.

7 JUDGE DIPPELL: Thank you.

8 DR. MARKE: The only thing -- well, I said the
9 utilities. The aggregated data is another one that we
10 had opened up. There shouldn't be more costs for that.

11 CHAIR HAHN: That question actually brought up
12 another question that I had read in comments and that is
13 the cost of data production. So at the request of a
14 data request, who would be responsible for the cost and
15 if a utility is responsible for the cost, then it would
16 draft a fiscal note. But if the requestor is
17 responsible for the cost, then the fiscal note could in
18 theory stay neutral.

19 I did have a question about the specific
20 language that you've proposed in (3)(A)i. or i. I'm
21 just kind of confused by the words. It says it's
22 talking about the notice to staff counsel and OPC but it
23 says the notice provided to customers shall be provided
24 at the same time that it is sent to customers. I don't
25 draw the distinction or the difference. Help me

1 understand that better.

2 MS. VanGERPEN: Sure. If I may, I'd like to
3 address that and then briefly go back to your first
4 comment. So with this (3)(A)a.i., I hope that is what I
5 was following there. The notice that we're referring to
6 there is the notice required by Section 407.1500 in the
7 event that an entity experiences a data breach. That
8 statute requires the entity to notify customers in
9 certain circumstances. And so with that language, we
10 would like the utilities to provide the notice that it's
11 sending to customers about that data breach to OPC and
12 to staff at the same time that they send it to
13 customers.

14 CHAIR HAHN: Okay. I see. I'm not sure it's
15 totally clear but I think I understand what you're
16 saying.

17 MS. VanGERPEN: I apologize if our language is
18 maybe not clear. That is the notice that we were
19 referring to there.

20 And then, Chair Hahn, in response to your
21 concern about the costs for the data, you'll see here in
22 Exhibit 1 we have maintained, as the Commission
23 proposed, Section (2)(C) which says that the utility may
24 set reasonable charges for costs incurred in producing
25 customer information.

1 It is our position that it would be the -- if
2 there is a cost to put the information together, it
3 would be the requestor who has to pay those costs. That
4 would include if the utility is unable to put that
5 information together without existing infrastructure.
6 If they have to ask a third party to put that
7 information together for them, that would be a cost that
8 the requestor would have to pay or would have to bear.

9 CHAIR HAHN: I think that might also be in
10 dispute as to whether the information exists or it has
11 to be created, right?

12 MS. VanGERPEN: It is. It is. And again, we
13 would posit that because the utility could -- the
14 requestor would have to bear that cost the utility
15 should provide the information. If the cost is
16 prohibitive for the requestor because the utility has to
17 bring in a third party to put it together, that would be
18 how the rule deals with that.

19 DR. MARKE: If I may real quick. I believe
20 the situations that we're describing are probably going
21 to be unique. Today utilities are providing customer
22 information at no cost. That's been part of the cost of
23 service, the AMI technology, the software that goes to
24 support it. We do recognize that there could be costs
25 moving forward for unique load shapes, customers moving

1 forward, I'm thinking more on the commercial and
2 industrial side whether that's aggregated demand
3 response or something along Distributed Energy
4 Resources, DERS. All of those seem practical. In that
5 case, we believe in tying the regulation to cost
6 causation.

7 CHAIR HAHN: Thank you for that clarification.
8 I think I may need to ask the company on -- the
9 companies about their estimation of the fiscal notes,
10 but I thank you for your responses.

11 MS. NIEMEIER: Judge Dippell, since this is an
12 extensive draft that while it incorporates the comments
13 it's the first time we're seeing it, can we have time to
14 respond to it in written form?

15 JUDGE DIPPELL: Let me think about how that
16 would work, because we're on a very short time frame to
17 get whatever we get done accomplished. So let me give
18 that a little thought.

19 We are approaching the noon time when our
20 other hearing is supposed to start. It will start with
21 a Q&A, but we're going to go ahead for a few more
22 minutes until, see how far we can get before we have to
23 actually break. So was there anything else from Public
24 Counsel?

25 All right. Is there anything from Evergy or

1 Ameren?

2 MR. LOWERY: Yes, Judge. And there's probably
3 quite a bit more than there would have been had we not
4 gotten Exhibit 1 this morning, to be perfectly honest.
5 So I doubt if I can finish in the time frame that you
6 have left, but I'll proceed and you can stop me if I
7 can't, if that's okay.

8 I don't want to belabor the points, but
9 there's quite a bit that's been raised by this exhibit
10 that needs to be addressed.

11 JUDGE DIPPELL: Go ahead.

12 MR. LOWERY: So I'm going to caveat some of
13 this because there's no way -- I don't think there's a
14 way for me to be absolutely sure that these edits are
15 exactly what was proposed, but I think they were based
16 on Ms. VanGerpen's representations. I'm going to assume
17 that on some of these.

18 I don't think we have an issue about this
19 aggregated customer information change that they've
20 made. I think that was something we actually agreed
21 with. I think the same thing is true on the consent. I
22 think that's Renew Missouri's. The utility related
23 services definition I think is consistent with what
24 Spire had put out. So I believe we're okay with that.

25 But along the lines of what Ms. Niemeier said,

1 it might be -- fairness might suggest that we ought to
2 have a little bit of time after this hearing ends today
3 to make sure that we don't have some supplementary, just
4 something we were not able to digest in the time
5 allowed. I know you have to think about that. I'm not
6 talking about a long time. I know you have a rulemaking
7 statutory timeline you have to deal with. I would sort
8 of agree that perhaps we could certainly miss something
9 on the fly here, but I think that's okay.

10 The aggregated customer information, there are
11 two -- I appreciate the fact there's some parties that
12 have indicated well, the utility ought to just provide
13 this for nothing. The staff doesn't agree with that. I
14 don't think the OPC is supporting that position. I
15 think it's a very unreasonable position and basically
16 it's going to foist on other customers, you know,
17 stakeholder requests for information that we have to put
18 together. That just doesn't seem to be consistent with
19 any cost-based ratemaking or any fairness, and so I
20 would certainly hope the Commission is not going to get
21 into a situation where we have to provide information
22 that had a cost to produce for free. I don't think
23 that's probably something the Commission will do.

24 This question, and I think the Chair raised
25 it, of should we have to produce aggregated information

1 of a certain species with certain granularity or certain
2 content, and we haven't produced it and we haven't
3 developed it and we wouldn't develop it or produce it in
4 order to deliver utility services, it's something we
5 don't have any utility reason to do it but some
6 stakeholder, it could be XYZ renewable group, it could
7 be this group that has an agenda about whatever they
8 want this information because they have an agenda, they
9 may want to go to the legislature and lobby for
10 legislation. I don't know what they want to do with it.

11 Could we maybe literally develop and produce
12 it with enough time and expense, and I guess we charge
13 them, I suppose, but I would contend that you don't want
14 utility employees and computer systems, and so on and so
15 forth, to be diverted and used to develop information
16 that the utility doesn't need to develop in order to
17 deliver service. I think the issue has been raised,
18 FERC Order 2222 and aggregation. If we need to develop
19 -- If in order to operate in that environment wherever
20 you end up on the rules on that environment, we need to
21 develop or have certain information that's aggregated,
22 then, again, that's going to be part of our provision of
23 service. We're going to have to do that. That's not
24 going to be diverting resources to do something we don't
25 have to do otherwise. Our concern is upon request

1 language, as broad as it appears to be, lets any group
2 that wants to just say hey, I want you to slice and dice
3 and develop ABC and we would have to do it and if they
4 have the money to pay for it, we have to do it and they
5 have to pay for it. That just doesn't seem consistent
6 with our role as a utility or the Commission's role as
7 our regulator.

8 Let me skip over the most lengthy concern.
9 Well, I'll go ahead and get into it. I may need to get
10 into it more. Spire suggested an exemption essentially
11 that we can share this information without consent in
12 the furtherance of utility services essentially with,
13 you know, with our service company would be a prime
14 example --

15 THE COURT REPORTER: I'm sorry. Would you
16 slow down a bit.

17 MR. LOWERY: Sure. I'll try to. That's
18 happening every day, probably every minute of every day
19 that literally service companies accessing customer
20 information today and the customer hasn't specifically
21 consented to that.

22 The Spire exemption works. What OPC has
23 proposed, which I think and I can't verify it, there's
24 too many words to go back to the workshop docket and see
25 if it's exactly the same, but I think it probably is,

1 what Spire -- and we also use, I think as the Commission
2 knows, we use contractors for a lot of things because
3 it's more efficient and cost effective to do so.

4 Sometimes people have specialized skills that
5 don't make sense to have in house and we use contractors
6 for that. We have to share information to do that.

7 What OPC has proposed is some language I think staff did
8 have in a workshop draft that staff has abandoned that
9 has these very prescriptive contract terms that we would

10 have to impose on every provider that we have some of
11 which I can absolutely tell you because our folks have

12 told me this, the Microsofts and the Ciscos and the

13 Amazon, you know, cloud service providers, et cetera,

14 that we deal, they're not going to agree to these

15 contract terms. If we had to have these contract terms,

16 we would have to redo our entire contracting system, our

17 contract administration. We are way down the road in

18 implementing cloud computing. We have an entire

19 contract management, we have forms and terms and

20 standard terms. And we talk about this a lot in our

21 comments in regard to the fiscal, to the cost of

22 compliance in the workshop docket which I'm going to ask

23 to mark as exhibits. I do want to actually read a

24 little bit from it and talk about some of it. But this

25 issue alone was probably the primary driver for our

1 estimation that we gave the Commission about four years
2 ago and this was an educated guess because it's very
3 difficult to guess this but it was a conservative guess
4 that the rule being talked about then that had this
5 language in it was likely to cost north of \$20 million
6 to implement and that really wasn't even an annual
7 ongoing but just to try to make it work.

8 MS. VanGERPEN: For clarification, are we
9 talking about (F)?

10 MR. LOWERY: (2)(F). We're not talking about
11 the concept of an exemption for utility related services
12 like Spire suggested in (2)(F). We're talking about
13 this prescriptive you must require all these things in
14 your contracts. And we filed comments a year or two ago
15 when we were asked to refresh those estimates that
16 suggested that 20 million is probably too low. For one
17 thing, costs have not gone down, they've gone up over
18 that period of time.

19 So we would be, first of all, I think we would
20 be out of compliance with this rule the minute it was
21 adopted. I don't even think we literally could ever
22 comply unless we simply did everything including all the
23 IT support and all the cloud computing and everything we
24 do now with contractors and consultants we would just
25 have to bring it all in house even though that's really

1 not the right business decision and it's not the right
2 decision for our customers. (2)(F) is a huge problem
3 for us.

4 What you ought to do is do what Spire
5 suggested and just exempt the specific consent
6 requirement when we are sharing information with our
7 contractors and with our service company as part and
8 parcel of their work in providing utility services
9 because they do that, they do things that in effect are
10 providing those service for us.

11 I don't think I have a problem with the -- I'm
12 jumping around. I apologize. I'm trying to do this as
13 quickly as I can. I don't think I have a problem with
14 the changes on the customer data privacy provision in
15 (4). I think those are consistent with what we
16 suggested. In (3)(A), staff has suggested that at least
17 we should have to keep the drafts if we have a report.
18 I'm not going to push back and disagree with that as
19 long as we don't have to keep it forever. At least
20 consistent with our data retention policies. There
21 needs to be some limitation so that we don't have to
22 keep paper and consume hard drive or cloud space
23 forever. But providing drafts up front, you know, a
24 data breach as Dr. Marke indicated, you know, there's
25 liability issues. It's going to be a big deal. We

1 don't ever want to have one and we haven't had one that
2 would trigger this statute that's referenced.

3 But the lawyers, and I'm not talking about the
4 regulatory lawyers, the lawyers generally, the liability
5 lawyers are going to be all over those drafts, there's
6 going to be all kinds of privileged information in them.
7 The 480 statute -- we don't have to provide that
8 privileged information. There's going to be those
9 thought processes with lawyers. Final report where I'm
10 sure going to make attempts to minimize all of that. If
11 we preserve it through our data retention policies and
12 it becomes an issue, then staff and OPC in discovery can
13 get their hands on it and deal with it and we can deal
14 with those privilege issues then.

15 I strongly encourage you not to require every
16 draft, every grammatical change, every thought process
17 of a lawyer somehow that we have to parse those out in
18 those drafts up front.

19 Bear with me. I just want to make sure I
20 haven't missed. I've talked about the criticality of
21 Spire. We have this in written comments. I won't
22 belabor it. But the criticality of Spire's approach, we
23 simply cannot operate under this rule unless there's an
24 exception like Spire suggested and OPC's alternative is
25 just -- it's completely unworkable and it's going to

1 cost a fortune to implement, and I don't even think we
2 can even if we didn't. Pardon me. I think I've talked
3 about that issue. The upon request issue.

4 Let me do this. I think I've probably
5 addressed the (2)(F) issue sufficiently, Judge. If we
6 can mark as exhibits, I guess it would be Exhibits 2 and
7 3 in this particular rulemaking if that's correct. We
8 filed a response regarding cost of compliance in the
9 workshop docket AW-2018-0393 we filed that on September
10 11, 2023, and we filed our first response on March 20,
11 2020, and I'd ask that those respectively be marked as
12 Exhibits 2 and 3 and made a part of the hearing record
13 because they address in great detail some other things
14 as well and they address some things that are not being
15 proposed by OPC now and that are not in this proposed
16 rule but they address, as I said, a central issue was
17 this language in (2)(F) that OPC has proposed here today
18 and they address those and rather than me reading
19 literally from them, I think you can read them and I
20 think you'll have the record evidence you'll need to
21 deal with it.

22 JUDGE DIPPELL: I can admit those as Exhibits
23 7 and 8.

24 MR. LOWERY: You're going consecutive. Okay.
25 That's fine.

1 (EXHIBITS 7 AND 8 WERE MARKED FOR
2 IDENTIFICATION.)

3 JUDGE DIPPELL: And can you tell me again
4 exactly what the two --

5 MR. LOWERY: The first document is a September
6 11, 2023, response regarding cost of compliance filed in
7 AW-2018-0393 by Ameren Missouri. At least that's when
8 the certificate of services says it was served. I think
9 it was filed that day. I don't have EFIS up right now.

10 The second document is also called response
11 regarding cost of compliance, same docket, also filed by
12 Ameren Missouri and served on March 20, 2020.

13 JUDGE DIPPELL: Thank you. I will admit those
14 as Exhibits 7 and 8.

15 MR. LOWERY: Let me real quick I'll just make
16 one other comment and then I'll stop. I don't think we
17 have issues with most of the things Dr. Marke talked
18 about. I don't think Ameren has sought to commoditize.
19 I think that that might have been a word you used, Dr.
20 Marke. I didn't pronounce it very well. Or sell the
21 data or commercialize it or whatever. That's really not
22 a focus. I don't think that anything in your proposed
23 rule as modified by OPC and subject to the comments we
24 had would allow that kind of thing. So I know Dr. Marke
25 was providing background on the need for data privacy

1 and circumstances, but I must say that I don't think any
2 of that has really much to do with what we're proposing
3 and what rule you've proposed. I think it suggests
4 there needs to be consent if you're not using the
5 information to provide utility services. We're not
6 pushing back on that at all. I just didn't want to
7 leave the impression, and I don't think Dr. Marke will
8 disagree with this, that there have been issues at
9 Ameren about these kinds of issues or problems at
10 Ameren. I don't think that's been the case. So just
11 didn't want to leave that impression.

12 JUDGE DIPPELL: Chair Hahn.

13 CHAIR HAHN: Just one question on for the
14 customer data privacy policy. I know there are comments
15 about, you know, management of the utility by managing
16 the contents of the policy. And I just want to
17 understand Ameren's perspective on now that the
18 Commission is not approving the policy but it does have
19 to have specific criteria, what is the position of
20 Ameren?

21 MR. LOWERY: We had no problem with the
22 specific criteria with the exception of the one item
23 that OPC has now edited I think in a way that satisfies
24 our concerns. And since you're not approving it, it's
25 not going to become a part of our tariff, which was the

1 other concern that we had, I don't think we have
2 concerns with (4) at this point.

3 CHAIR HAHN: Thank you.

4 JUDGE DIPPELL: Were there any other
5 Commission questions? Okay. Was that the conclusion of
6 your comments at this time?

7 MR. LOWERY: It was. Thank you.

8 JUDGE DIPPELL: And anything from Evergy?

9 MR. FISCHER: No thank you, Judge.

10 JUDGE DIPPELL: Ms. Niemeier, did you have
11 comments you wanted to make at this time?

12 MS. NIEMEIER: Yes. Thank you. On behalf of
13 Missouri American, we did not file written comments, but
14 we support the comments filed by Spire and Ameren.
15 Mr. Lowery raised a lot of the issues that I had with
16 this most recent draft in terms of getting it quickly
17 and reviewing it quickly. It's impossible for us to
18 really do the analysis, but I think he did a good job of
19 kind of summarizing the issues that it brings up for the
20 utilities. I want the Commission to really consider
21 that as a fact here today.

22 As for the customer data privacy policy, I
23 think it would be helpful if there was some sort of
24 exemption like if the company has to -- if we can't
25 comply, show good cause why we can't comply with each of

1 these criteria because it may not align with our
2 company's direct policy. While it would probably
3 maintain most, if not all, if there's a way it could be
4 exempted out and we could have a good cause waiver, that
5 would be helpful. Again, with the drafts, it's heavily
6 burdensome and gets into lots of other litigation that's
7 outside the Missouri Public Service Commission's
8 purview. So maintaining them for a period of time I
9 think is reasonable, but requiring us to provide and
10 directing a third party to provide is a challenge from
11 our perspective.

12 I think we're okay with the definition
13 section. The cost to create this data is a significant
14 concern for Missouri American. Providing that
15 information to entities that aren't part of the
16 regulatory scheme or the regulatory practice and
17 requiring us to do work for them is a burden that I
18 don't believe ratepayers should be responsible for even
19 if they pay for it. I think that's not what our workers
20 are supposed to be doing. And Section (F) creates in a
21 quick read raises lots of concerns. Again, Mr.
22 Lowery spoke very well to them. Spire provided an
23 exemption that I believe is workable with the utilities.

24 And I agree with the Chair that the notice
25 provided to customers shall be provided at the same time

1 that it is sent to customers in (3)(A)a.i. is confusing
2 and can probably be clarified before the rule becomes
3 final. Those are our comments. Thank you. Trying to
4 hurry in the interest of time.

5 JUDGE DIPPELL: That's all right. I think
6 we're going to have to break anyway and take a bit of an
7 extended lunch break while the Commissioners and our
8 court reporter attend the other hearing. I don't think
9 there's a large crowd online so I don't expect that will
10 go a super long time. So let's go ahead and break for
11 lunch until we'll plan to reconvene at 1:45 and see how
12 that goes. Thank you all. I apologize for the break
13 but it can't be helped. So let's go ahead and go off
14 the record.

15 (Off the record.)

16 (The hearing resumed at 1:45 p.m.)

17 JUDGE DIPPELL: We can go ahead and go back on
18 the record. All right. We have returned from our lunch
19 break and I appreciate everyone's patience. The local
20 public hearing ended just in time and everything worked
21 out well from that regard.

22 So we're going to continue with taking
23 comments to the customer information rule. I am going
24 to leave the record open at the end for additional
25 written comments on this rule on 106 or Case 106. If

1 people want to respond to OPC's proposal or some other
2 proposal, I would ask you to file those in the
3 OX-2025-0106. I suppose if you have other responses to
4 the other two cases you may file in those as well, but I
5 would ask you to try to -- well, just be sure that it's
6 clear in your responses which rule you're responding to.

7 MR. LOWERY: Judge, just a clarifying
8 question. I'm assuming that you're leaving the record
9 open for folks to respond to something new that came up
10 today, not necessarily rehash --

11 JUDGE DIPPELL: Correct.

12 MR. LOWERY: -- other things. Okay. Thank
13 you.

14 JUDGE DIPPELL: I mean, I can't prohibit you
15 from filing something, but I can pretty much guarantee
16 that it will not get as much attention as it would have
17 if it had been filed earlier.

18 MS. NIEMEIER: Judge, is there a timeline that
19 the record is going to remain open?

20 JUDGE DIPPELL: I'm just going to leave it
21 open through tomorrow. So you have until 11:59 tomorrow
22 night. Again, we are on a tight timeline. As you all
23 know, these rules have all been in process one way or
24 another for a long time and with the change in
25 administration we're bumping up against holidays and

1 everything. So it really is a tight timeline for the
2 Commission to get their order of rulemaking together,
3 decide what changes need to be made.

4 So anyway, I've talked enough. I will let you
5 all talk. Let's go back where we left off. Ms.
6 Niemeier, did you have anything additional at this time?

7 MS. NIEMEIER: Thank you for coming back to
8 me, but no, I don't. I finished before lunch. Thank
9 you.

10 JUDGE DIPPELL: Does Spire have any comments
11 to this rule?

12 MR. YONCE: Hello. David Yonce, that's
13 Y-o-n-c-e, on behalf of Spire. Appreciate the
14 opportunity to comment today. Again, I will be brief.
15 Many of our comments were already discussed by Ameren
16 and Missouri American Water. I do want to say that
17 Spire does take the protection of customer information
18 very seriously. Just like we want our own protection of
19 our information and personally identifiable information,
20 you know, we do the same for our customers and ensure
21 that that information is protected.

22 I will also mention our privacy policy is
23 available on our website. Our customers do have access
24 to it. Of course, if they have questions about it, we
25 can answer those questions.

1 Our comment is really simply related to one
2 that again has been mentioned, but it was concerns
3 around the specific customer information being available
4 to affiliated or unaffiliated entities for the purpose
5 of providing utility services. So we had a pretty
6 general recommendation to be included to address that,
7 which again I believe American Water and Ameren were
8 supportive of, and that was this rule should not apply
9 and customer consent shall not be required in the
10 furtherance of utility related services and we had a
11 pretty basic definition of utility related services to
12 include those services provided by a utility in
13 furtherance of the provision of regulated utility
14 service pursuant to Chapters 386 and 393, RSMo, as well
15 as actions taken by the utility to support customer use
16 of those services and pursuant to a utility's Commission
17 approved tariff. So those are our comments. That's the
18 addition that we would propose to make. I think it
19 would alleviate a lot of the concerns that were
20 addressed today surrounding that provision and the
21 ability for utilities to share that information in order
22 to provide service to our customers. That concludes my
23 comments. Thank you.

24 JUDGE DIPPELL: Just in case we have
25 Commissioners online, I'll ask if there's any

1 Commissioner comments or questions. I don't see any.

2 Thank you.

3 MR. YONCE: Thank you.

4 JUDGE DIPPELL: All right. Were there
5 comments from Consumers Council?

6 MR. COFFMAN: Just briefly. Hello. My name
7 is John Coffman. I am with the Consumers Council of
8 Missouri. We are generally supportive of the Office of
9 Public Counsel's proposal and including I guess the
10 Exhibit 1. We've looked through that and feel that
11 that's a good compromise. We're happy to see a
12 compromise on the aggregated versus individual data. We
13 think that is an important balance between privacy
14 rights and the ability to research and get public
15 information about usage data which I know some people
16 have been concerned about.

17 The other thing that we think is essential is
18 the consent, that the consent be clear, and we think
19 that the draft, the working draft, that is kind of
20 working off of Exhibit 1 is good.

21 JUDGE DIPPELL: And you're saying Exhibit 1,
22 but I marked that Exhibit 6, the redlined version they
23 presented today.

24 MR. COFFMAN: Are the exhibits serially
25 including the other two cases?

1 JUDGE DIPPELL: Yes.

2 MR. COFFMAN: Then I guess my comments are to
3 Exhibit 6 which is the markup that was provided by the
4 Office of Public Counsel today as privacy. I just want
5 to conclude with the importance. These rules will be of
6 very vital importance when something bad happens, when
7 there's a data breach, when somebody is being scammed,
8 when something has gone wrong with private data. And so
9 we would urge the Commission to make sure that the rule
10 has the tools that they would need to hold someone
11 responsible and make sure that there are remedies for
12 consumers.

13 It definitely makes sense as Ameren and other
14 utilities have said that they need to share their
15 information with other partners sometimes to do their
16 core responsibility providing service, but we want to
17 make sure that there is someone responsible. We would
18 hope that those partners would then have NDAs and that
19 they would also be treating data, treating it
20 confidentially and making sure that that information is
21 not getting out and if it is, that someone is held
22 responsible for that and that there is some remedy here
23 with the Commission. That is always what happens when
24 the rule comes up again is because something bad has
25 happened and people are looking for some sort of

1 resolution, some sort of remedy. If the rule isn't
2 tight enough and centered enough around the privacy
3 rights of consumers, then that might be something that
4 you wish was there later. Hopefully the Commission will
5 keep that in mind. We appreciate it. Thank you.

6 JUDGE DIPPELL: Thank you. I'm assuming
7 there's no Commission comments, but they'll speak up if
8 I'm wrong. Thank you.

9 Ms. Mers, did you have comments?

10 MS. MERS: Yes. Nicole Mers, M-e-r-s, on
11 behalf of Renew Missouri. I had more extensive comments
12 but in light of the time, I'll just start by asking if
13 Renew's comments could just be filed as an exhibit as
14 well. That would help make this a little briefer.

15 JUDGE DIPPELL: That's perfectly fine. I can
16 mark those as Exhibit 9.

17 (EXHIBIT 9 WAS MARKED FOR IDENTIFICATION.)

18 MS. MERS: All right. So for my comments
19 today, just two things. Renew would like to make one
20 small correction to its filed comments. When looking at
21 this further, we saw that the most current standard for
22 multi-family aggregation, if the Commission would choose
23 to separate residential individual single family homes
24 and multi-family residential homes out is four units and
25 not five. Most multi-family units are broken down into

1 four units. So if you allow for four or more customer
2 datasets to be considered aggregated, that would be in
3 line with the best practices of energy burden work
4 across the state as well as benchmarking studies from
5 multi-family properties. We pulled this information
6 from the Institute of Market Transformation, their
7 comparison of US commercial and multi-family building,
8 energy, benchmarking and transparency policies. That's
9 been in line with what we've seen across the state.

10 We would keep the 50 percent threshold for
11 individual customer data the same; that no individual
12 customer's data could comprise 50 percent or more.
13 Going with what OPC has suggested today in their filed
14 Exhibit 6 I believe the clarification was, Renew has had
15 a brief chance to go through and we're very supportive
16 of not only the work that they did as part of the
17 initial draft that we supported most of their comments
18 but as their attempts to do a compromise and kind of
19 take feedback from Ameren, from the utilities, from
20 Renew itself to come to a more compromised rule, we're
21 very supportive of a lot of the changes and corrections
22 that they made here. I don't think that there's
23 anything that we would oppose other than the correction
24 that we made if you would do the single family versus
25 multi-family home, the change to the four units.

1 I would like to address some kind of comments
2 I heard about concerns that there might be, you know,
3 how is this data going to be used, what are the costs
4 going to be imposed upon the utilities for it when
5 talking about third-party access to this data.

6 Renew set -- had in mind when it created its
7 comments primarily two groups of third-party data users.
8 First would be energy burdened work. That's something
9 that our not for profit has been heavily involved with.

10 THE COURT REPORTER: Ma'am, could you slow
11 down.

12 MS. MERS: Yes, I can. Energy burdened work
13 is something that Renew Missouri has been a part of.
14 Continuing that work is highly important. It provides
15 information for regulators to make informed policy
16 decisions on what the amount of a bill is, how it's
17 impacting, you know, the consumers around the state. I
18 think that having rules such as what OPC has proposed
19 and Renew's thoughts on it help continue that work.

20 As for cost, my understanding is the utilities
21 are doing that currently so it wouldn't be any imposed
22 additional cost nor would it be any additional process
23 or data collection that they're not already doing. Like
24 I said, Ameren Missouri has been a great partner in the
25 St. Louis area helping Renew and the City of St. Louis

1 as well as other not for profits come up with
2 benchmarking studies and doing this energy burdened
3 work. We would just really like to see that continued.

4 The other group is third-party aggregators to
5 do demand response and allow for distributed energy
6 resources. Now, that is something that FERC Order 2222
7 has required the utilities to allow access for those
8 type of parties to participate and offer their services.

9 Now, I think that there are standards and best
10 practices out there on the best ways to do that. I do
11 also think that that's a situation where it's reasonable
12 for costs, you know, for the people requesting the data
13 for a situation like that to have to pay for the cost.

14 I do think that for other kind of more unique
15 situations I believe, you know, there might have been
16 concerns that somebody may request data to go then use
17 in legislation against a utility. I think that if we
18 look at the rule and the proposed changes it allows for
19 the Commission to approve who and who cannot have this
20 data. That to me seems a simple resolution of fears
21 about these third-party one off situations that might
22 have maybe more nefarious or more onerous needs for data
23 collection usage that might be too high cost that would
24 be passed on to consumers or maybe the fears of how that
25 information would be used. I think that that can be

1 addressed. I don't think that that's really the base
2 case that when you're talking about third-party access
3 to data is going to come up, but I think that there's a
4 way to make sure the utilities don't have to utilize
5 their systems for those weird one off cases by maybe
6 having a workshop or some sort of Commission list of
7 what kind of parties can and cannot participate and have
8 access to this data as opposed to trying to block off,
9 you know, stuff that's federally mandated under FERC
10 Order 2222 or the work of cities and not for profits
11 doing energy burdened work. So I'd just like to point
12 out that a potential compromise to assuage utility fears
13 about how their information may be used, the cost of it,
14 as well as protect the work that groups like, you know,
15 Renew Missouri are doing or, you know, OPC I think has
16 been involved in energy burdened work as well. So with
17 that I'll go ahead and finish my comments. If anybody
18 has any questions, I'd be happy to answer them.

19 JUDGE DIPPELL: Let me just clarify first of
20 all the correction or change that you were talking about
21 with the four customers. Can you point me to the
22 specific provision in the rule. I want to make sure I'm
23 in the right place.

24 MS. MERS: Sure. It would be under
25 definitions. So (1)(A). Renew Missouri had added we

1 accepted OPC's suggestion of 15 residential customers
2 with no individual customer being more than 50 percent
3 of the data included. So in between that provision and
4 then the provision regarding the nonresidential
5 customers, Renew Missouri had added a provision that no
6 more than multi-property family -- here, I'll read the
7 exact language. Multi-family properties with five or
8 more dwelling units with no individual customer's load
9 exceeding 50 percent of the data included. That is what
10 we would like to suggest that if you're going to keep it
11 as -- I know that with the new Exhibit 6 I guess that's
12 why I'm making the clarification. If you do the five
13 units as OPC has suggested today, this makes less of an
14 issue. If you keep a distinction as Renew has initially
15 suggested between single residential homes and
16 multi-family residential homes that if you do so that to
17 do four instead of five.

18 JUDGE DIPPELL: Okay. Thank you for that
19 clarification. Next, when you started and you said you
20 had comments, did you have additional written comments
21 today or were you talking about the comments?

22 MS. MERS: Just the prefiled comments, yes. I
23 had more to expand on that but just with the amount of
24 time that people have spent here today, I will let those
25 comments speak for themselves and not expand on them

1 further.

2 JUDGE DIPPELL: Okay. So I don't need to mark
3 those as an exhibit. Those were filed earlier.

4 MS. MERS: Yes. Sorry for the confusion.

5 JUDGE DIPPELL: Okay. All right. I just
6 wanted to get myself straight. So any Commissioner
7 comments or questions for Ms. Mers? I don't see any.
8 Thank you.

9 All right. Do we have anyone else that wanted
10 to comment before staff? Go ahead, Dr. Marke.

11 DR. MARKE: Thanks, Judge. I'd like to just
12 briefly just respond to some of the comments that were
13 made earlier before lunch, particularly from Ameren
14 Missouri. This pertains to just (2)(F).

15 I'm cognizant that we don't have any
16 Commissioners present right now, but I can see that
17 we've got the advisors online. I do appreciate that.
18 This is really for you guys.

19 (2)(F) is related to utility related services.
20 There was a lot of pushback that, you know, the volume
21 of this information would be cost prohibitive. I heard
22 the number \$20 million might be an estimated cost to go
23 ahead and move forward with this. That we would be
24 immediately in violation of Commission rules if this
25 were to go into effect. I'm going to chalk a lot of

1 that up on the basis that utilities really just haven't
2 had an opportunity to review the entire language that we
3 put on there.

4 I'd like to make two points on that end. One,
5 and I'll make another comment. I think it was, the
6 record can speak for itself, but I think it was
7 referenced like Microsoft, Google, current contracts,
8 they would just flat out refuse working with this. I
9 just point out that there are privacy laws and statutes
10 in place across the globe. The EEU has the general data
11 protection regulation enacted. California has the
12 California Privacy Rights Act. I identified 19 other
13 states in the United States that have privacy rules in
14 place. To suggest that Microsoft, you know, won't
15 cooperate with Ameren seems to run against common sense
16 of how they operate in the rest of the world under much
17 stricter regulations.

18 I will point out that if you look at what
19 we've written in (2)(F), again, it was adopted based off
20 of what staff had put down in a previous draft. There's
21 a lot of verbiage there. But if you really boil it down
22 to its core essential points, it's really just this. If
23 a company is going to go ahead and utilize one of its
24 affiliates or a contracted third party and they are
25 using personally identifiable information, something

1 that could point back to me, who I am, whether that's my
2 birth date, where I live, my social security, my bank
3 routing numbers, whatever, we're only asking for four
4 things. That that information only applies to what is
5 being contracted for, one. Two, which is a bit
6 redundant I'll admit reading this now, don't use it for
7 something beyond the scope of that contract. Three,
8 make it confidential. And four, erase it when you're
9 done. That's all we're asking.

10 Now, we will read the comments. I don't think
11 we're intending to file anything else. We'll assuage
12 everybody's concerns on that and we'll read the comments
13 that the utilities put forward here. But I'm more
14 concerned if there is real serious pushback, if
15 utilities don't have those basic elements in place
16 already, I would be shocked quite frankly having worked
17 with these utilities to find that out that fill in the
18 blank third-party contractor, yeah, here's the
19 information for XYZ zip codes and what you do with that
20 information is up to you after the fact. That's all
21 we're looking for here. And if that means, you know, a
22 reduction in that verbiage, I just ask that the
23 Commission consider really looking for what I would say
24 is just very reasonable protections. Thank you.

25 Oh, let me -- I've got a couple more points.

1 That was just on that. Real quick I will say I just
2 want to thank the utilities too. I think as much as we
3 go back and forth and have issues I do feel like, and I
4 wish to acknowledge there has been a lot of concessions
5 from the utilities in recognizing that this is a big
6 concern for our office and I think the public at large.
7 I do think that the tone and tenor of these
8 conversations have changed a lot over the past seven
9 years as we've adapted with the world that we're
10 operating in today. So thank you.

11 JUDGE DIPPELL: Were there any other
12 responses? Mr. Lowery.

13 MR. LOWERY: Very briefly. We will address
14 (2)(F) briefly, but we will address it further in some
15 comments because I haven't been able to read it
16 carefully. I do think it's copied from comments that
17 were given before that we commented on that are now
18 exhibits in the record.

19 We had those concerns. We made them known.
20 I'm not taking any shots. Nobody ever, in fact, said
21 your comments are ridiculous, you're \$20 million wrong
22 or anything. We didn't put that number out there
23 lightly. So I think this is a lot more complicated than
24 Dr. Marke wants it to be.

25 The other thing I would say, and you'll hear

1 this, the way this is written is we are prescribed to
2 specific contractual terms using this language the way
3 this rule is written and we don't have contracts in
4 place that say exactly this today and we're not going to
5 be able to get contracts in place that say exactly this
6 today in the future. While there may be a way to skin
7 the cat, this particular provision isn't going to work
8 notwithstanding that Dr. Marke is surprised, and so on.
9 We certainly do. I can assure the Commission we
10 certainly do take steps to have contractors and so on
11 protect information. That's true. But it's not so
12 simple for the Commission to get down in the weeds at
13 the level that they're getting into under this language
14 to prescribe exactly how we have to do that and exactly
15 what the contractual provisions need to be. We'll
16 address that in a little bit greater detail tomorrow.

17 JUDGE DIPPELL: Thank you. Ms. VanGerpen.

18 MS. VanGERPEN: Judge Dippell, if I could just
19 say something very briefly. The OPC certainly
20 understands that things are complicated and that these
21 are complicated issues, but we just encourage the
22 Commission to remember how important this customer
23 information is and so if our language maybe isn't the
24 correct answer, we would encourage the Commission to
25 remember to not let the exception swallow the rule. So

1 the definition of utility related services that we've
2 included in our exhibit, I believe it's 5 or 6, I
3 apologize, I've lost track of the number.

4 JUDGE DIPPELL: 6.

5 MS. VanGERPEN: 6. That is from Staff's third
6 draft rule and it is broad, and so I think under the
7 language proposed by Spire no consent would be needed
8 and that information could be shared freely for a lot of
9 reasons. And so we would just encourage the Commission
10 to not let that exception swallow the rule, to make sure
11 that there is something that protects the information
12 once it does leave the utility. That's all I have.

13 JUDGE DIPPELL: All right. Any other comments
14 before I let staff have the last word? All right.
15 Mr. Stacey, does staff have any comments?

16 MR. STACEY: Yes, Judge. Scott Stacey for
17 staff counsel's office here for staff. With me I have
18 Contessa King and Kim Bowlin. Staff prefiled comments
19 that addressed all the comments that were filed and with
20 that staff's responses to the same generally supportive
21 of the changes as shown in those staff comments that
22 were filed. However, staff has not had the opportunity
23 to digest the changes filed by OPC in Exhibit 6,
24 including (2)(F) today, nor does staff know what the
25 cost impact would be.

1 Staff needs time to review and determine any
2 cost impact, and staff plans on submitting a response to
3 OPC Exhibit 6 and staff will consider the comments
4 provided here today within that document as well.

5 JUDGE DIPPELL: Thank you. Are there any
6 other comments on this rule? All right. Well, I will
7 leave the hearing record open to receive written
8 comments through tomorrow, December 11, and you can
9 submit those in EFIS.

10 Oh, we had on Friday there was a PowerPoint
11 presented on Friday at the hearing and that did not get
12 marked as an exhibit, but I am going to do that now. I
13 will mark that as Exhibit 9 and make sure that that also
14 gets put in the record like the other PowerPoints.

15 (EXHIBIT 9 WAS MARKED FOR IDENTIFICATION.)

16 JUDGE DIPPELL: I believe that that is all
17 that I had. Was there anything further before we
18 adjourn?

19 MS. NIEMEIER: I have one question, Your
20 Honor.

21 JUDGE DIPPELL: Go ahead.

22 MS. NIEMEIER: The exhibits from today, when
23 will they be filed into the record?

24 JUDGE DIPPELL: I have promised our court
25 reporter that I will get those in the record tomorrow.

1 I was going to ask OPC to just file their draft in the
2 EFIS case just so that you all see that sooner rather
3 than later and not waiting on me to put it in as an
4 official exhibit.

5 MS. VanGERPEN: We're happy to do that.

6 JUDGE DIPPELL: Thank you. I would ask the
7 rest of you that had exhibits if you can either file
8 those in EFIS or email them to me or email them to
9 exhibits@psc.mo.gov and let me know that you have sent
10 them there so that I will know to go get them. If we
11 can get a copy of each of those additional exhibits
12 electronically, then I can get those in the record.

13 MR. LOWERY: Judge, if you would remind me the
14 two from the AW workshop what those numbers are, I'll
15 make sure and just get those in EFIS in this rulemaking
16 docket.

17 JUDGE DIPPELL: Yes. The September 11 one was
18 Exhibit 7 and the March 20, 2020, was Exhibit 8.

19 MR. LOWERY: All the other Ameren exhibits are
20 already in this docket. So I think it's just those two
21 we need to do. Is that your understanding?

22 JUDGE DIPPELL: Correct. Any of the written
23 comments that you made didn't need to be marked as a
24 hearing exhibit. I just did that to keep them straight
25 from today.

1 MS. VanGERPEN: Your Honor, the OPC can also
2 file Mr. Clizer and Dr. Marke's PowerPoints along with
3 our rule if that would be easier.

4 JUDGE DIPPELL: That's fine. If you want to
5 go ahead and file those in EFIS, you can do that.

6 MS. VanGERPEN: And could I also ask for what
7 those exhibit numbers are as well.

8 JUDGE DIPPELL: Yeah. Why don't I just run
9 through what we did. Exhibit 1 was Mr. Clizer's
10 PowerPoint presentation. Exhibit 2 is Ameren's --
11 sorry, I made myself notes and now I can't read my
12 notes. Oh, there we go. Exhibit 2 is Ameren's
13 responsive comments that were filed this morning since
14 those were filed after the written comment deadline.
15 That's the reason I marked those as an exhibit.

16 MR. LOWERY: Just yesterday just for
17 clarification.

18 JUDGE DIPPELL: Oh, yes, I'm sorry, it was
19 staff who filed. Exhibit 2 were those responsive
20 comments filed December 9. So there's no need to
21 resubmit those, Mr. Lowery. Exhibit 3 was the
22 attachment to those responsive comments which was the
23 testimony, and so forth, from the other case. And
24 again, since they're already in EFIS, I can pull them
25 from there. There's no need to resubmit those.

1 Exhibit 4 is staff's comments, responsive
2 comments that they filed today, December 10. And again,
3 they're already in EFIS, no need to resubmit those.
4 Exhibit 5 is Dr. Marke's PowerPoint, and Exhibit 6 is
5 the redlined version from OPC of 10.175.

6 Exhibits 7 and 8 we went over are the
7 responses that Ameren had from the -- responses filed in
8 that AW case. I did mark Exhibit 9 was the PowerPoint
9 that was presented on Friday by Tower Grove.

10 MR. LOWERY: Thank you.

11 MS. VanGERPEN: Thank you.

12 JUDGE DIPPELL: Are there any other questions?
13 All right. Well, I do appreciate your patience and your
14 participation, and I'll look forward to reading your
15 further comments. We can go off the record.

16 (WHEREUPON, the proceedings concluded at 2:17
17 p.m.)

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CERTIFICATE OF REPORTER

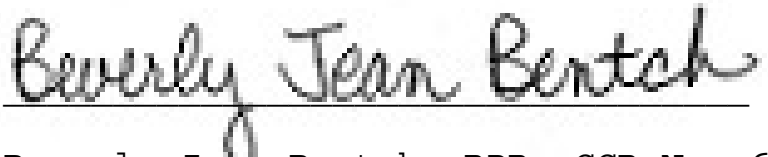
STATE OF MISSOURI)

COUNTY OF COLE)

I, Beverly Jean Bentch, RPR, CCR No. 640, do hereby certify that I was authorized to and did stenographically report the foregoing Public Service Commission Rulemaking Hearing and that the transcript, pages 1 through 117, is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or counsel connected with the action, nor am I financially interested in the action.

Dated this 17th day of December, 2024.



Beverly Jean Bentch, RPR, CCR No. 640

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(1)(A) 106:25	1	2018 6:4	40.016 6:18
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(1)(E) 73:19	10 35:1 117:2	2021 58:13 63:15	400 56:16
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(2)(A) 9:23 12:4,7, 14 18:13	10:00 4:1	21 59:17	4240-10.155 6:17
(2)(B) 46:6,25 74:3	11 91:10 92:6 114:8 115:17	2222 85:18 105:6 106:10	4240-10.165 53:4 54:11
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