

1 STATE OF MISSOURI  
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6 TRANSCRIPT OF PROCEEDINGS  
7 Public Meeting  
8 January 25, 2010  
9 Jefferson City, Missouri  
Volume 2

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12 In the Matter of a Repository File )  
Regarding The Chapter 22 Electric )  
13 Utility Resource Planning ) File No. EW-2009-0412  
Revisions Workshops )

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16 MORRIS L. WOODRUFF, Presiding,  
CHIEF REGULATORY LAW JUDGE.

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21 REPORTED BY:

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1                               P R O C E E D I N G S.

2                               JUDGE WOODRUFF: We're on the record. Good  
3 morning, everyone. Welcome to our meeting concerning  
4 presentations regarding the IRP rule revisions. This is  
5 Case No. EW-2009-0412. My name is Morris Woodruff. I'm  
6 the Regulatory Law Judge assigned to this case.

7                               At this point this is still an informal  
8 working docket case, and it's just for the purpose of  
9 getting comments from the parties about Staff's attempt to  
10 revise the IRP rule. I'm not going to be swearing anyone  
11 in. This is still informal. We're just here to take  
12 presentations. We are creating a transcript, and the  
13 Commissioners will be able to review it at their leisure.

14                              I don't have a set schedule to -- of  
15 presentations. Unless parties indicate they want to do it  
16 otherwise, I'll start with Staff. So go ahead for Staff.

17                              MS. MANTLE: Good morning, Judge.

18                              JUDGE WOODRUFF: Good morning.

19                              MS. MANTLE: And Steve Dottheim is passing  
20 out copies of Staff's comments or presentation. We've got  
21 plenty. I'm hoping everybody gets a chance to look at it.

22                              What I did was I -- we did a similar  
23 presentation on last August, August 31st. I took that  
24 presentation and tried to go back through those points  
25 that we made to tell the Commission how we'd made changes

1     that we suggested at that time. And like you, I was at a  
2     lot of public hearings last week, so I'll be trying to  
3     figure out how to work this again.

4                     Okay. This is the general direction that  
5     Staff requested from the Commission in that August 31st,  
6     2009 meeting. There were two questions that we asked  
7     then. One was the direction on prescriptiveness of the  
8     revised Chapter 22 rules, and what Staff heard from the  
9     Commission was, it sounded like we were going down the  
10    right path, reducing some prescriptiveness, that they  
11    seemed to think we were on the right course.

12                    We also asked for direction regarding the  
13    type of Commission approval on Chapter 22, whether it was  
14    approval of the process, acknowledgement, approval of the  
15    plan. And if my memory serves me correctly, the  
16    Commission said, well, give us all the options and show us  
17    what the various would be. And so Steve Dottheim will be  
18    discussing that after I go through this presentation.

19                    My presentation does not deal with  
20    Commission approval or of Chapter 22, other than the  
21    current Staff draft still does have the Commission  
22    approving the process.

23                    One of the things we stated in our August  
24    presentation was we wanted to reduce prescriptiveness in  
25    certain areas, and we've done that when we've reduced --

1 we've reduced some of the prescriptiveness in end use  
2 forecasting methodology. We do have certain criteria that  
3 we believe the forecast must meet, and it still looks as  
4 long as it was, but now instead of saying you have to do  
5 those a certain way, we say you need to meet these certain  
6 principles.

7                   We also do have certain things they need to  
8 consider that they can in their report show how their  
9 method is better than the one that the rule talks about.  
10 So we no longer say you have to do a certain methodology.

11                   We talked before, there's a lot of load  
12 analysis requirement in the first -- in Chapter 030.  
13 We moved some of that to the demand side because it was  
14 specifically for demand side. It still does have some  
15 load analysis that pertains to the load forecasting rules.

16                   The load analysis and load forecasting rule  
17 does still contain a new section that asks the utilities  
18 to predict the forecast based on extreme weather so that  
19 that can be used later when they're looking at their  
20 alternative resource plans to see how those plans would  
21 serve under those extreme weather conditions.

22                   We talked about the avoided cost  
23 methodology, and what we've done is taking out -- taken  
24 out the prescriptiveness on how that must be calculated.  
25 Instead, we put in the rules what must be included in the

1 costs. We think this gives more flexibility, especially  
2 as we go forward in a changing energy market. It still  
3 does require avoided energy costs, avoided capacity costs  
4 and avoided transmission and distribution costs.

5                   Previously we had a screening of exhaustive  
6 end-use measures in the effectiveness analysis, and we've  
7 reduced that to now the utilities can go two different  
8 ways to develop their demand side programs, either start  
9 with similar programs that other utilities have tried and  
10 worked and make sure they cover a broad spectrum of the  
11 utility's customers, or they can do as it was previously  
12 in the rule and start with end-use measures and build up  
13 their programs. So we're no longer prescriptive on how  
14 the demand side program designs for screening must be  
15 developed.

16                   Risk analysis, we did reduce some of the  
17 prescriptiveness in that. We no longer require a decision  
18 tree, but we still do require some risk analysis. We also  
19 include a list of factors that the utilities must look at.

20                   One of the other points we had was to  
21 increase the stakeholder input. We heard a lot from the  
22 Commission and the stakeholders how they wanted to have  
23 more input in the process. Now, the way the rule is  
24 currently drafted, the most recent draft, has at least one  
25 stakeholder meeting prior to each triennial filing. So

1 each utility comes -- a utility files every three years a  
2 big massive filing, and before that they must come in  
3 after they get their demand -- their forecasting, their  
4 demand side and supply side options screened and come in  
5 and discuss that with stakeholders and also what type of  
6 alternative resource plans they would look at. This gives  
7 an opportunity for the stakeholders to at that point still  
8 put in some input into, you missed this demand side  
9 measure or what about this supply side option, and it also  
10 says have you considered different alternative resource  
11 plans.

12                   This is not a filing in itself in the way  
13 the current rule is currently written, and it is a  
14 workshop that the utilities must hold. And the rule also  
15 requires that the stakeholders then, to get things back to  
16 the utility in a timely effort, that they have any  
17 comments that they want to provide that utility, they must  
18 reply within 30 days, and that allows the utility  
19 hopefully to include some of the comments of the  
20 stakeholders in its resource plan filing.

21                   We still have a contemporary issues section  
22 that's new to this version, not this draft, but this  
23 rewrite of Chapter 22. It's a method to get stakeholder  
24 input on what are contemporary issues that have come up  
25 since the last filing. What do we want the utilities to

4                   So the contemporary issues is, what we're  
5   trying to address is to provide each year the stakeholders  
6   can provide these to the utilities for them to include.  
7   We have triennial filings for each utility, but each  
8   utility also has an annual filing. If they're not having  
9   a big filing, it's an update. Tell us what's changed and  
10   has your forecast changed. Have some supply side or  
11   demand side alternatives or programs not quite met their  
12   mark? How are you changing your plan?

16                   A lot of what we heard was, we want less  
17 emphasis on a checklist, going through the rule and  
18 saying, yep, we met this, we met this and we met this and  
19 we met this. Some of that can't be avoided with rules  
20 such as Chapter 22 rules, but we did take -- each rule did  
21 have a filing requirement section. Now we have within the  
22 document different places where we say you -- or that  
23 requirements and then it says describe and document what  
24 you did.

1 filing requirements up within the document and, yes, we  
2 are, but we're trying to hopefully help understand how it  
3 all fits together.

4 Another thing that we've put in to try to  
5 make it less of a checklist, and one of the problems we  
6 have with the checklist, too, is it seemed like the  
7 utility was just meeting the checklist and not having a  
8 real resource plan, that they were doing things outside of  
9 the resource plan.

10 So the current draft includes a provision  
11 in the last rule that requires the utilities when they  
12 file a case with the Commission, and not just resource  
13 planning cases, but any type of case that may affect their  
14 resource plans, have an impact, greater load, lesser load,  
15 supply side resource that did not look to be available  
16 when they did their resource plan, they must always  
17 certify either that they checked and they still have the  
18 same resource plan or show how their resource plan has  
19 changed.

20 So that's cases, not just resource planning  
21 cases, but other cases filed before the Commission. And  
22 the effort there is to make this a real process and to  
23 keep it up to date between filings.

24 There was some stuff that we talked about  
25 doing due to some confusion within the rules, and one was



1 to move some of the load analysis to demand side rule, and  
2 we did do that. There's no longer as much  
3 prescriptiveness in forecasting. Where we saw that that  
4 was being done for demand side, we moved that to the  
5 demand side rule.

6                   The current rule has a section in the  
7 demand side analysis rule that requires the utility to do  
8 evaluation of demand side programs. We still think that's  
9 very important. The problem was people were thinking  
10 these were consecutive, you do forecasting, demand side,  
11 supply side, implementation. And what we were hearing  
12 back is, how can we do evaluation if we don't even know  
13 which ones have gone into the rule or the resource plan  
14 yet?

15                   So what we've done is move the demand side  
16 program evaluation back to the resource acquisition --  
17 acquisition strategy and selection section. So what that  
18 does is put it more in a chronological order. We do  
19 believe demand side evaluation is very important and  
20 should be part of the resource planning process.

21                   We've also moved around the risk analysis  
22 and integration. Previously we had a rule that did  
23 integration and then another rule that did risk analysis  
24 and strategy selection, and we moved risk analysis over  
25 into with the integration process to get -- so that rule

1 has analysis needed to select the strategy, and the al--  
2 and any other alternative plans that the Commission may --  
3 or the companies may want to look at, that's now done in  
4 the last rule in this chapter.

5                   We did add some things to update the  
6 chapter. We created a transmission and distribution rule.  
7 Previously we were not very prescriptive on transmission  
8 and distribution. It was a couple of sections within  
9 supply side. And what we found was very little was being  
10 given to us with respect to transmission and distribution.  
11 It was almost as if it was being analyzed separately from  
12 the resource planning rule, and we heard a lot of, oh,  
13 RTOS do that, we don't have to consider that in resource  
14 planning.

15                   Staff reviewed what the companies gave us,  
16 and we still believe that transmission and distribution  
17 analysis is important in resource planning. And to bring  
18 that to the forefront, we created a transmission --  
19 hopefully I'm not losing my voice like I did a couple  
20 weeks ago. We created a rule that sets out how  
21 transmission and distribution analysis should be done.  
22 And yes, I would say we're being more prescriptive here,  
23 and the reason is because we saw the results of not being  
24 prescriptive, how little information that really was filed  
25 and given with the non-prescriptive, the way it currently

1 is.

2                   The transmission and distribution rule  
3 removes all references to Smart Grid. We wanted to make  
4 it so that hopefully it will last longer. Smart Grid may  
5 be a term that comes out of favor within five to ten  
6 years. We want the utilities to be looking at advanced  
7 transmission and distribution, is how we put it in the  
8 rule.

9                   One of the things that was not coming out  
10 of the resource plans that we could see was there was very  
11 little analysis of different rate designs to get energy  
12 efficiency. And the current rule we do believe requires  
13 that, that it's listed as an end-use measure, and it kind  
14 of got lost. So what we did was create a section for  
15 analysis of rates and how they would affect energy  
16 efficiency. So that's a whole new section in the demand  
17 side rule.

18                   Another point that a lot of stakeholders,  
19 including Staff's concerned with, was the utilities --  
20 well, specifically AmerenUE filed in their last resource  
21 plan filing they had Callaway 2 in it. Then said their  
22 financial metrics would not allow them to build that.

23                   What we've done now is to include financial  
24 viability as one of the performance measures they must  
25 look at and report on with their resource plan. So no

1 longer will we get a, well, this is our resource plan but  
2 we can't do it because the laws in Missouri aren't right.  
3 We get the resource plan that they can do.

4                   We tried to increase the transparency to  
5 the public and the stakeholders. We've got a -- required  
6 an executive summary that gives some real information,  
7 public version and confidential version. Transparency is  
8 also greater through the annual updates that require the  
9 filing of written documents. So those will be filed so  
10 the Commission and their advisors can view it, and then  
11 also the public version will be available for the public.

12                   We also added requirement to inform  
13 stakeholders when the -- of the new plan of the utility  
14 when the old plan changes. In the past we had, tell us  
15 when your resource plan changes, and what we would find  
16 would be the implementation would change but maybe not the  
17 long-term plan, so utilities weren't coming in and telling  
18 the Commission that things have changed.

19                   So now they have to -- the new draft would  
20 require the utilities to let us know when their resource  
21 acquisition strategy changes, how are they going to get  
22 the resources they need. And we also have specification  
23 of certain deliverables that we did not have before.

24                   We said in the August 31st workshop that we  
25 wanted -- we were going to include some filing

1 requirements for the RES statutes and Senate Bill 376. We  
2 talked with the stakeholders and in later workshops and  
3 internally, and we decided not to put those requirements  
4 in Chapter 22. They will be considered in the rulemakings  
5 for both RES and Senate Bill 376.

6           A couple additional changes that we didn't  
7 discuss in August. We now allow for identification of  
8 concerns in addition to deficiencies. Prior the rule  
9 said, Staff and other stakeholders, tell us what you find  
10 to be deficient. Sometimes we found things that we did  
11 not believe rose to a deficiency. They did technically  
12 meet the rule, but we were still concerned with how they  
13 did things. So now we have an ability in the rule to both  
14 define both a concern and deficiency.

15           Another change is that we heard Empire keep  
16 saying -- and they are a very small utility, and this  
17 requires a lot of resources -- could they have a lesser  
18 resource plan requirement? And what we have currently in  
19 the rule is they may -- the draft rule is they may file  
20 for waiver if they meet, have met their deficiency, they  
21 no longer have any deficiencies over the last triennial  
22 filing. What that would do would be then they would have  
23 a full resource plan to file every six years. They would  
24 still have the annual updates in between that, so we'd  
25 still know they were still touching this subject every

1 year, but the full-blown resource plan filing, if there's  
2 no unresolved deficiencies, would only be every six years.

3 I wanted to real quick go through how these  
4 meet the PURPA standards or not, the EISA standards.  
5 We've got those dockets or case, I guess, or files open,  
6 working dockets open before the Commission. I wanted to  
7 touch on how they may or may not be included in Chapter,  
8 the new draft of 22.

9 Staff believes that the current or -- well,  
10 the current and the draft rule does meet the integrated  
11 resource planning standards, and I've listed the two  
12 standards there on the slide. I won't read those to you.  
13 I know there's other parties that don't think we  
14 necessarily met the second bullet, but Staff believes that  
15 we do establish energy efficiency, cost effective energy.  
16 I left a word out. It should be policies establishing  
17 cost effective energy efficiency as a priority resource.  
18 And we do believe the current and the draft rule both  
19 raises energy efficiency to the level of supply side  
20 options.

21 The next set of PURPA standards are the  
22 rate design standards, and we believe the rule meets some  
23 of those standards but not all of them. And with our new  
24 section where we direct the utilities to review rate  
25 design as energy efficiency measures, we believe it does

1 meet these selected standards within that section.

2                   And the Smart Grid, we no longer believe  
3 that we are -- we didn't try to take care of all the Smart  
4 Grid standards in the resource planning rules, but the  
5 ones that are here we do believe the rule covers. We no  
6 longer have in there anything about looking at how it  
7 increases reliability, and there was one other standard.  
8 So this rule does not address all of the Smart Grid  
9 standards, but it does address some of them. And we don't  
10 believe any of them meet the Smart -- or Chapter 22 meets  
11 the Smart Grid information standards at all.

12                   So that was just real quick flow through of  
13 how we think they meet the PURPA standards. Now I'm going  
14 to turn it over to Steve Dottheim. He's going to talk  
15 about Commission approval, acknowledgement, whether  
16 approving the process or approving the standard, approving  
17 the plan.

18                   MR. DOTTHEIM: May it please the  
19 Commission? I don't have any overhead to -- slides or  
20 presentation to put on the screen, and my presentation  
21 will be brief.

22                   Ms. Mantle mentioned that I'll be  
23 addressing acknowledgement and preapproval.  
24 Acknowledgement and preapproval, the Staff finds those  
25 concepts to be so major of a change that the Staff

8                   Those proposals have previously been put  
9   forth in the workshop environment. Acknowledgement has  
10  been proposed by DNR and MEDA. I think they've generally  
11  been consistent. Originally from the Staff's perspective  
12  neither entity fleshed out in any great detail what they  
13  meant by acknowledgement, other than, if I'm  
14  characterizing it correctly, a finding by the Commission  
15  as to the reasonableness of the preferred resource plan,  
16  the resource acquisition strategy. Acknowledgement would  
17  from their perspective not shift the burden of proof in  
18  any later proceeding, would not constitute decisional  
19  prudence.

25 In regards to preapproval -- let me just



1 say one last thing in regards to acknowledgement. I think  
2 both DNR and MEDA have indicated that acknowledgement  
3 shifts the focus of Chapter 22 from looking at process and  
4 evaluating process to looking at the preferred resource  
5 plan, the resource acquisition strategy, and approving the  
6 preferred resource plan, the resource acquisition  
7 strategy, as opposed to focusing on the process rather  
8 than the plans or the strategy.

9 In regards to preapproval, I think only  
10 MEDA has come forward with any concrete proposal on -- on  
11 preapproval. I think it's of note. Staff believes it's  
12 of note that the proposal that MEDA has come forward with  
13 addresses not just generation facilities but also  
14 addresses new power supply agreements.

15 Even though MEDA has drafted a separate  
16 rule for preapproval, Staff believes there is not  
17 sufficient tail in the rule itself if the Commission were  
18 to want to adopt a rule on preapproval. Presumably MEDA  
19 would charge the Staff with wanting to make the rule too  
20 prescriptive.

21 The rule as it's presently structured  
22 places all burdens on the Commission, the Staff, Public  
23 Counsel, and the intervenors. It provides that the  
24 Commission must take action within 180 days or, if the  
25 Commission does not take action, it will be deemed that

1 the proposal of the utility has been approved by the  
2 Commission.

3 Also, the proposed rule by MEDA has it that  
4 Staff, Public Counsel and intervenors have 60 days to  
5 reach agreement with the utility. Again, the burden is  
6 placed on others than the utility itself. The burden is  
7 placed upon Staff, Public Counsel and the intervenors.

8 There's also another provision of the  
9 present draft which provides that ratemaking treatment  
10 approved in an Order of the Commission or if approved by  
11 the Commission having taken no action within 180 days,  
12 that ratemaking treatment must be used by the Commission  
13 in all subsequent ratemaking proceedings. I'm not sure  
14 that that provision is lawful.

15 The Commission has before it any number of  
16 rules or rulemaking proceedings or workshops. The  
17 Commission has just gone through a workshop process with  
18 the Proposition C, the renewable energy standard statutes,  
19 which are the result of Proposition C.

20 In that process, a group of wind power  
21 interests proposed rule provisions addressing the  
22 1 percent cap on an increase in revenue requirement that  
23 are part of Proposition C. The Commission took the  
24 approach that it's easier to remove language from proposed  
25 rules than it is to add language. If the Commission would

1 follow that principle in all instances, then the  
2 Commission would adopt or would send on to the Secretary  
3 of State language for acknowledgement and preapproval on  
4 the basis that it's easier to remove language than it is  
5 to add language.

6                   The Staff opposed that approach in  
7 particular in the situation that I mentioned regarding the  
8 renewable energy standard proposed rules. The Staff  
9 believes that that would be a bad approach to take on  
10 acknowledgement and preapproval.

11                   Thank you.

12                   JUDGE WOODRUFF: Thank you, Mr. Dottheim.  
13 Anything else from Staff?

14                   MR. DOTTHEIM: Not at this time. Depending  
15 upon how long we go, if -- and the other presenters may  
16 share in this. If there are new matters that are raised  
17 today in the various presentations, those who are making  
18 early presentations that have not had an opportunity to  
19 comment on anything that's new presented, hopefully we  
20 might have that opportunity either today or to submit  
21 comments in the EW-2009-0412 docket.

22                   JUDGE WOODRUFF: That's fine, and the  
23 Commission certainly wants to be flexible. As I  
24 indicated, this is an informal proceeding. It's not an  
25 evidentiary proceeding. We'll certainly be flexible in

1 giving everybody a chance to respond to anything that's  
2 new that's raised today.

3 MR. DOTTHEIM: Thank you.

4 JUDGE WOODRUFF: Does Public Counsel wish  
5 to make a presentation?

6 MR. MILLS: Very briefly, your Honor. Good  
7 morning. May it please the Commission? Lewis Mills on  
8 behalf of the Office of the Public Counsel.

9 Let me just start by noting that I think  
10 the current IRP rule is a pretty good rule. The changes  
11 that have developed throughout the workshop process that  
12 are reflected in the current Staff rule make a pretty good  
13 rule much, much better. I think we're sort of getting, I  
14 would hope, towards the end of the process. We've had a  
15 number of roundtable discussions. Everyone has had a  
16 sufficient or more than sufficient, I suppose, opportunity  
17 for input into the rule, including the Commission.

18 The Commission has taken what is certainly  
19 an unusual step of having -- sort of answering some Staff  
20 questions on general direction halfway or part way through  
21 the process, and the Staff's current draft reflects that  
22 input. So I think we really should be coming down sort of  
23 towards the end.

24 And in light of that, Public Counsel  
25 generally supports the rule as it is drafted. I think

1   it's -- you know, we may have some minor suggestions once  
2   we get to the formal workshop, I mean the formal  
3   rulemaking process, but I doubt that we will suggest any  
4   sort of major revision or even any major additions.

5                   One of the things that I think you're  
6   likely to hear today are proposals regarding, as  
7   Mr. Dottheim talked about, proposals by utilities and  
8   perhaps others for approval or acknowledgement of  
9   preferred resource plans.

10                  Well, despite the fact that it appears from  
11   earlier discussions that the Commission is really not  
12   interested in going down that path, I think one of the  
13   biggest concerns with that is that those proposals are  
14   generally married with proposals to reduce the  
15   prescriptiveness of the planning.

16                  So to my mind, that's sort of a double hit.  
17   Not only do you have to sort of commit to a particular --  
18   you being the Commission, not only do you have to sort of  
19   commit to a greater or lesser degree depending on whether  
20   you're talking about acknowledgement or preapproval to a  
21   particular plan, there is less transparency in the  
22   planning process, and so it's really a sort of a two steps  
23   back kind of proposal to my mind.

24                  Also with regard to acknowledgement or  
25   preapproval, one of the things that I think, if the

1 Commission does go down that path, that the Commission  
2 needs to recognize first is that there will be a huge  
3 fiscal impact on Public Counsel, probably on the Staff as  
4 well, because it's a much, much different kind of approach  
5 to resource planning that will require significant  
6 additional resources both on Public Counsel's part and on  
7 Staff's part, I would assume.

8                   And also, if the Commission does go down  
9 that path, I think the Commission needs to recognize  
10 that it's -- it is a huge shifting of risk from the  
11 utility to the ratepayers, which should be recognized and  
12 specifically recognized in a return on equity adjustments.

13                   And that's really all I have at this point.  
14 I would like -- depending on what we hear from the parties  
15 that are less in favor of the current Staff draft, I'd  
16 like to reserve the opportunity to either reply today or  
17 reply in written comments.

18                   JUDGE WOODRUFF: That's fine.

19                   MR. MILLS: Thank you.

20                   JUDGE WOODRUFF: Thank you. Let's go with  
21 Dogwood next.

22                   MR. LUMLEY: Good morning. Carl Lumley for  
23 Dogwood Energy, and I appreciate this opportunity.  
24 Dogwood has submitted a variety of suggestions throughout  
25 this working document or working docket, and we appreciate

11               First, we suggest adding a new subsection  
12   to Rule 22.040 to ensure that utilities take into account  
13   the additional costs of assuring reliable integration of  
14   wind and other intermittent sources of supply.

On the first refinement, as currently proposed, Section 22.040 subsection 4 requires utilities to include a wide variety of candidate supply side resource options in their integrated analysis, including options such as wind that are intermittent and uncontrollable to a large part.

25 And in subsection C of that Part 4, the

1 proposed rule expressly requires consideration of  
2 interconnection and transmission costs, and it  
3 specifically requires consideration of environmental costs  
4 as these supply side candidate resource options are  
5 examined.

6                   We're proposing that additionally the  
7 utilities document their consideration of the costs of  
8 assuring reliability in connection with the integration of  
9 intermittent supply candidates such as wind. These costs  
10 are unavoidable. In order to achieve the necessary  
11 reliability in the face of intermittent sources of supply,  
12 ancillary and backup sources have to be in place to fill  
13 the void as it were.

14                   And in this respect, these unavoidable  
15 costs are similar to the transmission costs and the  
16 environmental costs that the proposed rule require express  
17 consideration. The industry recognizes that these  
18 ancillary and backup resources are essential. For  
19 example, the SPP wind integration study recommendations  
20 that were just issued on January 12th and are being  
21 presented today, as I understand it, elsewhere acknowledge  
22 that the transmission working group will, and I quote,  
23 need to take into account that the use of flexible  
24 generation units will increase as wind integration levels  
25 increase.



1                   Likewise, the U.S. Department of Energy  
2   Eastern Wind Integration and Transmission Study that was  
3   just released last week also makes clear in great detail  
4   that there are significant reliability costs that have to  
5   be considered along with the transmission costs involved  
6   in these resources.

7                   Reliability will always be a critical  
8   component of utility resource planning, and from a broader  
9   perspective the RTOs and others are tackling many issues  
10   with the goal of achieving reliable integration of wind  
11   and similar resources.

12                  In the context of supply side planning in  
13   this IRP process that we're talking about, we suggest  
14   there should be an explicit requirement that the  
15   consideration of costs of assuring reliable service  
16   relative to these intermittent resource options be  
17   documented to the Commission along with the other key  
18   costs that I mentioned.

19                  We're not suggesting that such costs would  
20   necessarily be ignored, but rather that they should be  
21   readily identifiable in the IRP documentation so the  
22   Commission knows there's been a complete analysis of these  
23   intermittent supply side options.

24                  Turning to the second refinement that we're  
25   presenting today, as currently proposed by Staff,

1 Section 22.070 subsection 6E does address the subject of  
2 competitive procurement policy, but only to a very limited  
3 extent. As currently proposed, the rule would only  
4 require a utility to provide documentation of any policies  
5 that it happens to have in place.

6                   We submit that that doesn't go quite far  
7 enough. We propose that this subsection be revised to  
8 actually require utilities to have adequate competitive  
9 procurement policies. We are no longer proposing any  
10 specific set of rules or detailed policy prescriptions.  
11 Under our current proposal, each utility would have the  
12 discretion to develop its own purchasing practices that  
13 best suit its needs.

14                   But in order to better assure prudent  
15 expenditures, the Commission should require that there be  
16 adequate policies in place for such major acquisitions,  
17 and then Staff should have the opportunity to review these  
18 practices during the IRP process.

19                   The Commission has included competitive  
20 procurement requirements in the pending proposed renewable  
21 rules, and we submit it should do so here as well.

22                   We submitted these two specific refinements  
23 in the last round of comments. So far they have not been  
24 included. At this point we haven't received any reply  
25 from others to the ideas. We did take, however, into

1 account the prior reactions to our much more specific  
2 suggestions on competitive bidding that we discussed back  
3 in August, and now we've proposed simply a minimal  
4 requirement that there be documentation that adequate  
5 policies are in place to ensure prudent practices.

6 Dogwood's two suggested refinements focus  
7 on reliability and prudence, which are cornerstones of the  
8 Commission's role in examining the utility planning  
9 process. We suggest that analysis of the cost of assuring  
10 reliability integration of intermittent sources of supply  
11 should be part of the required IRP documentation, and we  
12 suggest that utilities should also document they will use  
13 adequate competitive policies as they implement their  
14 IRPs.

15 I have prepared a one-page letter to the  
16 Commission that has the two specific proposals, and I have  
17 copies for everyone today, and I assume Staff will also  
18 put it on EFIS to make it readily available. We hope  
19 these comments have been helpful, and we thank you for the  
20 time.

21 JUDGE WOODRUFF: Thank you. Mr. Lumley,  
22 with this letter you just gave me, do you want to mark it  
23 as an exhibit?

24 MR. LUMLEY: If you'd like me to.

25 JUDGE WOODRUFF: That way the court

1 reporter has it in the transcript.

2 MR. LUMLEY: Judge, I'd offer this as  
3 Exhibit 1, unless did you want to mark Staff's handout as  
4 well or --

5 JUDGE WOODRUFF: Staff's handout I think  
6 was just more their presentation rather than something  
7 substantive. We'll receive it as Exhibit 1.

8 (EXHIBIT NO. 1 WAS MARKED FOR  
9 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

10 JUDGE WOODRUFF: Go with DNR then.

11 MS. WILBERS: Good morning. I appreciate  
12 the opportunity to comment on some key points the  
13 Department thinks the Commission should consider in its  
14 revision of the Chapter 22 rules. I also appreciate the  
15 consideration and acceptance of many of DNR's  
16 recommendations that we put forth over the workshops in  
17 the period of submitting comments to the draft rules.

18 JUDGE WOODRUFF: Before you get started,  
19 would you identify yourself, please.

20 MS. WILBERS: I'm sorry. Brenda Wilbers  
21 with the Department of Natural Resources Energy Center.

22 JUDGE WOODRUFF: Thank you.

23 MS. WILBERS: My remarks today will  
24 highlight the major proposed rule revisions in general  
25 terms. We provided detailed proposals for these revisions

1 in comments to Staff on December 29th, and those should be  
2 in EFIS.

3 I want to touch on four major areas today:  
4 No. 1, the fundamental objective of planning; No. 2, DSM  
5 as a priority resource; No. 3, supply side resources; and  
6 No. 4, Commission authority.

7 The fundamental objective of long-range  
8 planning, starting to focus on 010, Rule 010. As an  
9 intervenor in utility resource plan filings, it's our  
10 responsibility to not only assess if the utility's filing  
11 is in compliance with the requirements of the rule, but  
12 whether they meet the fundamental objectives of the  
13 planning process.

14 So we are to identify deficiencies that  
15 would cause the utility's resource acquisition strategy to  
16 fail to meet the requirements set out in Rule 010. So the  
17 provisions of Rule 010 are absolutely critical in our view  
18 and it's essential to get them right.

19 The current fundamental objective is to  
20 provide the public with energy services that are safe,  
21 reliable and efficient at just and reasonable rates in a  
22 manner that serves the public interest.

23 First we propose that rather than just and  
24 reason rates, the statement should refer to just and  
25 reasonable costs. Customers' interests and welfare are

1 directly and fundamentally related to the costs they incur  
2 in order to meet their energy needs. Rates are one factor  
3 but not the only factor affecting costs.

4                   Focusing on short-term rates instead of  
5 trying to reduce costs to customers over the long term may  
6 result in planning and decisions that are shortsighted,  
7 and it may not be in the best long-term interests of the  
8 public.

9                   Second, the rule should require that  
10 utility planning is consistent with applicable state  
11 energy and environmental policies. The current rule draft  
12 refers to legal mandates rather than policies. We  
13 certainly agree that utility planning should comply with  
14 legal mandates, but because some state energy and  
15 environmental policies may be stated as goals rather than  
16 mandates, we believe the statement in the rule should  
17 refer explicitly to policies as well as mandates to avoid  
18 later confusion.

19                   The second area that I'll talk briefly  
20 about is priority consideration and analysis of demand  
21 side resources. One of the key requirements of the '93  
22 rule is that demand side and supply side resources be  
23 considered and analyzed on an equivalent basis.

24                   And in Director Templeton's -- Department  
25 Director Templeton's August 24th presentation to the

1 Commission at the State of the Electricity Industry Forum,  
2 he presented data illustrating that Missouri has  
3 underperformed relative to its energy efficiency potential  
4 compared to other states with comparably low electricity  
5 prices.

6 Obviously energy efficiency has taken a  
7 back seat to traditional new generation even though  
8 analysis, if done on an equivalent basis, should have  
9 resulted in more demand side programs over the years.

10 We believe that Rule 010 should be changed  
11 to reflect priority for demand side resources that results  
12 in cost effective demand side savings. This change would  
13 clearly incorporate the purpose section 111(d)(16) that  
14 states consider adopting policies establishing  
15 cost-effective energy efficiency as a priority resource.  
16 And in the Commission's recent order, the Commission has  
17 directed that this standard be considered in the IRP rule.

18 We believe this policy change is also  
19 consistent with the goal in Senate Bill 376 for utilities  
20 to achieve all cost-effective demand side savings. It is  
21 the Department's position that this policy action by the  
22 Legislature establishes demand side resources as priority  
23 resources and that the rule should be changed to  
24 explicitly reflect this priority.

25 Rule 060, integration, which sets out

1 requirements for developing alternative resource plans and  
2 submitting them to integrated analysis, should explicitly  
3 require utilities to identify and analyze aggressive  
4 demand side cases.

5                   The Department proposes that these should  
6 include at minimum cases that utilize sufficient demand  
7 side resources to achieve or surpass a 1 percent and a  
8 2 percent incremental reduction in energy usage and demand  
9 and maintain these levels over the remaining 20-year  
10 planning horizon.

11                   We urge the Commission to adopt these  
12 standards of demand side impact as a tangible yardstick to  
13 measure utility diligence and progress toward the state  
14 policy goal stated in Senate Bill 376.

15                   To support this effort, Missouri should  
16 develop cost recovery and incentive policies authorized by  
17 Senate Bill 376 such that utilities are encouraged and  
18 rewarded rather than penalized for pursuing that level of  
19 DSM savings.

20                   Interpretation of these provisions  
21 consistent with the intent of the law is critical. I  
22 understand a discussion of these issues will occur in a  
23 separate docket established by the Commission, and we look  
24 forward to working with the Commission to move Missouri  
25 forward in the area of energy efficiency.



1                   The third general area is supply side  
2 resources. Missouri has established a legal mandate  
3 requiring that utilities provide at least a certain  
4 percentage of energy from renewable resources. We hope  
5 this will be considered a minimum and not viewed as a cap.

6                   We believe state energy policy should  
7 emphasize low carbon technologies with the goal of  
8 positioning Missouri well in a low carbon environment, and  
9 that analysis of risks associated with carbon regulation  
10 is likely to lead to more renewables than the minimum  
11 required by Missouri's renewable energy standard.

12                  We encourage the Commission to include  
13 revisions in the '93 rules that assure that customer based  
14 distributed generation as well as utility scaled  
15 distributed generation will also not slip through the  
16 cracks in the planning process.

17                  In addition, the revised rule should  
18 support and facilitate a thorough consideration of  
19 resource retirement. Our written comments propose changes  
20 that will assure that resource additions and retirements  
21 are considered and analyzed on an equivalent basis.

22                  NRDC in written comments submitted on  
23 October 29th remarked that the combined effect of many  
24 factors may mean that the future for electric utilities is  
25 not of load growth but of load decrease. We generally

1 concur with this concept and urge the Commission to  
2 craft a rule that is sufficiently flexible to support  
3 optimal planning whether the utility's load is growing or  
4 declining.

5                   The last area that I will address is  
6 Commission authority or acknowledgement. In an effort to  
7 make resource planning a more meaningful process, the  
8 Department supported Staff's proposal for annual IRP  
9 updates, and also proposed that the Commission should have  
10 additional authority beyond determining compliance with  
11 the rule. We propose that the Commission have the  
12 authority to acknowledge that a utility's long-term  
13 resource plan is reasonable at the time of the filing.

14                   I'm pleased to see the annual IRP updates  
15 in the current rule draft, and also that some additional  
16 authority is proposed for the Commission in the area of  
17 approving or disapproving the joint filing on the remedies  
18 of plan deficiency.

19                   If the Commission has reviewed and  
20 determined that it does not want the additional authority  
21 provided by acknowledgement, that's fine. I was at the  
22 August -- or I listened to the August 31 agenda session  
23 also, and it wasn't entirely clear to me whether they were  
24 deciding that they wanted to expand their authority or  
25 not. So it is ultimately the Commission's decision.

1                   If the Commission has not yet finalized its  
2     decision, I will present the key components of this  
3     concept as we presented in the working group, and these  
4     are provided in my written comments that I will submit as  
5     well. So I will just touch on those very briefly.  
6     Acknowledgement is not a finding of prudence. Prudence  
7     findings are limited to rate cases. However, in  
8     proceedings in which the reasonableness of resource  
9     acquisitions are considered, such as rate cases,  
10    consistency with an acknowledged resource plan or  
11    acquisition strategy may be used as supporting evidence.

12                   And I need to look at the section in the  
13    revised staff Rule 080.17 which does add some language  
14    that would require a utility in a subsequent rate case to  
15    state whether its actions are consistent with its recently  
16    filed plan. I think that is a positive step and step in  
17    the direction of making the plan more meaningful.

18                   So just a few other points related to this.  
19    Expanding the authority through something like  
20    acknowledgement would provide an avenue for the Commission  
21    and intervenors to review the substance of the utility's  
22    IRP filing and add weight and consequence to their  
23    findings. It affords the Commission great flexibility  
24    because the authority to acknowledge is importantly the  
25    authority not to acknowledge.

1                   One result of the new authority would be to  
2   encourage utilities to align their business planning with  
3   long-term resource planning. And Staff and intervenors  
4   would be able to comment on reasonableness of utility  
5   plans in their reports to the Commission.

6                   As I mentioned earlier, more detailed  
7   written comments were submitted to the Staff for  
8   consideration, and I will provide these written remarks  
9   also. Thank you.

10                  JUDGE WOODRUFF: The written remarks, did  
11   you wish to offer them as an exhibit now or are you just  
12   going to file them later? Either way is fine.

13                  MS. WILBERS: Let me just file them later.

14                  JUDGE WOODRUFF: Okay.

15                  MS. WILBERS: Thank you.

16                  JUDGE WOODRUFF: Let's move on to NRDC,  
17   then.

18                  MS. STANFIELD: Good morning, Judge.

19                  JUDGE WOODRUFF: Good morning.

20                  MS. STANFIELD: My name is Rebecca  
21   Stanfield. I'm a Senior Energy Advocate working in the  
22   Midwest office of the National Resources Defense Council  
23   based in Chicago.

24                  First, I really want to applaud the  
25   thoughtful and diligent work of Staff and many others in

1    this room over the past six months to develop the rule  
2    current draft. Obviously Missouri and America face  
3    extraordinary challenges in meeting future energy demand  
4    in a way that is consistent with the public interest and  
5    our economic and environmental imperatives.

6                   Utility resource planning can be a critical  
7    tool to meet these challenges, and we believe that this  
8    rule draft incorporates many of the features needed to  
9    optimize both the planning process and the planning  
10   outcomes. So we just first want to express appreciation.

11                   And rather than walking through the entire  
12   rule line by line, I would just say there's a lot to be  
13   commended in the draft, and I want to focus on just a few  
14   changes that we think will make it stronger.

15                   So first is on the subject of incorporating  
16   the goal of achieving all cost-effective energy savings.  
17   We were pleased to see that the rules incorporated this  
18   goal from SB 376 in Section 050 sub 1. And that section  
19   enumerates the criteria by which a utility will develop  
20   demand side programs and demand side rates for integration  
21   into the plan.

22                   However, there are other sections of the  
23   rule that create confusion and ambiguity about how the  
24   utility should evaluate the adequacy of its demand side  
25   plan.

1                   Specifically in 070, that section specifies  
2     that the selection of a resource acquisition strategy, the  
3     utility needs to choose a plan that uses demand side  
4     resources, quote, to the maximum amount that comply with  
5     legal mandates and in the judgment of the utility's  
6     decision-makers are consistent with the public interest  
7     and chief state energy policies.

8                   So this language seems to imply without  
9     specifying that the acquisition strategies should also  
10    meet the state's goal of capturing all cost-effective  
11    energy savings, but it doesn't take the step of just  
12    saying that. I think in failing to spell it out again in  
13    that section, it creates a little confusion and ambiguity  
14    about what really -- how do you really evaluate whether or  
15    not the demand side resource component of the plan is  
16    adequate.

17                  I think further ambiguity is created by the  
18    omission of this goal in the resource planning objectives  
19    enumerated in Section 010 sub 2, which are a critical  
20    reference point that the utilities use throughout the  
21    planning process. And that's compounded by the fact that  
22    the planning objectives articulated in that section focus  
23    on rates instead of costs, as the DNR also pointed out.  
24    So by focusing on just rates, which is one component of  
25    the costs that ratepayers see, you ignore a whole set of

1 other strategies for reducing those costs.

2                   So we would suggest the goal of capturing  
3 all cost-effective demand side savings be articulated not  
4 just in Section 050, but also in 070 and 010. And with  
5 this change, we think the rule would more plausibly meet  
6 the purpose section 532 IRP standards to establish cost  
7 effective efficiency as a priority resource.

8                   Secondly, on performance measures, when  
9 taking the critical step of integrating the resource  
10 options in choosing a preferred plan, utilities are  
11 required in the current draft to describe and document a  
12 set of quantitative performance measures.

13                   These performance measures as currently  
14 drafted include out-of-pocket costs to participants in  
15 demand side programs but do not include a measure of the  
16 value of net savings achieved by those programs. The net  
17 savings actually subtract the costs, including the  
18 out-of-pocket costs, from the avoided costs, and that  
19 calculation is already required in the context of  
20 development of the demand side resource portfolio.

21                   We think that the use of net savings  
22 instead of out-of-pocket costs would be a more meaningful  
23 performance measure upon which the utility should assess  
24 the alternative plans.

25                   Really, I see now that I have way too much

1 here to go through. I'm going to try to cut to the most  
2 important things and submit the rest by writing.

3 Evaluation of demand side plans. We're  
4 very pleased to see evaluation articulated as a really  
5 important part of the -- of making the demand side  
6 programs work. But it seems like a glaring omission that  
7 the current draft doesn't require the evaluation to be  
8 conducted by an independent third party, ideally reporting  
9 directly to the Commission rather than to the utility.

10 We think in any audit kind of situation the  
11 auditors really need to be free in appearance and in fact  
12 from anyone with a vested interest in the outcome. And so  
13 the success of the program depends on the credibility of  
14 the evaluation, which in turn hinges on the independence  
15 of the evaluators from the implementers.

16 So we would urge a revision to this draft  
17 that specifies that evaluations be conducted  
18 independently.

19 The rule doesn't indicate to what extent,  
20 if any, the utility should take uncertainty regarding  
21 costs or performance of supply side resources into account  
22 in setting avoided capacity and energy values. Instead,  
23 it anticipates the utilities would just select one number  
24 as the avoided cost. And so we think that there should be  
25 a range in there that recognizes risk and uncertainty with



1     respect to what those resource costs will be.

2                     The rest of these I think we'll submit in  
3     writing. I do want to express our support for the MDNR's  
4     proposal on acknowledgement once again. We don't think it  
5     disrupts the rigors of demonstrating prudence, but it does  
6     make this process a lot more useful for the purpose of  
7     avoiding imprudent investments before they occur, and that  
8     reduces risk for both the ratepayers and the utilities.  
9     So if -- well, again, so we support acknowledgement for  
10    that reason.

11                    We appreciate the inclusion of the process  
12    contained in Section 008 for placing contemporary issues  
13    before the utility well in advance of its April 1st filing  
14    deadline.

15                    And I think I'll stop there and submit the  
16    rest of these in writing. And again, appreciate all the  
17    work that's gone into the current draft. Thank you for  
18    consideration of our suggestions today, and we look  
19    forward to continued participation.

20                    Thank you.

21                    JUDGE WOODRUFF: Thank you. We have the  
22    MEDA presentations yet. Is there anyone else who wants to  
23    make a presentation that hasn't informed me before?  
24    Ms. Vuylsteke?

25                    MS. VUYLSTEKE: Should I do that now?

1 JUDGE WOODRUFF: Let's go ahead and do that  
2 now.

3 MS. VUYLSTEKE: Thank you, Judge Woodruff.  
4 We also want to thank the Staff and all the parties for  
5 their patient consideration of all the various comments in  
6 this complicated process. We just have two points that we  
7 wanted to make, and --

8 JUDGE WOODRUFF: If you'd identify who you  
9 are and who you represent.

10 MS. VUYLSTEKE: I'm sorry. My name is  
11 Diana Vuylsteke, and I represent the Missouri Industrial  
12 Energy Consumers.

13 And there are two standard DSM tests that  
14 we wanted to see included in the rule that we think are  
15 very important. Under the standard DSM test provisions,  
16 those are in 4 CSR 240-22.050. The Staff has included two  
17 tests. They've included reporting the results of the  
18 total resource cost test and the utility cost test for  
19 each of the potential demand side rates developed pursuant  
20 to the rule.

21 And we would like to see included in the  
22 rule two additional tests, and those are the participant  
23 test and the rate impact test. Now, none of these tests  
24 are perfect. They all provide different information  
25 that's important and critical information, but none of the

1 four tests is perfect. Taken together, we think they  
2 provide a very solid picture, and those are the four  
3 standard tests that are actually used by, I understand,  
4 most of Missouri's utilities currently and are also in the  
5 California Standard Practice Manual and other important  
6 DSM references which are really the standard and kind of  
7 the Bible in the DSM industry I'm told by Mr. Brubaker.

8                   We also have comments and revisions in the  
9 rule on this. The two tests that are missing that we  
10 think are very important are the participant test, which  
11 indicates the extent to which customers who participate in  
12 DSM programs stand to benefit from energy efficiency. And  
13 according to the participant test, it is useful in  
14 establishing incentive levels and other program design  
15 features.

16                   The non-participant test provides an  
17 indication of the extent to which rates would increase or  
18 decrease relative to supply side expansion strategies.  
19 This is critically relevant in the case of consumers who  
20 have invested very heavily on their own in energy  
21 efficiency programs of their own outside of this.

22                   So we think that without those critical  
23 ratepayer tests, we're not getting the whole picture. And  
24 we have included our additions and revisions both in the  
25 rule and in the definitional section, and those are our

1 main focus, and we look forward to presenting those  
2 changes in the rulemaking process formal comments as well.

3 Thank you.

4 JUDGE WOODRUFF: Thank you. Further  
5 presentation from MEDA, then.

6 MR. WOOD: Yes, Judge. We have three  
7 presentations, starting with Kansas City Power & Light and  
8 then Empire District Electric and AmerenUE and I'll bring  
9 up each of their presentations and they'll introduce  
10 themselves as they come up.

11 JUDGE WOODRUFF: Okay.

12 MR. OKENFUSS: Thank you, Judge Woodruff.  
13 I'd like to thank the Commission for the opportunity to  
14 present our comments on the -- on the workshop at this  
15 current state. I'd also like to thank the Staff for  
16 bringing everyone together and working with us all. I  
17 know it's been a lot of work on their part, and they've  
18 really brought us all together and made some good progress  
19 all around.

20 Warren is passing around copies of my slide  
21 show presentation, and I'll just go ahead and get started  
22 with it while he's doing that. I'm presenting the  
23 comments for both KCP&L and for KCP&L Greater Missouri  
24 Operations Company. I'm sorry. I didn't introduce  
25 myself. My name is Jim Okenfuss. I'm the manager of

1 fundamental analysis for Kansas City Power & Light.

2                   One of the things I'd like to just kind of  
3 highlight is, when we're looking at an IRP plan -- and I  
4 kind of look at this from a yeoman's point of view. I  
5 actually am in charge of the department that produces the  
6 big stack of paper.

7                   When we look at what we're seeing when we  
8 approach an IRP, we look at several of the key drivers  
9 that we're looking at in our industry, and I have  
10 highlighted here just several big issues that we see out  
11 for the next 20 years, some on the changing market  
12 conditions. We have RTOs and their different evolution  
13 over time. LMP-based power markets bring in forces of  
14 competition into our area.

15                   It also highlights how we -- how our fuel  
16 prices can cause risk into how we're going to plan into  
17 the future. Ancillary markets which are beginning to form  
18 are providing both an extra value and an extra risk from  
19 how we're going to operate our plants going forward.

20                   For environmental regulation, we have CO2  
21 regulation that's coming out, and there are several  
22 different strategies that could be impacted by how CO2  
23 legislation is formed. It's sort of like a  
24 microanalytical level. Fuel switching is a possibility.  
25 Clean coal technologies could come out. CO2 credits could

1 be the way that we're going to go. Who knows if they're  
2 going to be high or low. And then there's also different  
3 offset policies that could come around with CO2  
4 legislation.

5                   On the renewable mandates, we have state  
6 mandates. We have Proposition C, a proposed federal  
7 mandate that may or may not come out with the new  
8 Waxman-Markey rule that's being proposed in Congress.

9                   Under CAIR, we still have the SO2 markets,  
10 and we have the NOx markets, which may or may not be going  
11 forward. They may be replaced with commander control.

12                   On technology innovation, with wind energy,  
13 and as the Dogwood representative Carl mentioned, there's  
14 many questions with wind energy as we're going forward.  
15 How does it -- how do we handle the transmission  
16 limitations, and how does the lack of dispatch control of  
17 that technology impact us going forward?

18                   Solar, we're getting greater efficiency and  
19 lower cost technology, but how much lower? Biomass is  
20 another opportunity that's coming out, but yet we're  
21 finding land limitations and also we're having a little  
22 trouble seeing if we can actually capture the lower cost  
23 fuel options that sometimes are promised.

24                   On clean coal technologies, we have current  
25 technological limitations, but if they're solved we're

1 going to have the infrastructure requirements of how are  
2 we going to get this CO2 that's liquefied pumped around  
3 the country?

4 On consumer expectations, everywhere you  
5 go, customers ask for green energy. There's a great  
6 demand for it, irrespective of its cost at first.

7 On energy efficiency, we have the company  
8 efforts versus federal mandates. Should a federal mandate  
9 be imposed that overrides a company effort, does the  
10 company get to claim credit for that? They no longer get  
11 to claim credit? These are questions that are coming up,  
12 and all of these issues are out there, and no one knows  
13 where they're going into the future, and yet we have to  
14 develop a plan for 20 years with all this risk.

15 The current rule requirements are difficult  
16 to help us adapt to changes in a real world caused by  
17 these economic cycles, by different technology changes, by  
18 policies or legislative issues, and by environmental and  
19 other regulatory change.

20 Companies need to make real time decisions  
21 that do not always or exactly mimic the plan that was  
22 prepared just months earlier. Companies are concerned  
23 under our current rule, and the proposed rule, too, about  
24 the fact that we're going to be second guessed on any  
25 decision that we make, and is it going to be aligned with

1 the current IRP we happen to have on file.

2                   We have a good understanding on several  
3 things that are going to happen into the future. Like,  
4 for example, ten years from now we kind of know that a  
5 combustion turbine will look very similar to a combustion  
6 turbine now. May be some improvements, but not  
7 dramatically so. Same with the coal plant. Wind turbines  
8 will operate much as they will today.

9                   But there's other technologies that are  
10 relatively new, are untested in commercial operations.  
11 Many of our energy efficiency technologies we only guess  
12 what we -- how we think our customers will adopt or what  
13 their impacts will be. It's difficult now to assess the  
14 future cost of these requirements and that are -- and some  
15 of the environmental technologies that are currently being  
16 tested, and all this leads to great uncertainties in the  
17 planning process that must be recognized beyond just the  
18 ability to put forward a deficiency.

19                   There are two rules for Commission  
20 consideration. There's the Staff rule and the MEDA rule.  
21 At a high level, KCP&L and GMO feel that the Staff rule,  
22 though in some points a marked improvement over the  
23 current rule, still has an expansion of the checklist. It  
24 keeps a focus on finding the deficiencies after the  
25 process is completed. The ultimate result of this, as we



1 have just discussed earlier, is a process.

2                   The MEDA rule, however, takes a look at the  
3 goals and expands upon the goals of each of the subrules,  
4 and it keeps the focus on trying to find collaborative  
5 solutions prior to the completion of the filing. The  
6 ultimate result of the MEDA rule is a plan.

7                   Requiring companies to develop the best  
8 methods to achieve these goals are defined for each rule.  
9 So the process is conducted in a collaborative manner.  
10 Information used in the process is shared and made as  
11 transparent as possible.

12                  Companies are still required to submit  
13 filings to stakeholders who are able to comment on how  
14 well the company met those goals. So the companies are  
15 still accountable for the ultimate results, and the final  
16 product is still subject to review.

17                  One point I'd like to mention, and I have  
18 to strongly disagree with the assertion that was put  
19 forward by Public Counsel and by counsel for the Staff  
20 just moments ago. The fact that the companies are asking  
21 for an acknowledgement means that the companies have more  
22 at stake. The right to issue an acknowledgement is not a  
23 command to issue an acknowledgement. The Commission can  
24 withhold that acknowledgement. The companies have much  
25 more at stake if we're trying to achieve an

1 acknowledgement for our plan or for a portion of our plan  
2 than if we are merely just trying to go through our  
3 checklist.

4                   So I strongly disagree with the assertion.  
5 I think the companies are actually more at risk and have  
6 more to -- more to gain and, therefore, more to offer in  
7 the process that the MEDA rule is suggesting.

8                   At the workshops, KCPL and GMO provided  
9 basically three points that we kept trying to get back to,  
10 and that is that the new rule should be flexible, should  
11 allow the company and intervenors to adapt to changing  
12 industry, consumer, customer and technological drivers.  
13 There should be less of an emphasis on the checklist and  
14 more of an emphasize on the resulting plan.

15                   Also, we want to see if we can somehow  
16 minimize redundancy and not make the IRP process reopen  
17 other decisions already regulated in other venues. Though  
18 it's not in my comments going forward because it's been  
19 removed, one point that was brought up that Staff brought  
20 up is that Staff had, in its original proposed rule had  
21 several comments about linking the IRP rule to, say, the  
22 Prop C rule. And luckily those were removed, so we're not  
23 having the IRP rule step on as many toes as it had been.  
24 That's a great improvement. Yet there's still areas where  
25 we think that decisions are being reopened

1     inappropriately.

2                     A side by side comparison of the rules,  
3     MEDA, we're defining the goals in each of the rules.  
4     They're flexible, can adapt as collaboration, excuse me,  
5     commences. The company can consider new data and  
6     conditions, and the intervenors as well. And the  
7     intervenors can receive more pertinent data.

8                     Under the Staff, under the special  
9     contemporary issues process, the issues are locked down  
10    six months prior to filing. Companies risk deficiencies  
11    if market/industry or industry conditions change  
12    unexpectedly. Like, you may have heard about this little  
13    recession that's coming out. That affected GMO's last  
14    IRP. Intervenors must receive data -- dated information  
15    as specified.

16                    Under MEDA we're seeing it has more of an  
17    emphasis on the plan. There's less mandatory calculation  
18    methodology and data presentation and specification.  
19    Companies are allowed to utilize new methods to analyze  
20    load and other drivers. And there's more of a focus on  
21    the three-year implementation plan.

22                    On the Staff current rule, the data filing  
23    requirements are a bit longer. Companies risk  
24    deficiencies if methodology deviate from methods defined  
25    today.

10                   There was no response to that question.

11    So should a full update not -- should an update not be a

12    full update, the companies are open to deficiencies.

18 Under the Staff rule, the transmission  
19 planning rule appears to be redundant in light of  
20 oversight provided and required by the RTOs.

25 So just summarizing our recommendations,

1   once again my three points that we have always made. We  
2   would like to see the rules be flexible. We would like to  
3   see less emphasis on the checklist and more focus on the  
4   resulting plan. We'd like to minimize redundancy. And,  
5   therefore, KCPL and GMO both support the adoption of the  
6   MEDA rule.

7                   I'd like to thank you for your time.

8                   JUDGE WOODRUFF: Thank you. We've been  
9   going for about an hour and a half. Let's take a  
10   ten-minute break before we go on with Ameren and  
11   Empire. We'll come back at ten o'clock.

12                   (A BREAK WAS TAKEN.)

13                   JUDGE WOODRUFF: Let's go ahead and get  
14   started, and I believe we're ready for a presentation from  
15   Empire.

16                   MR. TARTER: My name is Todd Tarter. I  
17   work for the Empire District Electric Company as the  
18   Manager of Strategic Planning. So I work on the  
19   integrated resource planning as like a project manager,  
20   and then I also work in different areas of the rule, too,  
21   in the analysis phases.

22                   I just have a brief presentation today. A  
23   lot of what I'm going to say is probably what I've been  
24   saying all along within the workshop process. I don't  
25   have a lot of new things to say, so I don't think there's

1 going to be anything that's really new. But if we're  
2 repetitive, it's because it's -- that's what's important  
3 to us.

4                   So my first slide is just kind of a  
5 background of what the IRP rule is. I'm not going to go  
6 through that.

7                   My second slide on slide 3, Empire's  
8 participation to date. I just wanted to point out to the  
9 Commission that Empire has been participating in the  
10 workshop process. We've been at all the meetings.  
11 We've responded to two sets of Staff's questions. One of  
12 those was filed on EFIS. One we made an oral presentation  
13 before the group. We made a presentation to the  
14 Commission in August, and we have filed comments in  
15 December that's also in EFIS. And we've been attempting  
16 to try to get the best rule that we can.

17                   My next slide, it's kind of the center  
18 point of my discussion today. It's what Empire believes  
19 are the reasons for revising the IRP rules in the first  
20 place. I think when we're at this point in the process,  
21 it's a good thing to look at say, why did we do this in  
22 the first place and how are we doing, where are we at?  
23 And I know that it's taken a lot of people a lot of time  
24 and a lot of effort, so I think it's important that we do  
25 it right.

1                   Our first reason I think that we revise the  
2   IRP rules is because the current rules were outdated.  
3   Particularly outdated was the end-use forecasting  
4   requirement. And I know Staff's talked today some about  
5   they've changed the load forecasting section, but I've had  
6   the forecasters in our area look at the current draft of  
7   the rule, and we still see end-use, that term in there a  
8   lot. Our understanding is that it says that you're able  
9   to use different methods, but then if you go down further  
10  in the rule it still has end-use requirements, load  
11  analysis for different load classes. And that you are  
12  able to use different methods if you're able to  
13  demonstrate that you're -- another method is superior,  
14  which to us is not true flexibility.

15                   We thought that the rule process should  
16  address recent waiver requests, and for Empire some of  
17  that has been in that end-use forecasting area.

18                   Eliminate redundancy, which has been talked  
19  about, and make the rule easier to understand. We thought  
20  that was really important, and we know that we -- the  
21  current Staff rule kind of started from the old rule, so  
22  the language is the same. We think that there's some  
23  convoluted language that makes it difficult sometimes to  
24  really understand what you really need to do, and that's  
25  one thing we think that's contributed to some of the

1 deficiencies that you get.

2                   We thought that we should be streamlining  
3 the process. That was very important to us. At this  
4 point we think it's a very cumbersome rule, and the rule  
5 needs to be a little more nimble, like people have pointed  
6 out. We still think that there are many site analysis  
7 that's in there that's a requirement that's not really  
8 pertinent to doing a good IRP. It's just extra stuff.

9                   And we've been also stressing more  
10 flexibility, and we do think that in some areas more  
11 flexibility has been given, but like I pointed out on the  
12 very first bullet, sometimes there's flexibility that  
13 looks like it's in there but then it's -- as you read  
14 further, it looks like it's really not. It's kind of  
15 confusing. That goes back to eliminate -- or making the  
16 rule easier to understand, too.

17                   I think Staff pointed out in their  
18 presentation that they've eliminated some of the end-use  
19 forecast requirements, and yet we don't read it that way,  
20 which I kind of think speaks to some of the problems with  
21 the current language.

22                   And recognize the difference in utilities.  
23 Empire is a smaller utility as Staff pointed out this  
24 morning. We do appreciate in the last Staff draft there  
25 was a recognition of Empire being a smaller company and in



1 the filing requirements process, but as far as the rest of  
2 the rule, as far as the methods and things that are  
3 required to do in the rule, I think that's the same for  
4 everybody.

5                   Focus on the outcome rather than being a  
6 process checklist. I think KCPL spoke to that in their  
7 presentation this morning. In some ways when we look at  
8 the rule, you know, it is a more than 40-page rule right  
9 now, the Staff's rule is, and we think that not only is it  
10 still a checklist, but the checklist has kind of grown on  
11 us.

12                   Reduce the risk of rule obsolescence. My  
13 Very first bullet point is the current rule is outdated.  
14 So we think that the flexibility that's built in there and  
15 more emphasis on the goals of the thing will help  
16 eliminate with putting in very prescriptive things that  
17 become obsolete and we'll have to do this at some point in  
18 the near future.

19                   Also, we think working with all  
20 stakeholders to develop the best new rule that we can we  
21 think's important, which is what we've been trying to do.

22                   And we've been -- we use the term make it a  
23 more meaningful process. We do spend a lot of time with  
24 this and spend a lot of money on it, and we want this to  
25 be a useful product when we're done with it.

1                   My next slide I've just highlighted some of  
2     the major changes to date that we've seen. I'll start  
3     with the last bullet. I mean, Kansas City Power & Light  
4     brought this up. The Staff and MEDA have both introduced  
5     draft rules.

6                   Other new things as the annual updates in  
7     addition to the triennial filings. That is in both the  
8     Staff and the MEDA rule. And I think that there was some  
9     consternation in the workshop process about the annual  
10    updates initially. I think that we've cleared that up,  
11    and we just want to emphasize that we think that the  
12    annual updates are not a redoing of the entire IRP every  
13    year, but looking more in like the five-year plan process,  
14    more in the near term and looking at critical variables  
15    that have changed, like Staff pointed out.

16                  Another new issue is the contemporary  
17    issues. This is where stakeholders provide us with topics  
18    that we should look at that may be not in the rule. We  
19    think that's probably a good idea. It's things that we  
20    should be considering anyway, and that kind of leads to  
21    another suggestion that I've got on my next slide.

22                  The other thing is the Staff draft does  
23    contain a new transmission and distribution analysis rule  
24    that the MEDA rule does not have.

25                  Empire has been making some suggestions

1 during the process, and I just wanted to point that out  
2 again before the Commission.

3 No. 1 is we think we should have a simpler,  
4 less detailed rule than what we've had previously and what  
5 the previous Staff draft is. What I'm speaking to there  
6 is, it meets the reasons for the revising the IRP rule in  
7 the first place that I went over earlier.

8 We still think that the core items are  
9 essential to a good IRP rule, but we think that there's a  
10 lot of essential things in there that detracts from what  
11 the IRP process should be.

12 We've also put an idea about during a  
13 prefiling meeting, develop a scope document for the  
14 upcoming filing, and some people during this process have  
15 referred to that as a plan for the plan. We think that  
16 that's a good idea. If you have a simpler, less detailed  
17 rule, then if you have this additional thing that's the  
18 plan for the plan, that that can help with many things,  
19 which includes incorporating the contemporary issues.  
20 We think it would make the process more utility specific.

21 The IRP requirements would be allowed to  
22 change over time in this side document. Help keep the  
23 rule from becoming obsolete. Could become concurrent with  
24 the annual update process to help limit the amount of  
25 meetings that we'd have to have.

1                   And finally, my conclusion, then. I think  
2   in order to adequately address the reasons for revising  
3   the rule in the first place the way Empire saw it would  
4   have this simpler, less detailed rule that has the plan  
5   for the plan side document. It could be unique to each  
6   filing that includes contemporary issues.

7                   As a result of that, Empire supports the  
8   MEDA draft rule. We think that should become the starting  
9   point for further discussions and workshop. Thank you.

10                  JUDGE WOODRUFF: Thank you.

11                  MS. TATRO: Good morning. My name is Wendy  
12   Tatro. I'm an attorney appearing on behalf of AmerenUE.  
13   I want to address one quick issue and then I'll turn over  
14   UE's proposal to Matt Michels.

15                  Both Staff and the Office of Public Counsel  
16   have expressed concerns with the MEDA portion -- the  
17   portion of the MEDA rule that deals with acknowledgement.  
18   Staff indicated that no one's flushed out what it means  
19   and that it would be treated as shifting the burden of  
20   proof as if it were decisional prudence. OPC talking  
21   about lowering the rate of return because it reduces the  
22   risk.

23                  I think it's important for us to focus on  
24   what MEDA's utilities are proposing here. If you look at  
25   the rule, the definition says: Acknowledgement. A plan

1 seems reasonable to the Commission at the time the  
2 acknowledgement is given. Acknowledging a plan is not  
3 preapproval of any resource decision, but in ratemaking  
4 proceedings in which the reasonableness of resource  
5 acquisitions is considered, the Commission will give  
6 considerable weight to utility actions which are  
7 consistent with an acknowledged integrated resource plan.

8 I think that's very important. It  
9 explicitly states it's not decisional prudence. It  
10 explicitly says it's a piece of evidence that the utility  
11 can use when the cost is being considered, presumably in a  
12 rate case.

13 We know there's two different kinds of  
14 prudence that the Commission looks at, and that is at the  
15 time the decision is made and then as things are being  
16 implemented. And these vague allegations that  
17 acknowledgement somehow removes all the risk from the  
18 utilities and shifts it to the ratepayers is not a fair  
19 assessment, and I wanted to bring that forth and call the  
20 an Commission's attention to the definition in the rule  
21 because I think it makes that clear.

22 Thank you.

23 MR. MICHELS: Good morning, Judge Woodruff.  
24 I'd like to thank the Commission for the time given to all  
25 the parties to come today and talk about this very

1 important issue of integrated resource planning. I'd like  
2 to thank all the parties for all of their participation  
3 throughout the informal workshop process, and I'd  
4 particularly like to thank the Staff for all of their hard  
5 work in coordinating this during a time when there are so  
6 many other things demanding their time and resources.

7 My name is Matt Michels. I'm with Ameren  
8 Services Company, and my primary responsibility is  
9 coordinating the development and filing of the integrated  
10 resource plan for AmerenUE.

11 I'm going to be echoing some of the points  
12 made by the other utilities previously, and mostly I'm  
13 going to be talking about a comparison not just of the two  
14 versions of the rule that we've been looking at over the  
15 course of a number of workshops, but also the focus and  
16 purpose of those two different versions of the rule.

17 I'll start off talking about the current  
18 Missouri IRP rules, how that plays in a complex and  
19 volatile planning environment, the need for collaboration  
20 rather than confrontation, comparing the options,  
21 answering some questions that have been raised previously  
22 about the MEDA rule, and talking about the choice that we  
23 have now.

24 So where we've been is we have the current  
25 rules which were established in 1992-'93, and these rules

1 have worked on and off with some suspension of the rules  
2 during a time, but worked on and off since that time to  
3 give all the parties a good starting framework for  
4 planning. And as we've heard previously, the focus has  
5 been on the process checklist rather than the results.

6 By conducting what is essentially a process  
7 audit, this encourages confrontations over alleged  
8 deficiencies and comparisons against the detailed  
9 checklist. So really since that time, 1992-93, we all  
10 know a lot more about resource planning or should.

11 Jim Okenfuss talked earlier about all the  
12 various complexities involved in the planning environment  
13 at this point. This is my more crude representation.  
14 It's not nearly organized as his, but maybe this is how my  
15 mind works. This is how I see it. We've got all these  
16 things going on, and not only these but probably others I  
17 haven't specifically identified, and then who else knows  
18 what is out there in the future.

19 This greater complexity and volatility in  
20 the planning environment is really what's behind our  
21 opinion that we need to have a more flexible rule.

22 And what would that involve? For us, it  
23 would involve more collaboration rather than  
24 confrontation. We should work together on potential  
25 solutions, maintain a flexible path to the future with

1 options and offramps, focus on a reasonable path rather  
2 than the right answer, and create greater transparency  
3 through flexibility and collaboration. We need to avoid  
4 confrontations over minute details that simply do not add  
5 value.

6                   Now, we understand that it probably was not  
7 the Commission's desire to have two versions of a rule to  
8 choose from in going to a formal rulemaking process. Let  
9 me express that, for my part, it was not necessarily our  
10 desire to have two versions of the rule, but we believe  
11 that the MEDA version of the rule represents such a  
12 drastically different approach to IRP that it was  
13 necessary that it be decidedly different from what Staff  
14 has proposed.

15                   In looking at the two versions of the rule,  
16 and in particular looking at Staff's version of the rule,  
17 we see evidence that it appears to desperately want to  
18 make the results the thing that's important, and having  
19 annual updates of the plan and having a provision that the  
20 Commission can send the utility back to fix errors in the  
21 plan, and having provisions for looking at what are the  
22 issues that are emerging on the horizon that we need to  
23 take into account during the IRP at a point before we  
24 begin the IRP or perhaps in the middle if it's calendar  
25 specific.



1                   A number of other things that point to the  
2   importance of the result of an integrated resource plan.  
3   However, as desperately as it seems to want to make the  
4   result important, it is equally as desperate in avoiding  
5   admitting that that's the most important thing in the IRP.

6                   By retaining the checklist approach and  
7   ensuring that we will have continuous confrontations over  
8   what does or doesn't constitute a deficiency and a  
9   numerous checklist with which to compare the utility's  
10  filing and plans, that's what we're bound to have.

11                  So turning to a little more high level  
12  comparison. Jim Okenfuss made some comparisons earlier.  
13  There will be some overlap a little bit in what I have to  
14  say, but those bear repeating and then I also have some  
15  additional points.

16                  No. 1, the MEDA rule changes the focus from  
17  the process to the result. The Staff rule represents  
18  essentially what we've had before. And Public Counsel  
19  earlier stated that this was a good rule, perhaps better  
20  than what we are working under today, and that may be if  
21  the focus is what amounts to a process audit.

22                  If rather you're looking to ensure that the  
23  plan produces a reasonable result, what better test that  
24  the planning process produces a reasonable result than to  
25  focus on the result itself. So the MEDA rule changes the

1 focus to the results.

2                   Streamline language to avoid the checklist  
3 approach, which is critical. Plan acknowledgement, which  
4 as Ms. Tatro pointed out is not an expansion of the  
5 Commission's authority, and -- and really the question is,  
6 does the process produce a reasonable result rather than  
7 approval or preapproval of a plan or a specific resource  
8 decision? In the MEDA rule, deficiencies are defined as  
9 issues that could change the result itself.

10                   Next, flexibility. Mr. Tarter pointed out  
11 from Empire that there are instances in the Staff's  
12 version of the rule that purport to offer flexibility to  
13 the utilities, but on a closer examination it isn't the  
14 kind of flexibility that you might expect.

15                   In setting minimum standards, we see that  
16 the standards themselves are in most cases the most  
17 rigorous standards possible for that particular item in  
18 the process. And having a multitude of rigorous standards  
19 can be a distraction from critical issues and innovations  
20 needed to resolve them. This point's back to the need for  
21 collaboration.

22                   So, the MEDA rule provides true flexibility  
23 without compromising transparency or utility  
24 accountability. It doesn't prescribe methods, but  
25 requires that they be supported and explained.

1                   Earlier Mr. Mills noted that the coupling  
2   of having acknowledgement as part of the IRP process with  
3   the reduction in the prescription -- prescriptiveness of  
4   the rule suggests that the Commission would be approving a  
5   plan for resource decisions without being able to see the  
6   process. This is far from what the utilities want this  
7   process to represent, and it is far from what the MEDA  
8   version of the rule embodies.

9                   The MEDA rule includes provisions that  
10  require the utility to explain in every step the decision  
11  processes it uses, and to provide the documentation  
12  necessary to show how those decision processes were used.

13                  We do have an example. Since Mr. Tarter  
14  used the load forecasting rule as an example, I'm going to  
15  have to find someplace to put these. Here is the MEDA  
16  version of the load forecasting rule (indicating). And  
17  here is the Staff's version of the load forecasting rule  
18  (indicating), and I won't -- I won't read through this  
19  whole thing. Don't worry.

20                  So we can point to the same example that  
21  Mr. Tarter pointed to earlier when he was talking about  
22  the load research issue, and it takes a while to dig  
23  through the Staff's version of the rule as he had his load  
24  forecasting Staff do and find what is it that's really  
25  going on.

1                   He also spoke about simply -- simplicity in  
2     understanding the rule, and we believe that having  
3     something that looks like that leftmost board is much more  
4     understandable when you send it to a load forecasting  
5     group to do their work than is the version that we have  
6     laid out over here.

7                   Second comparison is on accountability, and  
8     really the Staff rule in essence makes a utility the  
9     analyst for all the stakeholders, specified analyses that  
10    may have little or no discernible value. For instance, in  
11    22.060, the additional alternative resource plans that are  
12    defined in that section requiring plans that are all  
13    demand side management or all renewables or all something  
14    else that we might not know about yet seem to have very  
15    little value.

16                  Specified work products that the utility  
17    may or may not need, and let me address specifically and  
18    give some assurance to MIEC about the two tests that they  
19    request. It's true that we calculate those additional  
20    tests beyond what's specified in the rule all the time,  
21    and under the MEDA rule we would certainly provide that as  
22    part of our documentation. And since the MEDA rule's  
23    language is flexible and requires that the utility provide  
24    all such documentation, there's no need to call that out  
25    specifically in the MEDA rule.

1                   Thirdly, there's no incentive to limit the  
2 work based on value. If you're looking at a process  
3 focused checklist approach, every item on that checklist  
4 is just as important as another. Having the utility focus  
5 on that checklist process means that we may be spending  
6 inordinate amount of time looking at a very minor issue at  
7 the cost of being able to expand our focus and analysis on  
8 more important issues.

9                   If we merely need to check the boxes, then,  
10 you know, there's really very little opportunity to make  
11 that kind of prioritization. And again, that's where the  
12 collaboration comes in. If we have up-front discussions  
13 prior to beginning the process with the Staff and other  
14 parties, we can focus on what those key issues are and  
15 avoid doing some of the much lower value items rather than  
16 making sure that we check all the boxes.

17                   The MEDA rule provides for equitable  
18 accountability, stakeholder collaboration to identify high  
19 value issues as I just pointed out, and responsibility for  
20 all parties to support their assumptions, opinions,  
21 allegations about deficiencies or errors in judgment and  
22 offer solutions. It makes them a part of the process.

23                   And I can understand why when we talk about  
24 this kind of collaboration, the stakeholder process, there  
25 are concerns about resources and being able to do all of

6                   And that's why the MEDA version seeks to  
7   focus the effort on looking at the results.   Sure, the  
8   process is important, but it is not the most important  
9   thing.   And if you look at the MEDA rule, which I will  
10   provide -- or which has been provided, it ensures that the  
11   utility explains its full decision process, you see the  
12   entire process that the utility conducts to make its  
13   decisions, and also focus on the end result.

19                   Third comparison is on business planning,  
20   and this is another area where we see sort of an emphasis  
21   on the importance of the results of the plan.  If you're  
22   trying to couple what comes out of the IRP process with  
23   the utility's business plan, to me that in itself is an  
24   acknowledgement that the result is important.

1 said, sort of a checklist process and a strict sequential  
2 process for resource planning. To require a continual  
3 synchronization with business planning really is  
4 impractical. Business plans are changing all the time.

5               The MEDA rule provides for transparency in  
6 the utility's process -- the utility's process while  
7 letting the utility define that process. So if you look  
8 at the resource planning process and the business planning  
9 process as sort of two separate arms of what the utility  
10 does in the way of planning, you have two choices. You  
11 can reach across from the resource planning process and  
12 tell the utility how that business planning process ought  
13 to work, or you can use the resource planning process to  
14 draw out what the utility's business planning process is.

15               We believe that the flexibility in the MEDA  
16 rule does the latter and allows for a much better  
17 integration of the resource planning and business planning  
18 processes.

19               Finally in terms of comparison, we have  
20 relevance. The Staff rule requires utilities to certify  
21 that other requests are consistent with the utility's plan  
22 without really making determination whether the plan  
23 itself is reasonable.

24               Such other requests that a utility files  
25 may not warrant a change in long-range plans unless and

1     until they are approved, a merger request for instance.  
2     And there really is no resolution in the case of an IRP  
3     found to be deficient about, you know, what do you certify  
4     to then if you've got a deficient plan.

5                     The MEDA rule provides for acknowledgement,  
6     which we've heard explanation of previously and which  
7     Ms. Tatro pointed out the specific definition of. It  
8     provides for acknowledgement of a utility's resource  
9     acquisition strategy and the option to seek preapproval.

10                    During his comments earlier, Mr. Dottheim  
11     talked about the preapproval provision, and I would like  
12     to say that that was an initial proposal. If there's not  
13     enough detail, we're certainly willing to talk about what  
14     additional detail might be required. The version that  
15     MEDA proposed was based almost entirely on a similar rule  
16     in Kansas for the same purpose.

17                    And as to being charged with being too  
18     prescriptive if we expand the detail, we should point out  
19     that it's a different purpose in a preapproval world than  
20     what you would have in an IRP and I think highlights the  
21     fact that acknowledgement of IRP as we've stated it does  
22     not mean preapproval.

23                    Mr. Dottheim also talked about comparisons  
24     with the Prop C rulemaking, and I believe during his  
25     comments acknowledged that the starting point for a formal



1 rulemaking needs to be consistent with what the purpose is  
2 and what the focus is. So I was glad to hear him say that  
3 while -- while normally it's easier to remove language  
4 than add language, that that was not the case with Prop C.

5                   To me, in my mind, the differences between  
6 what we're doing in Prop C and what we're doing with IRP  
7 are huge. Proposition C has a specific law with a  
8 specific objective that is very, very clear. And in the  
9 integrated resource plan we've got two rules that have --  
10 that embody really two completely different approaches to  
11 integrated resource planing, one focused on the process  
12 and the other focused on the results.

13                   We believe that if you look at those two  
14 versions of the rule, starting with the MEDA version of  
15 the rule would give a better grounding in the  
16 understanding of what the -- what really the IRP is out to  
17 capture, and that adding language rather than subtracting  
18 language would be more in order.

19                   So what did we hear about the MEDA version  
20 of the rule? One assertion is that if it isn't in the  
21 rule, the utility won't do it or won't do it right. The  
22 MEDA rule addresses this by having a stakeholder process  
23 to define the important issues, by having an up-front  
24 discussion on approach and methods, requiring the utility  
25 to explain and support their method and decision

1 processes, a mid process review of the work to date before  
2 integration, and Commission direction to update the IRP to  
3 further address important issues.

4                   Now, the Staff version of the rule has a  
5 lot of these items in it, but I would suggest that these  
6 items focused on really ensuring a good outcome are not  
7 necessary if what you have is a process focused checklist.

8                   Next, the rule must specify in detail all  
9 the information parties may need to assess the utility's  
10 plan and the format in which it is provided.

11                  The MEDA rule addresses this. Stakeholder  
12 process for reviewing and discussing inputs, results and  
13 issues important to resource decisions while the plan is  
14 being developed rather than after the fact. An up-front  
15 discussion on key issues and what information will be  
16 relevant and important in the review process. And it also  
17 requires that the utility provide all work papers in a  
18 timely fashion. So everything the utility does in order  
19 to support its resource decisions is available and  
20 provided for the stakeholders to review.

21                  Next, the utility will conduct shadow  
22 processes for decision making if the business plan link is  
23 not strictly enforced. The MEDA rule addresses this  
24 primarily by putting more of the focus on the  
25 implementation plan which is shorter term and covers a

1 very similar period as that covered by business planning.

2                   And secondly avoiding the checklist  
3 approach minimizes the complications of integrating the  
4 resource planning and business planning processes as I  
5 alluded to earlier. Again, business plans are  
6 continuously updated, and continuous updates to a 20-year  
7 plan are impractical.

8                   So what does this bring us to? We believe  
9 we have a choice here, and the choice is both a tactical  
10 choice and a strategic choice. The utilities and  
11 stakeholders do have an enormous amount of cumulative  
12 experience with utility resource planning, and the  
13 planning environment itself is changing and changing  
14 faster all the time. And based on current expectations,  
15 new base load decisions are likely far in the future.

16                   So a question from a tactical standpoint  
17 is, which rule represents the best starting point for a  
18 reasonable discussion and debate? We believe the choice  
19 is this: A highly detailed rule with a burden of proof --  
20 a burden to prove what is not needed, and if you asked me  
21 straight out and point to any one piece, for instance, you  
22 know, something on one of these six or five-plus cards up  
23 here that represents the Staff's version of the load  
24 forecasting rule, if you point to any one of those things  
25 and say, will you be less able to conduct good resource

1 planning as a result of this piece, my answer would  
2 probably be no.

3 But taken in its totality and using the  
4 checklist approach and having the focus on the process and  
5 identifying, alleging and refuting deficiencies means that  
6 that's less time that we have to focus on key strategic  
7 issues and less time again that the stakeholders have to  
8 collaborate with the utilities to try to come up with a  
9 result that is better than what we would on our own.

10 So we have that choice or we have a  
11 flexible framework onto which we can add elements that  
12 truly improve the value of the result.

13 Our choice is not just tactical. It is  
14 also strategic. With a more complex and volatile planning  
15 environment and a strong need and desire to advance energy  
16 policy, innovation and leadership on the part of all  
17 parties as far as I can tell, the question is this: Which  
18 approach gives us the best chance to achieve -- to advance  
19 energy policy and achieve a leadership position?

20 And we believe the choice is between one,  
21 an even more -- even more of a process focused checklist  
22 approach, or two, a flexible and collaborative approach  
23 focused on results.

24 Now, history has lots of lessons when it  
25 comes to making significant choices, and one that stands

1 out in my mind is this: Is that it? There we go. The  
2 Maginot line. This happened to occur to me while I was  
3 watching the movie Patton. And the plans were for the  
4 French to build defensive positions along the German  
5 border. It was inspired by the success of static  
6 defensive combat in World War I. So they had that in  
7 their recent memory.

8                   This worked well, and there were highly  
9 detailed specifications. Miles and miles of tank  
10 barriers, gun turrets, underground railroads for supply  
11 purposes, everything situated along that border to contain  
12 a prospective enemy that they had encountered before.

13                   Well, what were the results? The German  
14 army just went around. And the critical shortcoming was  
15 that they failed to account for the complex and volatile  
16 environment of war.

17                   Now, am I saying that what we're talking  
18 about today in IRP is as important as defending the  
19 sovereignty of a nation against an invading enemy? No,  
20 it's not, but it is very important for the future of  
21 Missouri energy policy, and we should consider whether  
22 we're making the right strategic decision to continue to  
23 focus on the process rather than the result.

24                   We've been talking since July at the  
25 workshop that we had back then about different approaches

1     that we can take to IRP, and we kind of laid out a couple  
2     of real choices and then one that was sort of a hybrid,  
3     which didn't seem to work very well. And the two choices  
4     were, focus on the process and, you know, trust that if  
5     the process is correct you'll get a meaningful result.  
6     And second was focus on the plan, focus on the result, and  
7     in doing so ensure what you're looking at the process to  
8     make sense of that result.

9                     And so we've been pushing with the rule  
10    drafted by MEDA to go for the latter, to focus on the  
11    result, recognize that things are going to change and  
12    change rapidly, maybe even more rapidly than they are now,  
13    and allow some flexibility to conduct some collaborative  
14    discussions with stakeholders rather than go back and  
15    check the boxes on the checklist.

16                    So that's what we're proposing, that the  
17    Commission adopt the MEDA version of the rule. I'd like  
18    to submit and have this marked as Exhibit 2, if I may.

19                    JUDGE WOODRUFF: Sure.

20                    (EXHIBIT NO. 2 WAS MARKED FOR  
21    IDENTIFICATION BY THE REPORTER.)

22                    MR. MICHELS: And to help with the  
23    comparison of the MEDA rule and Staff's version of the  
24    rule, we also have a comparison document which shows  
25    what's in both the Staff's current draft of the rule,

1 MEDA's version of the rule, and the existing rule that was  
2 created in the early '90s, and I'd like to also submit  
3 that and have it marked as Exhibit 3.

4 (EXHIBIT NO. 3 WAS MARKED FOR  
5 IDENTIFICATION BY THE REPORTER.)

6 MR. MICHELS: Again, I'd like to thank the  
7 Commission for the time to talk today and for the time and  
8 resources committed by all the parties throughout this  
9 process. We think it's critically important, and we think  
10 that we need to make the right strategic choice for how  
11 IRP is conducted in the state of Missouri.

12 Thank you.

13 JUDGE WOODRUFF: Thank you.

14 MR. KIDWELL: Your Honor, may it please the  
15 Commission? My name is Steve Kidwell. I'm Vice President  
16 of Regulatory and Legislative Affairs for AmerenUE.

17 Matt and the other witnesses, presenters I  
18 guess I should say, from MEDA have done a really good job,  
19 I think, of laying things out. I wanted to make sure that  
20 the example that Matt had given was not lost on those  
21 Commissioners who were not able to be here today. What  
22 Matt laid out for us here in the room is a MEDA version of  
23 the load analysis and forecasting rule that takes  
24 basically one panel to display and the Staff's version  
25 which takes, I believe, six panels, well, five and a

1     quarter, to display. And that's just an example of, I  
2     think, the difference in terms of prescriptiveness between  
3     the two rules still.

4                     I do, though, want to acknowledge Staff,  
5     and I also want to say that the fact that we're having  
6     this debate means that in Missouri we're taking integrated  
7     resource planning seriously, and I think that's a good  
8     thing regardless of the outcome that the Commission  
9     determines in this rulemaking.

10                    I hope that the Commission gets the idea of  
11     some of the themes that have been present in MEDA's  
12     presentation today, and those would be greater  
13     collaboration and up-front involvement with both the  
14     Commission and the stakeholders in this important process.  
15     That's one of the main things we're trying to get across,  
16     and that's honestly -- that's an honest feeling and an  
17     objective that the MEDA utilities have in terms of putting  
18     forth their alternative rule.

19                    The only other thing I want to note is the  
20     idea of acknowledgement. Jim Okenfuss I think said it  
21     very well, that from the utilities' point of view, having  
22     acknowledgement in the rule significantly improves the --  
23     ups the stakes, if you will, improves the value to us in  
24     going through what is a very lengthy and costly to the  
25     ratepayers of the state process.



1                   So in our last integrated resource planning  
2 docket, I believe I remember Commissioner Gunn expressing  
3 some frustration with the current integrated resource  
4 planning process in the state and wanting to see if we  
5 could come up with what he called teeth, and he wasn't, I  
6 think, very clear yet at that point as to what he was  
7 meaning by teeth.

8                   But I invite Commissioner Gunn and the  
9 other members of the Commission to think about  
10 acknowledgement, and maybe that's the sort of teeth  
11 they're looking for. It is a carefully crafted compromise  
12 between just acknowledging a process and providing  
13 decisional prudence.

14                  I think Wendy Tatro did a good job of  
15 expressing and reading the definition that we're after.  
16 Other states have found this as a policy to be beneficial.  
17 I'd point out Oregon as being an example of that.

18                  So think about teeth. Think about  
19 acknowledgement as being that teeth. It increases the  
20 accountability of all parties, I think, in the process,  
21 and I think that's a good thing.

22                  The only other thing I'll note is that the  
23 Commission should recognize that the Department of  
24 Resources, the National Resources Defense Council and MEDA  
25 are on the same page largely with recommending

1 acknowledgement, and that's a rather unusual alignment and  
2 is something that they might want to take into  
3 consideration.

4 With that, I'll conclude my comments.

5 MR. WOOD: Warren Wood. I'm the director  
6 of MEDA. Just three very quick highlights. I'm not going  
7 to repeat all the good comments of those before me.

8 Some referred to a shift of risk, and I  
9 would acknowledge that. What we currently have in the IRP  
10 process is a very -- the risk is very tilted one way.  
11 What's proposed in the MEDA rule is a shifting or a  
12 sharing of risk and, more importantly, accountability to  
13 all the parties affected by those outcomes.

14 Also, and I thought Steve did a good point  
15 in highlighting this, we're talking about more up-front  
16 collaboration on the issues, more discussion of the  
17 important analysis that need to take place, an effort to  
18 bring out more of the issues that are important and reduce  
19 the list of deficiencies at the end, as opposed to the  
20 current process which is largely structured to generate a  
21 long list of deficiencies that frankly are too late in the  
22 process to do something meaningful about but go back to  
23 the beginning and do it over again.

24 And finally, I do appreciate NRDC and DNR  
25 supporting acknowledgement or support of the

1 acknowledgement process. What we're talking about largely  
2 is an ability of all the parties, including the  
3 Commission, to take a look at what the utility knows at  
4 that time, that all the other parties concerned in the  
5 outcome know at that time and recognizing together that  
6 this is the best we can do with everything we have right  
7 now to move ahead with resource planning.

8                   And it's an extraordinarily important  
9 concept as we focus on trying to build needed utility  
10 infrastructure, something that is quickly becoming  
11 exponentially more difficult to do.

12                   And that concludes my three points. Thank  
13 you.

14                   JUDGE WOODRUFF: Thank you. Mr. Dottheim?

15                   MR. DOTTHEIM: Yes. Is AmerenUE going to  
16 provide copies of what's been marked as Exhibit 3?

17                   MS. TATRO: Your Honor, we failed to bring  
18 copies of Exhibit 3. I will be filing it so that it will  
19 be available to all the parties. I apologize for not  
20 having a copy with us.

21                   MR. DOTTHEIM: Well, I'm not sure. It  
22 seemed from the glance I had of the document that what was  
23 provided to the court reporter was in color. So I'm not  
24 sure -- I'm not certain that it will be in the record  
25 necessarily in EFIS. Sometimes it winds up in color and

1 sometimes it doesn't. So that's in particular why I'm  
2 asking if AmerenUE out of courtesy would provide copies,  
3 color copies of that document to the participants today.

4 MS. TATRO: We absolutely will do so. I do  
5 not have them with me now, and I apologize for that.

6 JUDGE WOODRUFF: Any other presentations  
7 anyone wants to make or responses?

8 MR. DOTTHEIM: Judge, can you tell us, do  
9 you have any idea when the transcript will be filed in the  
10 case?

11 JUDGE WOODRUFF: Normally be ten business  
12 days. We can make it sooner if we need to.

13 MR. DOTTHEIM: Would it be possible to make  
14 it sooner?

15 JUDGE WOODRUFF: How soon would you like  
16 it?

17 MR. DOTTHEIM: Well, I'm just wondering  
18 when the Commission might take this matter up. So it  
19 would be dependent upon that in particular.

20 JUDGE WOODRUFF: Clearly it won't be on  
21 this week's agenda. I was going to ask the same question  
22 of Staff. Where do you want to go from here?

23 MR. DOTTHEIM: I think we'd probably like  
24 to make a filing, but other than that -- if you give me a  
25 moment?

1 JUDGE WOODRUFF: Sure.

2 MR. DOTTHEIM: Can we submit something, oh,  
3 in -- by the end of the week as far as what we might  
4 suggest as a procedure from here on out that the other  
5 parties could respond to?

6 JUDGE WOODRUFF: That would be fine.

7 MR. DOTTHEIM: I say parties. Other  
8 participants could respond to.

9 JUDGE WOODRUFF: That would be fine. What  
10 I'm really getting at is, from my perspective as judge in  
11 the case, up until this point it's been Staff who's been  
12 presenting this at agenda as Staff's proposal. At some  
13 point it's going to become a rulemaking case, which is  
14 when I take over as judge, more or less. I'm assuming at  
15 this point it's still going to be something that Staff is  
16 going to be presenting at agenda.

17 MR. DOTTHEIM: Well, I think that's  
18 something we would like to address before the end of the  
19 week to give you our view as to where this process exactly  
20 is and whether we are at the end of the process and now it  
21 is time for the Commission to ultimately decide where it  
22 wants to go with the drafts that it has.

23 JUDGE WOODRUFF: All right. That's fine.  
24 I will then direct the court reporter to give us a  
25 transcript by this Friday, whatever day that is.

1 MR. DOTTHEIM: 29th.

2 JUDGE WOODRUFF: That sounds right, 29th.

3 Anything else anyone wants to discuss while we're here?

4 Mr. Mills?

5 MR. MILLS: If I can just make a brief  
6 response to some of the presentation from the utility  
7 side?

8 JUDGE WOODRUFF: Go right ahead.

9 MR. MILLS: And I'm not -- we've talked at  
10 some length, and I'm not going to burden the record a  
11 whole lot, but -- yes, my mic is on, Steve.

12 You know, there's been a lot of reference  
13 to the Staff rule as a checklist, and I think that's sort  
14 of meant in a derogatory sense, but there's really a lot  
15 of usefulness that can be gotten out of checklists.  
16 People use them in their daily lives all the time. It's  
17 quite a useful tool.

18 I think the -- a better way to look at the  
19 way the Staff's rule approaches the process is that it  
20 requires the utility to take a certain minimum number of  
21 steps and to show the parties what they've done.

22 The MEDA approach on the other hand sort of  
23 shifts the focus to discovery on behalf of the parties to  
24 determine what the utilities have done and later to prove  
25 or disprove or dispute whether it's been adequate.

1                   The Staff's rule sort of sets out a process  
2   that says, if you do this process, your planning is  
3   adequate, and if your planning process is adequate, it's  
4   very, very likely that your plan will be adequate.

5                   The MEDA process sort of stands it on its  
6   head and says, we're going to tell you what our plan is,  
7   and then you have to sort of figure out what our process  
8   was and go about proving or disproving whether the process  
9   was adequate.

10                  It is a -- it is from -- from my  
11   perspective, the MEDA process is much, much, much more  
12   resource intensive on behalf of the other parties. The  
13   Staff process, the current rule process and the proposed  
14   process puts most of the burden on the utilities to take  
15   certain minimum steps and to show that they've done them  
16   or to demonstrate through the waiver process that a  
17   particular step or steps is not useful and doesn't need to  
18   be done, but it sort of lays out what has been done for  
19   the other parties to evaluate rather than requiring the  
20   other parties to essentially investigate and determine  
21   what's been done as to whether it's adequate.

22                  So I think those are -- from my  
23   perspective, those are some very, very important  
24   differences between the two approaches. I think the  
25   Staff's approach is much preferable. Thank you.

1 JUDGE WOODRUFF: Thank you, Mr. Mills.

2 Anything else anyone wants to add at this point?

3 (No response.)

4 JUDGE WOODRUFF: All right, then. I  
5 believe that will conclude this presentation session  
6 today, and my understanding is Staff will file something  
7 by Friday indicating where they want to proceed from here.  
8 All right. With that, we are adjourned. Thank you.

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1	EXHIBITS INDEX		
2	EXHIBIT NO. 1	MARKED	RECEIVED
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4	EXHIBIT NO. 2		
5	Copy of 4 CSR 24-22.010 -		
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## 1 C E R T I F I C A T E

2 STATE OF MISSOURI )  
 ) ss.  
3 COUNTY OF COLE )

4 I, Kellene K. Feddersen, Certified  
5 Shorthand Reporter with the firm of Midwest Litigation  
6 Services, do hereby certify that I was personally present  
7 at the proceedings had in the above-entitled cause at the  
8 time and place set forth in the caption sheet thereof;  
9 that I then and there took down in Stenotype the  
10 proceedings had; and that the foregoing is a full, true  
11 and correct transcript of such Stenotype notes so made at  
12 such time and place.

13 Given at my office in the City of  
14 Jefferson, County of Cole, State of Missouri.

15

16 Kellene K. Feddersen, RPR, CSR, CCR

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