BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Rulemaking Hearing

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Jefferson City, Missouri

Volume 1

In The Matter of the Proposed Amendment of 4 CSR 240-20.065 and 4 CSR 240-20.100 Regarding Net Metering and Renewable Energy Standard Requirements	)))))	Case No. EX-2014-0352

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SENIOR REGULATORY LAW JUDGE

ROBERT S. KENNEY, Chairman,
WILLIAM P. KENNEY,
DANIEL Y. HALL,
COMMISSIONERS

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JUDGE WOODRUFF: All right. Good morning, everyone. We're ready to go ahead and get started.

We're here for a rulemaking hearing, and it's Commission Case EX-2014-0352 concerning Net Metering and Renewable Energy Standard Requirements.

This is a rulemaking hearing, so it's not a contested case. We don't have to swear in the witnesses and so forth. But I will give everyone the opportunity to be heard who wants to be heard. As far as structure as to who goes first, I'll pretty much leave that up to the commenters, as to who wants to raise their hand first basically.

I'll leave Staff to last, so Staff has an opportunity to respond to the comments of the other parties. If Staff raises any new issues in their comments, I'll let -- if anybody who wants a chance to reply, we'll give them that opportunity as well.

We have a couple of commissioners here today. And Commissioner Kenney indicated he'd be calling in by phone, but I haven't heard from him yet. So the phone may ring in a moment, and I'll put him on the line.

The commissioners and myself may ask questions to clarify -- clarify your comments and just so we understand exactly what you're telling us.

So I'll let -- leave it out to the commenters, who wants to go first? I see a hand raised. Come on up.

If you just come on over to the podium. And if tell us who you are and who you're representing.

MR. WILSON: My name is PJ Wilson. I'm with Renew Missouri, and I'll be giving some high-level comments on the rules this morning. My colleague, Andrew, is going to be giving some more detailed comments later on today.

JUDGE WOODRUFF: Okay. Go ahead.

MR. WILSON: Well, here we are again. For some of us we were here five years ago when we came up with the original rule for the Renewable Energy Standard. My comments are going to focus mostly on the implementation of the law thus far and how the rules can be strengthened to result in more renewable energy going forward.

In broad-brush strokes I think that what should be happening is that utility companies should be complying with the Renewable Energy Standard law, and the Public Service Commission should be ensuring that utility companies are complying with the law. And that has been happening to some extent, but there's -- there's some disappointment from the renewable energy world in that there's not been as much renewable energy development as anticipated so far, and I think today is a great opportunity to -- to clarify rules going forward so that we can ensure that we hit the stair steps of the RPS in 2018 and 2021.

What should not happen as a result of the

rulemaking process is the rules getting any more unclear than they are now or making it any more difficult for the utilities to comply with the Renewable Energy Standard law. So my comments today are going to focus mostly on suggestions to change the rule so that it is more in line with the statute and results in smoother implementation of renewable energy development in Missouri.

I think that there's three different categories of why we're here today. The main reason why this rulemaking is happening is because of House Bill 142's passage and the solar -- the changes to the solar rebates. Another big area of concern is the 1 percent cost comparison and how that's calculated. And then, finally, other things that can be clarified to have smoother implementation of the Renewable Energy Standard. So my comments will go in those three orders, touching on those three topics.

First, for implementation of House Bill 142, Renew Missouri has already filed our comments in this case, so I'd just refer to those and focus on one issue around the utility making solar rebate payments and the timing thereof. The Statute of 142 says that utilities can file for a 60-day notice if they think they're going to hit a cost cap and that they need to continue to process and pay rebate applications until there's a determination from the Commission. And I think in the rules is a good opportunity to clarify that what actually

happens is that the utilities continue to process and approve applications and -- and pay rebates that they've previously committed to during that 60-day window. And then after there's a PS -- if there is a PSC determination that they've hit a cost cap, that they then continue to pay all of the rebates that they've previously approved.

An example there is, say, if a utility is at $10 million in rebate spending and they think their limit is 15 million and they're going to hit that within 60 days, well, if they file for PSC permission to do that, they need to continue to process and approve those rebates up to that $15 million limit and then actually go ahead and pay those afterwards. And I'm not sure that the rules are clearly enough reflective of that. It refers to the utility stop -- stopping payment of rebates after they get a PSC decision; and I think this should be clarified so that it's clear that utilities, in fact, continue to honor the rebate payments that they've committed to going forward. And probably most importantly that during that 60-day window that they continue to process and approve applications that -- rebate -- rebate applications.

The next thing I'm going to comment on is the 1 percent cost comparison. And there's been a lot of focus on this, and I'm sure there will be a lot of focus on this today, and rightly so. I would say that we all made a good-faith effort five years ago to create rules reflective of the cost

comparison and the law, and it has not gone as anticipated. So I think this is a great opportunity to make the rules clearer around the 1 percent cost comparison.

The main point that I want to make is that whatever the rules reflect has to be in line with the statute. I know there's a lot of ideas about how it could be calculated better, how it could be calculated differently, and there's a lot of good ideas around that. But if we're talking about a rulemaking and changing the rules here going forward, the main thing that we'll be keeping our eye on from Renew Missouri's standpoint is the cost calculation being performed in the way that it's prescribed by law.

I've got three slides -- three PowerPoint slides here that just break down the equation to be used, the highest-level equation, if you will. I just want to sort of remind everybody what the statute says so that our discussion around the 1 percent cost implementation doesn't get away from this.

So this is what the statute says. The 1 percent cost containment in the statute says that, The maximum average retail increase of 1 percent is determined by estimating and comparing two different things. The first thing is the electric utility's cost of compliance with least-cost renewable generation. And the second thing is the cost of continuing to generate or purchase electricity from entirely nonrenewable

sources, take into proper account future environmental regulatory risk, including the risk of greenhouse gas regulation. So...

CHAIR R. KENNEY: Can you go back for a second?

MR. WILSON: Yeah. And this is just the text of the statute here.

CHAIR R. KENNEY: I want to ask you a question, and maybe you're going to get to it. Do you mind if I interrupt you?

MR. WILSON: Sure.

CHAIR R. KENNEY: Taking into proper account future environmental regulatory risks, including the risk of greenhouse gas regulation. Do you propose a methodology by which we, first of all, determine the proper accounting and then quantification of future environmental regulatory risk, including the risk of greenhouse gas regulation? Are you going to get to that later, perhaps?

MR. WILSON: I'm going to touch on that. I don't have specific language to recommend for the rule though.

CHAIR R. KENNEY: Or methodology by which we determine it?

MR. WILSON: Great question. And I'll do my best to address it.

So I'm a civil engineer by trade, so I'm breaking this down into simple eye-level equation here to make sure that

we're just including all the variables. This also is pretty much verbatim just from what the statute says. I think there's a lot more contention around the scenario of -- the nonrenewable scenario.

The first scenario of RES-compliance seems to be straightforward enough. You estimate the compliance needs for the next ten years. Okay. So, I'm sorry, let me go through the variables here. So, A, here you just have the electric utility's cost of compliance with least-cost renewable generation. That's the first thing.

The second thing is the cost of continuing to generate or purchase electricity from entirely nonrenewable sources. Added to that the future environmental regulatory risk separate from greenhouse gas. Added to that the future environmental regulatory risk of greenhouse gas regulation. So then the rule goes on to clarify that the forward-looking timeline there is ten years. You look forward ten years, and you estimate the cost of compliance. And the thing that I want to point out there is that the cost of compliance needs to include the benefits of compliance. So if you're saying you're building a wind farm, building solar, and there's costs associated with that but there's also savings -- you have fuel cost savings and other savings that are associated with that -- so it should be the net cost that is in scenario A.

CHAIR R. KENNEY: So you take the cost of building

a solar farm and you subtract from that the benefit -- avoided fuel costs?

MR. WILSON: You subtract from that avoided fuel costs, avoided peak-load shaving, avoided transmission costs, all of the variables that have been submitted in previous proceedings by Karl Rabago, all of the things in the -- for solar, all of the components of the value of solar equation should be included in it.

CHAIR R. KENNEY: Should we list those things in the rule?

MR. WILSON: I think that that is something that will come up today for sure. And our position is that, yes, the full cost of compliance should include the full benefits of compliance as well.

CHAIR R. KENNEY: During the workshops was there agreement among the parties about what those benefits are?

MR. WILSON: No.

CHAIR R. KENNEY: Okay. Were there any areas of agreement?

MR. WILSON: I think the only area of agreement was around the fuel cost. If there's intermittent renewables that come on line, then there is fuel that's not burned because of that. And the --

CHAIR R. KENNEY: Is that in Renew Missouri's estimation, an accurate reflection of the total benefits

associated with the renewable resources?

MR. WILSON: Correct. Fuel -- fuel cost savings is probably the easiest thing to measure, a most straight forward thing. But there are a lot of other variables that -- that in most cases outweigh the costs of bringing those renewables on the grid. So we want to make sure that any cost calculation does not only look at costs but also looks at benefits, because in many cases the benefits outweigh the costs.

When the nonrenewable scenario is calculated, then it is important to do two things; look out into the future ten years, erase from the projection all of the renewable energy that's on line, and replace that renewable energy with nonrenewable energy. Wind on the Wires presents some methodology that we support, which is that if you're erasing old renewables, then you replace that with existing nonrenewables. So, for example, Empire Electric's wind, they had on the grid before the law went into effect. When you do the second comparison, you subtract out that wind, and then you add in current pricing for natural gas or wherever else that power would come from. But when you're projecting new, when you're projecting to add new renewables, then you need to compare that with adding new nonrenewables.

Again, taking one step further with the RES rules, the current -- currently clarify the forward look ahead is ten

years. I don't think that's being debated. The -- again, the thing to revisit is including benefits from looking at the cost looking forward and the RES-compliance scenario and the non-RES scenario to look at the utility's existing portfolios, subtract out the renewable sources, and add in nonrenewables to get to the resource demands for the next ten years.

So this -- purpose of this exercise is just to revisit what is in the statute and the basic formulation. I think there's some creative ideas about additional ways to calculate costs. And we are not necessarily against those, as long as they are in line with what the statute requires. We're against anything that would be -- that's not supported by the statute basically.

CHAIR R. KENNEY: Can I ask you --

MR. WILSON: Yes.

CHAIR R. KENNEY: I want to go back to the actual benefits. If we -- I think that's -- I mean, that's a challenge. I'm going to ask all the parties this. If we were to prescribe a list of benefits, would we be setting up a process that's going to lead to a lot of litigation? Because the parties don't -- nobody -- everybody can't agree on what constitutes actual benefits beyond avoided fuel costs. So how do we craft a rule that's going to do justice to the statute and it's not going to lead to a bunch of litigation?

MR. WILSON: That is a really good question, and

my answer to that is that we knew when we crafted the original rule that we did the best we could. With input from consumers and renewable advocates and utilities, the rule that was out there was the best guess about how this calculation might happen. I know, from Renew Missouri's perspective anyway, our expectation is that calculation would be performed on at least an annual basis in a transparent way so that we would -- a simple response to that is that it's incumbent upon the utilities to do that calculation and put forward that methodology, because this is a law that affects the behavior of the utilities. And so our hope was that that forward-looking calculation, those -- comparison of those two scenarios would be done in a transparent way on an annual basis as part of the utility's RES-compliance planning process. And through that -- through that planning process would be an opportunity for all stakeholders to weigh in if they disagreed with the variables that were being used and for the Commission to come up with a way to ultimately decide if those plans were accepted or not, as part of that RES planning process.

CHAIR R. KENNEY: So we could craft a rule that doesn't necessarily list a set of benefits that would be used to calculate -- calculate the RES net cost, we could set up a process and procedure and a methodology that directs the parties to submit information to each other and that allows all the parties to weigh in on what constitutes an actual benefit

or not?

MR. WILSON: I think so. I think the Commission could direct the benefits to be determined in any way that you prescribe. Ultimately the PSC has the final say though on how that -- how that shakes out.

The main thing that I want to draw attention to is this is a forward-looking process. It's similar to the IRP planning process, which looks forward 20 years and does its best to take into account all the variables that could be taken into account. But in this case it's limited just to looking at the impact of renewable energy that's coming on the grid.

The purpose of -- sort of remind ourselves, I guess, that the RES, the Renewable Energy Standard, the purpose of the Renewable Energy Standard is to bring more renewable energy onto the grid. The purpose of the cost containment provisions of it is to make sure that through the utility's planning to comply with the RES stair steps, they're doing that in the most cost conscious way possible. The purpose is not to limit spending. The purpose is to hit the RES stair steps. That's the overarching reason that the law is here to begin with, and that is the interest from Renew Missouri's standpoint, and I think from the solar and wind industries as well as those -- the renewable energy actually come on the line and that that portfolio of power become more renewable with time.

So, again, the principles that I would urge the Commission to keep in mind when finalizing this rule revision is to require utilities to make this calculation forward looking, at least ten years into the future, to calculate it each and every year in a transparent way. There have been some times that utilities have filed some paperwork about their 1 percent calculation in the highly confidential kind of confusing spreadsheets; and we would urge the most transparent, straightforward possible methodology that is open to the public for scrutiny. I think that's where you're going to get the most useful information from stakeholders is when the utility's own planning process is open and transparent, and that it should be required to be.

The PSC's -- we submitted language in Renew Missouri's comments to the effect of requiring that PSC to explicitly approve or reject the utility's plan, which includes the 1 percent calculation. And the idea there is that that would avoid a really lengthy complaint process, which isn't really compatible with -- since the complaint process lasts over a year or around a year, by the time a complaint is filed about a plan or report, the next plan or report has already been filed. So it's not an efficient enough, quick enough process. And so we would urge language that we filed to be included and, in addition, a specific timeline so it's clear to all stakeholders, after plans and reports are filed, how long

stakeholders have to respond and then how long the PSC has to rule on whether it's acceptable or there's changes that need to be ordered.

I want to commend the PSC Staff on an attempt to address concerns with the 1 percent carryover, the language of 5G that's been proposed. I think it's an honest effort to address concerns. But there are some specific concerns we have with the spreadsheet that they've put forth, and I'll list those now.

The Staff's spreadsheet refers to a strict 1 percent of rates calculation being referred to. And that is something that does not appear in the statute. It's just not supported by the statute. That's why I sort of dwelled on this elementary calculation for so long. The only -- the only calculation in the statute is two variables that are not the utility's revenue requirement. It's two estimated forward-looking scenarios. And the question is is the difference between that over/under 1 percent.

So we are against any inclusion of just strict 1 percent of rate calculation and comparison of compliance costs with that 1 percent of rates because it's not something that has basis in the statute. This is the only calculation in the statute, so we would like to see anytime there's a reference to 1 percent calculation to refer to this calculation required by the statute.

In addition, the Staff's spreadsheet doesn't -- doesn't -- doesn't do -- well, it's not this calculation. It doesn't subtract out the renewables from the nonrenewable plan, and doesn't require adding back in fossil fuels to take the place of those renewables, and it doesn't clarify that the actual costs are the net costs. It doesn't have space to include the benefits. It looks like a very simple way to do the calculation, but one that's not supported by statute. It would be nice if we could make things more simple. That's a noble goal. But ultimately whatever is determined has to be in line with the statute.

We agree with Wind on the Wires' comment that the 5G calculation is not compatible with 5B in that it -- it's referring to the wrong 1 percent calculation. I think that if there is --

CHAIR R. KENNEY: Can I stop you for a second?

MR. WILSON: Yeah.

CHAIR R. KENNEY: Just so I understand, the comparison of fossil fuel portfolio to a RES-compliant-portfolio is what we're talking about?

MR. WILSON: Yes.

CHAIR R. KENNEY: And your argument is that for the fossil fuel portfolio, you're basically taking the utility's existing portfolio, subtracting out existing renewables, and replacing that with fossil fuel of the

nonrenewable generation so that you get a hypothetical 100 percent fossil fuel portfolio?

MR. WILSON: Correct.

CHAIR R. KENNEY: Then you compare that to the new RES-compliant-portfolio?

MR. WILSON: Correct.

CHAIR R. KENNEY: And then on the RES-compliant-portfolio side, we're not, in your estimation, accurately calculating the benefits?

MR. WILSON: Correct.

CHAIR R. KENNEY: And the statute, you believe, compels benefits beyond future environmental regulation, including greenhouse gases?

MR. WILSON: In ref -- the statute, in referring to the costs, is -- if we're looking at utility's cost of compliance, then I -- in order to be accurate, it needs to include the benefits of compliance as well. So, yes, so if there's $100 million spent on something and there's $50 million in utility-reduced costs, then the cost of compliance is the net --

CHAIR R. KENNEY: That's implicit --

MR. WILSON: -- 50.

CHAIR R. KENNEY: -- in the statute. But there's no language in the statute that says we should specifically include in a calculation of costs a menu of benefits, but it's

implicit?

MR. WILSON: I agree that it's implicit.

CHAIR R. KENNEY: Okay.

MR. WILSON: Another thing that needs to be either explicitly clear or implicitly clear in the calculation is how so-called economical renewables are handled. For example, the wind that Empire already had on its grid before the law went into effect, we think it's correct that Empire hasn't claimed their ongoing costs of wind to be RES-compliance costs, because they already made that decision before the law came around. But it's possible today and in the future those decisions would be made to invest in renewables that are not compelled by the Renewable Energy Standard. So we support -- there's a couple of places in the rule where it refers to RES costs that are a direct result of the Renewable Energy Standard, and those are the costs that we think should be considered toward any sort of cost comparison of -- only the ones that are a direct result of the Renewable Energy Standard.

Since this law came into effect, the cost of renewables across the board has come down, and it's forecasted by many that the costs will continue to come down. So it is foreseeable -- there's a foreseeable scenario in the future where the cost of renewables is by and large cheaper than all the other options. So we want to make sure the utilities have the ability to go fully forward with that and not be

constrained by cost comparison in that scenario.

And in many states they're interpreting the cost of renewables as being on par with the cost of new natural gas. So if the cost is equal to the cost of other generation, they should also be unconstrained by the cost calculation.

The last category of things that I'm going to comment on today are in the category of clarifying anything else that inhibits the Renewable Energy Standard's effective implementation. There are things that have been mentioned before in other venues, but I think that this is the correct venue to bring up a couple of concerns that we've brought up in the past that are ongoing concerns.

The first is the definition of hydropower. There are now three different definitions of renewable energy on the books in Missouri. There's the statute's definition, there's the Public Service Commission rules definition, and then there is the Division of Energy's rules definition. And in the case of hydropower, all three are different. So that has created some confusion. And what we would advocate for is either eliminating the laundry list of renewables from the PSC's rules altogether and just referring to the Division of Energy's certification of renewables or, if they're going to be listed, list them verbatim, list them verbatim as what is in the statutes. And for hydropower, is hydropower not including pump storage, that does not require a new diversion or impoundment

of water, and that has a nameplate reading of 10 megawatts or less.

Our position is that the rule on certification of hydropower is in direct conflict with the statute, and this is a good opportunity to clear that up from the Public Service Commission's standpoint. We also recognize the Division of Energy's rule is in direct conflict with the statute. We think both of them need to be cleaned up, but we're asking for leadership within the Public Service Commission here to take the lead on that. We've also asked the Division of Energy to address that on their end as well.

One more point on -- on hydro. Ameren stated in their 2014 RES-compliance report that RECs they're claiming from Keokuk, which is 130-megawatt-plus hydroelectric facility have zero value. They assigned zero value to it for two reasons. One, because it was built almost a hundred years ago; but, two, because they couldn't sell those RECs to any other state because all the other states with Renewable Energy Standards don't allow large hydro to count. And I think that that's telling, because as one of the original authors of the Renewable Energy Standards itself, I can tell you that we based the language in Missouri on best practices in other states. And as it pertains to hydropower, it was very clear to us that our intention was to limit hydropower to only small hydropower facilities. And the fact that all other states that Ameren

could sell those RECs from Keokuk to, that there are no other places to sell it, it's like we're definitely not in line with industry norm there.

CHAIR R. KENNEY: Let me ask you a question about that, Mr. Wilson.

MR. WILSON: Please. And you're all welcome to answer -- ask questions as well.

CHAIR R. KENNEY: He -- he knows. He's not shy. The definition of hydro in the statutes says 10 megawatts or less.

MR. WILSON: Yes.

CHAIR R. KENNEY: Ameren's argument is that each unit is 10 megawatts or less; right?

MR. WILSON: Yes.

CHAIR R. KENNEY: And then the Department of Natural Resources at the time is the certifying agency for what constitutes a renewable resource; correct?

MR. WILSON: Correct.

CHAIR R. KENNEY: So it would require them to change their rules rather than us?

MR. WILSON: I -- when we've asked the Division of Energy, they have said the same thing; that they were -- they waited for the Public Service Commission to finish its initial rulemaking before they make their rule because they wanted to base theirs on the PSC's. So it's a chicken or the egg, he

said/she said sort of situation. Where ideally we'd like to ask the Public Service Commission to work with the Division of Energy, take a look at that, and change those rules in tandem. But if that's not possible, then if the -- if the definition of renewable generators is going to be included in the PSC rules, then we'd ask that it just be changed to be directly reflective to what's in the statute or, if there's clarification needed there, to add the word hydropower facilities to clarify what the intent of that provision was.

Another thing Ameren mentions in their compliance report is that it's a benefit to their ratepayers if they're able to comply with this large hydro, because it's cheaper for them. Now, under that line of reasoning, we shouldn't have Renewable Energy Standard at all. We believe it's cheaper for utilities' customers to begin developing renewables now because of the heavy reliance on coal and the regulations that are coming down the pike, and we think it's important for consumers to diversify that fuel mix. So we do not agree with that line of reasoning, that the -- that large hydro should count because it's cheaper for their customers. If that was true, then it would be advantageous to look for ways to not build any renewable energy at all, and we are advocating for the opposite. We want 15 percent power to be a floor, not a ceiling. Since this law has gone into effect, many other states have increased their Renewable Energy Standard. Just

last week California increased theirs to 50 percent from 33 percent. We would like to see that happening in Missouri and Missouri reaping the economic benefits.

Did I answer your question?

Okay. The next fun issue I want to address -- I just have two more issues here, and I'll be done. The next issue is geographic sourcing, which we commend the Public Service Commission's original rulemaking on this and realize some things that happened out of the control of the Public Service Commission with that. But our position remains that the rules should clarify that this Renewable Energy Standard, which is also called a Renewable Portfolio Standard sometimes, should only apply to power that's actually sold to Missouri consumers. As the statute says, This Renewable Energy Standard applies to electricity from renewable energy resources shall constitute the following portions of each electric utility's sales. That is the main idea of this law. And if it were allowed for utilities to comply with unbundled RECs from wherever, then that would again subvert the purpose of this. And we would urge the Commission to put the original rules back in there that say that if a utility wants to comply with renewable energy that's located outside the state of Missouri, they have to demonstrate how that power makes it into Missouri.

The last thing I want to touch on is something that I've already mentioned, but from an advocate standpoint --

from a renewable energy advocate standpoint, it is frustrating, expensive, timely to go through the complaint process. I realize that there was a Commission order that said that the comment process is not necessarily triggering action for the Public Service Commission and that a complaint would need to be filed in order for that to be true. But we have suggested language in our comments that would make it a requirement that the Public Service Commission explicitly approve or deny the plans and reports that are filed by the utilities. And we would much rather see the Public Service Commission enforcing the law and their own rules, and we think it's actually an obligation of the Public Service Commission. If it's incumbent upon people to bring complaints, then it's a process that's a lot more cumbersome for everyone involved, takes a really long time and, again, would actually last until after the next year's reports and plans are filed.

So we'd like to see a much quicker process that is sort of an automatic review, where utilities file their plans, their reports, and stakeholders file their comments on that. And in the case where if all parties file comments saying we think the utility's plans and reports are good, then it would an easy decision for the commissioners. But if there's disagreement from parties, then we'd like to see the Public Service Commission have leadership there and say, okay, we've looked at everyone's comments and we hereby deem these reports

and plans good to go, unless there's a complaint filed or we say, you know what, there are some valid concerns brought up and we want these deficiencies corrected by the utilities before they're allowed.

And that's the end of my high-level comments. Any other questions for me?

COMMISSIONER HALL: No questions. Thank you.

JUDGE WOODRUFF: Thank you. And you said somebody from Renew Missouri will also want to speak?

MR. WILSON: Yeah, Andrew with Renew Missouri will be commenting later on, so there will be an opportunity for more Renew Missouri directed questions later today.

JUDGE WOODRUFF: Okay.

MR. WILSON: Thank you.

JUDGE WOODRUFF: Did you want to come up now?

MR. LINHARES: That's okay. I'll wait.

JUDGE WOODRUFF: All right. Who else wants to make comment? Well, I'll go down the list of -- come on up.

And if you tell us who you are and who you represent.

MR. BRADY: Certainly. Good morning. My name is Sean Brady. I'm with Wind on the Wires. Wind on the Wires filed comments on June 1st, 2015 in this proceeding. So what I intend to address today are our concerns regarding the carry-forward provision that's reflected in Section 5G in

Attachment A of the proposed amendment to the RES rule, as well as some suggested changes to avoided costs, as defined in Section 5B of the proposed amendment, while I'll also address -- respond to a few written comments that were submitted by other parties, and note a correction that we have to our comments and that we'll be filing an errata shortly after this reflecting that change.

If I may, Your Honor, I've got a handout that I'd like to make available to the commissioners and parties. This is a document that was Attachment A to my comments.

JUDGE WOODRUFF: Okay. We'll mark it as Exhibit A also. So you can give a copy to the court reporter.

MR. BRADY: Okay. I guess I can just circulate these along, these extra copies.

(Exhibit A marked for identification.)

MR. BRADY: So, in opening, the first point I want to talk about is the carry-forward provision. The way we view Attachment A is it's a -- it's a good step in an attempt to make the retail rate impact calculation open, transparent, and uniform, and we support those kinds of steps to help make -- to improve this process, since there hasn't been -- there's been -- hasn't necessarily been consistent agreement from all parties on the retail rate impact analysis.

However, we don't view the carry-forward methodology as -- we don't support the carry-forward

methodology, as the way it's proposed right now. First of all, the carry-forward methodology, as proposed, as we understand, it's to calculate actual costs that have been incurred in prior years and then roll the actual costs into the retail rate -- the ten-year forward-looking evaluation in the retail rate impact analysis. The -- that dollar amount that's to be calculated is based on 1 percent of the utility's current revenue requirement. Well, that's -- that dollar amount is -- that calculation is inconsistent with the way that the retail rate impact analysis is to evaluate that 1 percent.

I believe you correctly characterized it, Chairman Kenney. The way we view the 1 percent, that it's supposed to be 1 percent of a nonrenewable portfolio, which would be taking the existing revenue requirements, subtracting out those costs that are related to revenue -- related to renewables, and replace that with nonrenewable generation. That would be -- that's the 1 percent that's under the retail rate impact analysis; whereas under the carry-forward provision, the 1 percent would be related to the current or what was actual last year, which includes renewables. So there -- it's kind of an apples-to-oranges comparison.

Second, this was -- this 1 percent adder was reviewed by the Commission originally, as the original proposal for the comparison in doing a 1 percent retail rate impact analysis. At that time the Commission decided that using

1 percent of the existing revenue requirement was not as good as doing what is currently reflected in Section B. I would only surmise that the Commission's -- that the Commission didn't explain its rationale for rejecting that proposal, but it's along the lines of what's in the current rule now is better than what -- than that proposal.

Finally, if -- the way -- and technically looking at the way that the retail rate impact analysis is to be calculated, as read in Section 5B, it's incompatible with rolling in numbers from a previous year. I'll draw your attention to -- as an example, in the attachment that I just circulated, in this -- this spreadsheet does a comparison of the cost of an RES-compliant-portfolio to the cost of a nonrenewable portfolio. And it does so in each -- does that comparison in each year and comes up with a percentage, and then it should be a ten-year average of that -- those forward-looking projections to determine if the retail rate impact is -- over that ten years is going to be more than -- more than 1 percent. And so it's looking at each individual year comparison of a renewable to a nonrenewable portfolio. There's no real room here for rolling over actual costs.

Now, putting aside that some parties already think that -- or putting on the table that some parties arguably already think that having a carry-forward provision is contrary to the existing statute, if the Commission were to want to

include a carry-forward provision and look at and account for what's happened in prior years, you need to make that calculation for years -- for the actual years, do that in a method that's comparable to what's being outlined in Section 5B.

So that is -- and I guess as a final note, we provided that as an alternative proposal in our Attachment B, which shows an example of how that could be done. And then what you would do is you would take the average of all of the years, both actual as well as the future, and compare that to the 1 percent.

Moving on to my second topic, the issue of avoided costs. So the current statute -- or the current rule, rather, mentions that the comparisons -- in Section 5B says, The comparisons of a renewable generation portfolio to a nonrenewable generation portfolio will be conducted utilizing incremental revenue requirements less the avoided cost of fuel not purchased for nonrenewable energy resources. And we think that that -- that should be expanded to include -- the point of this comparison, of comparing the nonrenewable to a renewable generation portfolio, is when you back out the -- focusing on just the existing renewables, when you back out the existing renewables that are part of the current portfolio and you're going to replace them with a nonrenewable generation. So that's going -- and the point is that that generation portfolio

is going to produce the same amount of energy as your renewable generation portfolio. So, therefore, your nonrenewable generation portfolio needs to include the cost of fuel plus the cost of operating and maintaining a plant that would generate energy equal to electricity equal to what would be generated or required under your RES.

Currently the rule --

CHAIR R. KENNEY: Can I stop you just a minute?

MR. BRADY: Sure.

CHAIR R. KENNEY: Because that's the same thing I asked Mr. Wilson. So the nonrenewable portfolio should be a pure 100 percent fossil fuel portfolio, backing out existing renewables and adding back in nonrenewables, fossil fuels?

MR. BRADY: Yes.

CHAIR R. KENNEY: Would you add back in coal or gas? I mean, what you're proposing -- and you're asking the utility to do it, so I guess I have two questions. What would be the nonrenewables that get added back in? Who gets to determine that? And then is that modeling easy for the utilities to do?

MR. BRADY: The -- so it would be up to the utility to select what it would -- what they would use for the cost --

CHAIR R. KENNEY: Okay.

MR. BRADY: -- of that. What I had used in my

model was basically a breakdown of -- it should reflect -- in my mind it should reflect, if you're removing existing renewables, well, then you're going to be replacing that with your existing generation portfolio. So you're going to be running your existing pole, natural gas, and whatever else you have in your plant in your portfolio more to cover those -- to generate that -- an equal amount of electricity or energy that you just took out. So it would just be whatever your cost is for your nonrenewable plant multiplied by the number of hours that you need to run it to replace the electricity -- the energy you just removed.

CHAIR R. KENNEY: But, I mean, you're backing out -- you're backing out the renewables, so you've backed out some capacity; right? So, I mean, you've got to add back in --

MR. BRADY: Right. It'll be -- it's based on a capacity -- so, right. So, you know, your -- if wind is, you know, operated at 30 or 35 percent and then your natural gas and coal are 50 percent or 70 percent, you know, you're not going to be adding -- it's not going to be 1 to 1 on a capacity basis; it's 1 to 1 on the energy side. And then -- so that would be existing renewable resources.

For future renewable resources, you also need to account for the avoided costs on that as well in a similar manner. So if on a going-forward basis from 2015 on, if you -- if the utility needs to add renewable energy as part of

its port -- is going to use renewable energy as part of its portfolio for compliance, because it could use RECs only, but if it uses RECs bundled with renewable energy as part of its renewable energy compliant-portfolio, on its nonrenewable energy compliant-portfolio it should also be adding the energy -- the cost of new nonrenewable energy. New for new. We provided -- in our comments we provided replacement language for -- for the rule to account for that.

Finally, some of the parties, the Office of Public Counsel, the Missouri Industrial Energy Coalition, both noted that there shouldn't be double-counting of fuel and environmental compliance costs, and we agree that shouldn't be happening. The methodology should only be accounted for once. I think the reason they raised concern was the fact that in Section 5B we let -- there's language that describes less avoided cost of fuel and that that might be confusing, it might cause someone to try and double-count. We didn't read it -- I didn't read it that way. I read this section in Section 5B that describes less avoided costs to actually describe and provide clarity for the utilities on what the avoided costs should be. Typically industry standard is it's fuel plus operating and maintenance costs. You have -- the rule has fuel. So you're doing something that's slightly different. If you're doing something slightly different than industry standards, well, then you should make that clear in your -- in

your rule. And that's the way I had interpreted and was reading the rule.

That being said, you know, there shouldn't be double-counting. I think MIEC had proposed a couple of different language edits. I think, if anything, they provided two alternatives. The second alternative would be more acceptable to us, which would be to state that there shouldn't be double-counting of avoided costs, although I'll note their language uses no double-counting the cost of fuel or environmental compliance costs. Our recommendation would be that, you know, the Section 5B doesn't use environmental compliance costs; it refers to greenhouse gas emissions compliance cost. So that sentence should parallel existing language that's in the rule so that we're not adding a new -- potentially a new topic. We wouldn't want somebody to interpret this and say, well, all right, you've got -- you used two different phrases here, so you're referring to -- conceivably referring to two different things when you're not.

So my final comment is I just want to point out I have a correction. When we're viewing our comments, I have a typo in -- on page 10 of our comments. I refer -- in the last paragraph in two locations I refer to WOW Attachment A, and that's supposed to be the Proposed Amendment Attachment A, not WOW Attachment A. So I wanted to note that here, as well as I'll file a corrected copy of our comments with that

correction.

With that, I appreciate your time. And if there are no other questions, I'll take my seat. Thank you.

JUDGE WOODRUFF: Thanks.

MR. BRADY: Have a good day.

JUDGE WOODRUFF: Any other volunteers?

MS. TATRO: Your Honor, Ameren Missouri has a couple of people to give comments. We'll start with Mr. Michels.

JUDGE WOODRUFF: Okay.

MS. TATRO: A couple of handouts. This is a red line of our proposed rules and a document we'll be talking about.

JUDGE WOODRUFF: Go ahead and --

MS. TATRO: I also have this electronic disk for you, which is an electronic copy of that. And I'll have the court reporter mark these.

JUDGE WOODRUFF: Let's mark the proposed -- the red line as Exhibit B and the carry-forward chart as C.

(Exhibits B and C marked for identification.)

MR. MICHELS: Good morning, and thank you for this opportunity to speak on behalf of Ameren Missouri regarding the Commission's proposed rule to implement the Missouri Renewable Energy Standard, or RES.

My main objective here this morning is to ensure

that the Commission has the relevant facts and understanding it needs to continue to ensure the proper implementation of the chief customer protection provision of the RES statute, the 1 percent rate impact limitation and the Commission's RES rules at 4 CSR 240-20.100, Section 5.

I also want to acknowledge and respect all of the work that has been done by all parties since the RES was enacted to hone in on a rational and standard method for determining the 1 percent limitation and how it is to be applied. While we have found some changes to the rule governing the 1 percent limitation aren't necessary, the nature of the necessary changes is incremental. They're intended to add clarity and address clear issues, not overhaul the process or alter its objectives.

While other parties may understandably have objectives that are at odds with this customer protection provision, those objectives should not be allowed to frustrate or water down the clear intent of the statute to limit the ratepayer impact to no more than 1 percent of what customers would pay absent the RES.

To assist the Commission in understanding our comments, Ameren Missouri has prepared a red-lined version of the proposed rules to highlight our suggested changes. Importantly, the proposed rule represents a significant step forward in the implementation of the 1 percent rate impact

protection. It incorporates the provisions of HB 142 enacted in 2013 to establish a process for suspending solar rebates in a structured and reasoned manner as a result of the 1 percent limitation, Section 5F. It also incorporates the provisions of HB 142 regarding the consideration of utility scale solar projects when calculating the 1 percent limitation, Section 5I. It clarifies the exclusion of existing renewable resources from the renewable -- the nonrenewable portfolio. And you heard Mr. Brady talking about this and Mr. Wilson as well used for comparison to the RES-compliant-portfolio, Section 5B. I would argue that that section has already clarified the issue that they raised. It addresses risks of long-term reliance on the planning assumptions that must necessarily be used in assessing the 1 percent limitation in Section 5H.

Finally, and most critically, the proposed rule addresses a technical issue in the original rule that may have served to undermine the 1 percent limitations protections. In the original rule, which became effective September 30th, 2010, the Commission reflected its decision to use a ten-year average for purposes of evaluating the 1 percent rate impact limitation. This allowed for variances due to the lumpiness of renewable energy investments and their impacts on year to year revenue requirements. This provision relies each year on a forward-looking ten-year period without consideration of revenue requirements for prior years. As the provisions of the

RES began to be implemented, it became clear that there was a potential problem with this approach. Mainly because each individual year's costs could vary above or below 1 percent of that year's revenue requirement and because each year's 1 percent calculation only looked forward, any differences in prior years would be ignored in subsequent years.

An extreme example that illustrates the potential problem is the possibility of RES-compliance costs in year one that consumed the allowable RES-compliance costs for the entire ten-year period, the following year the 1 percent calculation would be performed as if the prior year had not happened, leaving a full ten-year budget for RES-compliance costs. In an extreme scenario, which is laid out in the chart that has been handed out, in which the full ten-year budget for RES-compliance costs were incurred in the first year of each successive ten-year period, the actual customer impact would be 10 percent rather than 1 percent.

A completely different scenario could result in no RES-compliance costs ever being incurred. This would happen if each year's RES-compliance plan included the entire ten-year budget for RES-compliance costs in year ten. The actual costs incurred would be zero for each year, and we would have a situation where tomorrow never comes.

The proposed rule includes a carry-forward provision in Section 5G to address these and numerous other

scenarios that could lead to an unintended and undesirable outcome with respect to the RES-compliance costs. Quite simply, carry-forward provision ensures that customer -- the customer rate impact over the long-term will indeed be 1 percent within the margin of error, the planning assumptions that must necessarily be used.

More specifically, this carry-forward provision captures any year-to-year differences between the revenue requirement for actual RES-compliance costs and 1 percent of that year's nonrenewable portfolio revenue requirement. The accumulated differences are then reflected in subsequent calculations of the 1 percent limit to ensure that prior overages limit future spending or that prior underages allow for additional spending such that the long-term RES-compliance costs will be limited to 1 percent as the RES statute intends, no more and no less. This approach also happens to be consistent with the stipulation agreement that parties, including Renew Missouri, reached in file ET-2014-0085 in paragraph 7G. That was the stipulation and agreement limiting the amount of solar rebates and establishing a pool.

While the proposed rule addresses critical issues not addressed by the existing rule, there are other issues with the 1 percent calculation remaining to be addressed. First, as noted in the comments of MIEC and OPC, the statute contemplates a limit on the impact of RES-compliance on rates, not revenue

requirements. While there is generally a very high correlation between rates and revenue requirements, differences in total billing units do result in changes to rates that are not 100 percent correlated with changes in revenue requirements.

In the case of the RES, the payment of solar rebates to incentivize the installation of customer-owned solar generation introduces the potential and, in fact, the reality, as we have seen, for differences in retail sales between the RES-compliant-portfolio and the nonrenewable portfolio. To account for this Ameren Missouri has included in its markup of the proposed rule language in Subsection 5B(4) the concept of an adjustment factor to account for these billing unit differences. While the expected impact of these differences is small, it is real and there is no guarantee that they could not grow in the future.

Ameren Missouri's proposed language ensures that the treatment of these billing unit differences are consistent with the estimation of RECs produced by customer systems for which a rebate is paid, as provided for in Section 4I. This includes application of a strict ten-year assumption on customer-owned system generation counted for RES-compliance purposes.

Second, it is helpful to clarify the treatment of avoided costs, including those related to environmental compliance risk. Both Mr. Wilson and Mr. Brady have commented

on this topic. I should say at this point that the process that we used to come up with the 1 percent calculation is entirely based on our integrated resource planning assumptions, and the integrated resource planning analysis accounts for all costs related to all generation that is included in either a nonrenewable or a renewable-compliant-portfolio.

It is important to understand also that the 1 percent limitation is to function as a limitation of the impact on utility rates, as the RES rule -- as the RES statute intends, then only those costs that are recovered through utility rates can and should be considered. To address concerns that all such costs are considered and only costs recoverable in utility rates are considered, Ameren Missouri has proposed language in Subsection 5B(5).

Third, to ensure that it is clear how certain renewable resources are to be treated for purposes of evaluating RES-compliance costs, the effective date prior to which costs for renewable resource additions are not counted as RES-compliance costs should be specified. This issue is also addressed in the comments of MIEC and Renew Missouri.

CHAIR R. KENNEY: What should the date be?

MR. MICHELS: I'll jump to the end. September 30th, 2010, the effective date of the original rule.

Finally, the carry-forward provision in the proposed rule requires both additional clarity and specificity

to ensure that the 1 percent limitation protection for customers is sufficiently implemented. The proposed rule references both annual and cumulative carry-forward amounts without making completely clear how the two are related. Ameren Missouri has proposed language to make this relationship clearer in Subsection 5G.

The proposed rule also lacks specificity as to the starting date for accumulating the annual carry-forward amounts to determine the cumulative carry-forward amount to be used in the initial 1 percent calculations under the revised rule. Ameren Missouri proposes that the starting date for calculating the annual carry-forward amounts included in the cumulative carry-forward amount be set to January 1st, 2013. This ensures that the significant costs incurred for the surge in solar rebates starting in 2013 are fully captured in the long-term consideration of the 1 percent rate impact limitation protection. Ameren Missouri believes that these additional changes to the proposed rule will help to preserve the integrity of the intended customer rate protection provision included in the RES statute enacted by Missouri voters.

Having shared Ameren Missouri's views on changes to the 1 percent rate impact limitation, I would like to now turn to comments from other parties on the 1 percent calculation that Ameren Missouri must oppose.

CHAIR R. KENNEY: Can I ask you a question first?

MR. MICHELS: Sure.

CHAIR R. KENNEY: Back to your -- to Ameren's recommended language regarding assumptions regarding protected renewable resources, Subsection 5 under 5 --

MR. MICHELS: 5B(5)?

CHAIR R. KENNEY: E(5).

MR. MICHELS: Right.

CHAIR R. KENNEY: You've included red language that says, Such avoided costs shall be limited to those that may be included in a utility's revenue requirement for setting rates. What -- that limitation that Ameren's proposing, what does that eliminate that Renew Missouri or Wind on the Wires is trying to capture?

MR. MICHELS: In short, it eliminates the possibility of including externalities that would not be recognized as a cost by the utility.

CHAIR R. KENNEY: Such as?

MR. MICHELS: Estimates of costs related to medical issues and such.

CHAIR R. KENNEY: All right. Thank you.

MR. MICHELS: Wind on the Wires proposes an alternative method for calculating the 1 percent retail rate impact that all but guarantees that costs to customers will be greater than the 1 percent limitation in the statute. Aside from some slightly less egregious errors in applying the RES

standard, for example, basing the RES requirements on utility generation rather than retail sales, the central provision of this alternate approach is the inclusion in the nonrenewable portfolio of additional nonrenewable energy, whether it is needed or not.

Wind on the Wires' proposal requires that the cost of additional amount of energy from nonrenewable resources be added to the cost of the nonrenewable portfolio based on the cost of a utility's existing generation and in an amount equal to the energy added by nonre -- by renewable resources in the RES-compliant-portfolio.

If the 1 percent rate impact limitation protection is to truly function as a limitation on the cost of compliance with the RES to no more than 1 percent of what customers would pay absent the RES, then the portfolios must be based in reality and not some purely theoretical construct.

Wind on the Wires' proposal departs wildly from reality in a couple of key respects. First, as mentioned previously, it presumes that additional energy provided by renewable resources must be added to the nonrenewable portfolio and come from nonrenewable resources, whether it is needed or not. The nonrenewable portfolio for each utility is already designed to meet the customer load obligations over the ten-year period. No additional resources are necessary.

Second, having presumed the need for additional

generation, Wind on the Wires presumes that this energy would come from the utility's existing generation. This ignores the reality that utilities in Missouri participate in organized RTO markets where dispatch decisions are made outside the utility and by the RTO.

Because of the provisions embodied in Wind on the Wires' proposed 1 percent calculation, it all but ensures that the 1 percent limitation would never be determined to have been reached. In reality, it would result in costs far greater than 1 percent.

Wind on the Wires also proposes an alternate method for determining the carry-forward amount established in Section 5G that does nothing to address the issues that arise when looking at a perspective ten-year period and ignoring past actual costs. Their proposed alternative simply provides for truing up forecast generation to actual generation, leaving the potential for long-run costs far in excess of 1 percent. Renew Missouri repeats a long-standing claim that utilities are not correctly calculating the 1 percent retail rate impact based on the view that the nonrenewable portfolio to which the RES-compliant-portfolio is compared must include additional nonrenewable resources whether they are needed or not.

In this respect, Renew Missouri's position is similar to that of Wind on the Wires. Because both are detached from reality, their position is similarly wrong, if

the 1 percent limitation is to truly serve as a limitation on RES-compliance costs to no more than 1 percent of what customers would otherwise pay without the RES.

Renew Missouri offers no alternative calculation itself; but because its position is similar to Wind on the Wires', it is reasonable to expect that such an alternate calculation would similarly result in costs far in excess of the 1 percent established by the statute.

(Off the record.)

MR. MICHELS: Now, Mr. Wilson earlier had his calculation of the comparison of the nonrenewable portfolio to the RES-compliant-portfolio. And I agree with everything he said, and we include everything that he included in his calculation in our calculation already and have been for years.

If you asked Staff in particular or MIEC, they will tell you the same thing; that the 1 percent calculation that Ameren Missouri has been performing covers all of those costs and benefits for both the nonrenewable portfolio and the RES-compliant-portfolio for that comparison.

CHAIR R. KENNEY: So the nonrenewable portfolio that Ameren is modeling backs out existing renewables?

MR. MICHELS: Yes, it does.

CHAIR R. KENNEY: And back -- and then adds back in a necessary amount of fossil-fuel-derived generation?

MR. MICHELS: Yes. And to the question that you

asked Mr. Brady earlier about where that generation should come from --

CHAIR R. KENNEY: Right.

MR. MICHELS: -- to avoid that complication, we just assume that we buy it from the market.

CHAIR R. KENNEY: At the market price?

MR. MICHELS: Exactly.

CHAIR R. KENNEY: MISO market price?

MR. MICHELS: Exactly.

CHAIR R. KENNEY: Okay. And what have the other parties said about that methodology of adding back in the nonrenewable component?

MR. MICHELS: I -- I haven't heard any complaints from Staff or anyone else.

CHAIR R. KENNEY: Okay.

MR. MICHELS: Okay. Renew Missouri criticizes the utility's use of a model that establishes a RES-compliance budget equal to 1 percent of the revenue requirement of the nonrenewable portfolio over the ten years. Renew Missouri says this is -- this is inconsistent with the requirement to compare the two portfolios. Simple arithmetic allows us to conclude otherwise. If the RES-compliance portfolio revenue requirement must be limited to 1 percent more than the nonrenewable portfolio, 1 percent of the nonrenewable revenue requirement is the additional cost allowed under the RES-compliant-portfolio

after it has been adjusted to comply with the 1 percent limitation.

CHAIR R. KENNEY: What does that last part mean, after it's been adjusted to comply with the 1 percent?

MR. MICHELS: Right. So you've got the nonrenewable portfolio where you backed out existing renewables. You've got the RES-compliant-portfolio which meets the full standards. So 15 percent by 2021.

CHAIR R. KENNEY: Yeah.

MR. MICHELS: If that is in excess of the 1 percent limitation, then you have to back down the RES-compliant-portfolio to comply with the 1 percent limitation.

CHAIR R. KENNEY: 1 percent of the non-RES-compliant-portfolio?

MR. MICHELS: Exactly.

CHAIR R. KENNEY: Okay. So that's just a number?

MR. MICHELS: That's just a number, right.

Renew Missouri separately attempts to fit a square peg into a round hole by seeking to require inclusion of a retail rate impact calculation for a single calendar year in a utility's annual compliance report. MOSEIA makes a similar requests in its comments. This is different than the calculation of the year-by-year carry-forward amount, as provided for in the proposed rule in Section 5G, which compares

the actual compliance costs to 1 percent of the estimated nonrenewable revenue requirement for a given year. Rather, Renew Missouri attempts to require a single-year calculation for purposes of assessing compliance. The 1 percent calculation established by the Commission is a ten-year forward-looking calculation. It is not possible to perform a 1 percent calculation for a single calendar year that complies with the ten-year calculation requirement.

Regarding the carry-forward provision, Renew Missouri proposes to change the language established -- establishing how the annual carry-forward amounts are calculated to be based on the ten-year calculation in Section 5B rather than an actual calendar year comparison. Once again, Renew Missouri has confused the ten-year forward-looking 1 percent calculation with a provision that is intended to capture year-to-year differences to ensure that the long-term RES-compliance costs are limited to 1 percent, no more, no less. Calculating an annual variance by using a ten-year forward-looking calculation makes no sense at all.

Finally, and not related to -- specifically to the 1 percent calculation provisions, Renew Missouri, supported by MOSEIA, repeats its call to require geographic sourcing; that is, to require that all RECs used to comply with the RES portfolio requirements be associated with energy delivered to Missouri customers. The Commission has properly excluded such

a requirement, recognizing that the RES statute provides for the ability to comply using RECs, and specifically distinguishes the value of RECs associated with renewable generation in Missouri from the value of RECs associated with renewable generation outside Missouri by providing a 25 percent bonus for Missouri RECs.

As I stated at the outset, my comments are based on the principles that the ratepayer protection afforded by the 1 percent limit must be real and meaningful and must not be subverted to other interests. The changes already represented in the proposed rule, plus the changes I have proposed here and in our red-lined version of the proposed rule will help to ensure that costs of complying with the RES are limited to 1 percent within the margin of error, the forward-looking calculations used to plan for RES-compliance.

This concludes my prepared remarks. And if you have any other questions, I'll take those.

CHAIR R. KENNEY: Just a quick one about the determination of -- you heard my discussion with Mr. Wilson about the determination of benefits for being able to determine net cost of the renewable -- renewable-compliant-portfolio.

MR. MICHELS: Right.

CHAIR R. KENNEY: And the benefits that are currently quantified are avoided fuel costs; right?

MR. MICHELS: That's -- that's what the language

of the rule says. And our proposed language expands that to include all of the other utility-avoided costs that you can think of that we've already included in our calculation in the past.

CHAIR R. KENNEY: Except for any other benefits associated with renewable generation, like health benefits and externalities?

MR. MICHELS: Anything that's -- excluding anything that is not costed out in a utility's revenue requirement, yes.

CHAIR R. KENNEY: Was any -- was there any discussion during the workshops about any areas of agreement on benefits that maybe everybody could agree on that could be attributable to a renewable portfolio?

MR. MICHELS: I didn't sense any agreement on anything that would go beyond those things that could be included in --

CHAIR R. KENNEY: Those hard things --

MR. MICHELS: -- a utility revenue requirement. Yes.

CHAIR R. KENNEY: AS a matter of public policy, what are your thoughts on including some of those externalities?

MR. MICHELS: I think they're very difficult to get a handle on. And looking at it in light of what the

statute says about limiting the impact of the RES to 1 percent, I think you want to treat that as a 1 percent rate impact limitation. So only consider those things that can be included in rates.

CHAIR R. KENNEY: Okay. All right. I don't have other questions.

JUDGE WOODRUFF: Commissioner Kenney, do you have any questions? This is Matt Michels for Ameren Missouri.

COMMISSIONER KENNEY: Thanks. But, no. I'll let you know if I have questions. I appreciate it.

JUDGE WOODRUFF: Thank you.

Commissioner Hall?

COMMISSIONER HALL: No questions.

COMMISSIONER: Thank you.

JUDGE WOODRUFF: Ms. Tatro, you had another --

MS. TATRO: I do. Wade Miller.

JUDGE WOODRUFF: Okay. And you said your name is Wade Miller?

MR. MILLER: Wade Miller, correct.

JUDGE WOODRUFF: Go ahead.

MR. MILLER: Thank you. Good morning. I'm going to be speaking primarily about a couple operational issues related to Net Metering and solar rebates, but I've been asked to make one comment regarding the nameplate rating of hydro as it relates to the RES statute. And the RES statute

specifically references a nameplate individual, and nameplates are only associated with individual pieces of equipment. They are not associated with large plants or plant aggregate. And that if the statute had intended for it to be the entire plant, then it would have said -- it would have identified the nameplate of the plant, as opposed to just saying a nameplate.

CHAIR R. KENNEY: So you think the drafter intended that you would count each unit individually?

MR. MILLER: That's my understanding from counsel, yes.

CHAIR R. KENNEY: That's your understanding --

MR. MILLER: That's my understanding.

CHAIR R. KENNEY: -- that that's how the statute reads. But is it your understanding that that's what the drafter intended? Because you can ask him. He's right over there.

MR. MILLER: I -- I don't know what the statute intended. I would have to defer to counsel.

CHAIR R. KENNEY: Okay. All right.

MS. TATRO: And, of course, counsel would say the language of the statute is what controls. It didn't mean what --

CHAIR R. KENNEY: Yeah, I know. But, I mean -- yeah, okay. But you're bringing this up though about what the statute actually says. But do you concede that that's not

really what was intended and it was perhaps a drafting error?

MS. TATRO: We would --

CHAIR R. KENNEY: I'll ask Ms. Tatro.

MS. TATRO: -- concede that's what he says now. I have no idea what he meant at the time he drafted it, and I'm not sure he did until he realized that Keokuk has multiple generators with multiple generate -- with multiple nameplates.

CHAIR R. KENNEY: But let me ask you this then, since -- for either one of you, because you opened up this Pandora's box. I mean, do you -- would you concede that the way -- that the intention was to not allow all the existing hydro to satisfy the renew -- well, let me ask it a different way. Let me withdraw that question. Would you concede that the purpose of the statute was to try to get new renewable built and that your interpretation of it and DNR's interpretation of it frustrates that purpose?

MS. TATRO: I think the intent was to encourage renewables in the state of Missouri. I don't think that just because Ameren Missouri was a utility that had a renewable resource for over a hundred years, that that frustrates anything. The cost of Keokuk is at this point pretty highly depreciated, and we offset the energy value. It's not what's stopping anything. In fact, you know, we've built a new facility in O'Fallon. We filed a notice that we'll be filing a certificate for another facility. Oddly enough, Renew Missouri

opposed our first certificate for a renewable plant. That I will never understand.

CHAIR R. KENNEY: For the solar -- for the O'Fallon?

MS. TATRO: For O'Fallon. Renew Missouri opposed that. So we are trying to build renewables in a responsible manner. We've made many changes. We stopped solely purchasing RECs from outside of the state and have tried to increase building in state and complying that way. So I don't see that the purpose is frustrated at all. In fact, I see that it is probably proceeding in a timely and appropriate manner.

JUDGE WOODRUFF: Let me jump in here just for the benefit of the record. These last questions have been from Wendy Tatro, who's counsel for Ameren.

MS. TATRO: I apologize. Yes.

CHAIR R. KENNEY: Not your fault. Okay. I'll -- please continue.

MR. MILLER: I am offering one new suggestion that was not included in Ameren Missouri's written comments, offering support for several comments by other parties, and will share relevant information regarding other parties' concerns with the proposed definition of operational and the proper application of rates when a customer generates excess energy during a billing period.

First, I'm suggesting an additional change not

included in Ameren Missouri's written comments directly related to the proposed change in 4 CSR 240-20.065 in Section 5C of the interconnection application agreement for Net Metering application -- I'm sorry, for Net Metering systems with a capacity of 100 kW or less. The same language in that section that I noted also appears in Section 7C of the rule, and so that portion of the rule should also be revised so that both references are consistent with one another.

Ameren Missouri supports OPC's comment regarding 4 CSR 240-20.100 Section 4L, that customer generators should have 12 months from the date they receive approval of their application agreement from the utility rather than from when they apply. And I think it was Staff's intent, because the rule also says that that's consistent with the Net Metering Rule; but, in fact, the way they've written it is not consistent with the Net Metering Rule. So OPC's changed suggestion and our suggestion would make them consistent.

Regarding the creation of a definition of operational in both of the proposed rules, the definition proposed is consistent with Ameren's understanding and implementation of the underlying statutes and its tariffs. While Renew Missouri, MOSEIA, and OPC have suggested that a customer generator system should be considered operational without the utility having completed all the steps of the Net Metering interconnection process, that is inconsistent with the

statutes. First, the RES statute requires that a condition of receiving a solar rebate is that a customer generator system is confirmed by the electric utility to, quote, have become operational in compliance with the provisions of Section 386.890, which is the Net Metering statute. The definition of customer generator in the Net Metering statute includes that the generation, quote, is interconnected and operates in parallel phase and synchronization with a retail supplier -- electric supplier and has been approved by said electric retail supplier.

In another section the statute also says, No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any retail electric supplier without written approval by said supplier, that all of the requirements under Subdivision 1 of subsection section -- of this section have been met.

The bottom line is that a utility cannot know that all the requirements for Net Metering have been met or allow a system to operate in parallel until the bidirectional meter has been set. Operational as defined in the proposed rule is appropriate and necessary and consistent with how Ameren Missouri has been offering Net Metering service and solar rebates.

Regarding Renew Missouri's suggestion that requiring AHJ approval prior to parallel operation of the

generation system is inappropriate and confusing, that characterization's not accurate. Local code authorities provide an important safety function. It would be inappropriate for the Commission to implement a rule that circumvents that function by requiring utilities to implement Net Metering without the AHJ inspection approval.

The proposed Net Metering Rule to replace customer charges with minimum bill, as specified by the applicable customer generator's rate schedule, is again consistent with Ameren Missouri's implementation and understanding of the Net Metering statute. The statute states that a retail electric supplier shall -- excuse me -- offer to the customer generator a tariff or contract that is identical in electrical energy rates, rate structure, and monthly charges to the contractor tariff that the customer would be assigned if the customer were not an eligible customer generator but shall not charge the customer generator any additional standby capacity -- standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer were not an eligible customer generator. This section makes clear that all aspects -- aspects of a utility's tariff shall apply but that special charges cannot be created that are only applicable to customer generators.

Finally, the statute also says, If the electricity generated by the customer generator exceeds the electricity

supplied by the supplier during a billing period, the customer generator shall be billed for the appropriate customer charges for that billing period in accordance -- and then it continues.

CHAIR R. KENNEY: Which means -- the appropriate customer charges meaning what?

MR. MILLER: Well, it means that, I think -- some would think that it means the utility's customer charge. But the fact that it says customer charges, plural, and at the other location in the statute it's clearly saying the rate will be identical. So the -- changing the language from customer charges to minimum bill simply is clarifying that so that a customer is not confused that it's not just the customer charge; that you're going to be billed for all the components of the rate that are applicable, to the extent -- you know, under a circumstance where you have no usage.

CHAIR R. KENNEY: What does a minimum bill mean?

MR. MILLER: Well, that is defined by utility tariffs generally, and in some cases it is the customer charge. But there are other tariffs where the minimum bill might be the customer charge plus some other things.

CHAIR R. KENNEY: I mean, but saying -- specifying the customer charge, I mean, the minimum bill -- never mind. I'm just -- it concerns me that you're not allowed to charge a demand charge, a capacity charge, or any type of special charge or fee. I mean, does that language potentially undermine that

exclusion?

MR. MILLER: No. I think that what they're saying is -- with the language you just pointed out is that you can't create unique charges that only apply to customer generators. If -- it's not saying that you can't charge a demand charge, if we had a demand charge for all customers or for all customers in a class.

CHAIR R. KENNEY: I'm not sure that that's what it means, I mean, you can't charge a capacity charge or a demand charge.

MR. MILLER: I don't --

CHAIR R. KENNEY: You're reading it to mean as long as you charge to everybody, it's okay to charge it to --

MR. MILLER: I think --

CHAIR R. KENNEY: -- as long as it's identical.

MR. MILLER: I think that's exactly what it says.

CHAIR R. KENNEY: Okay. I understand what you mean now. I'm not sure I agree.

COMMISSIONER HALL: So under -- under Ameren's tariff, what does minimum bill mean?

MR. MILLER: On a residential scenario, minimum bill means the customer charge.

COMMISSIONER HALL: Exclusively?

MR. MILLER: Exclusively.

CHAIR R. KENNEY: Today.

MR. MILLER: Well, there's also a low income pilot, and then of course the appropriate taxes. But the minimum bill is the customer charge.

For small general service, it would be the same. For large general service, there is a demand component that they have 100 kW minimum billing demand. By their becoming a customer generator, it doesn't change that 100 kW minimum obligation of the tariff. And the portion of the statute that says that what they pay will -- you know, contract offered to them will be identical to what would be offered to them were they not a customer generator is why we bill that.

COMMISSIONER HALL: Thank you.

MR. MILLER: That concludes my comments.

JUDGE WOODRUFF: All right. Any other questions?

Okay. Thank you, Mr. Miller.

Is that it for Ameren then?

MS. TATRO: Yes.

JUDGE WOODRUFF: All right. Mr. Dority.

MR. DORITY: Yes. Thank you, Judge Woodruff. For the record, my name is Larry Dority, representing Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company.

Brad Lutz with KCP&L will be offering some brief comments this morning. We do have a few copies of his comments that I'd be happy to provide the bench, if you'd like to follow

along.

JUDGE WOODRUFF: Okay. We'll mark them as Exhibit D.

(Exhibit D marked for identification.)

JUDGE WOODRUFF: And your name again was?

MR. LUTZ: My name is Brad Lutz, L-U-T-Z.

JUDGE WOODRUFF: Okay. You may proceed.

MR. LUTZ: Good morning. Thank you for this opportunity to comment concerning the proposed amendment of the Chapter 20 Net Metering and Renewable Energy Standard Regulations. As I mentioned, my name is Brad Lutz. I'm a manager of reg -- in regulatory affairs representing Kansas City Power & Light and KCP&L Greater Missouri Operations Company.

I offer these following comments to the Commission's proposed amendments, as well as comments offered to other parties in this case. I will refer to these -- to the companies collectively as KCP&L and should note that our absence of comment in this does not necessarily mean that KCPL agrees with the positions offered on others in this matter.

Generally KCPL agrees with the Commission's proposed amendments to the rules, with a small number of exceptions. Additionally, KCPL is in overall agreement with the comments provided by Staff and by Ameren Missouri.

Beginning with Chapter 20.065, the Net Metering

Regulation, KCP&L agrees with the revision to 1 -- Section 1G, clarifying the definition of operational. KCPL believes this description is a critical point in the interconnection process, and establishing how the system becomes operational must be maintained by the electric utilities to ensure safe operation and clear administration of the Net Metering and solar rebate programs.

Multiple parties represent the operational date should be determined by others to prevent potential delays or manipulations of the system by the utilities to avoid paying customers the rebates they've earned. As the utility receives no benefit from delaying this payment, these representations are misplaced and should not be used to undermine this key point of control in the inter -- the interconnection process.

KCPL has gone to great lengths to improve the interconnection and solar rebate processes and ensure customers receive their rebates as intended. In File Numbers ET2014-0059, ET-2014-0071 the Company worked with parties, including representatives of the solar industry, to define customer-controlled requirements for establishing when solar systems are installed and ready for rebate. Further, consumer protections were already added to the process. In November 2013 revisions to our solar photovoltaic rebate program tariff KCPL added specific language committing the Company to pay rebates if the operational deadlines were missed

due to our actions. The definition of operational is correct, as noted in the proposed rules.

In review of other comments offered, Renew Missouri objects to the addition of a requirement to have the customer show the permit number and approval certification provided by the local authority having jurisdiction, or AHJ, prior to their interconnection. I would note in the areas that do have an authority having jurisdiction, KCPL requires evidence of that clearance before it can set a meter. This is consistent for all of our installations, not just Net Metering. Although we do not necessarily need permit numbers or details of that sort, some evidence of clearance is required before we will set the meter.

KCPL agrees with the minimum bill language used in Section 5C, the energy pricing and billing of the interconnect application. Within the rates of KCPL Greater Missouri Operations, we have retail rates that do not have customer charges but, instead, have defined minimum bill amounts. Additionally, all of the KCPL retail rate tariffs have minimum bills defined. The proposed changes of the language to minimum bill will help make the rule more applicable to our retail rates.

Next, as a general concern, KCPL urges the Commission to fully consider the impact of the Commission reports and orders in File Numbers ET-2014-0059, ET-2014-0071,

and ET-2014-0085. This consideration is important to ensure that the new rules do not somehow change what the Company and other parties have agreed to do in those cases.

Turning to Chapter 20.100, the electric utility Renewable Energy Standard requirements. KCP&L reiterates its agreement with the definition of operational, as it was proposed in Section 1J. KCPL also reiterates its request that the Commission fully consider the impact of the Commission reports and orders in those same file numbers, ET2014-05 -- 0059, ET-2014-0071, and ET-2014-0085 for this rule.

Moving to Section 5, the retail rate impact. KCPL has been supportive of calculating the retail rate impact and has participated in each effort to define and apply this calculation. With that, KCPL offers its objection to -- concerning Renew Missouri's characterization of the utilities having avoided calculating this number. KCPL has regularly performed the RRI calculation. Further, KCPL is supportive of the carry-forward language within the proposed rule and suggests that the proposed rule define the starting point for carry-forward calculation. KCPL would support a date early in the RES implementation to incorporate activities from those periods into the current calculation.

In review of the comments offered by the Office of Public Counsel and Missouri Industrial Energy Consumers concerning Section 5, the parties propose incorporating

language to account for the effective lost billing units attributable to the RES on determining the RRI. KCPL believes language for lost billing units may not achieve any material change and may unnecessarily complicate the process. However, Ameren has previewed with us their language that they have shared today, and the Company supports that language. The language sets out a clear process to adjust the RRI and seems reasonable.

In regards to their comments on Section 5B concerning the environ -- fuel and environmental costs, OPC and MIEC are correct, that these are already being captured when the incremental nonrenewable portfolio is subtracted from the incremental RES-compliant-portfolio. As performed by KCPL, the calculation has not double-counted those costs. KCPL, however, would be supportive of the alternate language offered by MIEC to avoid any potential for double-counting.

Finally OPC, Renew Missouri, and Wind on the Wires recommend the Commission add language requiring the Commission to establish a procedural schedule, allow for a hearing, and issue a final order concerning the report and plan. KCPL supports the current RES-compliant rule and lang -- language and process. The current processes provide the parties with the opportunity to allege deficiencies before the Commission. As these deficiencies are generally a matter of interpretation, the complaint process is appropriate for exploring and ruling

on those concerns. Further, those claims that the burden of RES enforcement fall on nongovernmental parties ignore the role of Commission Staff and the Office of Public Counsel. The current oversight process of the RES compliance is reasonable and effective, and the proposed change beyond the topics addressed in House Bill 142 should be rejected.

Thank you for this opportunity to comment.

JUDGE WOODRUFF: Any questions?

CHAIR R. KENNEY: Just a question on that last point regarding setting up a procedural schedule for examining the compliance plans. You don't think that would be preferable to compelling litigation?

MR. LUTZ: I do not. I think that the current process is reasonable and suitable, partly -- I will offer this: That in experiences gained through the integrated resource planning process, that I think that this is the more appropriate way, the current process is appropriate.

CHAIR R. KENNEY: I mean, but I think that the integrated resource planning process is a little more robust than this process.

MR. LUTZ: Certainly.

CHAIR R. KENNEY: So you would support something similar to the integrated resource planning process then?

MR. LUTZ: No, I think the complaint process is the appropriate way.

CHAIR R. KENNEY: I mean, but then you're -- well, okay. All right.

MR. LUTZ: Yeah.

CHAIR R. KENNEY: Thank you.

JUDGE WOODRUFF: Commissioner Hall.

COMMISSIONER HALL: Well, isn't -- isn't the complaint process more cumbersome?

MR. LUTZ: It can be, but in the assertions here where oftentimes it's an interpretation difference that is not -- that probably would not be resolved in a collaborative way, the complaint process, where there's a claim and then a response by the Company, is a more structured way to deal with those differences of opinion.

COMMISSIONER HALL: Okay. Thank you.

JUDGE WOODRUFF: All right. Thank you, sir.

MR. LUTZ: Thank you.

JUDGE WOODRUFF: Any volunteers to go next? I see MIEC.

MR. DOWNEY: I'll be very brief, unless there's a lot of questions. The --

JUDGE WOODRUFF: If you'd identify yourself.

MR. DOWNEY: Sure. Edward Downey, attorney with Bryan Cave, representing the Missouri Industrial Energy Consumers.

The MIEC participated in the workshops and the

last set of rulemaking hearings. And we did file written comments at a very high level, addressing only three issues. I think we have support of the utilities and OPC on the issues that we raised. And really that's about all I want to say.

I wanted to make myself available to answer any questions you might have.

JUDGE WOODRUFF: Any questions?

CHAIR R. KENNEY: Mr. Downey, thank you. I have no questions.

COMMISSIONER HALL: No questions. Thank you.

MR. DOWNEY: All right. Thank you.

JUDGE WOODRUFF: Thank you.

Who wants to go next?

MR. OPITZ: I'll go.

JUDGE WOODRUFF: Public Counsel.

MR. OPITZ: Good morning. I'm Tim Opitz, and I'm an attorney with Office of Public Counsel. Our office did file written comments, which have been supported by various parties within their own written comments and here today. But there are a few of them that I'd like to discuss a little bit more, and then a few responses to additional written comments by the parties that I have.

First, one of Public Counsel's issues was the definition of operational in proposed Rule 240-20.065(1)(G). Our office believes it's preferable that the language reflect

can be measured rather than has been measured. And we believe this to be a customer protection to has been measured to the extent that it avoids an opportunity for unnecessary -- unnecessary delay on the utility's part in going out and reviewing these customer systems to determine whether they're operational.

JUDGE WOODRUFF: Mr. Opitz, can I ask you a question --

MR. OPITZ: Yes, Judge.

JUDGE WOODRUFF: -- to clarify something? It's my understanding that Mr. Lutz for KCPL testimony -- or statement indicated that the utility does not have any financial incentive to delay. Can you respond to that?

MR. OPITZ: It's my understanding that if there is a delay beyond July 1st of the year, then the level of rebate amounts will go down. And so -- and I have Dr. Marke here with me today from Public Counsel, and he might be able to comment further. But my understanding is that we just want to ensure that when these systems are capable of being determined operational, that they are -- the utility is going out and making sure that they are operational so that there is no possibility for financial detriment.

JUDGE WOODRUFF: Thank you.

CHAIR R. KENNEY: So it's really not so much whether the utility has an incentive to delay or not, it may

not be on purpose --

MR. OPITZ: Right.

CHAIR R. KENNEY: -- but if a delay results, the customer shouldn't have to bear the burden of that?

MR. OPITZ: Yes.

CHAIR R. KENNEY: Okay.

MR. OPITZ: The second point was also one of our prefiled issues, and that was the language in the interconnection application agreement, paragraph 5 -- paragraph D5(C), and that was the language changing customer charge to minimum bill. And our office believes that changing it to minimum bill opens it up to an undefined and not very well understood definition of what the charge might be, and we believe that it may open up the opportunity for additional charges to be put on customers. So we would support using the phrase customer charge rather than minimum bill.

CHAIR R. KENNEY: Let me ask a question about that. So minimum bill means what it means in the tariff. Is there a concern that that could be changed and defined differently in the tariff going forward?

MR. OPITZ: That is a concern. And I believe that it is defined differently in various different utilities' tariffs.

CHAIR R. KENNEY: Why couldn't customer charge theoretically be defined differently? And that doesn't -- I

mean, presumably that's defined in a utility's tariff as well. Could that -- why could that same concern not be applicable to the phrase customer charge?

MR. OPITZ: I believe that customer charge could be defined differently. But, in general, I would say that there is a more common understanding of what customer charge is rather than minimum bill. Customer charge we might say is those charges that are related to the discrete cost of serving that customer, is the position we've taken as Public Counsel in the past. And so from our perspective the term customer charge is more clearly defined, even if it may be able to be changed.

CHAIR R. KENNEY: Thank you.

MR. OPITZ: A third point that was also prefiled that I wanted to mention was the proposed Rule 240-100(5)(E). And I believe MIEC and Wind on the Wires and both Ameren and KCPL agreed that the language is ambiguous, that it may be interpreted by some parties to include double-counting or double subtraction. And although the utilities have said that's not the way that they do it, Public Counsel believes that modifying that language to remove that ambiguous meaning would be beneficial.

An additional comment that we also prefiled was related to 240-100(8)(F). And we support, in general, Renew Missouri's comments there; that there should be a process for addressing concerns with the RES-compliance plans and the

annual reports. Our office's -- our office's concern is that the complaint process can be cumbersome. And of course the Commission should have the ability to require utilities to meet minimum filing requirements at the very least, if they are pointed out by either the Staff or other parties to certain compliance plans. It's my belief that many of these requirements are -- while they might not necessarily impact their particular planning, but they are informational for at the very least my office to determine whether their plan is, in fact, the least-cost method of achieving compliance with the RES.

Moving on to responses to comments filed by other parties, in general Public Counsel agrees with the proposed language of 240-20.100(5)(G), which is the carry-forward language proposed in the rules and supported by Staff. And the reasons we support it are very similar to the Staff's. It's our concerns that without this carry forward, ratepayers may be required to pay more than the 1 percent that the law requires.

A second point is Ameren's comment number 5, and that was related to CSR 20-100(2)(C), language related to the 2 percent solar inclusion. And the -- I don't want to mischaracterize the Company's position here, but I believe they wanted to add language saying that this was a floor rather than a cap, the 2 percent solar requirement. And Public Counsel would disagree with that proposed -- the Company's proposed

change to the extent that it might open up ratepayers to paying for more than solar that is not actually least-cost compliance with the RES.

An additional point was a point of agreement between MIEC and Ameren Missouri, and that was 240-100(5)(A), and that was the date to include resources as a cutoff; and Public Counsel supports the date proposed by MIEC and Ameren of September 30th, 2010, which was the effective date of the original rules.

And lastly is an additional comment supporting one of Ameren Missouri's points, and that was 4 CSR 240-20.100(A)(4), and we are supportive of their comment asking to remove the word annual from that definition. We believe that the 1 percent calculation is based on that ten-year projection as in -- I believe it's 5G.

So, with that, if you have any questions, those are the comments of Public Counsel.

JUDGE WOODRUFF: Any questions?

CHAIR R. KENNEY: None for me that I haven't already asked.

JUDGE WOODRUFF: Thank you.

MR. OPITZ: Thank you.

JUDGE WOODRUFF: Back to Renew Missouri, if you had further comment?

MR. LINHARES: I'm happy to go. Thank you for

having me. My name is Andrew Linhares, and I'm representing Renew Missouri today.

My comments today are going to focus on issues that several parties have raised either in written comments or today in our hearing. I'd also encourage the Commission to review our written comments for some additional practical concerns with the proposed rule.

So I would like to first start with the proposed Net Metering Rule at 240-20.065 and the definition of operational. We've heard some comments from various parties today. OPC and Missouri Solar Energy Industry Association agree with the proposed change to can be measured as opposed to has been measured. And I'd like to offer a -- some clarity there and perhaps an alternative. We support the can be measured proposal, but we understand that that is a difficult thing to arrive at or determine when something can be measured.

So the alternative language we'd like to put forward would solve this problem, which is chiefly concerned with when a customer receives a solar rebate. And that is found in Section 100(4)(M). The alternative language we'd like to propose, and we can provide this to the Commission, is if a customer has satisfied all other requirements for receiving a solar rebate and the customer's system is capable of being measured but the utility fails to complete the necessary steps to establish an operational date prior to June 30th, the rebate

rate shall be determined as though the operational date was established prior to June 30th. And this is -- this is a provision that is included in Empire Electric's -- Empire Electric Company's recent solar rebate tariff approved by the Commission. We think it solves the issue of the utility -- you know, through the fault of the utility not establishing an operational date so that the customer can get the correct rebate rate for that year.

Moving on to this discussion of minimum bill in the proposed Net Metering Rule. This is found in the interconnection agreement. Renew Missouri would echo the concerns of OPC and others. We believe the term customer charge should remain. Minimum bill as -- actually as defined by an unpassed but proposed law, HB 481, this recent legislative session, includes the -- it includes the following definition for minimum bill, quote, All charges on a customer's bill that are not calculated on a kilowatt-hour basis, including but not limited to, a service charge, customer charge, meter charge, facilities charge, demand charge, billed demand charge, or any other charge billed to customers for services, including special fees, late fees, and taxes. So this is a -- we believe this is a pretty potentially expansive definition. I understand there's other definitions in other utilities' tariffs. But we believe that using the phrase minimum bill with these sorts of connotations with different

meanings in different places, that sort of a change should be done deliberately and in a separate proceeding where we're taking into account all the implications.

Moving on to the solar rebate declaration found in the proposed Net Metering Rule. We -- in our comments we included an alternative notice that's sent to customers. At the moment there is a proposed notice to customers of limited budgets. And you heard Mr. Wilson comment on this; that really the statute of the RES requires that the utility, when it seeks to cease paying solar rebates, files a 60-day notice, and during that -- during that 60-day period before the final Commission decision, the utility has an obligation under the law to continue processing and paying solar rebates. So this -- this allowing for a notice of limited budgets and basically a conditional approval of a rebate application is not supported by the statute. The utility is under an obligation to continue processing and paying. And it is the utility's burden to file their 60-day notice in sufficient time so that they reach their 1 percent retail rate impact by the end of that 60-day period. And if -- if the utility happens to time that incorrectly and go over, the statute explicitly provides them the opportunity to recover those costs. The statute clarifies that any overages are recoverable. So we believe that any sort of conditional approval of a solar rebate doesn't comport with the statute.

CHAIR R. KENNEY: Who would they recover it from if they paid more than they're supposed to? Because the rebates are presumably being paid out to the customer generator; right? And if it's determined like at some point that they paid more, where would they get it back from?

MR. LINHARES: I presume they would recover them as other RES-compliance costs, through a traditional rate case. And as justification for that recovery, they'd point to this language in the statute that requires for that recovery.

Does that answer your question? I'm not sure how --

CHAIR R. KENNEY: I mean, so essentially you'd have other ratepayers paying for a rebate that was maybe improvidently paid out to a -- so one customer gets their rebate, but then it's collected back from --

MR. LINHARES: Yes, correct, that's a -- that's a risk. And that's why the statute puts the burden on the utility to time this 60-day notice correctly. But barring the ability of customers to get approval of their rebate application -- a conditional approval of a rebate application is equivalent to a denial, because a customer is not going to go ahead with a system where they don't know if they're going to get a substantial portion of it covered. So it doesn't -- it doesn't functionally work unless the utility is honoring its obligation to continue processing, approving, and paying out

those rebates during that 60-day period until there's a final decision.

CHAIR R. KENNEY: Okay. Okay.

MR. LINHARES: There's -- moving to the proposed Renewable Energy Standard Rule, in Section 2B there is a slight proposed change that I'd like to address. Let's see. I'm sorry, excuse me, let me find the place.

So the proposed rule includes a change that references other renewable mandates. I believe what they use is -- what the proposed rule says is, If compliance with renewable mandates required by law such as the RES portfolio requirements would cause retail rates of an electric utility to increase on average in excess of 1 percent, then you can limit compliance. So the phrase such as the RES opens up the possibility that other renewable mandates, if they were to come to pass, federal or state or what have you, could be included in the cost here. I don't think that's the intent. I don't think that's the intent of the law certainly, but I also don't think -- I don't know if that's the intent of the proposed rule, but we would caution against this language and clarify that the only renewable mandate costs that should be included here are the RES costs. So the such as language is slightly unclear there. We don't want to open ourselves up to including other costs.

I don't want to address the geographic sourcing

arguments too much. They've been touched on here today. They've been touched on in many other cases, and I'm sure they'll continue to be discussed. I would just quickly mention that the proposed rule proposes removing the italicized and asterisk-marked words reserved, which have been placed in there following the decision of the Joint Committee on Administrative Rules, which I'm sure everybody recalls. We would urge against removing those reserved references because the issue is still in the midst of litigation, and a result of that litigation could be the reinstatement of those paragraphs 100 Section 2A and 2B(2). So we'd caution against removing the reserved reference.

Quickly I'd like to mention in 100 Section 4(O), the proposal is to add requirements for utilities to maintain on their website current information related to solar rebates and current levels of solar rebates paid out. Ameren Missouri has an objection to this point. They state that -- they state basically that they -- they don't believe they should have to meet these, especially since the case -- cases of ET-2014-0059, 0071, and 0085 -- these have to do with Ameren Missouri and Kansas City Power & Light. Since these cases have resulted in an effective stoppage of paying out of solar rebates, they believe that they shouldn't have to continue this notice. We would strongly support the proposed addition to 100 Section 4(O). We believe it brings transparency and better ability for

solar installers and customers to plan for installation of solar systems. Moreover, there's continuing litigation that could result in additional solar rebates being paid, and this would be a good mechanism for transparency.

With respect to the avoided costs discussion we've been having today, we -- we're sensitive to the idea that we don't want to be allowing double-counting of these avoided costs. OPC and MIEC have brought up this point.

Chairman Kenney, you -- you -- you observed that there's no language in the statute explicitly requiring certain avoided costs be calculated. There are some pertaining to fuel costs and -- in the rule and avoided environmental compliance costs -- or, I'm sorry, avoided regulatory -- environmental regulatory risks. I think a way to think about this and reflect in the rule is that the nature of the 100 Section 5B calculation is a comparison of two scenarios that, inherently, as you're comparing two scenarios, there is a fuel component in both, there is a transmission and distribution component in both, there is a difference in environmental regulatory risk in both, and these differences need to be accounted for some way. Whether or not the rule has to address that is another question, but these costs inherently -- and the ideas of comparing two scenarios must be different in both cases. So there needs to be a mechanism to reflect that.

I'm sensitive to what OPC has raised, which is

that expressly stating certain avoided costs could implicate a double-counting situation. And we would echo the concerns of Wind on the Wires, that a line be -- or a provision be placed in there expressly forbidding a double-counting. However, given the fact that we have not -- we have had issues with transparent -- transparent displays of these avoided costs being calculated and confusion surrounding whether all of these costs are properly accounted for, I do think it is necessary for the rule to explicitly include a requirement that these avoided costs be calculated.

Those are some of the comments we brought up. I don't want to repeat a lot of the comments that have been expressed by other parties, but quickly I'd like to respond to some -- some of the comments from some of the other parties we've heard today.

We -- with respect to Ameren Missouri, we agree with some of their comments. We think there are practical changes to the rule. Specifically 100 Section 2(C), we agree that the statute allows for utilities to comply with more than the 2 percent solar requirement. The solar -- the portfolio requirements themselves are indeed floors, not caps. There are always -- with respect to OPC's concern raised here, there is always a limitation of least-cost renewable compliance in the statute. That is always a safeguard for imprudent compliance, imprudent expenditures. That is always present in the

statutes. So to the extent that a utility is complying with something other than the least cost, that provision always provides relief.

We would strongly object to paragraphs 4, 8, and 10 of Ameren's comments. This has to do with the Net Metering proposed rule in Section 9, which requires the maintenance of solar rebate information in tariffs. I think I already mentioned that solar rebates are currently the subject of litigation and may be disallowed by the Court in the coming months. But those agreements that I mentioned, which are ET-2014-0059, 0071, and 0085, we believe that specific mention of these cases and the agreements within these cases do not belong in the rule, particularly when they're ongoing, the subject of litigation.

We also would present a strong objection to paragraph 19 of Ameren's comments where the Company expresses a preference not to be required to include information regarding the origin of RECs obtained from REC aggregate or companies. These are also referred to as unbundled RECs.

Ameren in its comments states that its always obtained a variance from these requirements and no parties has ever objected. We'd like to clarify that misconception here. Renew Missouri and many other parties have continuously objected to each and every use of unbundled RECs for compliance with the RES for reasons that are obvious and have been stated

elsewhere. The statute clearly concerns itself with power sold to Missouri consumers, not the green attributes of power sold to other states' consumers.

Moreover, I'd just like to point out here that the fact that the rules require information about the REC owner's name, address, meter reading that underlines the REC's creation, this lends credence to Missouri and other parties' continual insistence that the law and rules do not allow the use of unbundled RECs. Ameren is, in fact, correct that it is very difficult to provide or locate this information in the case of unbundled RECs, which serves to demonstrate that unbundled RECs were never intended for compliance, when the Commission finalized its rule in 2010.

Finally, I'd like to respond to the concerns raised by MIEC and OPC, one regarding the lost billing units due to distributed generation in connection with the 5B RRI calculation. Essentially these comments from MIEC and OPC argue that rate impacts due to distributed generation need to be specifically accounted for in the retail rate calculation.

MIEC argues that the comparison of the two, RES and non-RES scenarios, must have an equal amount of kilowatt-hour sales in order to properly compute the 1 percent calculation, but this has no basis or origin in statute. Distributed solar generation is specifically and clearly envisioned by the statute as playing a role in helping

utilities comply with the portfolio requirements. Therefore, the RES-compliance scenario will inherently and necessarily involve less kilowatt-hour sales. It's one of the main reasons why distributed generation is so cost effective, because it offsets a utility's need to generate additional power.

Similarly, OPC argues Section 5 fails to account for the lost billing units that occur due to customers with distributed generation coming on line. And this impacts nonsolar and solar customers to pay more per billing unit to make utilities whole for its fixed cost of service. We believe this is also not supported by statute. The calculation involves two imaginary future scenarios that have not occurred yet, a RES-compliant scenario and a scenario that replaces all renewable generation with additional fossil fuel generation. Comparing the revenue requirements of these scenarios over ten years gives us our 1 percent average annual retail rate impact. So the statute provides no sort of justification for truing up, adjusting, tweaking, or otherwise attempting to account for these other rate impacts. They simply give us the 1 percent average rate impact over ten years.

So just as the comparison of these two scenarios should already inherently capture avoided costs, like all of the ones we've talked about, fuel, transmission, distribution, operation and maintenance and environmental regulatory risk, so too should this comparison inherently already account for any

difference in rate impacts. We don't believe there's any additional adjustment here.

And, finally, I'd like to address some of the comments raised by Mr. Michels of Ameren Missouri. We -- Mr. Michels claims that the utility, when backing out renewables from the non-RES-compliant scenario and replacing with additional fossil fuel power, that they do not require any additional generation, that is perfectly fine. But I don't believe any party has ever seen that calculation. I understand that these calculations, when they're provided in partial or incomplete form, they are often HC. But from my experience, without referencing any of the values or highly confidential information within, there is no information included to clarify anything regarding avoided costs or how much generation is replacing existing renewable power, how much renewable power the utility has in the first place, any -- any details regarding comparisons of two scenarios. This is simply absent in the calculation. And if it is present, I'm not smart enough to see it. Which I'm not the smartest person in the world, but I'm not the dumbest. And I don't know another person besides the utility who claims that any comparison has ever been done, that any avoided costs have ever been computed. Perhaps they are and the utility has those values, but they have never been presented to the Commission. So I would echo the concerns raised here today that we need a transparent process regarding

Section 5B calculation.

Quickly on the externalities issue, and then that concludes my comments. We are not necessarily asking for asthma or medical costs due to the burning of fossil fuels. We are, however, insisting that the rule enforce including avoided environmental regulatory risks. So this is something that has nothing to do with added cost of asthma to the society or pollution of drinking water or acid rain or things like this. This has to do with costs that the utility bears relating to SO2 emissions, particulate matter, remediating coal ash, storing coal ash, potential -- the huge future potential cost of noncompliance with federal and state regulations. These should become clearer and clearer as the EPA finalizes its rule related to existing power plants. But these -- these are not fictional costs. These are costs borne by the utility that are less due to the addition of renewable energy, and these need to be reflected in the calculation.

So I will -- I will allow for questions. But that includes my -- concludes my comments today.

JUDGE WOODRUFF: Any questions?

CHAIR R. KENNEY: Yeah. The avoided environmental regulatory risks plus greenhouse gas abatement, your -- Renew Missouri is saying that that's not included in the calculation now or you just haven't seen it or you don't know?

MR. LINHARES: I have not seen it included as a

line item on a spreadsheet or explained in a compliance plan or compliance report. I haven't seen a value associated with that.

CHAIR R. KENNEY: Okay. All right. Thank you.

JUDGE WOODRUFF: Commissioner Hall?

COMMISSIONER HALL: So on the -- on the avoided costs, are you proposing that we include -- or attempt to include costs that are not quantifiable?

MR. LINHARES: No.

COMMISSIONER HALL: So -- so all the costs that you mentioned just a moment ago, you think are easily quantifiable?

MR. LINHARES: I can't speak to how easily quantifiable they are. I would assume that an investor-owned utility would have the -- would be in the best position to quantify those costs. They routinely engage in integrated resource planning, which as the representatives for Ameren Missouri noted, the utility is including -- attempting to include all possible future costs and assess.

COMMISSIONER HALL: Okay. Thank you.

CHAIR R. KENNEY: In fact, their integrated resources planning rules require at least one of the resource plans to take into account probable future environmental risk. So they can do it and they're doing it. And you're not really saying that they're not doing it; you're just saying you

haven't seen it quantified --

MR. LINHARES: I think one --

CHAIR R. KENNEY: -- in their RES-compliance plan?

MR. LINHARES: Yes. I think one of the problems here is that, in addition to the problem -- in addition to the issue that most of these calculations have been provided as highly confidential, the calculations are very hard to follow. They're not transparent or clear, in terms of the language of the statute. And the language of the statute clearly references a comparison of two scenarios. So the spreadsheet provided by Mr. Brady of Wind on the Wires clearly shows two scenarios with line items including all planned additions of resources, and then in the noncompliant -- non-RES-compliant scenario, it shows how much renewable energy is being subtracted, it shows how much -- what the cost assumptions are for replacing that generation. And that is not the level of detail that we have seen in these calculations from the utilities.

CHAIR R. KENNEY: So a potential fix -- I mean, with our minimum filing requirements for a rate case, we specify that work papers have to be presented in a particular format. Is that -- would that be something that satisfies the concerns, that we would specify the format in which the information must be presented from all relevant stakeholders?

MR. LINHARES: I think that would -- that would go

a long way toward assuaging those concerns. And I believe that the proposed rule has a section for a spreadsheet. I think it might be regarding the carry-forward provision. But, yes, I believe that a standardized format for how to accomplish these calculations would go a long way towards helping that issue of transparency and clarity.

CHAIR R. KENNEY: Ms. Tatro, you look like you want to say something.

MS. TATRO: All I would say is the devil's in the details.

JUDGE WOODRUFF: All right. Thank you, sir.

The only other comment was -- commenter was from the Missouri Solar Energy Industries Association. I don't -- okay. Actually, we'll take a break before you do this. We've been going for quite a while. Let's take a short break. We'll come back at 12:30.

(Off the record.)

JUDGE WOODRUFF: Let's come back to order, please. We're back from our break. It's 12:30, and we're ready for comments from MOSEIA.

MS. SHOEMYER: Thank you, Commission. My name is Wendy Shoemyer, and I will be offering comments on behalf of MOSEIA today. And I will keep it fairly brief. Most of any comments and input I'd like to put on record has been talked about in some detail today. So I'll kind of touch on some

points that we agree with and disagree with, and maybe just bring up one point that hasn't really been gone over today.

So the first thing I'd like to touch on is of course the operational date, which is in both 240-20.065 as well as 240-20.100. And we would agree with Renew Missouri and OPC in that we would propose that the language in that definition of operational be changed from has been measured to can be measured. And I understand Ameren's testimony that they said they don't have any financial incentive in order to delay that, and I would -- I would agree with that, but I don't always necessarily think it's a purposeful thing. And we would hate for any customer's rebate or anything to be lost due to no fault of their own. So we would strongly support changing that to can be measured.

And in the alternative, Renew Missouri, they offered some language that we would support as well. Just going over that again, we would support the language, if a customer has satisfied all other requirements for receiving a solar rebate and the customer's system is capable of being measured but the utility fails to complete the necessary steps to establish an operational date prior to June 30th, the rebate rate shall be determined as though the operational date was established prior to June 30th. That way if the customer has done everything on their part and maybe, like I said, the utility, through -- just doesn't have time to get out there,

whatever it is, doesn't get it measured before that applicable rebate date, they could still get that higher rebate. So -- and we'd be willing to offer that. I don't know if the Commission would prefer if we offer that language as an addendum or as a supplemental comment.

JUDGE WOODRUFF: It's in the transcript now, so it's --

MS. SHOEMYER: Okay.

JUDGE WOODRUFF: -- out there.

MS. SHOEMYER: So that would be our first recommendation. Second, and we've included this in our comments and it's also been addressed ad nauseam today, as far as in that 1 percent calculation, you know, take into account all the avoided costs in that RES-compliant-portfolio and all the risks in the nonrenewables.

So I don't want to repeat, like I said, in detail everything else, but we would generally support Renew Missouri's offer that that calculation really take into account all those benefits and all the risks to really be accurate. Like I said, without getting into everything else, we just want to go on record supporting that.

The last thing that I'd like to talk about comment wise before I kind of address some other people's comments has to do with I believe it's 5G, 5H, and 5I. It's the -- some of the carry-forward language. In 5H it addresses if a utility

relies on a calculation in funding a utility-owned renewable energy resource or they contract that, and when they do that, it's prudent costs, but then later they find out that that cost will cause them to exceed the RRI, then that should be included in that carry-forward cost, which we get; however, if you notice in Section I, it also talks about utility scale solar being excluded from any calculation in order to pay out rebates. So I guess we'd like some clarity there; that if -- if the utilities are building a utility scale solar and that causes them to go over the RRI, that they are not going to consider that in any -- either a carry-forward or in any year's RRI in considering that 1 percent cap. So, like I said, I just don't think it's very clear. And we -- you know, what we proposed is just -- in Section I just adding the words notwithstanding the foregoing. So regardless of anything that's been said in G or H, this -- this Section I is what controls, that utility scale solar should never be included in that 1 percent.

So that's all I would have on our comments.

There are a couple of things -- and, again, I know Andrew and Renew, they've touched on this, so I'm not going to do it exhaustively, but we would support both OPC and Renew Missouri's contention that the minimum bill language should be changed to customers charges -- should stay customer charges, rather. That language minimum bill, we think it is just open

to too much interpretation; and we think, as they've stated, it's best to leave it customer charges.

In addressing some of Ameren Missouri's -- their written comment and some of their testimony today, specifically in their written comments, Section -- or numbers 4, 8, and 10, again these all address those stipulations, ET-2014-0059, ET-2014-0071 and 0085, as Andrew mentioned, these -- these are the subject of ongoing litigation right now, and we would certainly not support the addition of any of that language into this rule, especially when it's really up in the air what's going to happen with those. So we just don't think it's good policy to include those when they're the subject of litigation right now.

So that would be all the comments I have today, unless there are any questions from the Commission.

JUDGE WOODRUFF: Commissioner Hall?

COMMISSIONER HALL: No comments. No questions. Thank you.

JUDGE WOODRUFF: Commissioner Kenney, do you have any questions?

COMMISSIONER KENNEY: I apologize. I couldn't get it off mute. I'll let you know if I do. Thank you.

JUDGE WOODRUFF: All right. Thank you very much.

MS. SHOEMYER: Thank you very much, Commission.

JUDGE WOODRUFF: All right. And Ms. Tatro

indicates she wished to respond to something that Renew Missouri said. So go ahead.

MS. TATRO: Well, we may have a small point of agreement that I wanted to raise. I think that on the definition of operational, it really does need to be when the meter is set. But Mr. Linhares brought up some language that if the customer satisfied all those system completion requirements, he said if the company -- if the utility fails, I'd prefer to say that the utility is not able to complete -- not able to install it before June 30th, our tariff already contains that language, and I have a copy of the tariff, and I'll give it to the court reporter to be marked as an exhibit. I don't have copies for everyone.

But, importantly, it has another sentence that we would also ask be added. And that says, If it's subsequently determined that the customer or system did not satisfy all the completion requirements required of the customer on or before June 30th, the rebate will be determined based upon the operational level. So if we get out there July 1st, because we just couldn't make it by June 30th -- there's obviously a rush usually around that time -- and the customer really wasn't ready for the meter to be installed, they shouldn't somehow get the higher rebate level. So I believe all three utilities already have that language in their tariff, so that is a solution that probably resolves that issue.

JUDGE WOODRUFF: Okay. If you want to go ahead and provide that to the court reporter, we'll mark it as Exhibit E.

MS. TATRO: Okay. And that is on sheet number 88.2.

JUDGE WOODRUFF: Okay.

(Exhibit E marked for identification.)

JUDGE WOODRUFF: I'll ask KCPL, is that something that will be acceptable to KCPL as well?

MR. DORITY: Yeah. Yes, I would offer our tariff includes very similar language indicating that the actions by the company should not delay the rebate received by the customer. So we have similar language.

JUDGE WOODRUFF: I'll go back to Renew Missouri. Is that something that would be acceptable to you, as they described it?

MR. LINHARES: I believe that would be acceptable to Renew Missouri. The slight change proposed by Ms. Tatro sounds agreeable. I wasn't aware of those provisions being located in the Ameren or KCPL's tariff, but I would still encourage the Commission to include something equivalent of the language proposed today in the rule extra clarification.

JUDGE WOODRUFF: Anyone else wish to be heard on that?

That's all the people who have -- all the

commenters who filed written comments. Is there anyone else here in the audience who wanted to comment who I've not recognized yet?

Okay. That brings up Staff. But before we bring anybody up, we're going to take a lunch break before we bring Staff on. The chairman had a conflict and wants to be able to be here to hear Staff. So we'll take a break and come back at 1:30.

(Off the record.)

JUDGE WOODRUFF: All right. Let's come back to order, please. We're back from lunch. It's 1:30. Before we go to Staff, before the break Mr. Brady indicated he had a further response he wanted to make, so come on up.

MR. BRADY: Afternoon. This is Sean Brady with Wind on the Wire. I just had one comment in response to a statement that the Office of Public Counsel had made regarding the avoided costs.

So just to make it clear, Wind on the Wires' position on avoided cost, the language in 5B we view to be clear. We don't see that as being ambiguous. We see that saying that the avoided costs are to be the fuel costs, and that our primary position is reflected in the language that we submitted in our comments, we've proposed or recommended added to that language. The -- so we think the language is clear on its face and that no further changes are needed beyond what

we've made. However, if the Commission thinks that there is clarification that is needed regarding double-counting, we would not object to the language that MIEC had proposed -- the alternative language that MIEC had proposed, as amended in my comments earlier today.

Thank you.

JUDGE WOODRUFF: Thank you, sir.

All right. Then let's move to Staff.

MS. DALE: Thank you. I'm on Colleen Dale representing Staff. We have four witnesses today, Natelle Dietrich, Claire Eubanks, Mark Oligschlaeger, and Dan Beck. And I will let them decide on the order and take it away.

Oh, but I neglected to mention that I've already disseminated a brief document that's an analysis of retroactive rulemaking effects. And it just is what it is, but I've given a copy to the court reporter to be marked as an exhibit as well.

JUDGE WOODRUFF: And this will be Exhibit F.

(Exhibit F marked for identification.)

CHAIR R. KENNEY: Thank you.

JUDGE WOODRUFF: Okay. Identify yourself first.

MS. DIETRICH: My name is Natelle Dietrich, with Commission Staff, and I just have a few areas of general comment. First, 4 CSR 240-20.100(2)(A) and (B) currently are marked as reserved, in the proposed rulemaking the word

reserved is recommended to be removed and the subsections renumbered accordingly. Renew Missouri recommends the reserve designation be maintained because the sections are reserved pending litigation related to actions of the joint committee on administrative rules, or JCAR, related to geographic sourcing. And this is from the previous rulemaking. In Staff's opinion there is no reason to retain the designations. If the Court finds of actions of JCAR were not appropriate, language can be inserted with subsections renumbered pursuant to that addition.

Each electric utility is required to annually file an RES-compliance report in an RES-compliance plan. Staff completes a review and files a report identifying any deficiencies, and OPC and other interested parties may file comments. 4 CSR 240-20.100(8)(F) states, The Commission shall issue an order which establishes a procedural schedule, if necessary. OPC and Wind on the Wires request a proposed rule be clarified that when a utility files an RES-compliance report and/or an RES-compliance plan, which does not comport with the Commission rules, the parties need not file a complaint case but, rather, the parties could seek an order from the Commission asking the Commission to direct the utility to correct the deficiencies with the complaint being the last resort.

Contrary to the discussion of KCPL earlier with regard to the complaint process, Staff agrees with the

suggestion to have an interim process seeking an order from the Commission. Deficiencies may be -- excuse me -- may be identified that do not rise to the level of a procedural schedule or complaint for resolution.

Renew Missouri raises a similar issue but identifies 4 CSR 240-20.100(9)(A) as one of the subsections of concern. This provision is related to penalties and allegations for failure to comply with the RES. In Staff's opinion, if a process is allowed to address deficiencies prior to issuing a procedural schedule anticipating a hearing or filing a complaint, no changes are needed to Section 9, which contemplates penalties for failure to comply with the RES.

Wind on the Wires provided written comments indicating Section 5E, which would be 4 CSR 240-20.105(E) is missing from the proposed amendment. To clarify the record, Section 5E did not have any proposed changes, so it was not published in the Missouri Register as a proposed amendment. It will be part of the published rule when the rulemaking is complete.

Throughout the morning there were several discussions about transparency, and there were issues related to formulas and issues related to the RRI calculation. And Chairman Kenney suggested a process to submit benefits as part of a compliance planning process, and I think you also had a discussion about perhaps a spreadsheet that would be included

in the rule that would lay out certain ways to report the information. One thing I wanted to caution the Commission about, during the workshop discussions and as indicated through comments by Mr. Linhares earlier today and some of the other discussion, one of the issues that came up with this process is it wasn't so much that the information was not provided, but it was an issue of who can see that information and how they have to go about seeing it. And so I -- we would like to caution the Commission about making changes to the rule that would contradict or cause concerns with the Sunshine -- Sunshine Law. And that's the extent of my written --

CHAIR R. KENNEY: Let me ask --

MS. DIETRICH: -- comments.

CHAIR R. KENNEY: -- you about that, Ms. Dietrich. Thank you. Is it a matter of people signing confidentiality -- I mean, nondisclosure agreements? I mean, what was the issue with people not having access?

MS. DIETRICH: From some of the discussions it appeared that, since these are filed in cases, there would be interventions and having to go through the intervention process, and some people use consultants, so having to pay for a consultant and going through the case process and signing nondisclosure agreements and those types of things. So it wasn't so much that the information wasn't provided; it was just who could see it and how they had to go about seeing it.

CHAIR R. KENNEY: They didn't want to go through those hoops?

MS. DIETRICH: I -- I don't want to speak for them, but that's what it sounded --

CHAIR R. KENNEY: The impression --

MS. DIETRICH: -- like.

CHAIR R. KENNEY: -- that you got?

MS. DIETRICH: Right. Um-hum.

COMMISSIONER HALL: Do you have any further suggestions of how we might deal with that? Because I think the concerns raised are legitimate. But I obviously don't want to propose a rule that runs afoul of the Sunshine Law.

MS. DIETRICH: Right. And I think, you know, if there's a standard format, that may work. I don't know if all the utilities gather the information in the same way that they could comply with the standard format. But it would still have the issue of certain people wouldn't be able to see it. It's just it may make it easier for -- like, for instance, for attorneys who could see it to be able to figure out whether they need to go further.

COMMISSIONER HALL: Okay. Thank you.

JUDGE WOODRUFF: All right. Thank you, Ms. Dietrich.

MS. DIETRICH: Oh, I should mention that Dan Beck is addressing Net Metering, Claire Eubanks is addressing the

RES in general, and then Mark Oligschlaeger is addressing issues related to the RRI calculation and the 1 percent carry-forward and RES issues such as those.

JUDGE WOODRUFF: All right. And it looks like Mr. Beck is the next one up.

MR. BECK: My name is Dan Beck, and I am a member of the Staff. I am going to try to briefly address various comments regarding the Net Metering statute. The very first one, in some of the written comments some issues that weren't raised this morning I just want to touch on. One was the correct spelling of the word premises, which is really scary for an engineer to be talking about the correct spelling. But I think the version that actually got into the proposed rulemaking had the correct spelling. But we agree with the ultimate spelling that Renew Missouri was proposing.

I'm going to kind of just go by the order of the rule for simplicity's sake, which brings us to 1G, the definition of operational. And Renew Missouri, MOSEIA, and OPC all expressed concerns that that discussion sort of, I guess, kind of went beyond those written comments at this point, from what I've -- you know, as we've -- as has the discussions taken place today. And there was a mention earlier about the fact that all three utilities have tariffs that reflect that. I would argue that all four utilities -- we still have four electric utilities in Missouri; KCPL, GMO, Ameren Missouri, and

Empire all have tariff provisions. And it seems like the type of specifics -- from an engineering standpoint this definition of operational makes sense to me. The kind of exception that we're talking about would seem to be more appropriate to deal with in a tariff. And I guess finally I would note that we have paid out over $175 million in rebates in this state, and this has not been a major issue up till this point. So...

Next, Ameren Missouri for -- proposed a change to the REC ownership language. And specifically there was a reference to electrical -- electric system. And they proposed to change that wording to electric utility. That -- I agree with that language change. However, that phrase is actually then included a second time in that -- in that section. And the second time it actually refers to the solar electric system, and that is correct. That modification shouldn't be made. And I did have a verbal discussion with Ameren this morning, and they agreed that that part of that, the solar electric system wording should remain the same.

Next, Ameren Missouri proposed a new Section 9E of the Net Metering discussed on page 2 and 3 of their -- their filing. This was regarding a waiver that would not be needed if all the rebates had been paid out. And this also then has those specific case references. And to me it seems like the case -- the idea of those specific case references wouldn't be necessary. It refers to the idea that there's -- you know, if

there are other agreements that are take -- in place, it seems like that would be good enough just leave the rule at that.

Then the language regarding the authorities having jurisdiction, Renew Missouri raised that concern, and Staff supports keeping that language included. It was mentioned earlier that it is related to safety, and we still believe that; that the authority having jurisdiction, which is typically the city electric inspector, is still an important part of this process -- of the process, and we recognize that.

Ameren proposed further where there's a place where the installer would sign and date a portion of the agreement that you put a printed name designation underneath that, and we agree with that concept and, in fact, would point out that that same type of printed name requirement is -- is ultimately at the end where both the customer and the installer sign the document it has that similar requirement.

Okay. On to the topic of minimum bill. This -- this topic actually kind of overlaps into the Renewable Energy Standard as well. But the place that it's specifically here is in the Net Metering agreement itself. And Renew Missouri and OPC both raised this concern in their written comments. I guess -- and the idea was to return to the phrase customer charge.

And I guess I'd just like to point out a few things. One is is it's good that we have exercises like this,

because you go back and rethink things or relook at things. So I went and pulled the tariffs, and KCPL does have a customer charge. Likewise, Union Electric Company, Ameren Missouri, also has a customer charge, but they -- but right below that they have a low income pilot program charge that's a fee per month. So there's a second fee there that wouldn't normally be thought of as a customer charge, if it's not dealt with in some fashion. KCPL has a customer charge for their tariff for -- excuse me. KCPL Greater Missouri Operations has a customer charge for their residential tariff for their MPS service territory, but for their LNP territory they have a service charge. It is not called a customer charge. Likewise, then -- or next is Empire. They have a customer access charge, not a customer charge in their tariff. So, you know, even the term customer charge is really not as consistent as one might think.

I would also point out that been fairly long time ago dealing with cogeneration, one of the things there was a supplier -- customer supplier that had a unit that wasn't quite in sync with the system and, therefore -- it was a large industrial facility, and it created problems with what's called kVARs, K-V-A-R-S, and there are -- for those larger customers there are specific charges. In essence, if you think of -- the simple way to describe it is if you think of power as a sign waive, the power that they were putting in the system didn't match up, and then that caused problems with the system, and

you had to deal with that; and that ultimately cost energy to deal with that problem, and that resulted in charges. And so, you know, the idea that there are charges above and beyond just simple kWh charges actually has some merit and some reality. So...

I'm about to the end here. Ameren had a suggestion about the --

COMMISSIONER HALL: Excuse me, so, Mr. Beck.

MR. BECK: Yep.

COMMISSIONER HALL: So with regard -- I mean, and after that recitation of the tariffs --

MR. BECK: Yep.

COMMISSIONER HALL: -- what is Staff's position on what we should do on that issue?

MR. BECK: We -- we still support the concept of a minimum bill. I think it is, you know, as we -- as we kind of realize -- you know, when I look at the realities of just a simple residential tariff, much less the more complicated industrial tariffs, the simple idea of a customer charge really doesn't quite describe all the charges that you -- and I think there's kind of a second issue is the reality is is that what you would expect is that most customer generators are going to generate a portion of their usage, but not all. And so, you know, it's not that many times you're really going to hit the situation if -- if the system was designed properly where it

actually is generating more than you're using, and you literally have no kWh's to bill for that month. So, you know, at that point to somehow not charge for demand charges, for example, when you still are paying for kWh's doesn't -- you know, why would -- if I generate one kWh, that doesn't somehow exempt me from all demand charges. And so -- and I say demand charges; but also, you know, things like this low income pilot program charge.

COMMISSIONER HALL: So how does changing it to minimum bill clarify the situation?

MR. BECK: I think both of them are kind of terms of art that we generally know. Again, this has not been an issue, you know, after almost five years of operation, so I'm not sure that the -- that we're fixing a problem. But, I mean, you know, to the extent that -- you know, that we have this opportunity to clarify it a little bit more, I think -- I think that the minimum bill is more descriptive than just a customer charge.

COMMISSIONER HALL: Thank you.

CHAIR R. KENNEY: If you just read the statute -- this is what I was talking to Ms. Tatro about and it forced me to go back and read the statute. Essentially the statute just says you can't charge anything that you wouldn't charge every other nonnet metered customer.

MR. BECK: Correct.

CHAIR R. KENNEY: So why do we even need to specify anything about customer charge? I mean, just say you're going to get the same tariff that a non-net metered customer gets?

MR. BECK: I mean, I think that's what -- I think it was trying to do that, but provide a little bit more explicitness. It is in the energy and pricing -- energy pricing and billing section, at least as far as the Net Metering goes. And so, you know, it -- it's really kind of a section that's -- you know, it's a section of the agreement, and it's really almost trying to be informative. I'm not sure -- I think at the time it was -- Michael Taylor was the engineer in charge of this and did a great job throughout it. But my rememberances are that at the time that the original rule was drafted, this was -- the words customer charge were put in to kind of give more specifics than just the, you know, any charge language; that they were trying more helpful to a customer and put it in terms that they might recognize. And so, you know, I guess all I can offer is is that this minimum bill language is trying to do that; but, you know, I think ultimately how the tariff reads and how the utility carries out the tariff is -- is the really important part.

CHAIR R. KENNEY: Great. Okay. Thank you.

JUDGE WOODRUFF: Thank you, Mr. Beck. Were you finished?

MR. BECK: Just real fast, in terms of -- sorry. There were a couple of other, what I would call wordsmithing. Okay. There was one statement by Renew Missouri to change to the 85 percent solar -- or change the 85 percent to 75 percent or do away with it entirely. And Staff is still supportive of that 85 percent guideline. Ultimately, the ability of the solar system to actually produce power affects the output, which affects the X RECs that the other customers are entitled to as a part of the rebate system. So --

JUDGE WOODRUFF: Just to clarify what that -- that 85 percent, what's that -- has to be in the sun 85 percent of the time; is that --

MR. BECK: I think it -- what you really get into is, you know, it's a judgment call where you're literally talking about the angle that the panel is installed and, therefore -- you know, and you could even have the situation where a certain panel is literally in the shade because of the roof line or whatever. But the 85 percent is an average for the whole system.

JUDGE WOODRUFF: Right.

MR. BECK: You know, so you could have one panel that's still much lower than 85 percent, but you're looking for that overall average to be a reasonable level. And let's face it, ultimately the higher that percentage is, the more benefit that is going to be returned to the customer as well. So

there's really kind of everyone has a bit of an interest in seeing that percentage as high as possible. So I believe 85 percent is reasonable.

Ameren proposed to remove the language that said for which they receive a solar rebate. This is an attempt to clarify, and it's really kind of due to a timing thing where this part of the application is signed before the rebate is received. And Staff supports that.

And last is there was a section that Ameren proposed to insert in the Section I of the application; and that said, During this period I may not claim credits for SRECs under the environmental program or transfer or sell the SRECs to any other party. I mean, that is, you know, the reality. It is an attempt in this section to make it a declaration and make sure the customer understands that they can't sell that SREC a second time. And so we think that does provide clarity.

And that's the extent of my comments.

JUDGE WOODRUFF: Thank you.

Next person for Staff?

MS. EUBANKS: Good afternoon. Claire Eubanks with Staff. I'm going to cover the Renewable Energy Standard, except for the retail rate impact calculation.

Primarily my comments are related to Ameren's written comments. Staff agrees with their written comments numbers 5 through 9. And their written comment number 7 is

similar to OPC's comment number 3.

Staff disagrees with Ameren's written comments number 18 and number 19. Number 18 is related to striking the word -- the words serial number. All RECs are assigned serial numbers by the tracking system. When they generate certificates, they do issue serial numbers. Number 19 is related to reporting requirements in 8A(1)(I). Ameren talks about a variance that they have and related to those requirements. KCPL and GMO also have a similar variance that they requested, but it's more limited. It's just A(I)(1)(I)(5) -- (V), which is related to meter readings. And Staff would support striking just that requirement but leaving the rest of it the same.

Anyone have questions?

CHAIR R. KENNEY: No. Thank you.

COMMISSIONER HALL: Thank you.

MS. EUBANKS: Thank you.

MR. OLIGSCHLAEGER: Good afternoon. My name is Mark Oligschlaeger. I represent the Commission Staff. And I will be addressing today, in general, Section 5 of the RES rule. I'll make brief comments on -- or a brief response to some of the comments from other parties that have been submitted that we have concerns about, and I'll also address a couple of the proposed language changes submitted by Ameren today.

To start with, Ameren, and I believe some of the other parties have agreed with this, are seeking an early start date for the carry-forward calculation that is part of the Section 5G of the proposed rules. We see this matter somewhat differently. We see the carry-forward calculation as, in a sense, a fix on an ongoing basis to a perceived problem. However, we don't believe it -- we believe that this -- the carry-forward calculation should start -- a reasonable date would be January 1st, 2015. I believe Staff has other concerns potentially with the legality of having an earlier start date, and that pertains to the document that Ms. Dale earlier distributed.

MIEC and OPC's written comments addressed a concern regarding billing unit differences associated with RES mandates. And we agree, in concept, that that is a legitimate concern to the extent RES-compliance activities lead to a reduction in sales that a utility will make. All other things being equal, that will certainly impact both the utility's revenue requirement, as well as ultimately the customer rate levels. We have taken a glance at the language proposed by Ameren to address this concern.

Yes?

CHAIR R. KENNEY: Okay. Never mind. Go ahead, and then I'll interrupt you. Sorry.

MR. OLIGSCHLAEGER: Okay. We haven't had the

opportunity to do an exhaustive analysis, of course, of what they're proposing. But at least at first glance it appears to be a reasonable effort to take care of that concern.

CHAIR R. KENNEY: So I guess if I'm understanding OPC's and MIEC's concerns, so if you have -- this is the distributed generation issue and how you -- nonsolar rooftop customers end up paying for the fixed costs that solar rooftop customers aren't contributing. Is that the concern?

MR. OLIGSCHLAEGER: That's my understanding, yes.

CHAIR R. KENNEY: And so how does that -- I'm not really sure I'm clear on how that gets calculated in determining the 1 percent retail rate impact language. I mean, that -- that's an impact on the -- on the utility's revenue requirement. I get that. But why is it automatically then somehow calculated in determining the 1 percent rate cap?

MR. OLIGSCHLAEGER: If you interpret the 1 percent rate cap as being some kind of restriction on the amount of additional -- the additional amounts a customer can be charged associated with RES-compliance activities, changes in revenue levels enter into that just as much as changes in expenses in rate base. I'm not sure I'm answering your question.

CHAIR R. KENNEY: Well, but the statute tells us to compare the RES-compliant with the non-RES-compliant revenue requirement. And so in determining the RES-compliant revenue requirement, you're going to do what?

MR. OLIGSCHLAEGER: Well, a revenue requirement, at least in the sense I'm familiar with, is determined by calculating a utility's cost of service, expenses, rate base return, taxes, all of those, and then comparing that to the utility's current level of revenues in determining any differential, if they're not recovering enough or if they're recovering too much compared to their actual cost of service at any point in time. Therefore, to the extent RES-compliance activities affect the revenue levels, as we would define revenue requirement, that's one of the components.

CHAIR R. KENNEY: Okay. And you've looked at Ameren's proposed language, but you're not sure yet whether it's -- you haven't done an in-depth analysis of the proposed language?

MR. OLIGSCHLAEGER: No. But, again, at least on the surface, it appears to address the concern and propose a reasonable solution.

CHAIR R. KENNEY: Are there other RES-compliance elements that -- I mean, energy efficiency reduces their revenue requirement. I mean, it reduces consumption also. Are we going to factor that in too? I mean, I guess it's not a RES-compliance costs. But I guess I'm concerned that this seems like it's lost revenue by another name.

MR. OLIGSCHLAEGER: Well, it's a -- I don't know whether you're addressing the issues and how you calculate

accurately the impact of the solar installations.

CHAIR R. KENNEY: Well, that is a concern is how do you -- how do you -- yeah, how do you adequately or accurately quantify that?

MR. OLIGSCHLAEGER: And, unfortunately, I'm probably not the right person to address that.

CHAIR R. KENNEY: Okay. All right. Okay. Go ahead. I'm sorry. I'm done.

MR. OLIGSCHLAEGER: Okay. The next -- well, the next issue I'll talk about are avoided costs. And, again, various parties have expressed concerns about whether all the avoided costs that should be listed are listed or whether they should be listed at all and so on. Ameren, again, has presented language that would appear to set a criteria for avoided costs, not limited to fuel and purchase power-related costs, but limited to those types of costs that are reflected in their rate structure. Having had a chance to look at the language and discuss that within the Staff, we believe again that that is an acceptable way of handling the concerns, however with the caveat that agreement on that definition or criteria for avoided costs in this context of the RES rule should not be automatically applied or assumed to other areas in which avoided costs may be a subject of concern, including the IRP process.

I think my comments are similar on the issue that

has been raised by some of the parties over greenhouse gas and whether other types of future environmental risks should be taken into account in the rule. And, again, Ameren has proposed language to do that. With the same caveat, we believe that language, again restricting those impacts to those types of items currently reflected in their rate structure is an acceptable way of handling that concern, again with the context that we would not want that acceptance imputed necessarily to other contexts, including the IRP.

Another side issue, as it were, with avoided costs is the issue of double-counting, which some parties have indicated they're afraid of the -- perhaps the inference that fuel and purchased power related to voided costs would be double-counted under the current language. Along with some other parties, we believe that the alternative sentence that MIEC has suggested at the bottom of the page 4 of their comments, making clear that no double-counting is intended or allowed would be a good way of handling that.

And, finally, turning to Wind on the Wires' comments regarding the carry-forward calculation, we would not recommend adoption of their approach or methodology because we believe it does not address the significant concerns regarding current application of the RRI calculation that Staff identified in its comments filed on June 1st.

And that's all the prepared stuff I have.

JUDGE WOODRUFF: Any questions?
CHAIR R. KENNEY: No, thank you.
JUDGE WOODRUFF: Okay. Thank you.
MS. DALE: Before we conclude, I would just like to say that, to the extent that Staff did not address anyone else's position on certain issues, it is because we have no position.
JUDGE WOODRUFF: Well, that's -- everybody's had their shot. Does anybody wish to respond to anything that Staff just added?
Okay. Well, then, thank you all for coming. And -- I'm sorry.
MR. BRADY: I just have a question or clarification.
JUDGE WOODRUFF: Come on up so you can be on the --
MR. BRADY: Sure. Sean Brady with Wind on the Wires. I guess one question I had was I saw that Ameren Missouri had circulated some red-lined language of the proposed rule. Was that already filed with part of your testimony? Was that -- or your comments? Or was this new that was presented today?
MS. TATRO: It was consistent with what was -- it was consistent with what was filed earlier. I think there might have been one additional change.

MR. MICHELS: There were a few additional changes.

MS. TATRO: But they were all discussed by the testimony that Mr. Michels and Mr. Miller gave.

JUDGE WOODRUFF: Do you need a copy of that?

MR. BRADY: I do have a copy of it. I guess the only thing I was going to ask is if -- I don't know if there are other -- other -- new documents that were added with new information, if parties should be allowed the opportunity to respond to -- that's the first time we're seeing the language edits today, if we would be given the opportunity to provide a written response to that.

JUDGE WOODRUFF: I really can't, because my time frame for creating the rule now, drafting the final Commission order starts as soon as this hearing is done. I only have 59 days. So, no, I really can't allow any further responses beyond today.

MR. BRADY: Okay. Thank you very much.

JUDGE WOODRUFF: Okay. With that, is there anything else anyone else wants to add?

All right. Then we are adjourned. Thank you.

(Off the record.)

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I, Angie D. Threlkeld, a Certified Court Reporter, CCR No. 1382, the officer before whom the foregoing hearing was taken, do hereby certify that the foregoing hearing was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

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Angie D. Threlkeld, CCR