

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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4 TRANSCRIPT OF PROCEEDINGS

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6 Evidentiary Hearing

7 December 16, 2011

8 Jefferson City, Missouri

9 Volume 4
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12 In the Matter of the Union Electric)

13 Company's 2011 Utility Resource)

14 Filing Pursuant To 4 CSR 240-) File No. EO-2011-0271

15 Chapter 22)

16 _____
17 MORRIS WOODRUFF, Presiding

18 SENIOR REGULATORY LAW JUDGE

19 KEVIN D. GUNN, Chairman,

20 JEFF DAVIS,

21 TERRY M. JARRETT,

22 ROBERT S. KENNEY,

23 COMMISSIONERS.
24 _____
25

26 REPORTED BY:

27 Jennifer L. Leibach, CCR Number 1108

28 TIGER COURT REPORTING

A P P E A R A N C E S

TOM BYRNE, Attorney at Law

WENDY TATRO, Attorney at Law

1901 Chouteau Avenue

St. Louis, Missouri 63109

FOR: Union Electric Company d/b/a Ameren Missouri

JENNIFER FRAZIER, Attorney at Law

Missouri Department of Natural Resources

P.O. Box 899

Jefferson City, Missouri 65010

FOR: Missouri Department of Natural Resources

CAROLE ILES, Attorney at Law

Bryan Cave, LLP

211 N. Broadway, Suite 3600

St. Louis, Missouri 63102

FOR: MIEC

HENRY ROBERTSON, Attorney at Law

Great Rivers Environmental Law Center

705 Olive Street

St. Louis, Missouri 63101

FOR: NRDC, Sierra Club, MO Coalition for the Environment,
Renew Missouri, Missourians for Safe Energy

SHANNON FISK, Attorney at Law

Natural Resource Defense Council

2 N. Riverside Plaza, Suite 2250

Chicago, Illinois 60606

FOR: NRDC

LEWIS MILLS, Public Counsel

P.O. Box 2200

Jefferson City, Missouri 65102

FOR: Office of Public Counsel

NATHAN WILLIAMS, Deputy Counsel

P.O. Box 360

Jefferson City, Missouri 65102

573.751.3234

FOR: Staff of the Missouri Public Service Commission

1 PROCEEDINGS

2 JUDGE WOODRUFF: Good morning, everyone.

3 Welcome back for day two of the hearing in EO-2011-0371.

4 John Rogers is the next witness for the Staff, and he's
5 already taken the stand, so please raise your hand.

6 (The witness was sworn.)

7 JUDGE WOODRUFF: You may inquire.

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. WILLIAMS:

10 Q. Would you please state your name?

11 A. John A. Rogers.

12 Q. Mr. Rogers, are you the same individual who's
13 named as John A. Rogers in Exhibits 11, 16, and 17, which are
14 the Staff's report, including the affidavits and corrections?

15 A. Yes, I am.

16 Q. Exhibit 16, which is rebuttal testimony of
17 John A. Rogers; and Exhibit 17, which is the surrebuttal
18 testimony of John A. Rogers?

19 A. Yes.

20 Q. And sitting here today, would you make any
21 changes to any of those exhibits to the portions for which
22 you're responsible?

23 A. No.

24 MR. WILLIAMS: With that, I'd offer Mr. Rogers
25 for examination by the other parties and the Commission.

1 JUDGE WOODRUFF: All right. And I believe his
2 testimony was already admitted yesterday, so we don't need to
3 worry about that. For cross-examination, we begin with NRDC.

4 MR. ROBERTSON: No questions.

5 MR. FISK: We waive cross-examination of this
6 witness.

7 JUDGE WOODRUFF: MIEC?

8 MS. ILES: Your Honor, Carol Iles on behalf of
9 MIEC. We're going to waive cross-examination.

10 JUDGE WOODRUFF: Okay. DNR?

11 MS. FRAZIER: We also waive.

12 JUDGE WOODRUFF: Okay. Public Counsel?

13 MR. MILLS: Just a few, Your Honor.

14 CROSS-EXAMINATION

15 QUESTIONS BY MR. MILLS:

16 Q. Good morning, Mr. Rogers.

17 A. Good morning.

18 Q. Do you have a copy of company's testimony
19 there with you, Exhibit 1, with surrebuttal testimony?

20 A. Surrebuttal, yes.

21 Q. Revised surrebuttal?

22 A. Yes.

23 Q. Okay. Can you turn to the first schedule that
24 is attached to his testimony, which is Schedule WW-E1?

25 A. I'm there.

1 Q. Is that your answer to a question from Ameren
2 regarding who Staff believes is responsible for taking the
3 interests of Ameren Missouri's investors?

4 A. Yes, it is.

5 Q. In the second sentence, you refer to a
6 statutory obligation to protect the interest of all
7 stakeholders. Do you see that?

8 A. Yes, I do.

9 Q. What statute are you referring to there?

10 A. I can't cite a statute.

11 Q. What's the basis for your answer that there is
12 a statutory obligation?

13 A. That's just my understanding of what the
14 Commission obligation is. I wasn't referring -- I didn't
15 look at a statute when I responded.

16 Q. It's just your general impression that the law
17 requires this obligation?

18 A. Yes.

19 Q. Okay. Can you turn to the next page,
20 Schedule WW-E2? Is that your response to another data
21 request from Ameren Missouri?

22 A. Yes, it is.

23 Q. Okay. Now the -- the first sentence says
24 that -- that -- well, the first sentence asks: Does Staff
25 believe that the, quote, public interest, close quotes,

1 includes consideration of those members of the public who
2 invest in Ameren Missouri's securities? And your response
3 is: Yes.

4 Would your answer to my questions about this
5 be the same as your answers to the previous questions if I
6 asked you what particular statutes?

7 A. Yes.

8 Q. Okay. And just -- is it your understanding
9 that Ameren Missouri issues securities?

10 A. No, they do not.

11 Q. Okay. So I take it when you were answering
12 this, you were talking about Ameren securities?

13 A. Yes.

14 Q. Switching gears on you here, just as in
15 general terms -- or specific terms, if you'd rather -- does
16 Staff believe that Ameren Missouri properly modeled wind as a
17 supply-side resource in its analysis in this IRP?

18 A. We reviewed the -- the Company's filing and
19 I'm not our supply staff expert, but we did not file any
20 concerns or deficiencies related to wind.

21 Q. But there's a big gap between defining a
22 deficiency and making a conclusion that it was done properly,
23 is there not?

24 A. Well, there's also the opportunity for Staff
25 to express a concern and we did not in this filing.

1 Q. Okay. So it's Staff's position that it's
2 appropriate to only look at 800 megawatt increments of wind
3 as a modeling exercise?

4 A. We have testimony by Leon Bender in this case,
5 I believe, on this issue.

6 Q. I was under the impression that you were sort
7 of the overall policy witness for Staff, and I was trying to
8 view this at a high level, but I guess I've gotten what I'm
9 going to get from you on that.

10 A. I think you have.

11 Q. Okay. Switching gears again, I want to talk
12 to you just very briefly about how Ameren Missouri evaluated
13 possible future environmental regulations of air emissions,
14 ash, and water. 0702(c) contains a -- do you have a copy of
15 the rules?

16 A. Uh-huh.

17 Q. And I don't know that there's any difference
18 here, but at least for the purpose of this question, I'm
19 going to be talking about the old rules, the ones that
20 were -- that governs the IRP filing in this case. And I'm
21 referring to 0702(c). That regulation creates a requirement
22 for the utility to consider future changes in environmental
23 laws, regulations and statutes; is that not true?

24 A. Correct.

25 Q. Okay. Did Ameren Missouri comply with this

1 requirement to evaluate future changes and regulations of air
2 emissions, ash, and water to see if it's a critical uncertain
3 factor under 0702(c)?

4 A. I'm afraid I'm going to have to provide the
5 same response again. This was not my primary area of review
6 and Staff has not expressed this as a concern in its report,
7 so.

8 Q. Whose area is this one?

9 A. Leon Bender.

10 Q. Okay.

11 MR. MILLS: Judge, that's all I have.

12 JUDGE WOODRUFF: Okay. Cross for Ameren?

13 CROSS-EXAMINATION

14 QUESTIONS BY MS. TATRO:

15 Q. Good morning, Mr. Rogers.

16 A. Good morning.

17 Q. Would you agree with me that the IRP is
18 about -- the Commission's IRP rules are about a process and
19 not about the end result?

20 A. Yes.

21 Q. Do you have your testimony with you?

22 A. Yes, I do.

23 Q. Can you turn to page 6 of your rebuttal,
24 please?

25 A. That was page 6 of rebuttal?

1 Q. Yes.

2 A. Okay.

3 Q. Line 6, the question reads: Would plan RO
4 serve the interest of both Ameren Corporation's shareholders
5 and Ameren Missouri ratepayers? Do you see that question?

6 A. Yes, I do.

7 Q. And plan RO is a plan that includes RAP DSM;
8 is that correct?

9 A. Correct.

10 Q. Do you know how Ameren Missouri currently
11 recovers its energy efficiency expenditures?

12 A. Yes, I do.

13 Q. And how is that?

14 A. It's through collection of those -- of the
15 direct costs for energy efficiency programs in a regulatory
16 asset, and then during a subsequent general rate case,
17 prudent costs are moved into rate base and amortized over a
18 period of six years.

19 Q. And when you say direct costs, you're
20 referring to program costs?

21 A. Yes.

22 Q. Okay. Does Ameren Missouri recover any lost
23 revenue at this time?

24 A. No.

25 Q. Does Ameren Missouri have any mechanism to

1 deal with the -- or to mitigate the throughput disincentive
2 at this time?

3 A. Not between rate cases.

4 Q. Okay. Do you agree that Ameren Missouri
5 experiences significant throughput disincentive due to the
6 expenditures it makes on energy efficiency programs?

7 A. Currently they do.

8 Q. Do you agree that the Commission in the
9 Company's -- in its -- let me start that question over.

10 Do you agree that in the Report and Order
11 issued in the Company's last rate case, the Commission found
12 that it was a significant disincentive to pursuing energy
13 efficiency? "It" being the throughput disincentive?

14 A. That's my reading of the Commission's Order.

15 MS. TATRO: Your Honor, I'd like to ask that
16 the Commission take administrative notice of the Report and
17 Order in the Company's last rate case, which was
18 ER-2011-0028, the Report and Order issued on July 13th.

19 JUDGE WOODRUFF: Anyone have any objection to
20 that? Although that date doesn't sound right, July 13th?

21 MS. TATRO: Thank you.

22 JUDGE WOODRUFF: I'm sorry, what was the date
23 of the Order?

24 MS. TATRO: 13th of '11 -- July 13th of '11.

25 JUDGE WOODRUFF: I'll take your word for it.

1 They're all running together in my mind.

2 MS. TATRO: The effective date was the 31st, I
3 think.

4 JUDGE WOODRUFF: Okay.

5 MS. TATRO: Maybe that date sounds more
6 familiar.

7 JUDGE WOODRUFF: The last four Ameren rate
8 cases are all running together.

9 All right. Anyone have any objection to
10 taking administrative notice of that? The Commission will do
11 so.

12 BY MS. TATRO:

13 Q. All right. Can you turn to page 10, still of
14 your rebuttal? On line 9, last half of that sentence, you
15 indicate that PVRR is the objective of the electric utility
16 resource planning process. Do you see that sentence?

17 A. Yes, I do.

18 Q. All right. So I want you for a moment to
19 presume that the plan with the lowest PVRR includes
20 construction of Callaway 2 with Ameren Missouri having 100
21 percent ownership, okay?

22 A. Okay.

23 Q. Does the PVRR calculation capture the
24 financing impact upon the company?

25 A. No.

1 Q. If Ameren -- if it's impossible for Ameren
2 Missouri to finance Callaway 2, must the company choose it as
3 its preferred plan?

4 A. No.

5 Q. If the impact of Callaway 2 would bankrupt the
6 company, must the company choose it as its preferred plan?

7 A. No.

8 Q. If the impact of the preferred plan would
9 cause the company's credit rating to be downgraded, must the
10 company choose it as its preferred plan?

11 A. No.

12 Q. So there are constraints outside the PVRR
13 which would cause someone to pick a preferred plan that
14 doesn't have the absolute lowest PVRR; isn't that right?

15 A. Correct.

16 Q. Okay. Later on page 10, you refer to the
17 KCP&L case -- about a KCP&L case -- about -- let's see,
18 EO-94-306, and I believe you have that attached to your
19 testimony. Can you turn to that, please?

20 A. Okay.

21 Q. I presume you've read this Order and you're
22 familiar with the facts contained within?

23 A. Yes.

24 Q. All right. Did KCP&L use PVRR at all in
25 their -- as a selection criterion?

1 A. No.

2 Q. What did they use?

3 A. They used the average system rates.

4 Q. And that was the only criterion that they
5 used, correct?

6 A. As far as I know. The only review of this
7 case that I've done is -- is the Order.

8 Q. Okay. Is there any place in this order that
9 says PVRR is the only criterion that is to be used?

10 A. The Order says what it says. The rules state
11 in no uncertain terms that the utility shall use minimization
12 of present worth of long-run utility cost as the primary
13 selection criteria in choosing the preferred resource plan.

14 Q. So it just cites back to the rule?

15 A. Yes.

16 Q. It doesn't contain any additional
17 clarification as to what that means?

18 A. None that I can find.

19 Q. Okay. I'd like to go back to page 21 of your
20 testimony, rebuttal again. About line 4, it starts a
21 sentence where you say, While Staff agree that Ameren
22 Missouri has made significant effort in seeking improved rate
23 treatment for DSM investments. What do you mean -- what are
24 you referring to? What's the "significant effort" that
25 you're citing?

1 A. Well, in the ER-2010-003 case, the company
2 initiated a confidential stakeholder process with an
3 objective of developing a DSM cost recovery mechanism within
4 the context of the rate case. That was a significant effort.
5 There were stakeholder meetings -- full-day stakeholder
6 meetings, I believe three or four days. There was -- it was
7 a good process, there was facilitation provided by the
8 regulatory assistance project through Rich Sedano and also
9 through ACEEE with Dan York. That was a significant effort
10 on the part of the company and the stakeholders.

11 In the subsequent rate case, the one that was
12 just finished, I believe ER-2011-0028, the company provided
13 testimony and support for a rate adjustment mechanism, and
14 that was a significant effort.

15 Q. And just to clarify the record, the first rate
16 case that you referred to, you said 0003, could that have
17 been 0036?

18 A. 36.

19 Q. Okay.

20 A. Yes.

21 Q. All right. The next part of this sentence
22 that started on line 4 says, Ameren Missouri has not yet
23 requested approval of DSM programs under -- essentially under
24 MEEIA, right? That's what that sentence is talking about?

25 A. Correct.

1 Q. Okay. Do you remember testifying about the
2 timing of when a MEEIA filing might be made in the company's
3 last rate case?

4 A. I have some recollection of that, yes.

5 Q. Do you remember when you thought a reasonable
6 time might be for the company to make a MEEIA filing?

7 A. I think initially I thought it would be
8 reasonable mid-2011. I don't remember dates or months, but I
9 think it was -- I thought it was reasonable to file soon
10 after the rules became effective. I believe that in the
11 process of that rate case that I changed my opinion and it
12 was more reasonable for the company to file more around this
13 time, the end of 2011 or early 2012.

14 Q. And if I told you you said January 1, 2012,
15 that sounds right to you?

16 A. It sounds -- that sounds right. If you're
17 looking at --

18 Q. I have a copy of your surrebuttal.

19 A. If you're looking at it then --

20 MS. TATRO: May I approach?

21 JUDGE WOODRUFF: You may.

22 BY MS. TATRO:

23 Q. I'm sure you trust me, but here, you can
24 double check. I've tabbed the page for you.

25 A. Upon further reflection, I do agree, I now

1 feel that the company should take more time to prepare its
2 MEEIA filing, and I believe a more reasonable date for the
3 company making its MEEIA filing is January 1, 2012.

4 Q. Okay. Do you agree with me that the MEEIA
5 rules weren't in effect when Ameren Missouri made its
6 February 11 IRP filing?

7 A. I agree.

8 Q. Do you know when the first version of the
9 IRP -- I'm sorry, of the MEEIA rules, when Staff submitted
10 its version of the MEEIA rules to the Commission, when you
11 first filed it in a rulemaking docket for the Commission to
12 consider?

13 A. My recollection, and you probably know the
14 answer, but --

15 MS. TATRO: Can I approach again?

16 JUDGE WOODRUFF: You may approach.

17 THE WITNESS: I'm going to guess March,
18 February or March.

19 BY MS. TATRO:

20 Q. Of what year?

21 A. 2011.

22 Q. I'm going to give you a document.

23 A. Oh, it's right here.

24 Q. This is the timeline that I used in my opening
25 statement, but it's a timeline showing when various --

1 various things occurred, and if you will read through that, I
2 think it looks like the proposed MEEIA rules filed in Case
3 EX-2010-0365 and it shows June 30th of '10. Do you see that?

4 A. Yes.

5 Q. Does that sound about right to you? Do you
6 have any reason to doubt that?

7 A. Okay, I accept that.

8 Q. Well, and the date that it shows that the
9 MEEIA rules were effective, 5/30 of '11, that date's correct,
10 right?

11 A. It's six -- okay. MEEIA rule's effective 5/30
12 of 2011, yes.

13 Q. Okay. So the proposal rules had to have
14 started sometime in '10 -- 2010, correct?

15 A. Okay. This is coming back to me now.
16 June 30th, 2010, is the date on which the Staff provided its
17 proposed rules to the Commission.

18 Q. Okay. And you heard the testimony yesterday
19 that it took Ameren approximately 18 months to put its IRP
20 filing together?

21 A. Yes.

22 Q. Okay. So if the DSM portion of the filing was
23 done before June 1st of '10, the company wouldn't have even
24 seen the proposed first version of the MEEIA rules, right?

25 A. Right. Actually, June 30th.

1 Q. Right. So on June 29th, they wouldn't have
2 seen them?

3 A. Correct.

4 Q. And of course those rules changed between
5 proposal date and the final rules that were adopted by the
6 Commission, did they not?

7 A. Correct.

8 MS. TATRO: Thank you, Mr. Rogers.

9 JUDGE WOODRUFF: All right. Questions from
10 the bench, Commissioner Jarrett?

11 COMMISSIONER JARRETT: Good morning,
12 Mr. Rogers, how are you this morning?

13 THE WITNESS: I'm fine.

14 COMMISSIONER JARRETT: Good. I don't have any
15 questions. Thank you.

16 JUDGE WOODRUFF: Commissioner Kenney?

17 EXAMINATION

18 QUESTIONS BY COMMISSIONER KENNEY:

19 Q. Good morning, Mr. Rogers.

20 A. Good morning.

21 Q. I just have one question. Do you have an
22 opinion about whether the lost revenue recovery mechanism is
23 the optimum means of addressing the so-called throughput
24 disincentive?

25 A. You broke up a little bit, I want to be sure I

1 understand your question.

2 Q. Do you have any opinion about whether the -- a
3 lost revenue recovery mechanism is the optimum means of
4 addressing the so-called throughput disincentive?

5 A. Are you asking that question in the context of
6 the MEEIA rules?

7 Q. In the context of the MEEIA rules? Yeah. Or
8 not. Just in general, just in the matter of general
9 philosophy or public policy.

10 A. I'm going to get out on a limb here, I guess,
11 but no, my personal opinion is the decoupling is the optimum
12 solution to the throughput disincentive.

13 Q. Okay.

14 COMMISSIONER KENNEY: That's all I had. Thank
15 you.

16 EXAMINATION

17 QUESTIONS BY JUDGE WOODRUFF:

18 Q. I do have one question for you and it's just
19 to define a term for me. Everyone's been talking about the
20 "throughput disincentive," but nobody on the record has said
21 what it is. Can you define it for me?

22 A. Okay. The throughput disincentive, as the
23 utility promotes energy efficiency programs, to the extent
24 the customer's engaged, there's a reduction in the level of
25 sales. The reduction in sales results in a reduction of

1 revenue, which under our existing rate-making process, due to
2 regulatory lag, there's a loss in revenue that is not
3 recoverable until the next rate case. And that's the
4 disincentive that the utility experiences.

5 JUDGE WOODRUFF: Okay. Thank you.

6 Recross based on questions from the bench,
7 beginning with NRDC.

8 MR. ROBERTSON: Nothing, Judge.

9 JUDGE WOODRUFF: MIEC?

10 MS. ILES: No, Your Honor.

11 JUDGE WOODRUFF: DNR?

12 MS. FRAZIER: No, Your Honor.

13 JUDGE WOODRUFF: Public Counsel?

14 RECROSS-EXAMINATION

15 QUESTIONS BY MR. MILLS:

16 Q. Mr. Rogers, when you mentioned decoupling in
17 your answer, there are a lot of different ways that you can
18 implement decoupling, are there not?

19 A. Yes, there are.

20 Q. And some, I assume, from your perspective are
21 better than others, correct?

22 A. Yes.

23 MR. MILLS: That's all I have.

24 JUDGE WOODRUFF: All right. For Ameren?

25 MS. TATRO: I have just a couple.

REDIRECT EXAMINATION

QUESTIONS BY MS. TATRO:

Q. Commissioner Kenney asked you about the optimal way to deal with throughput disincentive, and you indicated that your personal opinion was decoupling. Do you remember that line of questioning?

A. Yes.

Q. Is the utility -- is Ameren Missouri allowed to propose decoupling in order to deal with energy efficiency effects at this point in time?

A. It's my understanding that decoupling is not allowed in Missouri.

Q. Okay. Do you know if the MEEIA statute addresses that issue?

A. No, it does not.

Q. Okay. Do you think decoupling is a rate design modification?

A. That's a possibility. I mean, that's part of our discussion in the workshop process that's been initiated.

Q. Does Staff have a position on that?

A. No.

Q. And if anyone in Staff would know -- I mean, you're the right person to ask on that question, right?

A. Probably not.

Q. Who would be the right person to ask on that?

1 A. Probably someone in general counsel.

2 Q. Okay. Do you agree with me that the MEEIA
3 statute says a rate design modification associated with
4 demand-side cost recovery can't happen until the Commission
5 has a docket studying it and promulgates an appropriate rule?

6 A. That's my -- yes.

7 Q. Okay. Now, in answer to the question that was
8 posed to you by Judge Woodruff, you said the throughput
9 disincentive is -- and I'm paraphrasing a little bit, so make
10 sure you agree with how I say this -- there's a loss in
11 revenue because of the energy efficiency programs until the
12 next rate case?

13 A. Correct.

14 Q. Okay. Now you agree with me in a rate case,
15 billing units are reset?

16 A. Yes.

17 Q. And so moving forward, if everything else is
18 equal, the billing units are going to go down because of the
19 energy efficiency programs you've had over the past -- in
20 between that rate case and the previous one?

21 A. All else equal, that's true.

22 Q. Now the revenue that the company lost during
23 that time frame between the two rate cases, you're not
24 implying that that revenue is somehow made up?

25 A. No, I'm not.

1 Q. So that's lost forever?

2 A. Yes.

3 Q. Okay. And moving forward, the billing unit
4 adjustment, does that capture all of the energy efficiency
5 effects?

6 A. Repeat your question, please.

7 Q. Well, let me ask it a different way. Let's
8 say the end of the test year is December and a customer
9 implements an energy efficiency measure in November. Are the
10 billing units that are set in the next rate case going to --
11 they're only going to include that one month of energy
12 efficiency between November and December, correct?

13 A. Correct.

14 Q. So it may take a couple cases to fully work
15 its way through, correct?

16 A. That's correct.

17 Q. Okay.

18 MS. TATRO: Thank you.

19 JUDGE WOODRUFF: Redirect?

20 MR. WILLIAMS: Thank you, Judge.

21 REDIRECT EXAMINATION

22 QUESTIONS BY MR. WILLIAMS:

23 Q. I think I'll start with the last few questions
24 Ms. Tatro was directing toward you. She presented a
25 hypothesis where all other things are equal between rate

1 cases except there's energy efficiency and that causes
2 underrecovery because billing units are fixed. Are all other
3 things ever the same between rate cases?

4 A. No.

5 Q. And turning to the -- do you remember that
6 Ms. Tatro asked you some questions about how Ameren Missouri
7 currently recovers for the demand-side management programs?

8 A. Yes.

9 Q. You referred to a regulatory asset, did you
10 not?

11 A. Yes.

12 Q. Does the company earn a return on that
13 regulatory asset?

14 A. Yes, they do.

15 Q. And at what rate does it earn that return, if
16 you know? And I'm looking in descriptive as opposed to
17 necessarily a particular number.

18 A. I believe it's at the cost of capital, but I'm
19 not sure.

20 Q. Well, while the regulatory asset is sitting
21 there before it's amortized, do you know what rate -- the
22 type of rate of return it is given on it?

23 A. I believe it's AFUDC, but again, I'm not sure.

24 Q. And in that regulatory asset, are only
25 demand-side program costs included?

1 A. Those are the only costs that I'm familiar
2 with.

3 Q. Who decides when Ameren Missouri makes a MEEIA
4 filing?

5 A. Ameren Missouri does.

6 Q. And when is it that MEEIA became law, if you
7 know?

8 A. It was late August of 2009, August 28th or
9 29th, 2009.

10 MR. WILLIAMS: No further questions.

11 JUDGE WOODRUFF: Okay. Mr. Rogers, you can
12 step down. Then we'll move to DNR's witnesses.

13 MS. FRAZIER: Thank you, Your Honor. Before
14 we get started, I would like to introduce into evidence
15 several exhibits from witnesses that were waived and also our
16 report and comments --

17 JUDGE WOODRUFF: Okay.

18 MS. FRAZIER: -- which have been premarked as
19 Exhibit 18, which is the MDNR report.

20 JUDGE WOODRUFF: Uh-huh.

21 MS. FRAZIER: Exhibit 19 is the MDNR GDS
22 report; Exhibit 20 --

23 JUDGE WOODRUFF: What's GDS?

24 MS. FRAZIER: I'm sorry, that is our -- GDS
25 Associates is the name of the ST submitting on behalf of the

1 Department of Natural Resources.

2 JUDGE WOODRUFF: Thank you.

3 MS. FRAZIER: Exhibit 20 is rebuttal testimony
4 of -- and for these testimonies, I believe the court reporter
5 included if there was an HC version together with the NP
6 version.

7 JUDGE WOODRUFF: Right.

8 MS. FRAZIER: So John Davaulis,
9 D-a-v-a-u-l-i-s.

10 JUDGE WOODRUFF: And that was NP and HC both?

11 MS. FRAZIER: Yes.

12 JUDGE WOODRUFF: Okay.

13 MS. FRAZIER: Exhibit 21 is rebuttal testimony
14 of Richard Hassleman; Exhibit 22 is rebuttal testimony of Bob
15 Fratto; and Exhibit 24 is rebuttal testimony of Brian Smith.
16 And I would like to move those into evidence.

17 JUDGE WOODRUFF: Let me get this: 19 was the
18 GDS report; 18 was the DNR's comments; 20-HC and NP was
19 Davaulis rebuttal; 21 was Hassleman rebuttal; 22 is Fratto
20 rebuttal; and 24 is Smith rebuttal. Did we have a 23?

21 MS. FRAZIER: I do, that is for John Noellert,
22 who is here today.

23 JUDGE WOODRUFF: Okay. All right. 18, 19,
24 20-HC and NP, 21, 22, and 24 have been offered. Are there
25 any objections to their receipt? Hearing none, they will be

1 received.

2 (MDNR EXHIBIT NUMBERS 18, 19, 20-HC, 20-NP,
3 21, 22 AND 24 WERE RECEIVED INTO EVIDENCE BY JUDGE WOODRUFF.)

4 MS. FRAZIER: Thank you, and I would call John
5 -- Adam Bickford for the Department of Natural Resources.

6 (The witness was sworn.)

7 JUDGE WOODRUFF: Thank, you may inquire.

8 MS. FRAZIER: Thank you.

9 DIRECT EXAMINATION

10 QUESTIONS BY MS. FRAZIER:

11 Q. Would you please state your full name and
12 spell your last name for the court reporter?

13 A. It's Adam Bickford, B, as in boy,
14 i-c-k-f-o-r-d.

15 Q. And where are you employed and in what
16 capacity?

17 A. I'm a research analyst for the Missouri
18 Department of Natural Resources, Division of Energy.

19 Q. And are you testifying for the Department of
20 Natural Resources in this case?

21 A. Yes, I am.

22 Q. Are you the same Adam Bickford that caused --
23 that prepared or caused to be prepared rebuttal testimony
24 marked Exhibit 25 and surrebuttal testimony marked
25 Exhibit 27?

1 A. Yes.

2 Q. And was the testimony just described prepared
3 by you or under your supervision?

4 A. Yes.

5 Q. Do you have any changes or revisions to any of
6 your filed testimony?

7 A. No.

8 Q. If I ask you the same questions as they appear
9 in your testimony, would your answers be the same today?

10 A. Yes.

11 Q. And are your answers true and correct to the
12 questions asked?

13 A. Yes.

14 MS. FRAZIER: I'd like to move the entry of
15 Exhibits 25 and 27 into the record in this case, and I tender
16 the --

17 JUDGE WOODRUFF: All right. 25 is rebuttal,
18 correct?

19 MS. FRAZIER: Correct.

20 JUDGE WOODRUFF: And 27 was surrebuttal?

21 MS. FRAZIER: That is correct.

22 JUDGE WOODRUFF: 25 and 27 have been offered,
23 any objection to their receipt? Hearing none, they will be
24 received.

25 (MDNR EXHIBIT NUMBERS 25 AND 27 WERE RECEIVED

1 INTO EVIDENCE BY JUDGE WOODRUFF.)

2 MS. FRAZIER: And I tender the witness for
3 cross-examination.

4 JUDGE WOODRUFF: Thank you. And for cross, we
5 begin with Staff.

6 MR. WILLIAMS: No questions.

7 JUDGE WOODRUFF: NRDC?

8 MR. FISK: No questions, we waived cross.

9 JUDGE WOODRUFF: All right. MIEC?

10 MS. ILES: No questions.

11 JUDGE WOODRUFF: Public Counsel?

12 MR. MILLS: No questions.

13 JUDGE WOODRUFF: Ameren?

14 MS. TATRO: No questions.

15 JUDGE WOODRUFF: All right. We'll come up
16 with questions for the bench. Commissioner Jarrett?

17 COMMISSIONER JARRETT: I don't have any
18 questions. Thank you.

19 JUDGE WOODRUFF: Commissioner Kenney?

20 COMMISSIONER KENNEY: No, thank you. Thanks
21 for your time.

22 JUDGE WOODRUFF: No need for recross, no need
23 for redirect, and Mr. Bickford, you can step down.

24 THE WITNESS: Thank you.

25 MS. FRAZIER: Do we need to go through the

1 same process?

2 MS. TATRO: We don't have any questions.

3 MR. WILLIAMS: We don't have any questions
4 either.

5 MS. TATRO: We can waive his testimony.

6 MS. FRAZIER: I'd be happy to just move his
7 testimony into the record.

8 JUDGE WOODRUFF: Commissioners, do you have
9 any questions for Mr. Noellert?

10 COMMISSIONER KENNEY: No, thank you.

11 JUDGE WOODRUFF: All right. If you'd just
12 like to offer his evidence.

13 MS. FRAZIER: Sure, I'd be happy to save
14 everyone the time by offering Exhibit 23, which is revised
15 rebuttal testimony of John Noellert, and Exhibit 26, which is
16 surrebuttal testimony. And those are both -- also have HC as
17 well.

18 JUDGE WOODRUFF: Both of them?

19 MS. FRAZIER: I believe so, yes.

20 JUDGE WOODRUFF: All right. 23-HC and NP was
21 the revised; 26-HC and NP was the Noellert surrebuttal.
22 They've been offered, any objections to their receipt?
23 Hearing none, they will be received.

24 (MDNR EXHIBIT NUMBERS 23-HC, 23-NP, 26-HC AND
25 26-NP WAS RECEIVED INTO EVIDENCE BY JUDGE WOODRUFF.)

1 MS. FRAZIER: Thank you.

2 JUDGE WOODRUFF: And I believe that was
3 everything for DNR then.

4 MS. FRAZIER: Yes.

5 JUDGE WOODRUFF: Move on, then, to Public
6 Counsel and Mr. Kind.

7 MS. TATRO: We might be able to do the same
8 thing again. We don't have any questions for Mr. Kind.

9 MR. MILLS: Well, Mr. Kind does have some
10 corrections, so I'll do that on the record, and I've got some
11 exhibits to mark.

12 (The witness was sworn.)

13 MR. MILLS: First I've got the review of the
14 UE Rate of Resource plan filed on June 23rd, 2011.

15 JUDGE WOODRUFF: That will be 42.

16 MR. BYRNE: What is that, Lewis?

17 MR. MILLS: That's the first report that we
18 filed on June 23rd.

19 (EXHIBIT NUMBER 42 WAS MARKED FOR
20 IDENTIFICATION BY THE COURT REPORTER.)

21 MR. MILLS: And then the second report filed
22 on the same date.

23 JUDGE WOODRUFF: That will be 43.

24 (EXHIBIT NUMBER 43 WAS MARKED FOR
25 IDENTIFICATION BY THE COURT REPORTER.)

1 MR. MILLS: I've got rebuttal testimony of
2 Dr. Thomas Vitolo, both NP and HC versions.

3 JUDGE WOODRUFF:

4 (EXHIBIT NUMBERS 44-HC AND 44-NP WERE MARKED
5 FOR IDENTIFICATION BY THE COURT REPORTER.)

6 MR. MILLS: And Dr. Vitolo has corrections to
7 one of the schedules to his testimony, which is unfortunately
8 an HC schedule, so I've got NP and HC versions of the
9 corrected schedule.

10 (EXHIBIT NUMBERS 45-HC AND 45-NP WERE MARKED
11 FOR IDENTIFICATION BY THE COURT REPORTER.)

12 MR. MILLS: And then for 46 is an explanation
13 that Dr. Vitolo gave in a data request response to AmerenUE
14 that explains the corrections and the support.

15 (EXHIBIT NUMBER 46 WAS MARKED FOR
16 IDENTIFICATION BY THE COURT REPORTER.)

17 JUDGE WOODRUFF: And Mr. Mills, 45 and 46,
18 have they been pre-filed?

19 MR. MILLS: They have not.

20 JUDGE WOODRUFF: Can we get a copy for the
21 bench?

22 MR. MILLS: Yes.

23 MS. TATRO: I have a question about 46. It
24 refers to a table. Is that what 45 is?

25 MR. MILLS: Yes. And then I have the rebuttal

1 testimony of Tim Wolfe.

2 JUDGE WOODRUFF: And that will be 47.

3 (EXHIBIT NUMBER 47 WAS MARKED FOR
4 IDENTIFICATION BY THE COURT REPORTER.)

5 MR. MILLS: And finally the rebuttal testimony
6 of Ryan Kind.

7 JUDGE WOODRUFF: That will be 48.

8 (EXHIBIT NUMBER 48 WAS MARKED FOR
9 IDENTIFICATION BY THE COURT REPORTER.)

10 JUDGE WOODRUFF: And you're offering those at
11 this time?

12 MR. MILLS: Yes, please.

13 JUDGE WOODRUFF: 42 is the June 23rd report;
14 43 is the second June 23rd report; 44-HC and NP is Vitolo
15 rebuttal; 45-HC and NP is the corrections of Vitolo; and 46
16 is Vitolo's explanation of his corrections; 47 is Wolfe's
17 rebuttal; and 48 is Kind rebuttal.

18 MR. MILLS: Correct, and I'd like to offer all
19 those exhibits at this time.

20 JUDGE WOODRUFF: All right. Any objections to
21 receipt of those documents?

22 MS. TATRO: I thought Mr. Lewis [sic] had
23 indicated that Mr. Kind needed to make corrections.

24 MR. MILLS: I am going to go through
25 corrections with Mr. Kind. If you want, I can wait and offer

1 his separately.

2 JUDGE WOODRUFF: We'll, wait on Mr. Kind then.
3 42, 43, 44, 45, 46 and 47 are received.

4 (EXHIBIT NUMBERS 42, 43, 44, 45, 46, AND 47
5 WERE RECEIVED INTO EVIDENCE BY JUDGE WOODRUFF.)

6 JUDGE WOODRUFF: And you can inquire of your
7 witness.

8 DIRECT EXAMINATION
9 QUESTIONS BY MR. MILLS:

10 Q. Could you state your name for the record,
11 please?

12 A. Ryan Kind.

13 Q. And by whom are you employed and in what
14 capacity?

15 A. I'm employed by the Missouri Office of the
16 Public Counsel as the chief energy economist.

17 Q. And are you the same Ryan Kind who caused to
18 be filed in this case rebuttal testimony?

19 A. Yes, I am.

20 Q. And do you have any corrections to that
21 testimony?

22 A. Yes, I have just one correction. On page 8 of
23 my rebuttal testimony, in line 11, there's a percentage at
24 the end of line 11 in my testimony that is 7.3 percent, and
25 7.3 percent should be deleted and replaced with 25.7 percent.

1 That's the only correction I have.

2 Q. And that correction ties to the correction
3 that we just made to Mr. -- to Dr. Vitolo's testimony,
4 correct?

5 A. Yes.

6 Q. With that correction, would the answers that
7 you gave in your testimony be true and correct if I asked
8 them here today?

9 A. Yes, they would.

10 MR. MILLS: Judge, with that, I offer
11 Mr. Kind's testimony, and to the -- I believe everyone's
12 waived cross-examination on him, but as long as he's there,
13 I'll offer him for cross-examination anyway.

14 JUDGE WOODRUFF: All right. 48 has been
15 offered, any objection to its receipt?

16 (EXHIBIT NUMBER 48 WAS RECEIVED INTO EVIDENCE
17 BY JUDGE WOODRUFF.)

18 JUDGE WOODRUFF: Anyone wish to cross-examine
19 Mr. Kind? I see no questions. Questions, Commissioner
20 Jarrett?

21 COMMISSIONER JARRETT: I don't have any
22 questions. Thank you, Mr. Kind.

23 JUDGE WOODRUFF: Commissioner Kenney?

24 COMMISSIONER KENNEY: No questions. Thank
25 you, Mr. Kind.

1 JUDGE WOODRUFF: Okay. Then Mr. Kind, you can
2 step down.

3 JUDGE WOODRUFF: And I believe that's all the
4 witnesses. Anyone else -- anything else anyone wants to
5 offer? I do want to go through the numbers here. I notice
6 Number 7 was apparently marked by somebody but never offered.
7 Does anyone have a Number 7? Because UE's Numbers 1 through
8 6, and Staff started with 8, so there may just be a gap in
9 there.

10 MS. TATRO: We didn't mark anything.

11 JUDGE WOODRUFF: Okay. We'll not worry about
12 7 then. And it looks like everything else has come in.

13 MS. FRAZIER: Excuse me, Your Honor. I have a
14 missing blank for 38. Can I get some clarification?

15 JUDGE WOODRUFF: 38 was comments and affidavit
16 by Greenbelt.

17 MS. FRAZIER: Thank you.

18 JUDGE WOODRUFF: Anything else? As we
19 discussed yesterday, the briefing schedule was January 20th
20 for initial briefs and February 21st for reply briefs. I'll
21 issue a notice to formally put that in the record also.
22 Anything else anyone wants to bring up? Then we are
23 adjourned. Thank you.

24

25

1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI)

) ss:

3 COUNTY OF GASCONADE)

4

5 I, JENNIFER L. LEIBACH, Registered Professional

6 Reporter, Certified Court Reporter, CCR #1108, and Certified

7 Realtime Reporter, the officer before whom the foregoing

8 matter was taken, do hereby certify that the witness/es whose

9 testimony appears in the foregoing matter was duly sworn;

10 that the testimony of said witness/es was taken by me to the

11 best of my ability and thereafter reduced to typewriting

12 under my direction; that I am neither counsel for, related

13 to, nor employed by any of the parties to the action in which

14 this matter was taken, and further that I am not a relative

15 or employee of any attorney or counsel employed by the

16 parties thereto, nor financially or otherwise interested in

17 the outcome of the action.

18

19 _____

20 Court Reporter

21

22

23

24

25

I N D E X

STAFF'S EVIDENCE

JOHN ROGERS:

Direct Examination by Mr. Williams	269
Cross-Examination by Mr. Mills	270
Cross-Examination by Ms. Tatro	274
Examination by Commissioner Kenney	284
Examination by Judge Woodruff	285
Recross-Examination by Mr. Mills	286
Recross-Examination by Ms. Tatro	287
Redirect Examination by Mr. Williams	289

MDNR'S EVIDENCE

ADAM BICKFORD:

Direct Examination by Ms. Frazier	293
-----------------------------------	-----

OFFICE OF THE PUBLIC COUNSEL'S EVIDENCE

RYAN KIND:

Direct Examination by Mr. Mills	300
---------------------------------	-----

1	EXHIBIT INDEX		
2		MARKED	RCV'D
3	Exhibit Number 11		
4	Staff's Report		
5	Exhibit Number 16		
6	Rebuttal Testimony of John Rogers		
7	Exhibit Number 17		
8	Surrebuttal Testimony of John Rogers		
9	Exhibit Number 18		293
10	MDNR Report		
11	Exhibit Number 19		293
12	MDNR GDS Report		
13	Exhibit Number 20-NP		293
14	Rebuttal Testimony of John Davaulis		
15	Non-Proprietary		
16	Exhibit Number 20-HC		293
17	Rebuttal Testimony of John Davaulis		
18	Highly Confidential		
19	Exhibit Number 21		293
20	Rebuttal Testimony of Richard Hassleman		
21	Exhibit Number 22		293
22	Rebuttal Testimony of Bob Fratto		
23	Exhibit Number 23-HC		296
24	Revised Rebuttal Testimony of John Noellert		
25	Highly Confidential		
26	Exhibit Number 23-NP		296
27	Revised Rebuttal Testimony of John Noellert		
28	Non-Proprietary		
29	Exhibit Number 24		293
30	Rebuttal Testimony of Brian Smith		
31	Exhibit Number 25		294
32	Rebuttal Testimony of Adam Bickford		

1	Exhibit Number 26-HC		296
2	Surrebuttal Testimony of John Noellert		
3	Highly Confidential		
3	Exhibit Number 26-NP		296
4	Surrebuttal Testimony of John Noellert		
4	Non-Proprietary		
5	Exhibit Number 27		294
6	Surrebuttal Testimony of Adam Bickford		
6	Exhibit Number 42	297	300
7	First Rate of Resource Plan		
8	Filed on 6/23/11		
8	Exhibit Number 43	297	300
9	Second Rate of Resource Plan		
10	Filed on 6/23/11		
10	Exhibit Number 44-HC	298	300
11	Rebuttal Testimony of Dr. Vitolo		
12	Highly Confidential		
12	Exhibit Number 44-NP	298	300
13	Rebuttal Testimony of Dr. Vitolo		
14	Non-Proprietary		
14	Exhibit Number 45-HC	298	300
15	Dr. Vitolo's Corrected Schedule		
16	Highly Confidential		
16	Exhibit Number 45-NP	298	300
17	Dr. Vitolo's Corrected Schedule		
18	Non-Proprietary		
18	Exhibit Number 46	298	300
19	Data Request Explanation		
20	Exhibit Number 47	299	300
21	Rebuttal Testimony of Tim Wolfe		
21	Exhibit Number 48	299	301
22	Rebuttal Testimony of Ryan Kind		
23			
24			
25			