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PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Public Hearing

April 6, 2010
Jefferson City, Missouri
Volume 1

In the Matter of a Proposed)
Rulemaking Regarding Electric)File No. EX-2010-0169
Utility Renewable Energy)
Standard Requirements)

NANCY DIPPELL, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE
ROBERT M. CLAYTON, III, CHAIRMAN,
JEFF DAVIS,
KEVIN GUNN,
ROBERT KENNEY,
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1 P R O C E E D I N G S

2 JUDGE DIPPELL: Good morning. Let's go ahead
3 and go on the record. This is Case No. EX-2010-0169 in
4 the matter of a proposed rule-making regarding electric
5 utility renewable energy standard requirements.

6 My name is Nancy Dippell. I'm the Regulatory
7 Law Judge assigned to this case. And we've come here
8 today for a comment hearing about the proposed rule. We
9 have a big crowd today. And so I just want to begin by
10 sort of taking a role call of sorts to see how many people
11 we might have that have additional comments.

12 I would ask that you not come up and read your
13 written comments if you filed them because we have those.
14 There may be some questions from the Commissioners for the
15 various people who have filed comments or for those of you
16 who come up to give additional comments. So I'm going to
17 sort of begin just at the front of the room and sort of go
18 around and find out who is here and who might have
19 comments today. So Staff?

20 MR. DOTTHEIM: The Staff has no additional
21 comments other than I just have a brief matter, very
22 brief, to address the Staff's comments that are as filed
23 yesterday. I would note that Staff, as I expect is
24 probably the case with the -- the other commenters,
25 haven't had a real chance to review all the comments that

1 -- that were filed yesterday.

2 JUDGE DIPPELL: Oh, and I did want to note we
3 did have several comments that were filed after 5 p.m. We
4 have a rule at the Commission that says that there is a
5 5 p.m. deadline, but I am waiving that rule with regard to
6 the comments for these hearings. So any comments that
7 were filed yesterday after 5 are -- are part of -- of this
8 record.

9 And there's also -- was also an issue with some
10 of the comments that were made in the public comments
11 folders. And I know that not everyone had access to those
12 comments. I'm trying to make sure that all of the
13 comments were moved into the actual docket sheet. Most of
14 those have been at this point.

15 It was also brought to my attention that a few
16 comments were placed in the original investigation docket.
17 And I will move those comments as well into the
18 rule-making docket, as well as the ones that were in the
19 public comments folders will be on the docket sheet so
20 that you will be able to see those.

21 All right. Let's keep going, then. Public
22 Counsel, will you have additional comments?

23 MR. MILLS: Judge, like Staff, we filed written
24 comments yesterday, and we are certainly happy to provide
25 Mr. Kind for questions from the Bench. We don't have any

1 prepared additional remarks that we need to make.

2 JUDGE DIPPELL: All right. Let's just go to the
3 bench behind Public Counsel there. I'll ask you to speak
4 into the microphone if you will, please.

5 MR. ROBERTSON: Henry Robertson for Renew
6 Missouri. I have no additional comments to make at this
7 time.

8 JUDGE DIPPELL: All right.

9 MR. WILSON: And I'm P.J. Wilson with Renew
10 Missouri. I have no additional comments at this time, but
11 I will later today.

12 JUDGE DIPPELL: All right.

13 MR. PARKER: Jason Parker. Do I have to hold
14 it?

15 MS. TATRO: No. You just turned it off, though.

16 MR. PARKER: I didn't touch it. Jason Parker
17 with Certified Solar Solutions. I do have some comments
18 today. As P.J., I'd like a little bit of time to get them
19 together.

20 MS. TATRO: Wendy Tatro on behalf of AmerenUE.
21 I have -- I would like the opportunity to give a short
22 opening comment. And I do have several witnesses here to
23 answer questions. Additionally, I have bought one
24 individual to give some live testimony.

25 MR. BOUDREAU: Good morning. Paul Boudreau on

1 behalf of Missouri Energy Development Association. As
2 you're aware, MEDA filed some prepared comments. With me
3 today is Warren Wood, President of MEDA. He will be
4 giving some sort -- short additional comments this
5 morning. And we'd like to reserve the right to offer
6 rebuttal comments depending on what else is -- may come up
7 for discussion today. Thank you.

8 MR. FISCHER: Jim Fischer on behalf of Kansas
9 City Power & Light and KCP&L Greater Missouri Operations
10 Company. I've got about maybe five or ten minutes of
11 comments. But I also have with me Brad Lutz, John
12 Grimwade and Tim Rush that would be available to answer
13 any questions from the Commission.

14 JUDGE DIPPELL: All right. Let's begin over
15 here on this side of the room, if you could either come
16 forward or speak loudly.

17 MS. HEISINGER: Kris Heisinger. And I represent
18 eight renewable energy companies, BP Wind Energy, enXco,
19 Gamesa, Iberdrola, Livenenergy, NextEra Energy, Tradewind
20 Energy and Wind Capital Group.

21 And we do have some comments. And I have also
22 brought with me Elliot Roseman who was with ICF who was
23 the consultant that did the modeling that we presented as
24 part of the comments in this.

25 JUDGE DIPPELL: All right.

1 MR. MITTEN: My name is Russ Mitten. I
2 represent the Empire District Electric Company. Empire
3 has filed substantive comments regarding the rule. And
4 Tim Wilson from the company is here to answer any
5 questions from the Bench. But I will have some
6 additional comments on behalf of the company in response
7 to comments that have been filed by at least some of the
8 other parties.

9 JUDGE DIPPELL: Okay.

10 MR. PROSE: Hello. My name is Vaughn Prose with
11 Missouri Solar Applications, and I have some comments I'd
12 like to make later today as I prepare my comments here.

13 JUDGE DIPPELL: All right.

14 MR. GLUECK: I'm Dane Glueck. I'm with Straight
15 Up Solar, and I am also President of Missouri Solar Energy
16 Industry Association and will speak on behalf of MOSEIA
17 with comments we've prepared.

18 JUDGE DIPPELL: And then let's just begin on the
19 -- oh, I'm sorry, Mr. Downey.

20 MR. DOWNEY: Edward Downey on behalf on of
21 Missouri Industry Energy Consumers. We did file written
22 comments, I believe, before 5:00. I'm not actually sure
23 of that. And I will present some brief comments today as
24 will Morris Brubaker who is also here on behalf of MIEC.

25 JUDGE DIPPELL: All right. On the front row of

1 the gallery? Is there anyone --

2 MR. FAIRBANK: Zeke Fairbank. I have to leave
3 by 1:30 today. And I'm with the Alternative Energy in
4 Springfield, Missouri. And I will have just a short
5 comment later this morning.

6 JUDGE DIPPELL: All right. On the second row,
7 is there anyone?

8 MR. HOLTZMAN: Jim Holtzman with Jim Holtzman
9 Architects and Clean Power Design, and I wanted to have
10 the opportunity to address the Commission very briefly to
11 elaborate on some written issues that that's we've already
12 made.

13 JUDGE DIPPELL: All right. Anyone else on the
14 second row? Third row?

15 MR. JONES: I'm Nathan Jones with Power Source
16 Solar out of Springfield, Missouri. I'm a MOSEIA member.
17 I would like to speak on behalf of my business group.

18 JUDGE DIPPELL: All right.

19 MS. EYZAGUIRRE: Claudia Eyzaguirre with the
20 Vote Solar Initiative, a national non-profit solar energy
21 policy design of 18 states around the nation. I submitted
22 comments and would like to take about five minutes of
23 testimony -- of comments this afternoon and am here to
24 answer any questions to talk about how solar programs
25 operate in neighboring states.

1 JUDGE DIPPELL: Can you tell me your name again?

2 I didn't quite --

3 MS. EYZAGUIRRE: Claudia Eyzaguirre with the
4 Vote Solar Initiative.

5 JUDGE DIPPELL: Thank you.

6 MS. KLEIN: Good morning, my name is Carla
7 Klein, and I would like to make a brief statement on
8 behalf of the Energy Savings Store.

9 JUDGE DIPPELL: All right.

10 MR. HUGHES: I'm Scott Hughes with the Laborers
11 International Union. Don't have any more comments other
12 than those submitted in writing.

13 JUDGE DIPPELL: Anyone on the next row? And
14 anyone else back in the back? Oh, I'm sorry.

15 MR. ENGLE: Matt Engle --

16 JUDGE DIPPELL: I'm sorry, sir. We can't hear
17 you.

18 MR. ENGLE: Matt Engle with EnXco. I just
19 wanted to mention we made some detailed comments
20 yesterday.

21 JUDGE DIPPELL: All right.

22 MR. CAIDO: I'm sorry. I didn't stand up quick
23 enough.

24 JUDGE DIPPELL: That's all right. Go ahead.

25 MR. CAIDO: My name is Buz Caido. Actually, I'm

1 I retired from the solar business. I was very much in the
2 solar industry and had a wholesale distribution company
3 here in St. Louis back in 1979 and started the company.
4 And I would like to -- currently retired from it, but very
5 interested in getting back into it. I'd like to reserve
6 the chance to make a comment after the hearing.

7 JUDGE DIPPELL: That's fine. I will always ask
8 at the end if there's anyone else. I just kind of wanted
9 to get an idea of how many we have. Is there anyone else
10 back in the back?

11 MR. RENTZ: Yeah. Henry Rentz, Missouri Valley
12 Renewable. I may have a comment depending on the content.

13 MS. ELAM: Jennifer Elam, U.S. Solar
14 Distributing, and I may have a comment.

15 JUDGE DIPPELL: And that was Jennifer Elam?

16 MS. ELAM: Yes.

17 JUDGE DIPPELL: Is there anyone else who knows
18 at this point that they want to speak? Okay. Then we're
19 going to -- what we'll do then is begin with Staff that
20 had the very brief comment they wanted to make.

21 When -- when you are called to speak, I'll ask
22 you if you'll come up to the podium, and I will swear you
23 in to give your testimony. And then you can give your
24 comments. There may be some questions from myself or
25 Commissioners. And we'll take it from there.

1 I think what we will do is, if everyone is in
2 agreement, since MEDA had asked if they could speak first,
3 I will allow that. I can't guarantee I'm going to let you
4 have rebuttal. But most likely, I will -- we will ask if
5 there is any additional comments.

6 And if we have time, we'll do that. We can go
7 late today if we need to and even continue things if we
8 have to. But -- and I will try to give -- I had one who
9 said he needs to leave at 1:30. I will try to accommodate
10 that as well. So let's go ahead and begin. Mr. Dottheim,
11 would you like to -- and, Mr. Dottheim, I'm going to swear
12 you in as well.

13 STEVE DOTTHEIM,
14 being first duly sworn to testify the truth, the whole
15 truth, and nothing but the truth, testified as follows:

16 JUDGE DIPPELL: Thank you. Go ahead.

17 MR. DOTTHEIM: Thank you.

18 JUDGE DIPPELL: You may want to adjust the
19 microphone there, Mr. Dottheim. Thank you.

20 TESTIMONY OF STEVE DOTTHEIM

21 MR. DOTTHEIM: I know Commissioners are aware
22 that a declaratory judgment action has been filed against
23 the Commission in Circuit Court by certain individuals and
24 an entity respecting Section 393.1050 of the statutes,

25 I just wanted to point out that the Staff did address

1 that matter in its comments and address that matter as it
2 applies to another statutory section, 393.1045. And I
3 would note for the Commissioners that I've attempted to
4 quickly flip through most of the filings from yesterday
5 and the Renew Missouri filings.

6 Although I don't know that the Renew Missouri
7 filing directly references the -- the suit that is
8 presently in Circuit Court of Cole County, it -- it does
9 raise the legal argument respecting Section 393.1050 that
10 is the subject matter of that declaratory judgment action.

11 In addition, it also addresses Section 393.1045.
12 The -- the Staff believes the significance of Section
13 393.1045 relates to the 1 percent cap. Other than Renew
14 Missouri, based upon my review to date, I'm not aware of
15 any other comments addressing any legal challenges to
16 Section 393.1050 or, for that matter, 393.1045, or even
17 393.1040.

18 And with that, I might -- might add, which I
19 didn't previously, that the -- with me today are Michael
20 Taylor and Mark Oligschlaeger of the technical staff of
21 the Commission, and they are prepared to answer any
22 questions Commissioners may have in the context of the
23 hearing today on technical matters. They in particular
24 are responsible for having prepared the -- the comments
25 that the Staff filed yesterday. Thank you.

1 JUDGE DIPPELL: Are there any -- are there any
2 questions from the Commissioners for Mr. Dottheim at this
3 point? Mr. Chairman?

4 CHAIRMAN CLAYTON: I have -- I have questions.
5 Did -- and I was looking down. Are we going to have
6 access to Mr. Taylor, also?

7 MR. DOTTHEIM: Yes. Yes. Both Mr. Taylor and
8 Mr. Oligschlaeger.

9 CHAIRMAN CLAYTON: I do have some legal
10 questions that I wanted to pose to Mr. Dottheim if that
11 would be okay. I wanted to ask, from Staff's perspective,
12 how many sections of the rule will be affected depending
13 on the lawsuit that has been filed and perhaps an argument
14 that would carry over to the conflict between the
15 different legislative proposals that are out there?

16 So while the lawsuit focuses on the Empire
17 exemption, from Staff's perspective, can you identify how
18 many areas that are -- that may be called into question
19 depending on the Court's ruling?

20 MR. DOTTHEIM: I -- I think Section 393.1045 and
21 potentially 393.1040, in addition to 393.1050. Certainly,
22 393.1050 is the section that is directly affected by the
23 pending declaratory judgment action in Cole County Circuit
24 Court. I don't know that the -- the plaintiffs in -- in
25 Circuit Court needed to raise any issues respecting either

1 393.1045 or -- or 393.1040.

2 COMMISSIONER CLAYTON: I -- I saw that in your
3 comments. So, basically, sections -- or subsections 10 --
4 I'm going to say 1040, 1045 and 1050, I believe. But I
5 think my question was particularly looking back at -- to
6 the -- the appendix of Staff's comments. How many of the
7 actual rule sections would be affected by -- if you assume
8 that those sections were no longer in existence or had
9 been repealed?

10 MR. DOTTHEIM: Well, I think -- I think we
11 addressed that in the comments. There -- there are -- and
12 I include as part of the comments the -- the cover
13 pleading. There -- there are sections in the rule that
14 presently make direct reference to 393.1050 and 393.1045.

15 I -- the Commission's General Counsel, with the
16 comments that he filed on March 31, he addressed Section 9
17 of the Proposed Rule 4 CSR 240-20.100.

18 In Section 11, there is a reference to 393.1050
19 that needs to be addressed if the Commission finds or has
20 any reason to believe that 393.1050 is repealed or
21 unconstitutional or has some legal infirmity. And the
22 Staff has some proposed language in its comments to
23 address that. The Staff has also attempted to identify
24 what sections of the rule directly reference 393.1045.

25 Now, the Staff views Section 393.1045 going to

1 an issue which the Commissioners are familiar with because
2 Commissioners have grappled with that issue in its agenda
3 sessions, and that's the -- that's the cumulative versus
4 incremental issue.

5 So the -- the Staff thinks it has identified
6 that -- that issue in -- in its -- in its comments and
7 hopefully has done so in a manner that has highlighted for
8 the Commission what sections it needs to deal with.

9 I -- I would note that the one other thing that
10 I might suggest that Commissioners will possibly want to
11 take a look at is in 393.1045, the very last sentence.
12 And -- and I think the rule deals -- or the proposed rule
13 deals with this sentence, and the sentence is, "Solar
14 rebates shall be included in the 1 percent rate cap
15 provided for in this section."

16 I -- I don't believe there is anything of that
17 explicit nature in Proposition C. So that's, I think, the
18 one other thing in 393.1045 that Commissioners want to
19 keep their eye on.

20 COMMISSIONER CLAYTON: Mr. Dottheim, I don't
21 think I have any other questions for you. I may pose some
22 questions to other Staff witnesses. But I had to note
23 that I couldn't help but notice here this morning the
24 swagger as you approached the podium on your part with a
25 sense of pride that the New Blue Devils were triumphant

1 over a scrappy young team from Indiana.

2 MR. DOTTHEIM: Oh.

3 CHAIRMAN CLAYTON: And I think on the record we
4 ought to congratulate a Duke graduate for a fine victory
5 and fourth national championship.

6 MR. DOTTHEIM: Why, thank you. I'm not sure --
7 you may be the only one in the room who might want to
8 extend congratulations, but thank you.

9 JUDGE DIPPELL: Are there other questions for
10 Mr. Dottheim?

11 MR. GUNN: I have -- I have one, and it involves
12 incremental and cumulative thing. I'm pretending Butler
13 actually won rather -- rather than Duke.

14 So -- I -- I'm going to ask you a hypothetical.
15 And I know it's -- it -- if you don't feel comfortable
16 answering it, feel free to say that. And I'm trying to
17 figure out this 1 percent rate cap in my head.

18 And when a electric utility comes in for a rate
19 case, for example, and they say -- they propose or they
20 request, say, a -- a 10 percent increase in -- in
21 electricity rates, and then through the proceeding, the
22 Commission issues an order which grants them, let's say,
23 half of that or 5 -- 5 percent increase in rates, and in
24 that Report and Order, the Commission has a finding that
25 the renewable piece of this rate is -- equals less than 1

1 percent. Does that satisfy the requirements of 393.1045
2 where we've done an evidentiary finding? And -- and if we
3 -- if we could do that and continue to do that, does the
4 -- does the incremental or cumulative approach actually
5 make that much of a difference if in our -- in our Report
6 and Order that we have a finding that the renewable piece
7 of that -- that entire rate impact is -- is less than the
8 1 percent? Again, you may not be able to answer it. It's
9 -- I'm just trying to --

10 MR. DOTTHEIM: Yeah. Well, I'm going to try to
11 answer it in some respect, but I'm also going to direct it
12 to Mr. Oligschlaeger and -- in particular and Mr. Taylor
13 if he wants to address it.

14 I think the -- the 1 percent cap is -- is not
15 necessarily addressed to the rate increase case. It's --
16 it's addressed to the -- the hypothetical that's provided
17 for in the rule that must be reviewed by the Commission as
18 far as a -- a generating system of the utility without
19 renewables, with no renewables and a generating system
20 with renewables. So I -- I don't think you can tie it
21 just to our -- or to the rate increase case.

22 JUDGE DIPPELL: Let me swear you in,
23 Mr. Oligschlaeger.

24 MARK OLIGSCHLAEGER,
25 being first duly sworn to testify the truth, the whole

1 truth, and nothing but the truth, testified as follows:

2 TESTIMONY OF MARK OLIGSCHLAEGER

3 JUDGE DIPPELL: And you might want to spell your
4 name for the court reporter, please.

5 MR. OLIGSCHLAEGER: Certainly. My name is Mark
6 Oligschlaeger. Last name is O-l-i-g-s-c-h-l-a-e-g-e-r.

7 JUDGE DIPPELL: And why don't you go ahead and
8 tell us your position at the Commission?

9 MR. OLIGSCHLAEGER: I'm a regula -- Utility
10 Regulatory Auditor within the Auditing Department at the
11 Commission Staff.

12 JUDGE DIPPELL: Go ahead.

13 MR. OLIGSCHLAEGER: And I -- I think
14 Mr. Dottheim stated it fundamentally correct. The retail
15 rate impact cap of 1 percent is not, per se, a measurement
16 of actual rate impact on customers. And that is because
17 the RRI is a comparison between an actual revenue
18 requirement compliant with the RES standards. And a
19 hypothetical revenue requirement, which, among other
20 things, assumes no pre-existing renewable energy
21 resources, as I understand it.

22 Now, in actuality, electric companies in
23 Missouri already have a level of renewable energy
24 resources in their portfolio. So you're measuring against
25 a hypothetical cost base that does not exist in reality.

1 The long and short of it is -- and this -- this could take
2 probably a long time to thoroughly hash out and discuss --
3 is application of the RRI cap will not necessarily mean
4 actual rate increases will be limited to 1 percent. They
5 may be higher than 1 percent. They may be less than the 1
6 percent measurement of the RRI.

7 So in a rate case, if you're in a position where
8 you issue an order and you want to identify the impact of
9 renewables or the RES rule-making they're within, you
10 could either state it in the context of the RRI or you can
11 state it in actual rate impact.

12 COMMISSIONER GUNN: When you pull -- when you
13 create the hypothetical and you pull out basically the
14 existing renewable generation, would you do that for hydro
15 -- current hydro as well, or would you -- would that also
16 -- would that -- because of the prophecy is the new hydro?
17 Would that be considered a -- a non-renewable resource for
18 the hypothetical case?

19 MR. OLIGSCHLAEGER: Mr. Taylor can step in if I
20 state anything incorrect. But I think the rules
21 themselves limit hydro to certain -- only certain types of
22 hydro under certain conditions are considered renewable.

23 COMMISSIONER GUNN: Right.

24 MR. OLIGSCHLAEGER: If companies already have
25 hydro in their portfolio, but they do not meet the

1 renewable standards, then I believe you would leave those
2 in the base scenario.

3 COMMISSIONER GUNN: And the hypothetical base
4 scenario is utility specific. So there will be -- there
5 will be a hypothetical base case for Ameren. There will
6 be a separate hypothetical base case for Kansas City
7 Power, KCP&L. There will be a third for -- for Empire.
8 Or is there a single hypothetical under which -- under
9 which this is measured?

10 MR. OLIGSCHLAEGER: My understanding is there
11 would be separate hypotheticals for each company.

12 COMMISSIONER GUNN: Okay. Thank you. I don't
13 have anything else unless Mr. Taylor wants to chime in.

14 JUDGE DIPPELL: Okay. I have one further
15 question for Mr. Dottheim when --

16 MR. OLIGSCHLAEGER: Excuse me. My counsel
17 advises me to make sure when I use the word RRI, that
18 stands for Retail Rate Impact.

19 TESTIMONY OF STEVE DOTTHEIM

20 JUDGE DIPPELL: Okay. Thank you. And,
21 Mr. Dottheim, I have one question to ask you on behalf of
22 Commissioner Davis who couldn't be here. He says Section
23 536.014 sets out JCAR's comments, the Joint Committee on
24 Administrative Rules' statutory authority for rejecting
25 administrative rules. One of the reasons is a conflict

1 with a statute. Do you see anything in the rule as it's
2 currently drafted that conflicts with any statute?

3 MR. DOTTHEIM: Well, yes. The 393.1050 and
4 393.1045, the argument is that those two sections conflict
5 with subsections of 393.1030. And that's addressed in the
6 Staff's comments. Since -- since 393.1040 and 393.1050
7 were passed by the General Assembly and became law as part
8 of laws 2008, the argument is that they are in conflict
9 with Proposition C. Specific subsections are -- or
10 they're in conflict by implication. So --

11 JUDGE DIPPELL: And which portions of the rule,
12 then, would be in conflict with which of those statutory
13 sections? Or is that addressed fully in your comments?

14 MR. DOTTHEIM: That's -- that's addressed in the
15 -- in the Staff's -- in the Staff's comments. In
16 particular, the -- for -- there is specific language
17 respecting the 1 percent cap in Proposition C, and there
18 is specific language in 393.1045, which, arguably, are
19 inconsistent that are arguably in direct conflict with
20 each other as far as 393.1050, the declaratory judgment
21 action argues that Proposition C repealed by implication
22 393.1050 and -- and cited statutory sections.

23 JUDGE DIPPELL: So as it stands now, the
24 sections of the rule that would conflict with one of those
25 statutes as they stand would be the part dealing with the

1 1 percent cap?

2 MR. DOTTHEIM: That's -- that's for the
3 393.1045, but not for the 393.1050. The 393.1050 is the
4 exemption section which, in actuality, only applies to the
5 Empire District Electric Company. And the declaratory
6 judgment action asserts that there was -- there are three
7 counts in the declaratory judgment action in Cole County
8 Circuit Court.

9 Count 1 is that there is a lack of legislative
10 authority. Count 2 is that there -- it was repealed by
11 implication. And Count 3, that Section 393.1050 is an
12 unconstitutional special law.

13 JUDGE DIPPELL: And -- and I understand that,
14 and we do have those in your comments. I think what the
15 Commissioner's question was, as it stands now with those
16 statutes in conflict perhaps, and -- and the rule as it's
17 written, do you -- can you cite the provisions of the rule
18 that conflict with a statute? Is that set out in Staff's
19 comments as well?

20 MR. DOTTHEIM: Well, it would be -- I -- we
21 don't liter -- other than identifying the sections of the
22 Commission's rule in addition to the section which the
23 Commission's General Counsel identified, which is -- which
24 is Section 9, the Staff has identified Section 11, which
25 directly references 393.1050, and Staff identifies a

1 number of sections in the rule that identifies 393.1045.

2 The rule, also, as presently drafted, adopts the
3 incremental approach. The Staff believes that 393.1045 is
4 based on the incremental approach, that the language in
5 393.1045 is, at least in part, what is being asserted as
6 the basis for the incremental approach.

7 The Staff believes that Proposition C is, at
8 least as far as the language in Proposition C, is support
9 for the basis of the cumulative approach. So the Staff
10 believes that if the Commission were to adopt and rewrite
11 the rule to reflect the cumulative approach rather than
12 the incremental approach, problems regarding Section
13 393.1045 would be addressed by doing so.

14 JUDGE DIPPELL: Okay. Thank you. Mr. Chairman,
15 did you have additional questions for Mr. Taylor or Mr.
16 Oligschlaeger?

17 CHAIRMAN CLAYTON: I did. I did. I guess I'd
18 like to start with Mr. Oligschlaeger. I'm sorry. You
19 shouldn't be sitting in the back. Or at least not to get
20 started here.

21 TESTIMONY OF MARK OLIGSCHLAEGER

22 CHAIRMAN CLAYTON: Mr. Oligschlaeger, I want to
23 talk to you about the RRI, this rate cap language.
24 Staff's comments suggest a need to use a cumulative
25 approach rather than the incremental approach, which is in

1 the existing language; is that correct?

2 MR. OLIGSCHLAEGER: Yes.

3 CHAIRMAN CLAYTON: And as it relates to
4 averaging, I am not clear on taking from the Staff
5 comments what level of averaging would be appropriate.
6 There is a reference to four-year averaging and then there
7 is a chart which sets out the number of years for the
8 different portfolio standards that need to be met by
9 utilities.

10 So I guess my question is, are -- is Staff
11 saying that in each of those periods you should -- you
12 should use a three-year averaging from 2011 to 2013, four
13 years and then three years for each of those different
14 periods? Is that what you're suggesting?

15 MR. OLIGSCHLAEGER: Yes. The averaging period
16 should equal the incremental requirement steps imbedded in
17 Proposition C for increasing the level of renewables.

18 CHAIRMAN CLAYTON: Now, in Staff's comments,
19 Staff suggests that there is -- even though there is a
20 recommendation of using a ten-year average that there's no
21 specific recommendation or -- or mandate in law that sets
22 out that ten-year averaging. Is -- is that accurate? I
23 don't want to mischaracterize what the Staff is saying.

24 MR. OLIGSCHLAEGER: There's no clear guidance in
25 terms of what period to use for average -- averaging

1 purposes.

2 CHAIRMAN CLAYTON: So is there clear guidance
3 from Proposition C that the averages that Staff has
4 proposed, the three years, the four year and the three
5 year for each of those periods, is that clearly set out in
6 Proposition C? I brought him up here. I feel guilty now.

7 MR. DOTTHEIM: Chairman, I think he's answering
8 your question not quite as precisely as he might -- as he
9 might. When -- when Mr. Oligschlaeger is referring back
10 to Proposition C, the statutory section, he's looking at
11 393.1030.1(1)(2)(3) and (4), which says that -- that is
12 what percentage -- such portfolio requirements shall
13 provide that electricity from renewable energy resources
14 shall constitute the following portions of each electric
15 utility's sales. One, no less than 2 percent for calendar
16 years 2011 through 2013.

17 2011 through 2013 is three years. So that's
18 where the Staff gets the three years. No less than 5
19 percent for calendar years 2014 through 2017. That's
20 where Staff gets the four years. Three, no less than 10
21 percent for calendar years 2018 through 2020. That's
22 where Staff gets the three years. And then it says no
23 less than 15 percent in each calendar year beginning in
24 2021. And ends.

25 So the Staff has suggested for 2021 and beyond

1 four years. And 2021 is 11 years from now. The
2 Legislature might do something prior to that. Who knows.
3 But there is no specification within the statute itself
4 for ten years, twenty years, which other entities are
5 suggesting.

6 The Staff has gone to the time frames that are
7 spelled out in the statute itself for -- for the
8 percentages of renewable energy resources for certain
9 periods.

10 CHAIRMAN CLAYTON: I understand where the --
11 where the time period came from. But those sections don't
12 reference -- there's not a specific reference to using
13 those figures for -- for the averaging purposes.

14 I guess what I was getting at is Staff is --
15 Staff is trying to find a way that averaging would be
16 appropriate and -- and that you believe this would be the
17 most appropriate place to -- to derive where averaging --
18 or the number of years to be used for average?

19 MR. DOTTHEIM: Yes.

20 CHAIRMAN CLAYTON: But it -- but it doesn't say
21 specifically in these sections that -- that you shall use
22 three years for this time period, four years for this time
23 period?

24 MR. DOTTHEIM: No.

25 CHAIRMAN CLAYTON: So my question was, there was

1 no specific reference to ten years to be used for
2 averaging, there's no specific reference to use three
3 years, four years, four years as Staff is recommending
4 either, correct?

5 MR. DOTTHEIM: Right. And so some commenters
6 are suggesting, for example, 20 years because the 20-year
7 horizon is -- is used in Chapter 22, the Commission's
8 electric utility resource planning rules.

9 CHAIRMAN CLAYTON: Okay. Well, then, this --
10 this is my follow-up to that question. And I don't --
11 whoever can answer -- whoever can answer. I thought it
12 was an accounting question, but you -- Mr. Dottheim, if
13 you want to chime in.

14 So Staff's position is to use these three
15 separate averaging periods in coming up with -- with the
16 rate impact in using the cumulative method. The -- the
17 total number of years -- I guess this -- what I'm trying
18 to ask is you've got ten years. You've got three periods
19 that add up to a total of ten years, from 2011 to 2021.
20 If a resource is going to be used -- a renewable resource
21 is going to be used to meet an RPS standard, whether it be
22 the 2 percent, the 5 percent or the 10 percent, over that
23 10-year period, why wouldn't you use a ten-year averaging
24 in -- in calculating the rate impact rather than just
25 using it for a three-year average when the resource

1 potentially is going to be there and -- and ignore 2021?

2 I mean, I got that. It's too far out. So why
3 wouldn't you look at a total of ten years rather than
4 three and then in a following period using four? Why
5 wouldn't you look at a total of ten?

6 MR. OLIGSCHLAEGER: Well, I'll answer that,
7 probably in two pieces. First, I mean, there clearly are
8 three different steps or increments within that period.
9 And our assumption is there's going to be new resources
10 coming on to meet each increment. Okay?

11 So while, certainly, some resources added in
12 2011 will be there for a ten-year period, there's going to
13 be more and more as time goes on. And the second piece it
14 was -- this was somewhat obviously a subjective call. A
15 ten-year averaging period, the risk you run is simply that
16 you can have quite high annual impacts, rate impacts, on
17 customers premised upon the belief that later on it will
18 all average out so that it meets the 1 percent RRI cap
19 over the entire period of time.

20 Our belief was it would be better to have that
21 moderation over a shorter period of time and potentially
22 limit in that way the annual impact of customers of
23 compliance.

24 CHAIRMAN CLAYTON: I don't know if this is a
25 question to you or Mr. Taylor, so direct me where you want

1 to go. If the 1 percent cap is hit, regardless of method,
2 whether you're using cumulative, no averaging or
3 incremental, whatever you're using, once you hit the
4 1 percent cap, what is the -- what is the -- the -- the
5 result of that for -- for future renewable development or
6 obligations of a utility?

7 MR. OLIGSCHLAEGER: To answer it kind of in very
8 simple terms, the company would be alleviated from the
9 obligation to build or purchase additional resources over
10 the period of time being looked at once that 1 percent is
11 reached. That's my understanding.

12 CHAIRMAN CLAYTON: So if, in, say, 2013 where
13 there's a 2 percent standard, the 1 percent gets hit.
14 Then does that mean that that particular utility would not
15 have to increase its RPS to the 5 percent in the following
16 year?

17 MR. OLIGSCHLAEGER: No. I don't believe so.

18 CHAIRMAN CLAYTON: Okay.

19 MR. OLIGSCHLAEGER: Then you would look at the
20 question of --

21 CHAIRMAN CLAYTON: You would recalculate the
22 following year?

23 MR. OLIGSCHLAEGER: Right.

24 CHAIRMAN CLAYTON: So let's say they hit in
25 2014. The 5 percent is the RPS, but at some point, they

1 hit it and they're not quite making the 5 percent. Does
2 it relieve them from the additional obligation to ratchet
3 up to that 5 percent?

4 MR. OLIGSCHLAEGER: If they increase rates in
5 2014 consistent with the 1 percent RRI cap, yes, that
6 would lead to the conclusion that no further rate impact
7 on customers is allowable, and it would not have to submit
8 or -- again, purchase or build new resources.

9 I would just add, though, that I believe that
10 question would be revisited periodically during this time
11 period so if the calculations change or conditions change,
12 that -- that conclusion might also change.

13 CHAIRMAN CLAYTON: So this is quite an important
14 part of this rule-making that -- that -- in how the rate
15 impact language is crafted will lead to whether or not
16 utilities -- could lead to whether or not utilities will
17 have to comply with each of these percentages?

18 MR. OLIGSCHLAEGER: To what extent they have to
19 comply?

20 CHAIRMAN CLAYTON: Yes.

21 MR. OLIGSCHLAEGER: Yes, yes. There is an
22 overall cost constraint.

23 CHAIRMAN CLAYTON: Now, has Staff done modeling
24 -- and this may be Mr. Taylor, so forgive me. Has Staff
25 done modeling like some of the other parties have done to

1 -- with certain assumptions about what they would -- using
2 certain variables about when Staff would anticipate using
3 Staff's proposal if you make assumptions today when
4 utilities would hit their cap? Have you all done modeling
5 like that at all?

6 MR. OLIGSCHLAEGER: I'm not aware of it, but
7 Mr. Taylor, yeah, agrees no, we have not done such
8 modeling.

9 CHAIRMAN CLAYTON: You all haven't done that?

10 MR. OLIGSCHLAEGER: No.

11 CHAIRMAN CLAYTON: Okay. So you haven't looked
12 at this from the standpoint that if you -- if you take,
13 say, the cumulative approach, whether you think a company
14 would cap out at -- after the first couple of years or
15 three years? You haven't done any analysis on that?

16 MR. OLIGSCHLAEGER: No.

17 CHAIRMAN CLAYTON: Okay. I think that's all
18 that I have for you, Mr. Oligschlaeger.

19 JUDGE DIPPELL: Are there other Commission
20 questions for Mr. Oligschlaeger? Did you have specific
21 questions for Mr. Taylor?

22 CHAIRMAN CLAYTON: Yes, I did, just very
23 quickly.

24 JUDGE DIPPELL: Okay.

25 CHAIRMAN CLAYTON: And I know this is taking a

1 long time. Mr. Taylor, I want to talk to you about the
2 geographic sources section.

3 JUDGE DIPPELL: Let me swear him and get his
4 name and everything on the record.

5 MICHAEL TAYLOR,
6 being first duly sworn to testify the truth, the whole
7 truth, and nothing but the truth, testified as follows:

8 TESTIMONY OF MICHAEL TAYLOR

9 JUDGE DIPPELL: And can you state your name and
10 spell it and tell us your position here at the Commission?

11 MR. TAYLOR: Michael Taylor, M-i-c-h-a-e-l
12 T-a-y-l-o-r, Utility Engineering Specialist 3 in the
13 Energy Department.

14 JUDGE DIPPELL: Thank you, Mr. Taylor. Go
15 ahead, Mr. Chairman.

16 CHAIRMAN CLAYTON: Mr. Taylor, first of all, I
17 want to recognize the work -- and really the work that you
18 and Mr. Oligschlaeger and Mr. Dottheim have put in into
19 this. You're nearing the end, so hang with us.

20 MR. TAYLOR: There were many other people
21 involved.

22 CHAIRMAN CLAYTON: Well, we appreciate your
23 leadership and your hard work on this. I want to ask you
24 about -- I believe this is Subsection 2, the geographic
25 sourcing of the renewable energy. And I wanted to be

1 clear, when we discussed this in agenda, the Staff gave us
2 some -- some options, and there were -- this was one where
3 we had like eight or ten options from which to choose.

4 MR. TAYLOR: Yes.

5 CHAIRMAN CLAYTON: We could -- we could say the
6 energy has to come from Missouri on one extreme or we
7 could say anywhere in the world the RECs could be
8 purchased and they would be -- they would qualify.

9 MR. TAYLOR: Yeah.

10 CHAIRMAN CLAYTON: Do you recall that?

11 MR. TAYLOR: Yes. That -- that item -- or that
12 section had the most alternatives submitted.

13 CHAIRMAN CLAYTON: So the -- the Commission
14 began this process with a concept that we would require, I
15 guess, a bundling of the energy and the RECs and that it
16 would have to relate to power sold to Missouri customers.
17 Would you agree with that characterization?

18 MR. TAYLOR: The rule, as presently written,
19 yes, it has that.

20 CHAIRMAN CLAYTON: Now, give me Staff's
21 perspective in -- I'm sorry. My bad. Sorry about that.
22 What is Staff's perspective in these comments? Are you
23 saying that a REC can be purchased anywhere in the world
24 to qualify to meet the -- the R -- the RES obligation?

25 MR. TAYLOR: Staff's perspective is that the

1 statute does not provide clear definition on that. And
2 when we submitted our comments, we pulled out three
3 specific sentences in 393.1030 with regard to that
4 geographic sourcing.

5 And the way we see it, there is a simple
6 statement or simple sentence in that paragraph that says
7 the utility may comply with this standard in whole or in
8 part by purchasing RECs, Renewable Energy Credits.

9 It does not provide any specific limitation in
10 the statute. It does provide a 1.25 bonus if the REC is
11 produced in the state of Missouri. Our opinion on that is
12 if -- if the statute meant to limit RECs to say within the
13 state of Missouri, then the 1.25 bonus is contrary to the
14 intent of the statute because that would just basically
15 reduce the requirement levels by that factor. So it
16 doesn't appear that that was meant to be interpreted that
17 way.

18 The -- the other sentence, the portfolio
19 requirement shall apply to all power solar Missouri
20 consumers whether such power is self-generated or
21 purchased from another source in or outside of the state,
22 appears to relate to the total energy that must be
23 considered for the calculation of the 2 percent, the 5
24 percent, the 10 percent or the 15 percent. So we are
25 basically looking at those three sentences as separate but

1 related.

2 CHAIRMAN CLAYTON: Okay. So I'm going to go
3 back and ask my question again. So I can buy -- or if I'm
4 a utility, I can buy a REC from anywhere in the world, and
5 it would qualify under this section --

6 MR. TAYLOR: I think --

7 CHAIRMAN CLAYTON: -- under Staff's comments?

8 MR. TAYLOR: I think under the literal
9 interpretation of that paragraph, the answer would be yes.

10 CHAIRMAN CLAYTON: Okay.

11 MR. TAYLOR: Although, I think that probably is
12 going too far.

13 CHAIRMAN CLAYTON: So -- so it -- is Staff --

14 MR. TAYLOR: Because, as you said, the
15 alternatives here that we provided were within Missouri to
16 planet earth. And that -- that is the extremes. And
17 probably somewhere closer to the middle is more realistic.

18 CHAIRMAN CLAYTON: So what would be closer to
19 the middle, in your opinion?

20 MR. TAYLOR: Either the contiguous 48 states or
21 the North American continent.

22 CHAIRMAN CLAYTON: So I don't -- from your
23 perspective, you believe there should be a restriction
24 that limits RECs to the -- do you have a problem with
25 Hawaii?

1 MR. TAYLOR: That was not included in either of
2 my choices.

3 CHAIRMAN CLAYTON: Got you.

4 MR. TAYLOR: Now, Alaska would be in the North
5 American continent.

6 CHAIRMAN CLAYTON: It would be North America.
7 So -- so you would -- well, I say you, and I don't know
8 the difference between you and Staff. So I guess I'm just
9 generally asking, from Staff's perspective, would it be
10 appropriate to include language if we were to adhere to
11 Staff's recommendations limiting RECs to the North
12 American continent?

13 MR. TAYLOR: I believe that's a reasonable
14 approach.

15 CHAIRMAN CLAYTON: I think that's all that I
16 have for you right now. Thank you very much, Mr. Taylor.

17 JUDGE DIPPELL: Are there any other questions
18 for Mr. Taylor?

19 COMMISSIONER KENNEY: No, thank you.

20 JUDGE DIPPELL: All right, then. I believe
21 that's all. Okay. I think, then, that is all of the
22 questions at this time.

23 COMMISSIONER GUNN: I just want to clarify
24 something. So it's okay to buy a REC from Canada, but not
25 okay to buy a REC from Hawaii under your -- under your

1 definition, just to be clear?

2 MR. TAYLOR: That's just our perspective, our
3 opinion.

4 COMMISSIONER GUNN: So a solar REC out of Hawaii
5 should not be considered, but a new hydro from Vancouver
6 is perfectly appropriate?

7 MR. TAYLOR: If -- if the hydro met the
8 criteria.

9 COMMISSIONER GUNN: Right. So an SREC from
10 Hawaii is off the table?

11 MR. TAYLOR: Yes.

12 COMMISSIONER GUNN: But what's -- could you
13 explain the rationale behind that?

14 MR. TAYLOR: It's -- it's somewhat arbitrary.

15 COMMISSIONER GUNN: So there is no rationale
16 behind it?

17 MR. TAYLOR: Theoretically, you know, the -- the
18 electricity associated with the REC, if it's in Canada,
19 can be associated with the United States and Missouri.

20 COMMISSIONER GUNN: Well, since Hawaii is part
21 of the United States, couldn't it be associated with the
22 United States?

23 MR. TAYLOR: Not electrically.

24 COMMISSIONER GUNN: Okay. So there's no points
25 for being politically associated with the United States?

1 MR. TAYLOR: No.

2 COMMISSIONER GUNN: All right. There may be
3 some Hawaiians that are upset with you.

4 MR. TAYLOR: So be it.

5 COMMISSIONER GUNN: I appreciate the rationale.

6 CHAIRMAN CLAYTON: So be it. Defiant till the
7 end.

8 JUDGE DIPPELL: All right, then. I believe
9 we're finished with Staff. So let's move on, then. I
10 think we'll go ahead and let Mr. Wood come up and make
11 comments for --

12 MR. WOOD: Here or here?

13 JUDGE DIPPELL: Whichever you prefer.

14 MR. WOOD: Very good. Thank you.

15 WARREN WOOD,
16 being first duly sworn to testify the truth, the whole
17 truth, and nothing but the truth, testified as follows:

18 TESTIMONY OF WARREN WOOD

19 JUDGE DIPPELL: Thank you. If you could state
20 your name and --

21 MR. WOOD: Warren Wood. I'm President of the
22 Missouri Energy Development Association. Chairman Clayton
23 and Commissioners, I'm a licensed engineer in Missouri and
24 the director of the Missouri Energy Development
25 Association.

1 MEDA's members include the Missouri's
2 investor-owned electric natural gas and water service
3 providers and the Missouri Public Utility Alliance. Thank
4 you for this opportunity to comment on the electric
5 utility renewable energy standard or RES requirement rules
6 that the Public Service Commission has proposed to comply
7 with Prop C.

8 These rules are obviously an important step in
9 ensuring that the best interests of all stakeholders are
10 being served as more renewable energy resources are built
11 in the future.

12 MEDA and its members have actively participated
13 in the workshops and round tables associated with the
14 development of this -- these rules. I would, before I
15 move on, like to compliment PSC Staff for a
16 well-orchestrated group of different workshops and round
17 tables to develop the draft rules that are out there.
18 Much of the rule is well-drafted and appropriate.

19 My comments today are focused on 4 CSR
20 240.20.100. This proposed rule clearly impacts all the
21 investor-owned electric service providers in the state and
22 their customers who represent the majority of the state's
23 population.

24 Since MEDA's comments were just filed yesterday,
25 I will very briefly summarize those comments. As I said,

1 the rule, in many respects, is well-drafted and
2 appropriate. I do have eight comments, however.

3 One, MEDA strongly supports greater deployment
4 of prudent and renewable energy resources. One of MEDA's
5 members is already generating more than 15 percent of
6 their electricity from renewable energy resources. In
7 fact, I understand the number may be about 17 percent now.

8 The other MEDA members have recently started
9 receiving electricity from large wind farms and have
10 recently entered into agreements to generate electricity
11 from landfill gas generating stations in Missouri, one of
12 those being the largest generating station within several
13 a state region.

14 Section 2, of the proposed rule should be
15 revised to clearly allow construction of and recovery on
16 investments in renewable resources beyond the levels
17 necessary to satisfy the requirements of Prop C if these
18 resources are recommended into the company's integrated
19 resource plan and prudently constructed.

20 Second comment, the specific requirements of
21 Prop C are internally inconsistent. And this
22 inconsistency is now reflected in the proposed renewable
23 energy standard rule. The inconsistency is that the rate
24 impact cap will be considered in current rate increases
25 but the analysis required by Prop C is prospective. The

1 basic problem this inconsistency creates is an electric
2 service provider may find that investing in renewables is
3 consistent with our integrated resource plan which
4 considers the number of future unknowns and minimizing
5 future rates, but when they bring these resources into a
6 rate case for recovery, some party may suggest that any
7 increases attributable to the renewable energy resources
8 that cause these rates to increase more than 1 percent at
9 this time should either be deferred or disallowed.

10 And this goes somewhat back to my first point as
11 well. And -- we need to have some mechanism to recognize
12 investments, that 1 percent is not necessarily a cap on
13 impact if you comply with the calculations in Prop C.

14 One way to address this would be to specifically
15 acknowledge that current rate increases that meet the
16 long-term best interest of electric service providers and
17 their customers may cause rates to go up more than 1
18 percent if this -- and this is permissible under Prop C
19 and appropriate.

20 MEDA also requests that the MO PSC specifically
21 recognize in the RES rules the ability of an electric
22 service provider to seek Commission determination of the
23 appropriateness of a renewable energy resource prior to
24 committing to construct or enter into a contract for that
25 resource to address this uncertainty.

1 Third comment, RECs should be unbundled from
2 electricity consistent with national energy policy trends
3 in supporting construction of renewables where they make
4 the most financial sense to minimize the rate impacts on
5 customers.

6 It is also inappropriate to require that the
7 electric service provider demonstrate that electricity
8 associated with RECs is sold to Missourians. These
9 provisions are not consistent with the plain language of
10 Prop C, will drive up the compliance cost of Prop C and
11 will result in the rate cap being hit faster than it would
12 be hit otherwise.

13 A means to address MEDA's concerns regarding the
14 bundling of RECs and electricity and tracking of this
15 electricity while supporting regional economic development
16 would be to require that RECs be sourced within a
17 reasonable distance of Missouri.

18 MEDA suggests that all the RTOs within which
19 Missouri's electric service providers operate would be a
20 reasonable approach. This would ensure that regional
21 renewable energy resources are constructed but not
22 restrict their location so much as to significantly impact
23 delivered cost.

24 Fourth comment -- and the rest of them are
25 significantly shorter. Fourth comment, again, the

1 proposed rule, Sections 3-F and 3-G should be revised to
2 not require the utility generated RECs or customer
3 generated RECs or SRECs from within the electric utility
4 system be tracked through a third party registry.
5 Customer generators may not be eligible to go to a third
6 party registry and utility tracking of these RECs will
7 save all parties unnecessary expenses.

8 Fifth comment, Proposed Rule Section 2-G
9 specifies outside auditing of a utility association to
10 self-build or own renewable energy resources. This
11 provision duplicates existing MO PSC auditing procedures
12 and should therefore be deleted.

13 This provision also appears to discourage
14 utility ownership of renewable energy resources versus
15 buying renewable energy resources from project developers,
16 another reason for this provision to be deleted.

17 Comment 6, MEDA is not opposed to voluntary
18 provisions to enter into contracts that support solar
19 energy injury development in their service territories.
20 But Section 4 provides an inappropriate level of subsidies
21 to solar energy developers to the detriment of electric
22 service customers and should be changed to be at the
23 discretion of the utility.

24 The standard offer contract or incentive was not
25 a provision of Prop C and is not in the law. The

1 requirements of Section 6 -- and this is the seventh
2 comment -- include two different renewable energy standard
3 rate adjustment mechanisms based on rate impact levels
4 that vary more or less than 2 percent.

5 The provisions of 6-B are sufficient for
6 compliance with this rule, and Provisions 6-A and 6-C
7 should be significantly abbreviated in recognition of
8 other current reporting requirements and to avoid
9 unnecessary administrative costs.

10 And the final comment, No. 8, MEDA does not
11 believe that it is appropriate for the value of the RECs
12 and SRECs in Section 8 for penalty calculations to be
13 determined after the compliance year ends. The electric
14 service provider should be made aware of these values
15 prior to the end of the compliance year in order to
16 appropriately assess penalty exposure prior to the end of
17 the compliance period.

18 And I have reviewed the comments filed in EFIS
19 yesterday. There is one I would like to respond to now.
20 Wind Alliance has suggested that the following Prop C
21 language is the basis for requiring geographical sourcing
22 of RECs and the requirement that this electricity must be
23 sold to Missouri customers.

24 The language they refer to in Prop C is as
25 follows: The portfolio requirement shall apply to all

1 power sold to Missouri consumers whether such power is
2 self-generated or purchased from another source in or
3 outside of the state.

4 Reading this language in context within Prop C,
5 it's clear that the portfolio requirement being referenced
6 is the percentage of renewables by certain dates and that
7 this percentage is calculated based on power sold to
8 Missouri consumers whether such power is generated or
9 purchased from another source.

10 This language simply differentiates power sold
11 to Missourians versus power sold to customers or entities
12 in other states. This provision of Prop C does not
13 require geographical sourcing or require that Missouri be
14 sold to Missourians. That concludes my comments. Thank
15 you very much.

16 JUDGE DIPPELL: Thank you. Mr. Chairman, did
17 you have questions for Mr. Wood?

18 CHAIRMAN CLAYTON: I did. Thank you, Judge.
19 Mr. Wood, thank you. I had an opportunity to review your
20 comments yesterday and this morning. I wanted to go
21 through -- I wanted to go through them very quickly and
22 just make sure that I'm -- I'm following the position of
23 MEDA.

24 And I suppose I want to ask -- there were
25 comments filed by other utilities. I mean, do all the

1 utilities agree with the MEDA comments?

2 MR. WOOD: Yes, they do.

3 CHAIRMAN CLAYTON: You're able to say that?

4 MR. WOOD: Yes.

5 CHAIRMAN CLAYTON: Okay. I want to ask about
6 Item 1, which asks for authorization to exceed the
7 standards that are set out in Prop C, as I understand the
8 comment.

9 MR. WOOD: Yes. Uh-huh.

10 CHAIRMAN CLAYTON: And what prohibition is there
11 now in the rule that -- that doesn't allow for a utility
12 to exceed the standard if it -- if it so desired?

13 MR. WOOD: There's a concern that the way that
14 Prop C is written and the way that the rule is now written
15 that some party could make an argument if a utility were
16 to invest beyond the requirements of Prop C that some
17 percentage of those costs above some 1 percent, either
18 incremental or cumulative, however you calculate it,
19 should be disallowed even if the integrated resource plan
20 showed it was the right resource to invest in.

21 CHAIRMAN CLAYTON: Okay. My next question is
22 how would the standard IRP process and the 1 percent -- or
23 the rate cap language, how would that apply in what
24 authority you're asking us to give utilities here?

25 MR. WOOD: There is some language at the end of

1 paragraph 2 or Section 2 in Kansas City Power & Light's
2 markup of the rule that -- which provides for that -- the
3 authority I think we're -- we're requesting there.

4 CHAIRMAN CLAYTON: Okay. So -- so, basically,
5 you're -- you're asking for authority to comply with the
6 IRP process or -- or continue doing what you're doing?

7 MR. WOOD: Yes. And it had some linkage into
8 the second point, which is we have a prospective versus
9 actual rate disconnect in the -- within Prop C, and the
10 rule, and it's not in -- I understand some of the efforts
11 to deal with it are the ten-year averaging or some time
12 frame.

13 But it -- it's a pretty significant
14 inconsistency when you plan for -- when you develop an
15 integrated resource plan, you look at a lot of future
16 unknowns. Some things like greenhouse gas regulation, we
17 don't know what the final form will even look like. And
18 you arrive at a resource to build a wind farm or two or
19 three over a actual couple of years that make perfect
20 sense under your IRP plan for a 10, 20-year horizon, but
21 then you come in now and your rate increase might be more
22 than the 1 percent. And that -- that creates -- that
23 creates a concern.

24 CHAIRMAN CLAYTON: On Comment 3, you address
25 geographic sourcing. I also believe that you suggest

1 unbundling the electricity with the REC. But MEDA --
2 MEDA's position is that RECs should come from -- from, I
3 guess, is it the RTO in which a utility operates, or is it
4 any RTO that serves parts of Missouri? Or can you explain
5 that?

6 MR. WOOD: I'm glad you asked that. That's an
7 important clarification. We have suggested -- you know,
8 we've seen, you know, some interest from parties in
9 supporting regional economic development and regional
10 sourcing of these resources.

11 One of the options we placed out there was that
12 RTOs within all of Missouri's utilities operate within.
13 Under the -- under what I am suggesting, Empire, Kansas
14 City Power & Light would be able to access MISO and ACI,
15 anything Missouri and SPP, and Ameren would be able to go
16 to SPP, ACI, State of Missouri and so it's not just the
17 RTO that they operate. It's within all the RTOs that
18 operate within the state of Missouri.

19 CHAIRMAN CLAYTON: Okay. So you're -- you're
20 asking for -- you are asking for that cross scenes kind of
21 circumstance where Ameren would look west or KCP&L would
22 look east into those footprints?

23 MR. WOOD: Yes. It's an effort to open the --
24 open the range of areas that you would could pursue in
25 resources as opposed to the more limited region.

1 CHAIRMAN CLAYTON: Under -- under Comment 7, you
2 refer to MEDA's preference on the cost recovery mechanism.

3 MR. WOOD: Yes.

4 CHAIRMAN CLAYTON: Can you explain in -- in more
5 detail the -- the difference between the different models?
6 We've had the fuel adjustment clause model and ECRM model.
7 Then we have this RESRAM. Can you -- can you explain how
8 the utilities view the differences among these?

9 MR. WOOD: Certainly. In the drafting of the
10 rule, there was the development of three secretaries under
11 6, 6-A, 6-B, 6-C. 6-A includes quite a few of the
12 reporting requirements that were developed under the rule
13 development of the fuel adjustment clause for electric
14 utilities in the environmental cost recovery mechanism for
15 the electric utilities.

16 I understand where those are coming from. I do
17 think they duplicate some of the reporting provisions in
18 current surveillance and surveillance monitoring reports.
19 6-B was meant to be a more abbreviated rate calculation if
20 it's less than 2 percent. And 6-C then picks up many of
21 the provisions that remained from the fuel adjustment
22 clause and ECRM.

23 My recommendation is that, you know, 6-B is
24 sufficient for compliance with provisions here in terms of
25 reporting requirements to parties having information,

1 understanding where the rates are being calculated from.

2 I think the 6-A reporting requirements are a
3 little longer than they need to be, and I think 6-C is
4 pretty burdensome for what it's attempting to accomplish.

5 CHAIRMAN CLAYTON: Mr. Wood, looking through the
6 comments, I don't see where MEDA takes a position on the
7 -- the rate impact language. So MEDA's not taking a
8 position whether it should be incremental versus
9 cumulative versus any type of average?

10 MR. WOOD: MEDA is not taking a position on
11 that. You'll have the opportunity to visit with the
12 different electric service providers today on that issue.

13 CHAIRMAN CLAYTON: Got you. Thank you very
14 much.

15 JUDGE DIPPELL: Are there other Commission
16 questions for Mr. Wood?

17 COMMISSIONER GUNN: Within the IRP process, are
18 you looking for pre-approval of certain renewable
19 resources? I mean, is that -- is that what you're talking
20 about? Because I have a question if that is.

21 MR. WOOD: Determination/pre-approval, yeah.
22 I'd call it the same thing. What this is is, you know,
23 you -- there is -- I don't know if I can mention a case in
24 front of the Commission right now, you know.

25 COMMISSIONER GUNN: You probably shouldn't. So

1 let's -- let's go --

2 MR. WOOD: Let's say there were previous
3 agreements out there to look at a group of resources and
4 determine that they were appropriate under certain
5 parameters. We would want to see some specific
6 recognition of the ability to come into the Commission and
7 say, you know, I've gone through my IRP process. I've got
8 all these unknowns out there that, you know, could
9 probably employ a group of attorneys for many years to
10 fight over, and I think this is the right resource to
11 build for us and our customers.

12 But we want -- we want to get everyone to the
13 table before we make all these agreements and sign these
14 contracts to build this resource and get some
15 understanding that this makes sense to all the parties who
16 participated in that proceeding.

17 COMMISSIONER GUNN: Now, would you still expect
18 there to be after construction a prudence review so that
19 -- so, for example, if the Commission instituted that and
20 then the resource was built but there were cost over-runs
21 to the resource --

22 MR. WOOD: Uh-huh.

23 COMMISSIONER GUNN: -- would -- would you still
24 believe that those cost over-runs may be disallowed even
25 though the -- the -- because they were improved -- let's

1 assume they were. Or would you think that the
2 pre-approval of the determination process would mean that
3 the -- the Commission is determining that those -- that
4 those costs would be able to -- to be recovered?

5 MR. WOOD: It would depend on the specific
6 provisions of the Commission's approval. If it -- if it
7 did not indicate - if it indicated these look like the
8 right resources, this is the time frame to build it given
9 all these variables, and there was no -- no guarantees of
10 what level the costs are going to come in under any sort
11 of provisions for what would be viewed as a prudent
12 expenditure to construct this facility, I would expect
13 there would be opportunity to talk about prudence later.

14 COMMISSIONER GUNN: Now, what if it was prudent,
15 but -- but the cost over-runs meant that the RRI was
16 higher than 1 percent? Not the -- not the rates charged,
17 but that the actual RRI -- whatever measurement we're
18 using for the 1 percent, this pushed it over the 1
19 percent.

20 Who do you think would be -- who would bear the
21 responsibility for that? Would that give the off-ramp to
22 the -- to the utilities to stop because of -- because of
23 -- this particular project went over what they thought it
24 was going to be? Or would that preclude recovery? Or
25 would it, under what you're reading of it, saying that you

1 would get to recover even though it exceeded the -- the 1
2 percent RRI?

3 MR. WOOD: I don't know the answer to that
4 question.

5 COMMISSIONER GUNN: Okay.

6 MR. WOOD: There are some people in the audience
7 sitting here listening that may well have a view on that.

8 COMMISSIONER GUNN: Okay. Do you have the same
9 deep-seated hatred for Hawaii that Mike Taylor has?

10 MR. WOOD: If I can go pick up the RECs
11 personally, I have no problem with that.

12 COMMISSIONER GUNN: I don't have anything else.
13 Had to do it, Mike.

14 JUDGE DIPPELL: All right. Mr. Wood, let me ask
15 you Commissioner Davis' question. I realize you're not an
16 attorney. But if you -- so if you want to pass this off
17 to your attorney, I'll let you do that. Do you see
18 anything in the -- in the rules as currently drafted that
19 conflicts particularly with any statute?

20 MR. WOOD: I'm not an attorney. I occasionally
21 play one. Let's -- I have a couple of items that have the
22 potential of conflicting. But then I'll turn it over to
23 my counsel to agree or disagree with me on these issues.

24 A few of them, in particular, come to mind. One
25 would be -- and you'll hear more discussion on this from

1 my members. The retail rate impact of 1 percent, how
2 that's being calculated and what's intended by Prop C and
3 what's reflected in the renewable energy standard rule is
4 one area of potential conflict.

5 I think the other section is the geographical
6 sourcing and the -- and the requiring of tracking of a
7 electricity associated REC being sold to Missouri
8 customers. And then there were some other -- the other
9 provisions, I don't think I disagree with the comments
10 made by Mr. Dottheim.

11 JUDGE DIPPELL: Okay. And then I had one other
12 question. You said that you had reviewed comments. Have
13 you reviewed the comments Staff made?

14 MR. WOOD: Yes, I did.

15 JUDGE DIPPELL: In the proposed changes that
16 Staff had, does MEDA have a position on any of those
17 comments?

18 MR. WOOD: A number of the comments that they
19 have provided, some agree with my comments. Some
20 disagree. I don't think they've had issues I didn't
21 address or vice versa. So I -- I wasn't going to say
22 anything more.

23 If they had a singular issue out there that
24 there were no comments from the utility industry on, I
25 might have responded. But I didn't see those issues.

1 JUDGE DIPPELL: All right. Thank you. Are
2 there any other questions for Mr. Wood? I don't see any,
3 then.

4 MR. WOOD: Okay.

5 JUDGE DIPPELL: Thank you.

6 MR. WOOD: Thank you.

7 JUDGE DIPPELL: Mr. Boudreau, I will ask if you
8 have any response to Commissioner Davis' question. And
9 because everybody's a commenter here today, I will ask you
10 if you could be sworn in. Do you --

11 MR. BOUDREAU: I have to be sworn? Okay.

12 PAUL BOUDREAU,
13 being first duly sworn to testify the truth, the whole
14 truth, and nothing but the truth, testified as follows:

15 TESTIMONY OF PAUL BOUDREAU

16 JUDGE DIPPELL: And would you state your name
17 and spell it, please?

18 MR. BOUDREAU: My name is Paul Boudreau,
19 B-o-u-d-r-e-a-u. And I wouldn't add much beyond what Mr.
20 Wood has already indicated other than to point out that
21 the -- the -- another legal issue in terms of -- of
22 framing up the rules consistent with the statute is the
23 absence of any reference in the Legislation to the solar
24 offer contract.

25 I mean, there's really nothing in the statute

1 that deals with that. So in that sense, it goes beyond, I
2 think, what the Legislative enactment intended, so that's
3 the only additional offer that I can make.

4 JUDGE DIPPELL: All right. Thank you. Would
5 any of the Commissioners have any additional questions for
6 Mr. Boudreau? Thank you.

7 All right, then. Let's move on. I believe in
8 keeping with the -- well, maybe we'll just go to -- should
9 we keep with electricity, or should we -- or the
10 utilities, or should we bounce to someone else?
11 Mr. Fischer?

12 MR. FISCHER: I'd be glad to go next for Kansas
13 City Power & Light.

14 JUDGE DIPPELL: All right. Let's continue with
15 utilities then, and then we'll begin on some of the -- the
16 other groups that are here today. Mr. Fischer, would you
17 please raise your right hand?

18 JAMES FISCHER,
19 being first duly sworn to testify the truth, the whole
20 truth, and nothing but the truth, testified as follows:

21 TESTIMONY OF JAMES FISCHER

22 JUDGE DIPPELL: Thank you. If you could state
23 your name and --

24 MR. FISCHER: My name is James Fischer,
25 F-i-s-c-h-e-r.

1 JUDGE DIPPELL: Go ahead.

2 MR. FISCHER: May it please the Commission. I'm
3 an attorney here in Jefferson City representing Kansas
4 City Power & Light company and KCPL Greater Missouri
5 Operations Company. These companies did submit comments
6 last night in this docket. And I don't intend to repeat
7 those comments, but I did want to just highlight a few of
8 the concerns and address a couple of questions that came
9 up from the Bench already.

10 But I also have with me some technical experts
11 from the companies, particularly, Brad Lutz, who is the
12 Lead Analyst for Regulatory Affairs, John Grimwade, KCPL's
13 Senior Director of Strategic Planning & Development, and
14 Tim Rush, the Director of Regulatory Affairs. And to the
15 extent we get into more technical areas, I think they are
16 going to be the most appropriate people to answer your
17 questions.

18 KCPL has been a long supporter of the renewable
19 energy standard initiative. For example, the company
20 endorsed the valid initiative led by Missourians for
21 cleaner, cheaper energy that was overwhelmingly passed by
22 the voters in November of 2008.

23 Several of the company representatives have been
24 working hard on -- on the workshops that the Staff has
25 held, and I, too, think the Staff has done a great job of

1 organizing this process for us. The companies have worked
2 with other electric utilities and other advocates of
3 renewable energy to try to find areas of common interest.

4 Proposition C and the proposed rule require
5 electric utilities to invest in renewable energy resources
6 establishing minimum amounts to be met over the next ten
7 years.

8 The companies wish to emphasize to the
9 Commission that, from our perspective, the RES rule should
10 be considered as a -- as a baseline for renewable energy
11 investment, and the Commission should remain very much
12 open to additional prudent investments where the situation
13 dictates.

14 The companies have proposed language for
15 paragraph 2 of the rule that clearly allows the prudent
16 implementation and cost recovery of renewable resource
17 acquisition strategies developed through the IRP process,
18 even after resources may not be needed for RES rule
19 compliance.

20 In reality, KCPL and GMO expect to largely meet
21 or exceed the renewable energy mandates of Proposition C
22 even if there were no legal mandate to do so. KCP&L and
23 GMO believe that it is increasingly likely that some
24 renewable energy resource alternatives will represent the
25 least cost alternative considered in resource planning

1 efforts taking especially into account the cost of future
2 environmental compliance. As such, those renewable
3 resources should be developed and utilized even if RES
4 rule compliance is not an immediate legal requirement.

5 And this is probably most important point I want
6 to emphasize today. Those renewable resources should be
7 utilized and developed even if it's not required by the
8 RES rule.

9 Further, the companies believe that renewable
10 energy credits are what you'll always hear as RECs
11 produced by the renewable energy resource should be
12 eligible for RES rule compliance regardless of whether the
13 resources were implemented as a part of the utility's RES
14 compliance plan.

15 Now, turning to the -- to the RECs themselves,
16 the published rule contains language that requires RECs
17 used for compliance with the RES rule to be bundled with
18 energy from a renewable energy resource and that the
19 energy must be delivered to Missouri customers. This is
20 an area that I think in -- in answer to Commissioner
21 Davis' questions, we would have a concern.

22 The companies are concerned that this particular
23 requirement appears to be in conflict with the statute and
24 may create unintended consequences. First, the bundling
25 of a REC to energy will eliminate opportunities to utilize

1 the REC by itself to satisfy the compliance with the RES
2 rule. If you look to Section 393.1030, Subsection 1, it
3 says that utilities may comply with this standard in whole
4 or in part by purchasing RECs.

5 Some parties to the rule-making process have
6 interpreted this section to require a linkage or a
7 bundling to -- of the RECs with energy. KCP&L and GMO
8 firmly believe that this section of the statute is
9 intended to allow the utilities to comply with the RES
10 rule by purchasing RECs only.

11 Any interpretation linking the RECs to energy
12 would severely impact any effort to comply in whole with
13 the RES rule. Maintaining compliance with the RES rule
14 will require the electric utility to balance the steel and
15 the ground type of projects with financial instruments,
16 particularly RECs.

17 Given the lead time for construction projects
18 and the likelihood of external influences like a national
19 renewable energy standard, maintaining an independent REC
20 market will allow utilities to manage the periods between
21 large projects and to manage the impacts on customer
22 costs.

23 The companies believe that linking the R -- the
24 REC to energy will limit the ability for the utility to
25 manage the volatile renewable market conditions should

1 they develop and will reduce the number of competitive
2 alternatives that electric utilities would have for
3 completing -- or for meeting the compliance with the RES
4 rule.

5 Reducing the alternatives available for
6 compliance could lead to higher costs for consumers or,
7 alternatively, less renewable energy utilized if the 1
8 percent cap is being met sooner.

9 Secondly, if energy produced from a renewable
10 resource is required to be delivered to Missouri
11 consumers, an electric utility would only be able to
12 qualify those facilities that it has a direct firm
13 transmission service to the utility's control area. This
14 would greatly limit the pool of available alternatives for
15 meeting the RES rule and require significant effort to
16 verify and document the energy delivery complicating the
17 efforts of the utilities operating multiple jurisdictions
18 to manage their REC inventory.

19 In our comments, we also note that there is a
20 considerable support around the country for unbundling
21 RECs in other areas of the country. A 2007 survey that we
22 cite revealed that 17 states have RECs that have -- that
23 have been unbundled from the energy. Further, California
24 just recently moved to allow the use of unbundled RECs for
25 RES compliance itself.

1 While the companies believe the rules allow for
2 the sourcing of RECs at a national level, as a compromise,
3 the companies have suggested requiring that the RECs or
4 the solar RECs be utilized for compliance with the rule be
5 generated from renewable energy sources located within
6 either the geographic boundaries of Missouri and/or within
7 the boundaries of the independent transmission system
8 operators like Southwest Power Pool or MISO. We see that
9 as a compromise that makes some sense.

10 Turning to the -- to the auditing requirements
11 for a minute, paragraph 2-G of the requirements section of
12 the rule includes language that requires the electric
13 utility to audit the renewable resource acquisition
14 process.

15 The companies feel strongly that this language
16 is redundant with current practice. It also establishes a
17 detrimental requirement on renewable energy resources
18 that's not -- that -- that's not really shared by other
19 energy resources that are deployed by the electric
20 utility.

21 Typically, the ownership of energy resources is
22 evaluated by the Commission Staff or others for prudence
23 reviews and compliance and service criteria. The
24 longstanding powers of the Commission established in
25 Section 393.140 and 393.135 of the Revised Missouri

1 Statutes are -- are more than adequate from our
2 perspective to monitor the acquisition process.

3 Leaving the audit requirements in the rule may
4 also have unintended consequences if the Staff is un --
5 unable, unwilling or -- to perform that role as an
6 independent auditor. The companies propose therefore that
7 the -- the entire paragraph related to that auditing
8 requirement be removed from the rule.

9 Turning to the standard offer contract issue,
10 KCPL and GMO are concerned that the requirement of the
11 standard offer for solar RECs noted in paragraph 4-H do
12 not appear in the requirements of the statute. So this
13 would be another one in answer to Commissioner Davis'
14 question.

15 The companies are concerned that requiring the
16 electric utilities to present a standard offer contract
17 could result in the inefficient purchase of solar RECs and
18 will increase the cost of compliance with the RES rule.

19 The companies have proposed significant changes
20 to the language in our -- in our comments to allow for
21 different payment terms depending on the solar size -- or
22 the solar system size. And -- and Mr. Grimwade or
23 Mr. Lutz could probably answer questions if you have
24 questions about a proposal on that.

25 The various terms will help to balance the

1 customer's need for revenue to help justify the cost of
2 the solar installation while providing electric utilities
3 a time mechanism to execute a prudent procurement of the
4 solar RECs.

5 In our proposal, it basically falls into three
6 different ranges, each with different contracting
7 requirements. And, finally, the companies are aware of
8 the various interpretations of Section 393.1030,
9 Subsection 1 and 393.1045 with regard to the rate increase
10 limits associated with the RES rule compliance.

11 Further, the companies are sensitive to the
12 differences each interpretation could have on the ultimate
13 deployment of renewable energy in the state dating back to
14 2005 when KCPL completed its comprehensive energy plan.

15 Consumer demands for cleaner renewable energy
16 has been consistently clear. More current and directly
17 associated with the Proposition C effort, initiative
18 supporters claim that generating more electricity from
19 renewables would mean more jobs, a stronger economy and
20 cleaner air and water for generations of Missourians to
21 come.

22 Corporately, we believe reporting investments in
23 clean energy ser -- clean energy sources will help achieve
24 regional energy sustainability, and we support that.
25 Regardless of the uncertainties of the statute, though,

1 the companies support the effort of the Staff to draft a
2 reasonable and a workable rule.

3 To that point, the companies support the
4 language offered in the draft rule with only minor
5 clarifications in paragraph 5 and paragraph 6. The
6 companies believe that these minor changes help to clearly
7 define how to apply the retail rate impact test to
8 proposed renewable energy generation projects and result
9 in a practical process to evaluate the cost of the RES
10 compliance.

11 In addition, the companies must reiterate their
12 fundamental concern that I initially mentioned. KCPL and
13 GMO believe the purpose of the RES rule is to establish a
14 baseline or a minimum for renewable energy investment and
15 set the parameters for that compliance.

16 Nothing in the RES rule should preclude an
17 electric utility from making prudent investments in
18 renewable energy resources that exceed the portfolio
19 requirements of the RES rule or the prudent implementation
20 of any resource acquisition strategy developed in
21 compliance with the Chapter 22 IRP process.

22 The Commission should remain open to additional
23 prudent investments and renewable energy resources where
24 the -- where the situation dictates even if it results in
25 total rate increases of more than 1 percent or more than 1

1 percent annually. However -- however, that statute is
2 interpreted, it should not be designed to artificially
3 reduce the revenue requirement of the companies when
4 they're using the least cost alternative for generation
5 sources, including the renewable energy source or RECs.

6 The companies have also proposed, in answer to
7 one of your questions, Commissioner Gunn, a section that
8 would include in paragraph 1-I and paragraph 7-B of the
9 draft rule a section that would allow the utility to seek
10 a determination from the Commission of the appropriateness
11 of a renewable energy resource prior to committing to
12 actually constructing the resource or entering into a
13 contract for that resource.

14 The cost recovery and pass-through of benefits
15 section of the RES rule is primarily structured to be an
16 interim recovery mechanism. Multiple pages of the draft
17 rule are dedicated to outlining the mechanics of the
18 renewable energy standard rate adjustment mechanism, which
19 we call RESRAM.

20 The companies would like to emphasize that while
21 RESRAM is probably the most likely mechanism to be used
22 for recovery, it's not the only mechanism available to the
23 electric utility.

24 Starting in Section 6 of the RES rule, KCPL and
25 GMO have included language that clarifies how an electric

1 utility may choose to recover RES compliance costs through
2 rates established in a general rate proceeding.

3 In the interim period between general rate
4 proceedings, the companies are proposing that the RES
5 compliance cost be deferred into a regulatory asset and
6 allowed to annually calculate -- or accumulate FADC on the
7 balance of that regulatory asset.

8 The prudently incurred costs included in the
9 regulatory asset balance would then be amortized over a
10 six-year period. The companies contemplate that the
11 utilities should have two defined paths, basically, toward
12 recovery of that -- of the compliance costs of the RES
13 rule either the RESRAM or in a general rate case. The
14 companies should be permitted to evaluate which of those
15 -- which of those mechanisms would be most appropriate for
16 their circumstances.

17 So in conclusion, the companies would
18 respectfully request that the Commission consider these
19 comments. And, again, I have several technical experts
20 here that could answer your questions.

21 JUDGE DIPPELL: Thank you. Mr. Chairman, do you
22 have questions?

23 CHAIRMAN CLAYTON: I do. I just want to follow
24 up on some things, and I apologize that I did not have an
25 opportunity to review KCP&L's comments just for the timing

1 and the local public hearing tonight. Can -- can you
2 repeat and clarify KCP&L's position with regard to the
3 sourcing issue?

4 MR. FISCHER Yes. Our -- our primary
5 compromised position regarding sourcing is that we think
6 we ought to be able to utilize the RECs from anywhere
7 within the -- the RTO's footprint, MISO and SPP. I think
8 Mr. -- Mr. Wood addressed that topic.

9 CHAIRMAN CLAYTON: There was -- there was
10 language that we discussed when we started this process,
11 and it was kind of comparing the words delivered or sold
12 versus the word deliverable energy or -- or sources of
13 energy that would be deliverable, which kind of suggested
14 RTO. Is that the same thing, or is it different?

15 MR. FISCHER: That's probably a technical
16 question I could defer. I -- I'm not sure I have an
17 answer to that.

18 CHAIRMAN CLAYTON: Well, let me ask -- let me
19 follow up with this. Are there two separate issues with
20 regard to sourcing? Is there the question of unbundling
21 the REC from the energy and the sourcing issue? Would you
22 agree with that?

23 MR. FISCHER: Yes.

24 CHAIRMAN CLAYTON: And from KCP&L's perspective,
25 should the Commission act consistently with both RECs and

1 SRECs in what we do in terms of sourcing? Is there any
2 difference between -- between the type of resource?

3 MR. FISCHER: I'm not sure that there is. But I
4 think I'll defer that question as well to make sure that
5 there isn't some technical difference that I'm not aware
6 of.

7 CHAIRMAN CLAYTON: Okay. From KCP&L's
8 perspective, can you explain to me what would happen if a
9 customer wants to put a, say, 3 KW solar panel up in, say,
10 Brookside, Kansas City, Missouri in KCP&L's footprint? Is
11 the company under this rule obligated to buy the RECs from
12 that customer?

13 MR. FISCHER: Well, under the net metering rule,
14 we may be required to -- to take some of that -- the
15 excess power, but not necessarily to buy the REC from a
16 particular person in -- in Brookside.

17 CHAIRMAN CLAYTON: Well, I'm just saying -- but
18 if somebody puts up a panel --

19 MR. FISCHER: The utility will make -- it's my
20 understanding would make independent decisions on what
21 RECs to purchase, what's most cost effective and what
22 would be the most prudent RES compliance, rule compliance
23 strategy, if you want to say that, for doing that, whether
24 to buy RECs, whether to put in generation of their own or
25 what other alternatives there might be.

1 CHAIRMAN CLAYTON: Does KCP&L have any
2 experience with how the market for RECs work or whether
3 there is a market or not a market or how the price is set?

4 MR. FISCHER: That's another technical question
5 I should defer.

6 CHAIRMAN CLAYTON: Okay. And forgive me if this
7 is repetitive. Can I go back to the rate cap discussion
8 that we've had?

9 MR. FISCHER: Yes.

10 CHAIRMAN CLAYTON: MEDA did not take a position
11 on -- on the methodology -- or -- and I'm wondering what
12 is KCP&L's position? Could you repeat that?

13 MR. FISCHER: Well, KCP&L believes that there
14 needs to be a working rule. We think that the statute is
15 unclear on how that should be interpreted. And we -- we
16 have supported the Staff's draft rule. We've made some
17 suggestions here on how it should be calculated. But
18 we're in the incremental camp, I guess.

19 CHAIRMAN CLAYTON: The cumulative camp?

20 MR. FISCHER: Well, the -- yeah. Not just 1
21 percent per year forever, that it would be a cumulative --
22 incremental additional amount.

23 CHAIRMAN CLAYTON: So does that mean KCP&L would
24 be opposed to the 10 percent -- to the ten-year averaging
25 that's advocated by other parties?

1 MR. FISCHER: I'd like to defer that as well to
2 the persons that are most familiar with how that would
3 work.

4 CHAIRMAN CLAYTON: All right. Well, then maybe
5 we ought to go -- when you're -- when you're finished.
6 Thank you.

7 MR. FISCHER: Yeah.

8 JUDGE DIPPELL: Were there other questions
9 specifically for Mr. Fischer before --

10 COMMISSIONER GUNN: I have a couple questions.
11 So you're essentially advocating for a but for test for
12 these renewables that only the renewables that would not
13 have already been implemented but for the mandate be
14 included under the mandate?

15 MR. FISCHER: Yes.

16 COMMISSIONER GUNN: And that includes under the
17 rate cap?

18 MR. FISCHER: Yes. That -- that would -- that's
19 correct.

20 COMMISSIONER GUNN: So -- so there could be this
21 whole segment of renewables that would be removed from the
22 rate cap because, under what you're saying, the utility is
23 saying, We're doing this anyway, we're not doing it
24 because of the mandate?

25 MR. FISCHER: Yeah. We don't want to be limited

1 by -- by the -- the rule to putting into prudent
2 investment in renewables, and we want to be able to
3 recover the cost of those as part of the normal
4 rate-making process.

5 COMMISSIONER GUNN: You're adding generation
6 just like you were adding a coal plant or natural gas
7 plant?

8 MR. FISCHER: Right. To the extent you have to
9 -- you can't meet it, you now have to meet the rule
10 requirements, then that's a different situation.

11 COMMISSIONER GUNN: So -- and then how would the
12 Commission evaluate whether this was included under the
13 mandate or not in the mandate? Would that be the IRP?
14 Would that be a predetermination? Would it be a
15 regulatory plan? Or would it be some combination of all
16 three?

17 MR. FISCHER: It probably would be a combination
18 of all of those. You could do it probably any number of
19 ways. But traditionally, if you -- if the company had a
20 -- a request that it be included in rate base, you would
21 evaluate in the context of a rate case. Or if you had a
22 regulatory plan, you may have some review of that before
23 you enter into it.

24 We're suggesting in the rule there ought to be
25 the option to come forward and put in front of the

1 Commission, This is what we think is the right thing to
2 do. Is that appropriate from your perspective?

3 COMMISSIONER GUNN: If we don't do that, is
4 there a fundamental conflict between the regular
5 rate-making statutes and the -- the rule?

6 MR. FISCHER: I think there would be a
7 fundamental conflict, for example, if the companies
8 entered into prudent investments and renewables spent
9 money and then were told, I'm sorry, that 1 percent is all
10 you can receive in rates.

11 COMMISSIONER GUNN: Because --

12 MR. FISCHER: I'm afraid that would be
13 confiscation to -- to go forward under that kind of
14 scenario.

15 COMMISSIONER GUNN: Because it's generation.
16 Regardless of where it comes from, you're adding -- if
17 you're adding prudent generation, you're allowed to
18 recover that?

19 MR. FISCHER: Yes.

20 COMMISSIONER GUNN: Or if it's -- if it's
21 prudent?

22 MR. FISCHER: Yes.

23 COMMISSIONER GUNN: Regardless of where the --
24 where the -- where the generation comes from --

25 MR. FISCHER: We -- we see this rule as a

1 minimum and not a cap on -- on prudent investments.

2 COMMISSIONER GUNN: Okay. I want -- I
3 appreciate that -- to go to this predetermination issue
4 again real quick. At what point would there be -- do you
5 think there would be a -- a prudency review -- if we
6 allowed predetermination, at what point do you think there
7 would be a prudency review to make sure that any cost
8 over-runs or -- or anything that wasn't -- or the actual
9 investment, the dollar investment made was a prudent
10 investment?

11 MR. FISCHER: I would see that analogous to
12 what's happened with the KCPL regulatory plan where there
13 was a determination upfront of the decision to go forward
14 with a certain technology. There was -- there would be a
15 subsequent review of the actual costs that were -- that
16 were spent, and that would be reviewed in the context of a
17 rate case.

18 COMMISSIONER GUNN: And if that predetermination
19 was made and it was determined that the generation was
20 being added to comply with the mandate and the cost of --
21 of that project created -- caused the -- because of cost
22 over-runs caused the RRI to be higher than the 1 percent
23 cap, what would be the effect of that? Would that give --
24 would that allow the off-ramp of not having to do any more
25 generation or adding any more renewables on -- as required

1 by the mandate? Or would -- would that responsibility be
2 born by -- by someone else?

3 MR. FISCHER: Calculating that rate impact, I
4 think, would be a technical issue I'd like to defer if
5 that would be okay.

6 COMMISSIONER GUNN: But it's a general -- as a
7 general proposition, let's just assume that it's -- that
8 it's going to exceed that. Does that -- if we're talking
9 about under the mandate, then that would theoretically
10 give the company the ability to say, We don't need to add
11 any more generation under -- under the mandate.

12 MR. FISCHER: Well, under your scenario, as I
13 see it, we would be coming in ahead of time perhaps asking
14 for pre-approval of -- of the opportunity to do a wind
15 farm.

16 COMMISSIONER GUNN: Right.

17 MR. FISCHER: And then that would be -- if the
18 Commission agreed, that would be a decision that, you
19 know, you would give to the utility. And then down the
20 road, if the costs were higher than expected and there was
21 a prudence review or there was a determination that there
22 was some imprudence, there could be a disallowance of the
23 -- of those costs. I'm not sure that would be impacted by
24 the -- by anything associated with the renewable energy
25 rule itself.

1 COMMISSIONER GUNN: Well, unless that -- unless
2 that caused the RRI -- unless those cost over-runs caused
3 the RRI to go up. Now, I'm not talking about necessarily
4 in prudent investments. They might -- let's say the cost
5 of steel or aluminum, whatever the towers are made of,
6 spikes. And so the -- the predetermination project -- the
7 project that the Commission determined was appropriate
8 under -- under the mandate causes the IRR to go up. And
9 it may not be imprudent. It may be prudent just because
10 of the cost. Does that then give you the off-ramp to not
11 add any more under the -- under the mandate?

12 MR. FISCHER: And by off-ramp, you mean the fact
13 that it would exceed 1 percent; therefore, you don't have
14 to do it?

15 COMMISSIONER GUNN: It would exceed -- right.

16 MR. FISCHER: You know, I hadn't thought about
17 that -- that kind of a scenario.

18 COMMISSIONER GUNN: Okay.

19 MR. FISCHER: Maybe my expert has.

20 COMMISSIONER GUNN: Okay. Thank you. I
21 appreciate it. I don't have anything else.

22 JUDGE DIPPELL: Okay. Thank you. Commissioner
23 Kenney?

24 COMMISSIONER KENNEY: Just -- just one question.
25 KCP&L uses a floor as opposed to a ceiling?

1 MR. FISCHER: Yes.

2 COMMISSIONER KENNEY: If the -- the renewable
3 resources that KCP&L wants to bring on resources that they
4 would have done -- would have brought on anyway, do you
5 contemplate that you'd still be able to take advantage of
6 the RESRAM? Or would it only be recoverable through a
7 general rate case?

8 MR. FISCHER: I think for KCPL, we would be
9 choosing the general rate case for other reasons. GMO
10 might have the ability to use the RESRAM more.

11 COMMISSIONER KENNEY: And you said you've got
12 some other folks that are coming?

13 Mr. FISCHER: Yes, I do.

14 COMMISSIONER KENNEY: All right.

15 JUDGE DIPPELL: And let me ask you before you
16 bring them up, you addressed one part of Commissioner
17 Davis' question. Were there any other portions of the
18 rule that you believe are in conflict with any statute?

19 MR. FISCHER: As I listened to Mr. Boudreau, I
20 think he covered the ones that I could have thought of
21 right off. But the one that jumped out at us would be the
22 bundling of the REC with energy or linking it together.
23 And, also, the standard contract itself is not mentioned
24 in the statute, and it is in the rule.

25 JUDGE DIPPELL: All right. And then who -- who

1 would you recommend come up first?

2 MR. FISCHER: I think Brad Lutz would be the
3 main witness.

4 JUDGE DIPPELL: All right. Mr. Lutz, you can
5 have your choice if you want to stand or sit.

6 MR. LUTZ: I'll stand.

7 BRAD LUTZ,
8 being first duly sworn to testify the truth, the whole
9 truth, and nothing but the truth, testified as follows:

10 TESTIMONY OF BRAD LUTZ

11 JUDGE DIPPELL: If you could just state your
12 name and spell it.

13 MR. LUTZ: My name is Brad Lutz, L-u-t-z. I'm
14 the Lead Regulatory Analyst for the Regulatory Affairs
15 Department for Kansas City Power & Light.

16 JUDGE DIPPELL: All right. Mr. Chairman, did
17 you --

18 CHAIRMAN CLAYTON: I guess I can't remember
19 which -- how many witnesses did you all have, and which
20 question do I want to ask this --

21 MR. FISCHER: Ask Mr. Lutz any of them.

22 CHAIRMAN CLAYTON: Let's start with the rate
23 impact language. Are you the right person to ask about
24 the -- the most appropriate averaging?

25 MR. LUTZ: I will start. Yes. Yes. But I -- I

1 do have John Grimwade and Tim Rush to help if we get --

2 CHAIRMAN CLAYTON: Just give me what -- on the
3 rate impact of this, does KCP&L believe that some sort of
4 averaging should be utilized when -- when assessing the --
5 the rate impact?

6 MR. LUTZ: I think in our analysis of the rule,
7 as we've stated in our written comments, we see that
8 there's a different -- definite conflict in the rule. And
9 our emphasis is more on finding a rule that's workable,
10 something that we can -- we can integrate our processes
11 around.

12 I think in our initial discussions of this, yes,
13 we -- we could support those types of averages. Now, I
14 don't think that we want to look at the long time frames
15 that some parties have been offering, but I do think that
16 that would be a workable solution consistent with our
17 comments.

18 CHAIRMAN CLAYTON: So -- so, yes, you believe
19 averaging should be used when -- when assessing the rate
20 impact?

21 MR. LUTZ: I think that it's an option that
22 could be considered and we could support.

23 CHAIRMAN CLAYTON: Okay. So then do I take from
24 that that the number of years, the averaging that would be
25 used that KCP&L would not exceed what Staff has

1 recommended in the three or four-year periods based on the
2 different percentages of the RPS obligation?

3 MR. LUTZ: The mechanics or impacts of those
4 different periods, I would have to defer that finest point
5 to -- to one of our other gentlemen if I may.

6 CHAIRMAN CLAYTON: You're killing me.

7 MR. LUTZ: I'm sorry. I'm sorry.

8 CHAIRMAN CLAYTON: Does that mean KCP&L is
9 opposed to the ten-year averaging for use under a
10 cumulative method of addressing the rate impact?

11 MR. LUTZ: I will say that our effort has been
12 to try to find a compromise, to find a workable solution.
13 So I don't know that we're necessarily against it at this
14 point given what we know. As that develops, as that would
15 take shape, that could change. But I -- I think --

16 CHAIRMAN CLAYTON: Well, I'm trying to
17 understand KCP&L's position because I think what I'm
18 hearing is that you believe that some -- some level of
19 averaging would be appropriate, but --

20 MR. LUTZ: Correct.

21 CHAIRMAN CLAYTON: And that we should reach for
22 compromise and all get along, but I don't know what that
23 means from there. Like is ten years wrong? Is -- do you
24 agree that 20 years is wrong? Do you believe that's too
25 long?

1 MR. LUTZ: I believe so. The -- the original
2 rule had a time frame that we -- we could support as -- as
3 drafted.

4 CHAIRMAN CLAYTON: And what was -- what was that
5 time frame?

6 MR. LUTZ: I -- I want to say ten. Is that -- I
7 believe it to be ten. I believe it to be ten. So I -- I
8 think we could support within that range. Anything that
9 would double that that has been proposed seems to be
10 extreme.

11 CHAIRMAN CLAYTON: Okay. From your perspective,
12 I don't know if you're the right person to ask this, is
13 there any reason that RECs and SRECs and their sourcing
14 location should be treated any differently?

15 MR. LUTZ: No. No. I don't believe they should
16 be treated any differently. An SREC and a REC should be
17 treated exactly the same.

18 CHAIRMAN CLAYTON: And -- and as I mentioned to
19 Mr. Fischer, I haven't had a chance just with all the
20 comments that came in relatively late yesterday -- if a
21 customer in KCP&L's service territory want to put a 3 KW
22 system on their house in Kansas City, Missouri, they are
23 eligible for a \$2 per watt rebate --

24 MR. LUTZ: Right.

25 CHAIRMAN CLAYTON: -- right now?

1 MR. LUTZ: Correct.

2 CHAIRMAN CLAYTON: And you have a tariff, I
3 think, that's in effect that addresses that?

4 MR. LUTZ: Yes. And we have paid some already.

5 CHAIRMAN CLAYTON: Now, I -- I am not clear on
6 how the process works in terms of the RECs being purchased
7 by the utility. How is -- can you give me an idea how the
8 price is set? Or is it negotiable? And then give me some
9 feedback on the -- the number of years that would be
10 evolved in -- in determining the price that would be paid
11 over a certain amount of time.

12 MR. LUTZ: Yes. In our current tariff, we did
13 not touch the -- the REC purchase mainly because of the
14 uncertainty around the language in the rule. The current
15 rule would require that we would put together a standard
16 offer based on a price to be determined.

17 I don't believe the mechanics of that was
18 clearly defined in the current rule. Our proposed
19 language, we have set up a -- basically, a three-tier
20 structure where, depending on the size of the system, you
21 would either use a standard kind of a boilerplate approach
22 for the smaller systems incrementing all the way up to the
23 larger systems where you'd almost do similar to a PPA or
24 more of a negotiated cost or price for those RECs.

25 CHAIRMAN CLAYTON: Now, the RECs are based on

1 capacity, not energy; is that correct?

2 MR. LUTZ: That, I'm not certain.

3 CHAIRMAN CLAYTON: You're not certain?

4 MR. LUTZ: I'm not certain about that.

5 CHAIRMAN CLAYTON: Is there any verification
6 after the fact that the company does to verify that - that
7 the level of -- that any certain level of energy was
8 produced?

9 MR. LUTZ: All that we would do, and this is
10 reflective of what we've done on the current installation,
11 is to verify the name plate information of what was
12 installed as part of our net meter -- net metering
13 interconnection inspection. So we verify that the
14 equipment was present, was connected. And then based on
15 that, that would serve as our confirmation.

16 CHAIRMAN CLAYTON: The last question I have is
17 -- is in looking at RECs, whether they be SRECs or just
18 general RECs, is there -- other than the size, is there
19 any other difference in treatment in how KCP&L looks at
20 whether a REC is -- is generated from either a hydro
21 source or solar source or wind resources? Are all things
22 up -- other than the size, are they the same?

23 MR. LUTZ: Yes. And -- and the REC -- the only
24 difference when we bring in the size is to simply afford
25 what contracting option and time frame we might offer to

1 buy those RECs. We would hate to buys RECs for a -- too
2 long a period when you can't be certain about the market
3 price for a REC. You don't want to commit to too high of
4 a price.

5 But for very small systems where the total
6 dollars are small, you -- there's not as much exposure to
7 commit to maybe a price that's a little bit too high. On
8 bigger systems, there's much more exposure if you were to
9 commit to too high of a price. So our decisions around
10 REC pricing are simply around the sizing and the exposure
11 around that commitment.

12 CHAIRMAN CLAYTON: Okay. Thank you.

13 MR. LUTZ: You bet.

14 JUDGE DIPPELL: Thank you. Commissioner Gunn?

15 COMMISSIONER GUNN: I don't have anything
16 further, unless you want to comment on some of questions
17 that I asked.

18 MR. LUTZ: No. I have nothing to add.

19 COMMISSIONER GUNN: Okay. Thanks.

20 JUDGE DIPPELL: Commissioner Kenney?

21 COMMISSIONER KENNEY: No, thank you.

22 JUDGE DIPPELL: All right. Thank you.

23 MR. LUTZ: Thank you.

24 JUDGE DIPPELL: Were there additional questions,
25 Mr. Chairman, or you got everything answered? All right,

1 then. We've been here about two hours, and I think it's a
2 good time for a break before we go to another line of
3 witnesses. So let's go ahead and take a ten-minute break
4 and come back at five after. And we can go off the
5 record.

6 (Break in proceedings.)

7 JUDGE DIPPELL: Let's go ahead and go back on
8 the record. All right. My -- my current plan is to maybe
9 just keep going to a couple more hours and take like a
10 lunch break at one and see if we can -- how many we can
11 get through between now and then.

12 MR. PARKER: Judge Dippell, how long a break --
13 how long a lunch break are you taking?

14 JUDGE DIPPELL: Maybe an hour. All right. So
15 let's go ahead, then. I want to get through as many
16 electric utilities as we can in that time, and then I
17 would like to try to get to the gentleman who needs to
18 leave early. So let's go ahead, then, with Ameren. Are
19 -- would you like to --

20 MS. TATRO: I think Empire is going to go first.

21 MR. MITTEN: Your Honor, is it okay if Empire
22 goes ahead of Ameren?

23 JUDGE DIPPELL: That's fine.

24 RUSSELL MITTEN,
25 being first duly sworn to testify the truth, the whole

1 truth, and nothing but the truth, testified as follows:

2 TESTIMONY OF RUSSELL MITTEN

3 JUDGE DIPPELL MITTEN: All right. If you'd
4 please spell your name for the court reporter.

5 MR. MITTEN: My name is Russ Mitten,
6 M-i-t-t-e-n. As I mentioned earlier, Empire filed written
7 comments yesterday. And to the extent the Commission has
8 any comments regarding -- or questions regarding those
9 comments, I have Tim Wilson who is Empire's Manager of
10 Renewable and Strategic Initiatives here who will be able
11 to respond to those questions.

12 The purpose of my comments today is to respond
13 to comments that were filed by the Commission's General
14 Counsel and later concurred in by Staff to the effect that
15 the Commission should eliminate from the proposed rule
16 Section 9, which deals with the solar exemption.

17 The General Counsel's comments appear to confuse
18 or even equate the filing of a lawsuit challenging a
19 statute with a judicial determination that that statute is
20 invalid. And its Empire's position that unless and until
21 a court determines that Section 393.1050, which is the
22 basis for the solar exemption that's included in the
23 Commission's rules is determined to be invalid that the
24 Commission should recognize that statute as valid and
25 enforceable.

1 We also believe that it would be a mistake for
2 the Commission as an organization or for the individual
3 Commissioners to appear to shrink from the responsibility
4 to enforce all statutes that apply to regulated utilities
5 in this state in the face of a lawsuit that merely
6 challenges the validity of a statute.

7 We're concerned that in a litigation if the
8 Commission follows the General Counsel's suggestion that
9 removing the solar exemption from the proposed rules will
10 be viewed as a tacid admission by the Commission that
11 there is something wrong with Section 393.1050, and we
12 firmly believe that that's not the case.

13 So because the Commission has included solar
14 rebates in Section 4 of the proposed rule, we believe that
15 Section 9 should be retained as well. That concludes my
16 comments. I'd be happy to answer any questions.

17 JUDGE DIPPELL: Mr. Chairman?

18 CHAIRMAN CLAYTON: Just quickly, a couple of
19 questions. So -- so, basically, Empire is saying leave
20 the exemption in because in the litigation, it sends --
21 sends a message that -- that -- that the Commission would
22 be in agreement, perhaps, with other positions taken by
23 other parties; is that correct?

24 MR. MITTEN: The main position we have is leave
25 the exemption in because the statute is still valid, and

1 we don't want anybody to misread the signal from the
2 Commission if you would take that exemption out of your
3 proposed rules.

4 CHAIRMAN CLAYTON: If the Court finds that the
5 statutory exemption for Empire is valid and remains in
6 place, regardless of what's in the rule, you would agree
7 that Empire would still have that exemption?

8 MR. MITTEN: I would agree. Yes.

9 CHAIRMAN CLAYTON: Regardless of what our rule
10 says?

11 MR. MITTEN: Yes.

12 CHAIRMAN CLAYTON: So if we put it in the rule,
13 basically, it would be redundant, just copying what the
14 statute already says?

15 MR. MITTEN: Well, I think you're right,
16 Commissioner Clayton. But I think there are probably
17 other provisions in the proposed rule that are also
18 redundant with Prop C as well. And if you want to apply
19 this rule across the board, I guess I wouldn't have a
20 problem with it.

21 My concern is that if you single out the solar
22 exemptions for special treatment based upon redundancy,
23 again, I think that's sends a bad signal to the Court
24 that's reviewing the statute.

25 CHAIRMAN CLAYTON: Okay. I don't think I have

1 any other questions. Thank you.

2 JUDGE DIPPELL: Thank you. Commissioner Gunn?

3 COMMISSIONER GUNN: If we put in the Comments
4 section that the reason why we were dropping it is because
5 it was redundant and the statute's either -- I mean, the
6 statute is the statute and we're making no determination
7 of that, would that --

8 MR. MITTEN: Well, again, I believe there are
9 probably other provisions of the proposed rule that are
10 also redundant with Prop C. And if you applied that rule
11 across the board, I wouldn't have a problem with it. But,
12 again, just focusing on the solar exemption, I think that
13 does send a bad signal.

14 COMMISSIONER GUNN: Does Empire concur with some
15 of the other comments about this kind of -- I'll call it
16 this but for test where -- where -- and maybe you said it
17 while I was out of the room, where, for example, Empire's
18 already at a certain amount of -- of wind, so if they
19 wanted to add more wind, since it would have not -- would
20 not be because of the mandate that it should be taken out
21 of any sort of price cap or rate cap and should be
22 considered just like any prudent generation would be --
23 would be considered?

24 MR. MITTEN: Mr. Wilson is here from the
25 company. I think he would be better qualified to address

1 that question than I would.

2 COMMISSIONER GUNN: Okay.

3 MR. MITTEN: Tim?

4 COMMISSIONER GUNN: I don't have anything else,
5 so --

6 MR. MITTEN: Would you like me to bring him up?

7 JUDGE DIPPELL: Yes, please. While he's coming
8 up, Mr. Mitten, I will just ask you briefly Commissioner
9 Davis' question. Did you see any sections of the rule
10 that you believe directly conflict with the statutes?

11 MR. MITTEN: Judge Dippell, I haven't done a
12 comprehensive review. I would concur with the comments
13 that Mr. Wood and Mr. Boudreau made. I will say this:
14 Ever since I first became aware of Proposition C when it
15 was still being proposed to the voters and I saw the 1
16 percent rate cap, based upon 30 years of practice in
17 utility law, I've had serious questions as to whether or
18 not that would be legally enforceable if, in fact, a
19 utility was forced to spend expense or investment to
20 comply with the statute. And that would require a rate
21 increase of more than 1 percent. I don't know of any
22 legal basis for the Commission to deny the additional rate
23 of relief.

24 JUDGE DIPPELL: All right. Thank you.
25 Mr. Wilson, if you'd please raise your right hand.

1 TIM WILSON,

2 being first duly sworn to testify the truth, the whole
3 truth, and nothing but the truth, testified as follows:

4 TESTIMONY OF TIM WILSON

5 JUDGE DIPPELL: Thank you. If you could state
6 your name and tell us your position with the company?

7 MR. WILSON: I am Tim Wilson. I am the manager
8 of Renewable & Strategic Initiatives with Empire District
9 Electric Company.

10 JUDGE DIPPELL: Thank you.

11 COMMISSIONER GUNN: I'll restate my question.
12 Does Empire agree with the idea that it is a -- a floor
13 and that those renewable resources that are integrated
14 into your -- your generation portfolio that are not being
15 used to meet the mandate but are used for some other
16 justifiably prudent reason should not be included in the
17 -- in the rate case?

18 MR. WILSON: Yes. If it's already been
19 determined that it's a prudent investment, then believe we
20 believe that it should not be included in the 1 percent
21 rate cap.

22 COMMISSIONER GUNN: And do you agree that that
23 would either be through the IRP process, a
24 predetermination or regulatory plan out -- or was there
25 some other mechanism that you think would be?

1 MR. WILSON: Yes, sir. We agree.

2 COMMISSIONER GUNN: Okay. Thank you very much.
3 I don't have anything else.

4 JUDGE DIPPELL: Mr. Chairman, did you have any
5 questions for Mr. Wilson?

6 CHAIRMAN CLAYTON: Just very quickly. Empire
7 has a -- has a unique position in this because of its
8 position with regard to -- to renewable power today. Can
9 you give me an idea today where Empire gets the bulk of
10 its renewable power, describe -- and describe the
11 relationship in RECs and the actual energy?

12 MR. WILSON: Okay. Currently, we have two
13 long-term purchase power agreements, both of them 20 years
14 in length. The first one we signed started -- I think it
15 went commercial in December of 2005. That agreement is
16 with the Oak River Wind Farm, LLC, based out of Beaumont,
17 Kansas. It's near Wichita. It's 150 megawatts. And we
18 receive approximately 550,000 megawatt hours of energy
19 each year from that facility.

20 The second long-term purchase power agreement we
21 entered into began purchasing -- or began generating and
22 delivering energy to the grid in December of 2008. That
23 is with -- it's called Meridian Way Wind Farms, and it's
24 105 megawatts. And we expect to generate about 350,000
25 megawatt hours from that facility.

1 CHAIRMAN CLAYTON: Now, these are PPAs, correct?
2 So you're actually purchasing energy?

3 MR. WILSON: Yeah. We -- we actually purchased
4 the energy and the associated renewable attributes with
5 that, so we get roughly 900,000 RECs a year from those
6 facilities.

7 CHAIRMAN CLAYTON: How many? I'm sorry.

8 MR. WILSON: Roughly, 900,000. If you add the
9 550,000 from Elk River and the 350,000 we expect to
10 generate with Meridian Way, that's a total of about
11 900,000 not including our eligible hydro.

12 CHAIRMAN CLAYTON: Okay. Has Empire purchased
13 any RECs that are not associated through a PPA, just
14 buying RECs?

15 MR. WILSON: No. We -- we sell our RECs
16 currently.

17 CHAIRMAN CLAYTON: Okay. So you -- you receive
18 the 900,000, and you use -- you turn around and sell those
19 to other entities?

20 MR. WILSON: Other entities, third parties,
21 brokers, national voluntary market.

22 CHAIRMAN CLAYTON: So those -- those RECs are --
23 are sold or bought on a national level?

24 MR. WILSON: Yes.

25 CHAIRMAN CLAYTON: So it doesn't require someone

1 from Arkansas, Oklahoma, Kansas that are close to you?

2 MR. WILSON: No. No. Anyone -- anyone can
3 purchase them from us. Now, if they are within a state
4 that has their own rules like Missouri may have their
5 rules, then they may or may not be able to purchase any
6 RECs. But, typically, yeah, we sell them all across the
7 country.

8 CHAIRMAN CLAYTON: Okay. Now, how would
9 Empire's practice change in 2011? Would you continue
10 selling -- you would use the -- the amount of the 900,000
11 RECs that you have, you would use those to meet your 2
12 percent obligation and continue selling the rest? Is
13 that --

14 MR. WILSON: I think that's our position
15 currently. Obviously, it depends on what the other
16 utilities in the state are doing or what they may
17 potentially need. But, yeah, we will -- we will have less
18 RECs to sell on the national voluntary market as a result
19 of our standards. So we will comply with our standards
20 first. Anything above and beyond that, we'll try to still
21 maximize its value.

22 CHAIRMAN CLAYTON: Okay. And that figure of
23 900,000 RECs, that's -- those are RECs that would be --
24 that number would stay constant over, say, the next ten
25 years?

1 MR. WILSON: Depending on --

2 CHAIRMAN CLAYTON: Depending on what you buy --

3 MR. WILSON: Depending on what the actual wind
4 output is. We assume a certain capacity factor. If one
5 year is windier than another, then our actual generation
6 will deviate from it. It's not guaranteed to be 900,000.
7 It's take or pay, though. It's delivered to the grid. We
8 pay for it. We just assume that's about how much we'll
9 receive.

10 CHAIRMAN CLAYTON: So this is an estimate, and
11 there is a true-up mechanism that verifies the amount of
12 energy that's actually produced?

13 MR. WILSON: Each quarter, the -- the owner of
14 the generator will give us a generator attestation that
15 says, We deliver this amount of renewable energy to the
16 grid. It just also happens to be the same number that --
17 of -- that's equal to the megawatt hours that they
18 generated. So we pay for the megawatt hours, and then
19 they attest to the same amount as RECs.

20 CHAIRMAN CLAYTON: Does Empire -- I don't know
21 if this question makes sense. Do you also sell the power?
22 You sell the -- you sell the RECs right now on the market.
23 Do you also sell the power to use the power? Is it clear?

24 MR. WILSON: The majority of the energy that --
25 that they deliver to the grid is used for our customers.

1 CHAIRMAN CLAYTON: Okay.

2 MR. WILSON: That said, if any point in time
3 where our customer demands, it's such that once we have
4 all our base load generation on and then our wind farms
5 are generated above and beyond what we need, we will then
6 sometimes sell that energy as well. But we do not sell
7 the RECs associated with that energy. It's just an energy
8 only deal.

9 CHAIRMAN CLAYTON: Okay. Thank you.

10 JUDGE DIPPELL: Are there any additional
11 questions from the Commission?

12 COMMISSIONER KENNEY: No, thank you.

13 JUDGE DIPPELL: All right. Thank you,
14 Mr. Wilson. Mr. Mitten, I have one follow-up for you.

15 TESTIMONY OF RUSSELL MITTEN

16 MR. MITTEN: Yes, ma'am.

17 JUDGE DIPPELL: If -- if Section 9 is left in
18 the rule but then the Statute 393.1050 is found to be
19 invalid, what -- what happens to that section of the rule?
20 Do you think that it would be severable? Or --

21 Mr. MITTEN: I think it could be severed, yes.
22 I think it would be rendered void by the Court's action
23 because the basis for the exemptions in Section 9 are
24 393.1050.

25 JUDGE DIPPELL: Okay. Thank you. All right,

1 then. Ameren? Ms. Tatro, can I get you to raise your
2 right hand?

3 WENDY TATRO,
4 being first duly sworn to testify the truth, the whole
5 truth, and nothing but the truth, testified as follows:

6 TESTIMONY OF WENDY TATRO

7 JUDGE DIPPELL: Thank you. If you could state
8 your name and spell it, please.

9 MS. TATRO: My name is Wendy Tatro. That's T,
10 as in Tom, a-t, as in Tom, r-o.

11 JUDGE DIPPELL: Go ahead.

12 MS. TATRO: Good morning, Commissioners. The
13 first thing I would like to do is correct an error in the
14 written comments that were submitted after five, so thank
15 you, Judge Dippell, for allowing those in.

16 On page 3 at the bottom, you'll see the spot
17 where I was supposed to insert a citation and failed to do
18 so in the footnote, so let me give you those citations
19 now. Public Service Commission versus Bonniker (ph.), 906
20 Southwest Second, 896, 899, Missouri Court of Appeals,
21 1995. And Laclede Gas Company versus Public Service
22 Commission, 600 Southwest Second 222 Missouri Ap. 1980. I
23 apologize for the oversight. It was late, and I was
24 tired.

25 Besides my comments, I will have an additional

1 person to put on the stand to offer some testimony for
2 you. And that would be Rex Jenkins who is from our
3 Corporate Planning Division who does modeling.
4 And what he's attempted -- among other things, what he's
5 attempted to do is to put together for you an explanation
6 of all the assumptions and the requirements that the
7 utility will need to go through to come up with what that
8 1 percent number is. So I will offer him after I have
9 gone through these comments and answered any questions
10 that you might have.

11 First, AmerenUE does support the development of
12 renewable energy in Missouri. We've started that process
13 already, and that process was started prior to Proposition
14 C being approved by the Missouri voters. But we support
15 the prudent development of renewable energy in Missouri,
16 and we believe that the language of Proposition C itself
17 doesn't change the responsibility that the utility has or
18 even the responsibility of this Commission to ensure that
19 utilities are adding renewable generation to their
20 generation portfolio or purchased power or through RECs in
21 a prudent manner.

22 We believe the Commission should implement rules
23 for Proposition C in a way that protects customers from
24 unnecessary rate impacts and allows the utility a
25 reasonable opportunity to recover its prudent expenditures

1 that are related to these compliance efforts. In other
2 words, we -- we hope that we both share the same goal
3 here, and that is compliance with the rule and
4 minimization of the rate impacts while ensuring timely
5 cost recovery.

6 AmerenUE's concern with portions of this rule as
7 proposed is that it doesn't do that. It -- it has some
8 portions which -- which cause some concern, many of which
9 have been spoken to by my colleagues, so I won't go into
10 great detail on them.

11 But this rule does require RECs currently to be
12 bundled with energy. As my colleagues have pointed out to
13 you, that renders meaningless the language of Prop C which
14 says in whole or in part you can comply with this law by
15 purchasing RECs.

16 Now, if you're purchasing -- if you're complying
17 with Proposition C by purchasing energy, it's a purchase
18 power agreement, then the REC stays with it. Otherwise,
19 it's no longer green power. But if you're complying by
20 RECs, which is expressly allowed by the statute, it doesn't
21 have to be from an area that's deliverable.

22 The risk for that, the problem for that is -- is
23 when we limit the area from which we -- where we can
24 purchase the RECs, we shrink the pool of RECs. We
25 increase the cost of RECs. We get closer to hitting the 1

1 percent cap. And it may have the impact of slowing
2 renewable development rather than encouraging renewable
3 development in Missouri, which is the goal, I think, of
4 everyone in this room.

5 This rule also imposes additional and
6 unnecessary costs by requiring a utility who wants to put
7 in its own renewable generation for that process to be
8 constructed under the oversight of an independent auditor.
9 This requirement doesn't exist for a utility to build any
10 other type of generation asset for himself. There's a
11 process already in place when that goes into rates.
12 That's reviewed. The Commission determines whether or not
13 the decision was prudent.

14 And that doesn't need to change. There doesn't
15 need to be additional intrusions into the company's
16 management of what assets it owns and uses to generate.

17 This rule also requires Missouri utilities to
18 purchase SRECs from customers through this standard offer.
19 Now, Ameren doesn't oppose having a standard offer, but it
20 should be offered at the utility's discretion. The --
21 this complicates the utility's compliance filing.

22 It doesn't say what the fixed price would be,
23 and it adds more guessing and second guessing to the
24 process. Now, when Ameren does its plan, it's going to
25 have to assume some level of customer participation.

1 Under the current rule, we would be forced to make this
2 standard offer -- standard contract offer. So we'll have
3 to guess at how many customers may or may not take
4 advantage of that offer. But it's going to be a guess.
5 And because it's a guess, it probably isn't going to be
6 right.

7 So when we're doing that prudent planning, the
8 utility needs to know -- it needs to be able to have the
9 certainty it feels comfortable with. So maybe the option
10 is to offer the standard contract and to purchase those
11 RECs from our customers. But maybe the most prudent
12 option is to build its own solar farm or to buy RECs from
13 somewhere in a different region that's not necessarily in
14 Missouri. All of those options should be available to the
15 company so that it can choose the most cost effective
16 manner to comply with Proposition C.

17 And then finally, there is the methodology for
18 figuring the 1 percent cap. The method set forth in the
19 draft rules is -- is complex, and it's fraught with
20 opportunity for the utility to be second-guessed and for a
21 controversy to erupt every time the utility files a
22 complaint.

23 We have all been through various IRPs where
24 there are multi-year forecasts and all kinds of
25 assumptions built into it, and there is a great deal of

1 time spent trying to figure out if those assumptions are
2 correct. The difference here, Commission, is that you
3 would end up impacting what the 1 percent cap is going to
4 be or how much the rate increase -- revenue requirement
5 increase could occur based on those assumptions. And we
6 believe that is a very different approach than what has
7 been used for setting rates by this Commission in the
8 past. And there are far simpler ways to do that. And
9 AmerenUE's comments provides a couple of those mechanisms
10 for you.

11 Now, the parties in this room have very
12 different interests. Some see Proposition C purely as an
13 economic development tool or job creation law, and
14 AmerenUE believes that Proposition C can have that impact
15 in Missouri. It can have a positive impact on jobs and on
16 the Missouri economy. But those factors aren't the
17 controlling -- aren't the deciding factors that you should
18 use for determining what the rules should be.

19 If the rule creates an inefficiency in the
20 utility process, that then that should be rejected. And I
21 think the examples that I've cited previously are
22 inefficiencies that the Commission should not want to
23 introduce into this process. You should continue to use
24 the same principles by which you always use, ensuring
25 sufficient and efficient service at just and reasonable

1 rates that allow a utility a reasonable opportunity to
2 recover its prudent expenditures and earn a reasonable
3 rate of return.

4 Now, setting -- being the last utility to go,
5 I've sat through several of the questions that I've heard,
6 so I'll attempt to address some of them and -- with the
7 full knowledge that if I don't give you a complete answer,
8 you'll let me know.

9 There has been several questions, I think, from
10 Commissioner Gunn dealing with this idea of
11 predetermination. I would describe -- which AmerenUE also
12 supports. I would call it decisional prudence.
13 What it would be is an examination of the decision to
14 build the solar or the wind or whatever the decision is,
15 and at this time, yes, it makes sense.

16 You talked about what if the costs escalate and
17 it goes above the 1 percent, and does that give the
18 utility an off-ramp or what impact does that have. I
19 think that depends. I'm presuming for this question that
20 it's prudent and we're not dealing with an imprudent
21 expenditure here.

22 It depends on when it occurs and if cost
23 increase is known very early in the process before there's
24 been a large investment, before the steel has been placed
25 into the ground, then maybe it does provide an off-ramp

1 and for a re -- for the utility to re-examine that
2 decision, as well as you should expect us to do if that
3 happens.

4 And if we failed to make that re-examination,
5 then I think we would be subject to allegations of
6 imprudence because circumstances changed and we did not
7 react appropriately.

8 Now, if that change occurred very late in the
9 process after there's substantial investment, then it may
10 not be an off-ramp. I mean, the utility will have to look
11 at that. And, again, that would be something that you
12 would examine. But remember, we're a state that doesn't
13 allow to clip into rates.

14 So if we're making a substantial investment,
15 there will come a point in time where the off-ramp doesn't
16 make sense. So that's not a yes or no answer to you, but
17 I think it depends on where you are in the process. Best
18 I could do.

19 COMMISSIONER GUNN: That's fair.

20 MS. TATRO: There's been many questions about
21 the geographic -- geographic sourcing. I think the MEDA
22 utilities have been pretty consistent in offering the
23 State of Missouri and SPP, MISO as a compromise. I do
24 agree with the Staff that the statute doesn't contain any
25 restriction. If the Commission wanted to adopt the

1 Staff's recommendation of using the states, you can
2 include Hawaii if you like. That -- that is perfectly
3 acceptable.

4 I think when you are using, for example, the --
5 the Commission has decided to use APX to register the
6 RECs, if you trying to buy RECs from China or somewhere
7 else, I don't know that that registration would occur. So
8 for practical purposes, the United States or maybe North
9 America might be a more realistic option regardless of
10 what the -- if the rules were silent on that issue.

11 AmerenUE does support the discussion that you
12 had with KCP&L about Proposition C being a minimum and not
13 a maximum. I think the statute itself says at least, at
14 least, at least. It says that at least five times. And I
15 -- I also think that everyone in the room would agree that
16 in the companies' integrated resource planning or it could
17 come through some other mechanism, it is determined that
18 regardless of Proposition C, if the least -- the least
19 cost resource to implement is a wind farm, that's what you
20 would want your utility to do. You wouldn't want your
21 utility to be forced to a more expensive option merely
22 because of this 1 percent number in Proposition C. So I
23 -- we concur with KCPL's comments on that issue.

24 I think I have answered most of the questions I
25 have heard Commissioners ask. The statute question from

1 Commissioner Davis. I apologize. I would concur with
2 what my colleagues have mentioned. I, too, have had
3 significant concern with the functioning of the cap and
4 the functioning of the ten-year average.

5 If the utility is required to make a major
6 investment because of the way the -- the ten-year average
7 functions, but -- but that investment is over the 1
8 percent cap, if there is not timely cost recovery, then I
9 think we have some violation of fundamental utility
10 regulation principles that cause me some concern.

11 JUDGE DIPPELL: Very good. Are there questions
12 for Ms. Tatro?

13 CHAIRMAN CLAYTON: Just very briefly, Judge.
14 Thank you. Ms. Tatro, I haven't had a chance to
15 thoroughly review your comments just because of the hour.
16 I wanted to ask if you could restate Ameren's position
17 with regard to the geographic sourcing issue. And -- and
18 I think you all are consistent. It said the utilities are
19 consistent in the unbundling of the RECs and the energy.
20 But is there any geographic limitation that Ameren is
21 suggesting that should be applied in this rule?

22 MS. TATRO: Well, we think the law doesn't
23 require it. But as a compromise, we offered the state of
24 Missouri and the SPP and in MISO. On the RECs, I -- I
25 think that we would not treat them any differently.

1 CHAIRMAN CLAYTON: So the RECs would be from the
2 same geographic limitation? Or Ameren's position is that
3 you're suggesting the RECs would come from the same
4 footprint as well?

5 MS. TATRO: We have offered that as a
6 compromise.

7 CHAIRMAN CLAYTON: Okay.

8 MS. TATRO: We really think you could do the
9 entire United States. I don't think the statute says you
10 have to make that restriction.

11 CHAIRMAN CLAYTON: Okay.

12 MS. TATRO: And I -- and I would point out the
13 more you restrict it, the higher the price might be. I
14 don't know. There's a lot of solar RECs in Missouri right
15 now. There's probably a lot more in California.

16 CHAIRMAN CLAYTON: Okay. Can you -- I asked the
17 Empire witness earlier about how they -- how they are
18 deriving their energy resources right now, their renewable
19 sources. And I wanted to ask, from Ameren's perspective,
20 how much experience AmerenUE has in procuring renewable
21 sources of energy?

22 MS. TATRO: Well, our first purchase power
23 contract from a wind farm, I think we started receiving
24 that energy in September of last year. But the
25 individuals who are responsible -- and I -- and I do have

1 Bill Barbieri here today, who is the Manager of Renewables
2 and has also done work on the Illinois side where they've
3 had to acquire RECs, sent out requests for bids on that
4 kind of stuff. So I think we have perhaps not as much
5 experience as Empire, but we are quickly acquiring that
6 experience.

7 CHAIRMAN CLAYTON: So the holding company has
8 experience, that there are people on Staff paid by Ameren
9 Corp. or --

10 MS. TATRO: AFS, Ameren Fuel Services.

11 CHAIRMAN CLAYTON: Okay.

12 MS. TATRO: They do that for the utilities.

13 CHAIRMAN CLAYTON: Okay. So -- but AmerenUE has
14 -- is it fair to say a single PPA?

15 MS. TATRO: I believe that is correct.

16 CHAIRMAN CLAYTON: And are you able to give me
17 some specifics like what Empire gave me about the number
18 of RECs that you received from and the size of -- of that
19 wind farm?

20 MS. TATRO: I'm sure that we can do so if we can
21 bring Mr. Barbieri up.

22 CHAIRMAN CLAYTON: Sure. Why don't we do that
23 very quickly and --

24 WILLIAM BARBIERI,
25 being first duly sworn to testify the truth, the whole

1 truth, and nothing but the truth, testified as follows:

2 TESTIMONY OF WILLIAM BARBIERI

3 JUDGE DIPPELL: If you could please spell your
4 name for the court reporter.

5 MR. BARBIERI: My name is William Barbieri,
6 B-a-r-b-i-e-r-i. I'm Manager of Renewables for Ameren
7 Energy Fuel and Services.

8 JUDGE DIPPELL: Do you -- do you want to re-ask
9 your question?

10 CHAIRMAN CLAYTON: Yes. I'll re-ask the
11 question. Are -- are you an employee of AmerenUE or
12 Ameren Corp. or, I guess, AFS?

13 MR. BARBIERI: AFS Service company, correct.

14 CHAIRMAN CLAYTON: Forgive me. I confuse the
15 affiliates. Is it fair to say -- and if I get into any
16 confidential information, I don't want to do that. So is
17 it fair to say that AmerenUE has a single PPA in which it
18 receives renewables, qualified renewables?

19 MR. BARBIERI: Currently, the wind PPA that we
20 have is with Horizon Wind Farm. That's correct. It's 102
21 megawatts. We anticipate to get somewhere between 325 and
22 350,000 megawatt hours per year from that contract.

23 CHAIRMAN CLAYTON: And it's not developed yet?

24 MR. BARBIERI: It is developed. It was
25 developed last year.

1 CHAIRMAN CLAYTON: It is developed.

2 MR. BARBIERI: And we entered into the contract
3 and they started delivering those to us in September of
4 2009.

5 CHAIRMAN CLAYTON: Okay. Where -- where --
6 geographically, where is that?

7 MR. BARBIERI: They are in north central Iowa.
8 And they are a participant in the MISO.

9 CHAIRMAN CLAYTON: Okay. And -- and that's a
10 PPA. So you get both the REC and the energy; is that
11 correct?

12 MR. BARBIERI: Yes, sir.

13 CHAIRMAN CLAYTON: And then do you -- I assume
14 you turn around and sell the RECs?

15 MR. BARBIERI: No, sir.

16 CHAIRMAN CLAYTON: You keep the RECs?

17 MR. BARBIERI: We are -- we are keeping those in
18 anticipation of compliance with Prop C.

19 CHAIRMAN CLAYTON: All right. Do you -- do you
20 use them in Illinois? Are you able to use them in
21 Illinois?

22 MR. BARBIERI: We -- we could, but we don't.

23 CHAIRMAN CLAYTON: You don't. Okay. And then
24 how about the power, the actual energy you all use?

25 MR. BARBIERI: The actual energy comes into

1 AmerenUE's locational marginal pricing node. There's a
2 specific node mentioned in the contract that then
3 interconnects with Ameren. So Ameren gets the actual
4 energy.

5 CHAIRMAN CLAYTON: So AmerenUE?

6 MR. BARBIERI: AmerenUE. Yes, sir. I'm sorry.

7 CHAIRMAN CLAYTON: AmerenUE receives it. Now,
8 do you have any renewable energy sources that are located
9 within the state of Missouri?

10 MR. BARBIERI: we have -- we are building -- are
11 in the process of starting to build the landfill gas
12 operation with Fred Webber. And we anticipate that that
13 will provide us between 80,000, and when it gets to full
14 operation, to potentially up to 115,000 megawatt hours.

15 CHAIRMAN CLAYTON: And how many RECs would that
16 represent?

17 MR. BARBIERI: Between 80,000 and 115,000 when
18 it becomes full operation.

19 CHAIRMAN CLAYTON: So those are the RECs? I'm
20 sorry.

21 MR. BARBIERI: Yes, sir. That would be the
22 actual generation and the associated RECs with that.

23 CHAIRMAN CLAYTON: Okay. Can you give me an
24 idea that if -- with the horizon project and the Fred
25 Webber project, what percent of energy would that -- what

1 percent would you be if we were doing an RES analysis
2 on --

3 MR. BARBIERI: I'd have to go back and check the
4 calculations. I really wouldn't know offhand.

5 CHAIRMAN CLAYTON: Would it reach 1 percent or 2
6 percent?

7 MR. BARBIERI: I really don't know. I'm trying
8 to think in -- in overall, you're total hours is what?
9 40,000? Or I'm sorry. 40 million megawatt hours,
10 somewhere in there is what the company generates.

11 CHAIRMAN CLAYTON: Well, then let's look out to
12 2011. In your position, how many RECs would be necessary
13 for Ameren -- I mean, you've got to be looking on the
14 horizon of where Ameren's going to go.

15 MR. BARBIERI: Ameren has anticipated we would
16 need somewhere between 700,00 and 750,000 total megawatt
17 hours to comply at a 2 percent level in 2011 based on
18 projected generation sales.

19 CHAIRMAN CLAYTON: Okay. And so you have no
20 wind development in the State of Missouri right now?

21 MR. BARBIERI: No, sir.

22 CHAIRMAN CLAYTON: From Ameren's perspective,
23 does it ever make sense to cross transmission systems or
24 leave the MISO?

25 MR. BARBIERI: It's --

1 CHAIRMAN CLAYTON: Is it all a matter of price?

2 MR. BARBIERI: It's definitely a matter of price
3 and some practicality as to whether or not that can
4 physically be done. Right.

5 CHAIRMAN CLAYTON: Okay. Is it fair to say that
6 Ameren, in looking at large scale renewable energy, would
7 have to look east in meeting its needs in -- into the MISO
8 footprint?

9 MR. BARBIERI: Predominately, I would say it
10 could be Illinois, Iowa, Wisconsin. Could be -- could be
11 north and east.

12 CHAIRMAN CLAYTON: Do you see -- do you see
13 possibilities being in Missouri?

14 MR. BARBIERI: We are investigating
15 opportunities in Missouri. But as we've said before, in
16 looking at some of the capacity factors associated with
17 the overall development, there are areas that provide a
18 much higher capacity factor, and that significantly has --
19 has a significant impact on the price that you pay.

20 CHAIRMAN CLAYTON: Does -- does Ameren apply any
21 economic development analysis? It was kind of suggested
22 by Ms. Tatro earlier in looking at economic development
23 from a state perspective. Do you all apply any analysis
24 when deciding whether or not a project makes sense?

25 MR. BARBIERI: My group has not done that, no,

1 sir.

2 CHAIRMAN CLAYTON: So you don't apply any
3 economic development analysis?

4 MR. BARBIERI: We do that strictly on a -- on a
5 least cost operational basis with the entity itself.

6 CHAIRMAN CLAYTON: Okay. Okay. I think that's
7 all that I have. Thank you.

8 JUDGE DIPPELL: Thank you. Commissioner Gunn?

9 COMMISSIONER GUNN: This may be directed towards
10 Ms. Tatro. Do you envision this -- the decisional
11 prudence review, which I think is a -- is a good term for
12 it, would also be used to determine whether a particular
13 renewable project would be inside the mandate or outside
14 the mandate? Or would there be another mechanism, either
15 through a separate proceeding or through some sort of --
16 sort of vacation or filing from the utility?

17 MS. TATRO: I hadn't thought about that. But it
18 could. You know, it would all depend on how you want to
19 set up the rules of -- of that procedure. What I think --
20 you know, what the utilities are really looking for is --
21 is the decisional prudence on what we have to construct or
22 purchase in order to comply with Proposition C because of
23 -- of this requirement that it be -- that the 1 percent be
24 considered against -- if you pretended you didn't have
25 renewables. So you're already into a world that doesn't

1 exist in reality.

2 COMMISSIONER GUNN: Right.

3 MS. TATRO: So it's fraught with peril for us to
4 know that we're making an investment that the Commission
5 is going to allow us to recoup in a timely manner. But
6 you certainly could take that further.

7 COMMISSIONER GUNN: Because in determining
8 whether a project was in or out, we'd almost have to
9 review every renewable project that came before us.

10 MS. TATRO: It would certainly be more
11 complicated.

12 COMMISSIONER GUNN: All right. Thank you. I
13 don't have anything more.

14 MS. TATRO: It could be dealt with, I suppose,
15 in the IRP rule, which I think the utilities also have
16 suggested could have some options.

17 COMMISSIONER GUNN: Okay. Thank you.

18 JUDGE DIPPELL: Any other questions for these
19 witnesses? All right. Thank you.

20 MS. TATRO: Did you want to bring Rex up next?

21 JUDGE DIPPELL: Did -- was there additional
22 questions, or did he have additional comments that you
23 thought -- oh, you wanted to --

24 MS. TATRO: Rex was going to talk about the
25 modeling work that he did to show the Commission how that

1 would work. I know we had someone else who had to leave
2 at a certain time.

3 THE COURT REPORTER: Excuse me. I need to
4 change paper real quick.

5 JUDGE DIPPELL: No. That's fine. Okay. I'll
6 go ahead and swear you in while she's changing the paper.
7 Okay.

8 REX JENKINS,
9 being first duly sworn to testify the truth, the whole
10 truth, and nothing but the truth, testified as follows:

11 TESTIMONY OF REX JENKINS

12 JUDGE DIPPELL: Now we'll give the court
13 reporter a change to catch up.

14 MS. TATRO: I'll go ahead and pass this out if
15 that's acceptable.

16 JUDGE DIPPELL: Do you want to mark it as an
17 exhibit? Ms. Tatro has a copy of a presentation or some
18 slides that we have that are going to go up, I believe, on
19 the system. It looks like he's got it all set up there.

20 MS. TATRO: We hope so.

21 JUDGE DIPPELL: And we can go ahead and mark
22 that as Hearing Exhibit No. 1.

23 (Hearing Exhibit No. 1 was marked for
24 identification.)

25 JUDGE DIPPELL: All right. Go ahead. Would you

1 state your name and spell it, please?

2 MR. JENKINS: Yes. My name is Rex Jenkins. I'm
3 the Lead Analyst in Corporate Planning for Ameren.
4 Jenkins, J-e-n-k-i-n-s. My purpose here today is to
5 review processed assumptions and projections that AmerenUE
6 would need to make to implement the proposed rules
7 associated with Proposition C from a retail rate impact
8 perspective.

9 The proposed rules require several
10 forward-looking projections to be made ten years into the
11 future. These projections that are traditionally used for
12 business planning purposes that will instead be used to
13 calculate future revenue requirements and are critical in
14 determining how much renewable generation could be built
15 to meet Prop C requirements.

16 In just a moment, I will review an example of
17 this process, and five of these key projections are as
18 follows: One, load and load growth work test;
19 Two, market value for both electricity and regulatory
20 capacity; three, administrative and solar rebate costs;
21 four, capital costs to build renewable projects; and five,
22 energy received from the renewable projects.

23 Projections are part of a normal business
24 planning process not used in rate-making to establish a
25 utility's cost of service or revenue requirement and

1 should not be used to establish the level of the 1 percent
2 rate cap.

3 A more transparent and consistent method for
4 calculating a 1 percent rate cap would be to use the
5 utility's base rate revenue requirement as determined from
6 the most recent Commission-approved rate case.

7 And given that, I'd like to move into the
8 spreadsheet now and sort of go through the process that --
9 that it's trying to model. Okay. As you can see here, I
10 have years moving into the future going across the top.
11 The columns that are in dark gray are the -- are the years
12 in which a renewable portfolio standard hits or changes.
13 So you can see in 2011, we have a 2 percent RPS
14 requirement, moves to 5 percent in 2014. The columns just
15 sort of give you an indicator of when those -- when those
16 changes occur.

17 All of these assumptions are assumptions that
18 need to be made ten years into the future according to the
19 rules as they've been proposed. They include things like
20 what our retail sales are going to be. And for
21 illustrative purposes, this is not AmerenUE. This is a
22 generic utility within Missouri in which it does not own
23 any existing renewable generation. So there is no
24 assumption about what has to be removed. It's just a -- a
25 process from which we can use to say, These are

1 assumptions that have to be made to solve this -- this
2 problem.

3 So I've got an assumption in here about retail
4 sales. Right here as it -- it's a moves into the future,
5 I have it growing at a 1 percent load growth. But, again,
6 this is for illustrative purposes only. I have an
7 inflation assumption of 2 and a half percent, and I have
8 the RPS requirement. Luckily, that is set forth in the
9 stat -- or the Proposition C, and I don't have to guess on
10 that.

11 From that set of data, I can then calculate what
12 my renewable portfolio standard generation needs to be
13 which gives me right here. And then because there is a
14 solar carve-out in the proposition, I have the amount of
15 solar that I need to -- to either produce or purchase to
16 meet my requirement.

17 Some of the additional assumptions that have to
18 be made, again, ten years into the future, are what are my
19 administrative costs going to be to -- to administer this
20 plan? I put a million dollars in here escalating
21 inflation. But, again, this is just a place to illustrate
22 that these assumptions have to be made.

23 I've also got an assumption of how much money
24 have I got to spend for solar rebates? How many customers
25 are going to need it? What's the average cost going to

1 be? Again, I have no way of knowing. This is
2 illustrative to show people that it has to be made.

3 As I move down, then, I can calculate how I'm
4 going to meet my requirement. And my simplified
5 assumption here, I've said, I'm going to build wind to
6 meet the requirement. It's just a way to go through the
7 process. It could be any type of a renewable project.
8 Wind is just a way that I can go through the process and
9 illustrate it. But in order to solve the problem, I have
10 to come up with what is the capital cost associated to
11 build a wind farm on a sort of generic basis. And I also
12 have to come up with a projection about what the typical
13 end charges are going to be for this wind farm moving
14 forward.

15 I've escalated both of those assumptions to 2010
16 dollars of inflation. But, again, that becomes subject to
17 -- to interpretation on what you would think these capital
18 costs will raise in the future.

19 Additionally, I have to make an assumption for a
20 wind farm of how much energy capacity I'm going to get off
21 of it. I've assumed 33 percent. But, again, different
22 locations in the footprint can give you different energy
23 factors. But however you come up with it, you have to
24 make an assumption.

25 Next, I can calculate from this how much -- how

1 large of a wind farm would I need to build to meet my
2 requirement? And this cell right here tells me in 2011, I
3 -- I would have to have a 240 megawatt wind farm to meet
4 my RPS requirements. And you can see that as I move
5 forward in time, it escalates a little because I have a
6 load growth assumption in my load. So as my load goes up,
7 2 percent of my load means I need to build a little more.

8 So what I've done is said, okay, I'm going to
9 try and build a wind farm that meets my needs for the next
10 three years. So I chose to build a 244 megawatt wind farm
11 in 2011, and it sort of gets me through my requirements
12 for the next three years.

13 Now, a wind farm not only produces capacity, but
14 it also can be counted towards regulatory capacity. In
15 the MISO footprint right now, they only allow 8 percent of
16 the name plate to be counted towards regulatory capacity.
17 So a 100 megawatt wind farm would be worth 8 megawatts of
18 capacity. But it's still worth that much capacity. So I
19 tried to include that here saying that I now have 20
20 megawatts worth of regulatory capacity. And what my total
21 capital expenditure would be for this wind farm would be
22 \$501 million.

23 Now, that's what it would cost to build it in my
24 assumptions here for 2011. Now, because I have -- in
25 order to calculate how much would I need to receive in

1 rates, I have to apply what they call a levelized fixed
2 charge rate. My assumption here is 15 percent. Again,
3 this is a simplifying assumption to say how much would the
4 utility need to receive on an annual basis to -- to pay
5 for the investment that it's made in this capital project?
6 I've assumed 15 percent.

7 Again, these are -- are assumptions just to
8 solve the problem. That means that on an annual basis, a
9 utility would need \$75.2 million to recoup its -- its
10 levelized capital cost of building that project, plus
11 another \$7 million for the fixed O&M charges associated
12 with it.

13 And you can see these charges, they continue on
14 into the future. They -- the fixed charge one stays the
15 same. The -- the variable -- or the fixed O&M charges
16 escalated inflation. I have to take them all the way out
17 into the future.

18 And you can see this process basically just
19 repeats itself in 2000, and I think it's 14 year because,
20 as my increment of requirement goes up from a 2 percent to
21 a 5 percent, I basically need to build another wind farm
22 to meet this -- this new requirement if I'm assuming I'm
23 going to meet the requirement.

24 And you can see here, it means I need to build
25 an additional 292 megawatts worth of wind farm to meet

1 this requirement with a capital cost of 864 million.
2 These gives you my levelized charges by project, which can
3 be summed up down here on an annual basis.

4 As you can see, they escalate over time because
5 my fixed O&M raises with inflation, and I'm building
6 additional wind farms as the RPS requirements come out.

7 Now, the Proposition C also has a solar
8 carve-out in it, so I also need to build solar.
9 Again, this example assumes that I have nothing renewable,
10 and, therefore, I'm going to build. So I have a solar
11 capital cost to build a -- a project to meet my
12 requirement. I escalate that out over time.

13 I also have an assumption about what's the
14 energy capacity that will come off this solar farm. I
15 have a 20 percent assumption about the, you know, sort of
16 wind that a 100 megawatt solar farm would produce the
17 equivalent of 20 megawatts all the time and for the year.

18 It allows me to calculate how much energy would
19 come off this plant. From these assumptions, I can -- I
20 can derive how big of a solar farm I need to build to meet
21 my requirements. You can see here, it says I need an 8.1
22 megawatt plant for 2011. I would need to build another
23 13.2 megawatt solar farm in 2014.

24 This plant also provides regulatory capacity.
25 And I can also make the exact same kind of a calculation

1 to say its capital cost is \$51 million, and on a levelized
2 basis, it would be about 8 million. Gives me my total
3 costs for building solar. So now I've built a solar farm
4 and a wind farm to meet my requirements. And I have
5 capital cost and fixed O&M costs associated with those.

6 Now, some of the assumptions I need to also
7 develop to determine how much rate impact these -- these
8 projects would be is I also need to have a projection for
9 what are -- what is the market value for energy. So I
10 have to put in an estimate of what energy is going to be
11 in the future.

12 And you can see I've put in numbers here, 40,
13 41. I basically just escalated it a dollar a year to put
14 it in a -- an estimate of escalating power prices. But,
15 again, this becomes very subjective, and there are many
16 variables associated with it.

17 The Leg -- the Prop C also specifically asks to
18 address greenhouse gas emissions, and, therefore, I've put
19 in a carbon assumption hitting in 2014 of \$20 a short ton.
20 Again, this is an assumption going forward into the future
21 many years. I have that assumption escalating out at, I
22 think, a dollar a year inflation. But, again, this is an
23 assumption the utility has to make into the future.

24 And then I've adjusted the -- the market price of
25 power based on this carbon assumption. So in other words,

1 I have multiplied the carbon assumption times .6 and just
2 added that on to my existing assumption about power prices
3 and escalated by power prices to reflect the fact that
4 carbon tax would be legislated at this level.

5 I also have to project out what the market value
6 for capacity is going to be into the future. And you can
7 see I have those values here. This -- this section right
8 here gives me what my total capacity, regulatory capacity,
9 would be for my two projects, 21 megawatts with regulatory
10 capacity for this first project and how many megawatts of
11 energy do I receive off this project, 721 gigawatt hours
12 of energy comes off these plants, would come off these
13 resources and could be then sold into the marketplace.

14 So then what I can do is say, what is the market
15 value for this energy capacity that these new renewable
16 resources are going to be able to produce? Multiplying
17 the energy times my market value for energy. The capacity
18 times the market value for capacity gives me what is my
19 impact, what is my reduction in cost because I've now
20 built this project that I could sell into the marketplace.

21 Now, all these assumptions are -- or many of
22 these assumptions would also have to be used in order to
23 derive what the revenue requirement would be for the
24 utility. But in this simple example, what I've done is
25 say, I'm going to escalate revenue requirements for this

1 utility at 2 percent per year going out into the future.
2 Again, this would be a more complicated process to
3 actually derive. But for simplification purposes and for
4 an example, I've just escalated it 2 percent.

5 This gives me then a revenue requirement which
6 then will require me to add up each year. What are my
7 administrative costs, my solar rebate assumptions? How
8 much is my levelized fixed charge rate for a wind farm
9 plus my fixed O&M charges plus my capital cost for a solar
10 project? Subtract the value of energy and -- energy and
11 capacity for those projects and say what is my level from
12 which I'm going to need to -- to get a revenue increase to
13 meet this requirement?

14 In this example, it's about \$60.77 million,
15 which, based on my assumption for revenue requirements, is
16 about a 2.8 percent rate increase if it happened in this
17 year and you were not averaging over ten years.

18 Now, I haven't come up with an example here of
19 how the averaging works. But all of these -- these
20 assumptions would have to be used for the averaging
21 technique. And I just wanted to make sure that the
22 Commission was aware that in order for any utility to
23 comply with these -- these long-term projections, all of
24 these projections would have to be derived each time we
25 come in for a compliance check to make sure that what we

1 built was -- was meeting the -- these long-term ten-year
2 averaging perspectives. And that was sort of the reason
3 that I come up with sort of a generic version that would
4 allow us to -- to discuss it just from assumptions and
5 process perspective as opposed to the specifics of it.
6 With that, I -- I -- I'm open for questions.

7 JUDGE DIPPELL: Commissioners, do you have any
8 questions for Mr. Jenkins? Mr. Chairman?

9 CHAIRMAN CLAYTON: No, thank you.

10 JUDGE DIPPELL: Commissioner Gunn?

11 COMMISSIONER GUNN: I don't. Thank you.

12 COMMISSIONER KENNEY: No, thanks.

13 MR. JENKINS: Thank you.

14 JUDGE DIPPELL: All right. I believe that that
15 is all.

16 COMMISSIONER GUNN: Judge, I actually have a
17 question to revisit, and I'll -- for all the utilities
18 that have already come up. It's a quick question. And I
19 apologize for not asking it at the time. 393.1045 says
20 any renewable mandate required by law shall not raise the
21 retail rates. If a federal RES were to be implemented and
22 there was no rate cap, and so there is not a preemption --
23 and Staff can answer this question as well -- how would a
24 federal RPS standard that did not have a rate cap be
25 harmonized with 393.1045?

1 Because it doesn't say any renewable mandate
2 required by state law. It just says any renewable mandate
3 by law. So, obviously, if the federal law had a different
4 cap or different calculation, there would be a preemption
5 issue.

6 But would how to interact -- and could you make
7 the argument or would there be an argument that since the
8 -- the mandate was a federal mandate and not a state
9 mandate that every renewable project that you were doing
10 was meant to comply with the federal mandate and would,
11 therefore, be taken out of any sort of rate cap under --
12 under state law?

13 And I'm -- and I'm assuming no preemption. If
14 -- if -- if you can. Because -- because it doesn't --
15 does the state -- I mean, depending on how we look at the
16 federal law. And maybe that is the answer. Maybe the
17 answer is that our State law goes away and that all these
18 projects are merely to comply with the federal RPS and,
19 therefore, the State law doesn't apply anymore. But just
20 -- if anybody wants to chime in on those -- those
21 thoughts, the utilities. I can ask the other people the
22 question, but the people that have already kind of talked,
23 if we could go through real quick.

24 MS. TATRO: This is Wendy Tatro with UE. My
25 answer was going to be preemption. Of course, that

1 depends on what the federal law says.

2 COMMISSIONER GUNN: Right.

3 MS. TATRO: If a federal law is less -- requires
4 less than the state, then I -- I think that there -- which
5 is probably unlikely, but if that were to happen, then I
6 think that, you know, the 1 percent cap still has a
7 function where you're looking at what's necessary to meet
8 Missouri law.

9 But presuming that the federal law requires more
10 renewable energy than what the Missouri State law does, I
11 -- I don't know that it's necessary to parse it out
12 because it's all required for federal, which doesn't
13 likely have any type of recovery cap. So I don't know if
14 that's a question that you -- a step that you have to go
15 through.

16 COMMISSIONER GUNN: So if the Federal RPS was 10
17 percent by 2021, let's just assume that, then you're
18 saying that the first 10 percent -- or the 10 percent that
19 you needed to comply with federal mandate wouldn't be
20 subject to anything. But the 10 to 15 percent which the
21 State law would then -- would then cover -- would be
22 subject to that?

23 MS. TATRO: No. I don't think I was going
24 there. I agree with the first part of your sentence. But
25 because that -- that also covers any compliance that's

1 necessary for the -- the state -- wait. You said 10
2 percent by what? Maybe I have it wrong.

3 COMMISSIONER GUNN: Let's say that the federal
4 statute mirrors ours, except that it's less and it only
5 requires 10 percent by 2021.

6 MS. TATRO: I had your example backwards.

7 COMMISSIONER GUNN: So if that's the case, then,
8 everything that you would require to meet the federal
9 would essentially be exempt from the State law and the
10 price cap, but then everything that you would need to get
11 from 10 to 15 percent would be subject to -- to be --

12 MS. TATRO: I think that's right. In the
13 instance that the Federal law requires less than the State
14 does.

15 COMMISSIONER GUNN: Okay. Anybody else want to
16 chime in on that?

17 JUDGE DIPPELL: Mr. Fischer?

18 MR. FISCHER: I'm not sure I follow your
19 scenario completely. But to the extent you had a 1
20 percent cap at State law or even a Federal law and to the
21 extent that that resulted in the utility's inability to
22 recover prudently incurred costs, because of that 1
23 percent cap, I think you could have a Constitutional issue
24 that would be -- could preempt or could -- could trump, so
25 to speak, any kind of a cap.

1 So to the extent that we -- the utility had to
2 -- had to expend monies to meet the -- the State or
3 Federal law and were denied the right to recover that, I
4 think that could be a problem from a Constitutional
5 standpoint.

6 COMMISSIONER GUNN: And I may agree. But let --
7 let me ask -- let me clarify. Let's say the Federal law
8 does not have a price cap. So under the Federal mandates,
9 you're required to integrate renewable energy, but there's
10 no -- there's no cap. So would -- would -- and let's take
11 the scenario where the Federal mandate was less than the
12 State -- the State mandate, so it was a floor.

13 States can obviously -- could -- let's assume
14 that the State could go and -- and require more than the
15 Federal law requires. So then would the -- whatever was
16 required for the Federal RPS be exempt from the 1 percent
17 rate cap, and then whatever was left over be subject to
18 it? Or would -- would it all be preempted? Would it
19 all --

20 MR. FISCHER: Well, that's a question. I'm not
21 sure I have an answer to that. I think it does -- there
22 is a reference to the non-federal mandates in the
23 statutes. But to the extent that -- I would think that to
24 the extent that the utility is required, for whatever
25 reason, to -- to make those investments, that 1 percent

1 cap could not be used as a way to deny the utility the
2 right to recover the costs.

3 COMMISSIONER GUNN: And is that something we
4 should deal with in the rule, potential for a Federal RPS?
5 Maybe not. Maybe it just is what it is, and we'll just
6 deal with it if -- if something is implemented.

7 MR. DOTTHEIM: I don't know why you would want
8 to try to anticipate something --

9 COMMISSIONER GUNN: Right.

10 MR. DOTTHEIM: -- in the rule because the
11 permutations could be --

12 COMMISSIONER GUNN: Infinite.

13 MR. DOTTHEIM: -- infinite. And it's difficult
14 enough as it is trying to come up with a rule. I -- I
15 think the Commission and the participants have been
16 challenged enough to this point. And, also, you're
17 talking about trying to do that at a very late stage in
18 the process.

19 COMMISSIONER GUNN: I -- I agree.

20 MR. DOTTHEIM: If somebody -- somebody might
21 have suggested that at the beginning of the process, that
22 would be one thing. But now to do that -- or to suggest
23 to do that when there are no more workshops --

24 COMMISSIONER GUNN: Right. And I understand.
25 And I -- Mr. Dottheim, I'm not -- I am not suggesting that

1 we do it. I -- I'm really -- because when I'm reading
2 393.1045, it says any renewable mandate required by law.
3 And that raised the question to me about would that then
4 -- I mean, theoretically, you could make the argument that
5 the -- the federal -- if a -- if a Federal law did not
6 have a price cap on it and it was considered a floor, you
7 -- the states can theoretically still implement laws that
8 would protect ratepayers from increase.

9 And then if this 393.1045 would not be preempted
10 and that the statement by law recognizes the ability for
11 the Federal Government to come in and up the RPS while
12 still maintaining a price cap, for Missouri -- Missouri
13 ratepayers. And that would change the dynamic on all of
14 -- all of this modeling is based on Missouri RPS, not any
15 sort of other Federal, you know, standard.

16 MR. DOTTHEIM: And my response in part is that
17 it's not even clear whether 393.1045 may survive. So I --
18 I think looking at language -- maybe you need to be
19 looking at the 393.1030(1), a maximum average retail rate
20 increase of 1 percent determined by estimating. In other
21 words, the cap that's in 393.1030 as opposed to --

22 COMMISSIONER GUNN: 45? 1045?

23 MR. DOTTHEIM: Yeah.

24 COMMISSIONER GUNN: Okay. All right.

25 MR. DOTTHEIM: Because, I mean, if -- because

1 even just talking hypothetically about doing it at the end
2 of the process, there's also arguably now the -- the
3 hurdle of -- of if 393.1050 doesn't survive, does the
4 infirmities beyond the fact that 393.1050 may be a special
5 law, the other infirmities of 393.1050 may drag out
6 393.1045, also.

7 COMMISSIONER GUNN: I think that's a fair point
8 along with the procedural one. So I appreciate -- I
9 appreciate that. I don't have anything else.

10 JUDGE DIPPELL: Thank you. Are there any other
11 questions of -- at this point? All right, then. In that
12 case, I think that's the -- the major utility -- the
13 regulated utilities I think that were here that wanted to
14 speak.

15 I think I want to get Mr. Fairbanks in before
16 lunch, but I thought that he might prefer to speak after
17 the person who was going to speak on behalf of Missouri
18 Solar Industries Association.

19 MR. FAIRBANKS: That's fine.

20 JUDGE DIPPELL: We -- we had several of their
21 members file comments, and someone was here who was going
22 to speak, I believe, for the association. Is that --

23 MR. GLUECK: Yes. That's correct.

24 JUDGE DIPPELL: Go ahead and come forward.

25 JUDGE DIPPELL: Would you raise your right hand?

1 DANE GLUECK,

2 being first duly sworn to testify the truth, the whole
3 truth, and nothing but the truth, testified as follows:

4 TESTIMONY OF DANE GLUECK

5 JUDGE DIPPELL: If you could tell us your name
6 and who you are.

7 MR. GLUECK: Sure. I'm Dane Glueck, D-a-n-e
8 G-l-u-e-c-k. And I am President of Straight Up Solar.
9 It's a solar company based in St. Louis. And President of
10 MOSEIA, which is the Missouri Solar Energy Industry
11 Association.

12 We're a group of small businesses. We've grown
13 to over 20 members very quickly over the last year. We
14 have really one common goal, and that's to grow solar
15 industry in our area in the State of Missouri with two
16 things in mind, to create jobs, good quality, well-paying
17 jobs for work force and to produce clean energy for our
18 generation and/or future generation in Missouri.

19 We recognize that it's a pivotal time in the
20 solar industry in our state, and we think it's a great
21 opportunity for Missourians as well. We appreciate the
22 opportunity to present and make a recommendations to the
23 PSC.

24 We did file comments yesterday. They should be
25 there. And I wanted to highlight a few of those. The

1 comments were prepared by the MOSEIA policy committee
2 approved by our Board and shared with all of our members.
3 It was also produced with recommendations from national
4 solar industry experts, including Vote Solar, who is with
5 us today, and others. And we've had a lot of input as
6 well from Renew Missouri who understands Missouri quite
7 well, too, in the development of these policies.

8 One of the things that we want to focus on early
9 on is to recognize the fact that we, as an industry, feel
10 like we can grow rapidly and effectively and have a very
11 good opportunity of meeting the renewable energy standards
12 in the state.

13 There's been some statements that there's a
14 concern that there may not be enough SRECs in the state to
15 meet the requirements and would, therefore, essentially
16 decrease incentive to produce them in the state. And to
17 my mind, and our mind of MOSEIA, that is a very
18 self-limiting, self-predicting statement to say that it
19 doesn't exist, so we will not then support the market in
20 our state to produce that. And we see that as a major
21 problem, especially when Proposition C's intent, we
22 believe, very clearly, and it was named Missouri Clean
23 Energy Initiative and voted on by Missourians was to
24 promote solar in the State of Missouri.

25 Our statements or our comments included really

1 11 things that we thought needed some adjustments. But in
2 general, we very much appreciate the PSC's work to this
3 point and think that there's a lot of very good comments
4 and statements in the existing language.

5 One of the things that I wanted to speak on very
6 early and that's been talked about quite a bit was the
7 geographic sourcing. We have a different take than much
8 of the speakers to this point. And, again, it's that we
9 feel very clearly that this was voted on by Missourians
10 with an intent to produce clean energy for Missourians.

11 We see a major benefit to our industry and other
12 industries that that produces jobs in our state as well,
13 too. And so that when solar is installed in the state or
14 wind is installed in the state, thus, producing jobs here
15 and producing clean energy for Missourians in our state
16 and clean air and other benefits that go along with that.

17 If it's installed in Canada or Hawaii, then that
18 does not seem to meet the intent of the focus of Prop C
19 and what Missourians voted on two to one. So our
20 recommendation for geographic sourcing is that we believe
21 that solar should come from the State of Missouri or very
22 closely within those state borders. And there's specific
23 language to that in our statement, and it says that energy
24 that is generated in Missouri or fed directly into
25 distribution lines that serve primarily Missouri

1 customers.

2 The next line is a standard offer contract.

3 There's other states to point to who had very successful

4 solar programs that have met renewable energy standards.

5 And one of the things that's predicated on is a market

6 that is the knowable market for the installers and for the

7 customers that are interested in meeting their goals of

8 solar installation.

9 And the best way that that can be done from our

10 customer standpoint and for ourselves is a knowable value

11 that they can know what they're going to invest in when

12 they install solar in their homes. And that gives each

13 homeowner an opportunity to -- to produce their own power

14 and meet their own goals as well.

15 That also speaks to the idea of market

16 segmentation and the benefit of incentives that give a

17 clear recognition of the differences in the market and how

18 that works on the smaller scale and larger scale

19 installations. So we really focused on systems that are

20 less than 100 KW, which is the current net metering

21 limitation, and understanding our best ways to grow that

22 market and identify that for the customers on that scale

23 as well as a mid size scale.

24 The -- the next thing, and this has been talked

25 about to some extent, certainly, but it's also very

1 connected to the geographic sourcing and determination of
2 this value that is the SREC value. As has been mentioned,
3 really, the rules are silent on how that number is
4 determined.

5 We recognize that that's a very difficult number
6 to determine. There is multiple ways to look at it and
7 multiple variables to account for it. We've done our very
8 best to try to determine a number based on a pay-back
9 method that takes into account what we, as experts in the
10 State of Missouri, understand our customers are interested
11 in, but it also takes into calculation and thought other
12 states where it has worked well to this point with it.
13 And, again, the idea for that is to be able to grow the
14 sustainable market that meets the renewable energy
15 standards.

16 And then the expectation is that that SREC is
17 set at a certain point that grows the market and then will
18 likely gradually decrease it as it has done in other
19 states as the market grows to continue to meet that as
20 costs come down and as solar is implemented on a much more
21 mainstream standard.

22 We have a lengthy spreadsheet. We ran through
23 the calculations that was submitted. The bulletpoints for
24 that are that we looked at market less than 25 KW, 25 to
25 100 with the idea of trying to return -- get a return on

1 investment for our potential customers. And we looked at
2 both residential and commercial applications for that.

3 And the range that we thought was reasonable for
4 commercial when we talked to potential customers is
5 roughly a two to five-year pay-back, and for residential
6 customers, eight to ten. What we did was plug values in
7 there that made the very most reasonable assumptions that
8 we could account for at this point, things like an
9 estimated 5 percent energy increase in cost over time.
10 And that value is backed up in the report by looking at a
11 national growth rate.

12 We assume some small decrease in system output
13 over time. And we made other calculations accounting for
14 taxes and that sort of thing in that process. The
15 take-home for that is that it gave us a range anywhere
16 from 2.8 to roughly 19 years return on investment. If you
17 looked at my mid-sized commercial install at 25 kilowatts
18 which maximized rebates as one option which indicated the
19 best pay-back in that scenario looked at residential with
20 the assumptions we included, and it came up to up to a
21 19-year pay-back. And there was a middle ground, 100 KW
22 system that gave in the middle ground part of that
23 pay-back.

24 One way to do that to further refine that is to
25 further segment the market to give a different SREC value

1 for each market within that. We recognize how difficult
2 that is. And one of our recommendations that is
3 over-arching as well is to start with a good number that
4 will jump-start the market to meet the renewable energy
5 standards and adjust that on a yearly basis when the
6 stakeholders come together and meet on a yearly basis
7 because we certainly recognize there's a lot of built-in
8 calculations that are our best knowable numbers at this
9 point that we've accounted for.

10 But very clearly, the market changes over time,
11 and the goal then is to adjust the market as it needs to
12 with the best goal to meet renewable energy standards over
13 that time.

14 I think those are the three primary points that
15 we wanted to -- or three including the market segmentation
16 which is wrapped up into that. To briefly highlight some
17 others, there's a retail rate impact discussion which has
18 been talked about to this point. We definitely agree that
19 that should be averaged over time.

20 We discussed the possibility of a 20-year time.
21 But it's very clear if it's not averaged over time, it
22 would be difficult for the utilities to account for their
23 costs. And it makes a very high likelihood of a chance of
24 seeing the 1 percent rate cap at that time that the
25 requirement increases where it jumps up every three to

1 four years. So the averaging allows a much better chance
2 of staying below the 1 percent.

3 There was a few other things. Certainly, the
4 customer generated definition is a discussion, and it
5 speaks to the point of the power purchase agreements and
6 that sort of thing. And the language currently does not
7 seem to allow for that to exist for solar systems in the
8 State. And that is one way to promote the market and
9 provide another continuing method for customers.

10 We also discussed the Empire exemption that's
11 been talked about at length, and I would defer that more
12 to Renew Missouri as well to -- in general, we do not
13 believe that the exemption is grounded based upon Prop C
14 superseding the previous.

15 There was a -- a few other things that we think
16 that are important, but are not probably quite as
17 prominent bulletpoints. We'll quickly run through those.
18 That includes estimating production for small systems.
19 The language, we believe, could be interpreted that -- to
20 calculate SREC values that you would -- each system would
21 have to have a separate meter on it which would increase
22 the costs and is not standard. That is an estimated
23 production based on the standard calculation that is
24 produced for that specific system. And that -- that
25 recommendation is for smaller systems less than 25

1 kilowatts, so it doesn't artificially increase the cost
2 for those systems.

3 The definition of full operation. We also just
4 wanted to clarify language. Full operation currently is
5 rated what it is rated at. That's the DC rating, meaning
6 that's what the system is -- is -- handles. But actually
7 what is produced is a percentage of that. And so we would
8 like that clarified to be substantial production.

9 We'd also like the wording of the 500 watt
10 system in that developments in the industry have allowed
11 for smaller systems to come online very effectively with
12 smaller inverters, and we would not like to have customers
13 that would like smaller systems to be excluded from this.

14 We also discussed grandfathering systems in for
15 the standard offer contract, meaning that systems that
16 were installed after the very first of this year and up
17 until the final language is in place would be eligible and
18 be offered a standard offer contract for systems that were
19 installed after the first of the year.

20 There were three things we felt like were
21 important to keep as it is, and I will just briefly
22 mention those. We certainly agree with the ability for
23 systems to expand up to 25 KW for the rebate, meaning that
24 a system that was installed at 5 kilowatts on a commercial
25 project, they could then install potentially 5 KW

1 increments up to 25 and get the rebate at that point.

2 And we also agree with the -- the rebate being
3 rated on the DC rating of the system for that's the
4 standard's easiest way to calculate a rebate for a
5 customer.

6 And the last one was we agree with the
7 recommendation for new equipment to be required for
8 systems in that it is in all of our best interests to have
9 systems that are producing clean energy for many years and
10 have good warranties and are installed appropriately.
11 Thank you.

12 JUDGE DIPPELL: Thank you. Mr. Chairman, did
13 you have any questions?

14 CHAIRMAN CLAYTON: I have question. Thank you
15 for being here today. Thank you.

16 JUDGE DIPPELL: Commissioner Gunn?

17 COMMISSIONER GUNN: Any -- any comment on the --
18 the but for test, kind of where this is a floor and that
19 anything that was not -- if they -- if folks decide to go
20 to solar because it turns out to be under a calculation of
21 least cost rather than as part of meeting the renewables
22 that that would be taken kind of out of rate cap and
23 allowed -- the cost of that would be allowed to be
24 recovered under the typical rate-making process? Any
25 comment on those ideas or those --

1 MR. GLUECK: You know, we have not talked about
2 that at length prior to this, probably just because we've
3 been so focused on trying to understand how to promote it
4 up to that point.

5 COMMISSIONER GUNN: Right.

6 MR. GLUECK: It seems like a reasonable
7 statement to me. But that is not really -- hasn't really
8 been discussed to this point in our policy.

9 COMMISSIONER GUNN: Very good. Thank you. I
10 don't have anything else.

11 JUDGE DIPPELL: Commissioner Kenney?

12 COMMISSIONER KENNEY: No, thank you.

13 JUDGE DIPPELL: I don't believe there are any --
14 I will ask you Commissioner Davis' question just -- and I
15 assume that you would have pointed that out if -- if you
16 had seen any particular part of the rule that you believed
17 was in direct conflict with the statute. Would you have
18 anything other than what was in your comments?

19 MR. GLUECK: No, ma'am. I don't have anything
20 different to add other than those statements.

21 JUDGE DIPPELL: All right. Thank you. All
22 right, then. We can go ahead. Mr. Fairbank, would you
23 like to go ahead and come up? Thank you. Please raise
24 your right hand.

25 ZEKE FAIRBANK,

1 being first duly sworn to testify the truth, the whole
2 truth, and nothing but the truth, testified as follows:

3 JUDGE DIPPELL: Thank you. If you could tell us
4 your name and spell it.

5 MR. FAIRBANK: My name is Zeke Fairbank,
6 Z-e-k-e, Fairbank, F-a-i-r-b-a-n-k. The name of my
7 company is the Alternative Energy Company, and I'm from
8 Springfield, Missouri.

9 I just wanted to amplify a couple of the points
10 that were just made. In terms of our -- our local
11 situation in -- in Springfield, we have -- I have, I
12 should say, customers that are smaller customers,
13 specifically firemen, who -- who are very interested and
14 they're very hands-on. They're interested in putting
15 solar onto their properties for many reasons, and they
16 don't have a substantial income to be able to -- to invest
17 or to pay the cost that -- that a typical solar system
18 will cost them.

19 And so given the technology today with micro
20 inverters and with -- with larger solar panels, there is a
21 situation that exists where they can actually invest over
22 time and -- and -- and grow their system or scale their
23 system.

24 A lot of these panels are -- are down around 200
25 watts. And the inverters are -- are capable of handling

1 from 165 watts to about 220 watts. So it's a very easy
2 solution for them. So I do request that -- that we take
3 into account the -- the nurses, the doctors, the teachers
4 and the people that would like to put solar up, can't
5 afford the big ticket price to do a 5 kilowatt system up
6 front but would like to do it over time with smaller
7 systems.

8 So if we could kind of remove the five -- I
9 think it's the 500 watt restriction, that would be great.
10 And then if we could make it simple in terms of the rules,
11 that would be even better.

12 There was one other point I wanted to -- to
13 bring up. And, you know, it's an amazing thing for me to
14 -- to be here today and to actually participate in this.
15 I think five years ago, you know, I think none of us would
16 have anticipated this would have been happening.

17 To see wind farms, you know, being installed
18 everywhere around the world to -- to be sourcing power,
19 wind power and -- and even solar power from -- from
20 different parts is just amazing. But I -- I have to go
21 back to Dane's comment in terms of -- in terms of
22 sourcing.

23 And that is that my understanding and -- and I'm
24 just -- I'm just a small business. My understanding is --
25 is that -- that Proposition C, there was an intent to --

1 to have developed sources of clean energy in Missouri.

2 And -- and the question is, with all due respect
3 to the Staff, Public Service Staff and you Commissioners
4 who work very, very hard on this and to Mike Taylor's
5 comment, you know, where do we draw the line? You know,
6 where do we stop our sourcing? Do we -- do we source wind
7 credits from China? You know, do we source it from the
8 Bering Sea in Alaska?

9 And my -- you know, the customers I've spoken to
10 back home, they want to feel good about what they're
11 doing. They want to feel good about -- some of them are
12 paying extra money in their monthly utility bills to be
13 able to source the clean energy. But you know, I think
14 that if -- given the opportunity option, if they could
15 source it from Missouri, they'd pay a benefit for that as
16 well.

17 And that -- I -- I request that -- that the
18 Commission take -- take a good look at -- at where we want
19 to source this. Do we want to buy coal from -- from
20 Wyoming? Or do we want to buy wind energy and solar from
21 Missouri for Missourians? Thank you.

22 JUDGE DIPPELL: Thank you. Mr. Chairman, did
23 you have any questions?

24 COMMISSIONER CLAYTON: No questions. Thank you
25 for being here.

1 JUDGE DIPPELL: Any other questions?

2 COMMISSIONER GUNN: I don't. No. Thank you
3 very much for coming.

4 COMMISSIONER KENNEY: No, thank you.

5 MR. GLUECK: We have the spreadsheet available
6 for review, if that would be useful for any additional
7 comments that Jason Parker has here that we could quickly
8 show those calculations.

9 JUDGE DIPPELL: If you want to add those to your
10 comments -- that was attached to your written comments,
11 though, correct?

12 MR. GLUECK: Yes.

13 JUDGE DIPPELL: I believe that's sufficient. I
14 mean, I -- I would like to try to get through the other --
15 unless some of the Commissioners would like to --

16 COMMISSIONER GUNN: If it's attached to written
17 comments, that's fine.

18 MR. GLUECK: We have it available if it was
19 preferred to see it.

20 JUDGE DIPPELL: I appreciate that, but I think
21 we'll just stick with the written -- written comments and
22 not try to repeat it here.

23 MR. PARKER: Well, if I may, it's a -- it's a
24 spreadsheet that is designed as a tool for use in the
25 process, and so the comments don't cover it.

1 JUDGE DIPPELL: I understand what you're saying.

2 I --

3 MR. PARKER: Five minutes.

4 JUDGE DIPPELL: Certainly. Can you tell me your
5 name again?

6 MR. PARKER: Jason Parker.

7 JUDGE DIPPELL: Mr. Parker, would this be a good
8 opportunity for you to give your comments as well?

9 MR. PARKER: No. I'm -- let me get to a
10 microphone. No. I'm -- I'm wearing two hats today.

11 JUDGE DIPPELL: Okay.

12 MR. PARKER: And so this testimony would be on
13 behalf of MOSEIA.

14 JUDGE DIPPELL: All right.

15 MR. GLUECK: And to clarify, Jason is Chair of
16 the Policy Committee, and the idea was to give the PSC a
17 method to -- to determine SREC value that seems
18 reasonable. And there's nothing in the rules gives any
19 clarification to how that value was calculated.

20 JUDGE DIPPELL: I understand. Are you able to
21 get that hooked up, Mr. Parker, or should we?

22 MR. PARKER: I believe so. Kind of dark under
23 here.

24 MR. FAIRBANK: Need some solar to light it up.

25 MR. GLUECK: I will -- I will give the bullets

1 while he's sorting that out. And what it does is it
2 assumes a cost amount for systems based on different
3 sizes. And, again, the idea is segmented in the market
4 that in general systems installed for residential
5 applications are typically a greater cost per watt as
6 compared to a much larger system, 100 KW or megawatt, for
7 example.

8 So the idea is to take that into account on
9 those costs and then extrapolate other values in there
10 like inverter replacement, decreased efficiency in the
11 panels, expected rising energy costs and give an idea for
12 return on investment for potential customers. So Jason
13 can start to run through some of those things for us here.

14 MR. PARKER: Do I need to be sworn?

15 JUDGE DIPPELL: Yes, please.

16 JASON PARKER,
17 being first duly sworn to testify the truth, the whole
18 truth, and nothing but the truth, testified as follows:

19 TESTIMONY OF LELAND JASON PARKER

20 JUDGE DIPPELL: And could you state your name,
21 please?

22 MR. PARKER: Leland Jason Parker.

23 JUDGE DIPPELL: Go ahead, Mr. Parker.

24 MR. PARKER: Very well. Okay. As Dane was
25 mentioning, we've looked at market segmentation. And this

1 is a summary view on this sheet that shows the net effect
2 of the solar REC pricing on a large commercial system, a
3 small commercial system and a residential scale system.

4 In general, this is -- I'm going to go
5 increasing order. Residential is typically up to about
6 seven. We can say ten because that's a -- a threshold
7 that's established -- that's referred to quite a bit in
8 the rules already. Small commercials up to 25 and then
9 large commercial is from 25 to 100, which is the current
10 net metering limit.

11 This summary sheet shows those respective sizes.
12 It shows an income tax rate, an assumed SREC value, which
13 I -- I'd like to comment that the purpose of this sheet,
14 as I said prior to my testimony -- testimony, is as a tool
15 to determine that value and -- and manipulate the SREC
16 value as a primary variable and then evaluate the effect
17 of a given value upon these three categories.

18 Moving further, we have a system cost expressed
19 in dollars per DC watt, rated DC watt, an assumption about
20 the future rate of electric rate increases, and an average
21 electric cost per kilowatt hour. Now, I'd like to take a
22 moment to explain these numbers look -- look low compared
23 to published average rates. And the reason for that is
24 because when you install distributed generation, the --
25 the energy that you offset is basically the last energy

1 that you use in a given month, which, due to our rate
2 structure, is the least expensive.

3 So for a system owner, the average offset cost
4 is actually going to be weighted more heavily toward those
5 upper priced tiers, which, as I said, are less expensive
6 under our current rate structure.

7 Okay. And then this is the meat and potatoes,
8 you might say, of the sheet, which is the pay-back period
9 for each of these particular categories. At this
10 particular SREC price, we have seven and a half years for
11 large commercial, 2.8 for small commercial and 18.9 for
12 residential. So you can see the -- the results vary quite
13 a bit when a single SREC value is assumed. But for
14 interest of simplicity, we went with a single value, at
15 least for now. Okay. And that --

16 MR. GLUECK: Jason, let me just comment on the
17 330 number just to give a reference point for the
18 Commission on that. This was a number that worked out
19 based on these calculations and assumptions, but we've
20 also in the document provided compared that to other
21 states with the success of renewable energy standard
22 programs.

23 And that typically ranges from \$200 to \$600.
24 So, also, to give the Commission a reference point, where
25 this is relative to other states, it appears to be -- you

1 know, it is -- or not appears to be. It is in the middle
2 and lower range of the typical SREC values that exist in
3 other states.

4 MR. PARKER: Okay. So that brings us to this
5 slider bar down here at the bottom highlighted in blue.
6 This slider bar manipulates the SREC value as you see it
7 here. And so as you see, it's very easy to change that,
8 play with it.

9 We felt it was safe to limit it at that level.
10 And so you can see, when I click it, these pay-back
11 periods change. And it's very simple to see the net
12 effect of a given SREC value.

13 So having said that, I'd like to just jump into
14 the sheet because I did commit to five minutes explanation
15 here. We have -- this is the residential model that I'm
16 going to talk through because it's slightly less complex
17 than the commercial.

18 We have initial assumptions here. And any --
19 any assumptions that are basically static values are
20 highlighted in blue. Then from these initial assumptions
21 we have what are called derived inputs that go into the
22 model below. They're in black indicating that they, as
23 you can see up here on the screen, have a formula that
24 drives them.

25 And then here, we have our -- our basic inputs.

1 Again, here's our slider bar. We can manipulate the
2 slider bar from within each model as well as from the
3 summary sheet. And it drives the global value. You'll
4 see if I run this down to zero and I go back to the
5 summary sheet, we've got zero up here. So that value is
6 cross-linked across all three models within this sheet.

7 Basic inputs are the system size, the income tax
8 rate and the -- the SREC value. There's a -- there's a
9 check box here that I think is a level of detail that I
10 won't go into right now. Down on the model, what we have
11 are -- I'm going to start here. We have years starting
12 with zero. Year zero is basically -- each of these
13 columns is essentially Day 1 of the listed year. So year
14 zero is the first complete year of -- of operation.

15 However, the -- the values that are down here
16 the ones that occur most -- early in the year, basically.
17 And Year 1 summarizes that first year and the effects that
18 it has. So we have a unit electric cost. This is simply
19 dollars per kilowatt hour, the electric rate.

20 We have an assumed SREC value, which I'm going
21 to reset. There. Okay. And we have -- we have an SREC
22 value, and then here we have the annual energy produced by
23 the system under analysis. The -- the -- the energy that
24 is produced is up here as an initial assumption. We have
25 not attempted to spend a lot of time coming up with

1 assumptions that were, you know, absolute and concrete.
2 They're very well substantiated.

3 However, we understand that these are variables
4 and they're subject to debate, shall we say. So that's
5 why the sheet is set up to be very user friendly so that
6 you can evaluate these initial assumptions and see what
7 the effects have. As a matter of fact, it's a very
8 effective "what if" tool.

9 So having produced a certain amount of energy at
10 a unit electric cost, we are going to be operating our
11 system. The very first thing we do, we get a rebate. We
12 get a REC income. And I'd like to say that this sheet has
13 been set up as basically a -- a balance sheet that most
14 people who invest in stock should be very familiar with.
15 It was reviewed by a CPA, and we went to great lengths to
16 make sure that its accuracy was complete.

17 So we have an Income section here. We have an
18 Expense section down here. Things such as Insurance,
19 Annual Operation and Maintenance. There was an inverter
20 replacement because the inverter lifetime is approximately
21 half the lifetime of the system, half to a third.

22 There's a possibly that there will be property
23 tax assessments, so we put that in as a place marker so
24 you can see there are zeros currently. And that gives a
25 total expense line, which you subtract expense from

1 income. You get a net system income. You pay income tax
2 on that. And then the production up at the top of the
3 page produces a certain amount of electric savings, which
4 you can see doesn't occur on Day 1, and you have to
5 operate for a year to get a full year's worth of savings.
6 So that's why this number starts at Year 1.

7 Okay. There's a 30 percent federal tax credit.
8 And that nets out to a -- an initial investment of
9 whatever the numbers drive it to. In this case, \$38,333
10 out of pocket, so to speak.

11 And then down here, we have an annual cash flow
12 line. And then this is simply a cumulative cash flow line
13 that rolls that annual cash flow up. And I'm going to
14 zoom out and draw your attention to this yellow box down
15 here. This is the pay-back period marker.

16 And if you can see, as I manipulate this, it --
17 it not only bounces from year to year, but it gives you
18 the decimal percentage of the year where that pay-back
19 point occurs. And having covered some --

20 MR. GLUECK: I think that's great. Probably
21 give the summary. Do you have any other --

22 MR. PARKER: No. I was going to say, the only
23 difference that the commercial sheets have is that there
24 is a depreciation item which is certainly appropriate for
25 commercial systems. And you can -- you can see the box

1 more quite a little easier there because I don't have to
2 zoom out as far. Okay. That concludes my demonstration.

3 MR. GLUECK: Thanks, Jason.

4 JUDGE DIPPELL: Thank you. Are there any
5 Commissioner questions for --

6 COMMISSIONER GUNN: Will the model be introduced
7 as -- I mean, I know the spreadsheet is -- is attached,
8 correct?

9 MR. GLUECK: Uh-huh.

10 JUDGE DIPPELL: A paper version is attached to
11 the comments. I hope that I have just recorded the -- the
12 demonstration. But I'm not certain about that.

13 MR. GLUECK: The actual digital Excel file is
14 available.

15 MR. PARKER: It should have been uploaded, also.

16 MR. GLUECK: It was uploaded as well.

17 JUDGE DIPPELL: The actual Excel file was
18 submitted as an attachment?

19 MR. PARKER: Yes. Yes. Separate from the
20 comment document itself.

21 JUDGE DIPPELL: Okay.

22 MR. GLUECK: Exactly.

23 COMMISSIONER GUNN: Great. Okay.

24 JUDGE DIPPELL: I'm not sure how our system
25 handles an Excel file. But if it did not -- if it's not

1 actually in our EFIS, it's not actually in our electronic
2 system where it's viewable or usable, then we will -- we
3 can always get a copy of it and --

4 MR. GLUECK: Absolutely.

5 JUDGE DIPPELL: -- have that outside of the
6 electronic system.

7 COMMISSIONER GUNN: Great.

8 MR. GLUECK: Thank you.

9 JUDGE DIPPELL: All right, then. Thank you.

10 MR. PARKER: Okay. Thank you.

11 JUDGE DIPPELL: Too much technology up here
12 today. I think since we just have a few minutes before I
13 said we'd take a 1:00 break. What we might do is get some
14 of the other solar energy association members who might
15 have a little bit shorter comments. And then after lunch,
16 we can start in with some of the other industrials and --
17 and larger comments. Mr. Mills, you look like you had a
18 comment?

19 MR. MILLS: Well, Judge, I was just going to
20 suggest that before we get too far beyond the utility
21 comments, I think we've got some -- some comments we'd
22 like to make in response to what we've heard from the
23 utilities.

24 And I don't know how you want to segment things.
25 But if we're sort of doing it by segments, I think we're

1 done with the utility segment. And we would like to do
2 some brief response to that if that would be appropriate.

3 JUDGE DIPPELL: Do you think that you can make a
4 response in 12 minutes?

5 MR. MILLS: Probably not.

6 JUDGE DIPPELL: Okay. Let's save that for after
7 lunch, and we can start back in. Let's go ahead and get
8 some of the other -- maybe some of the other independent
9 businesses that have wished to testify.

10 And I'm afraid I didn't get everybody down. I
11 think Mr. Holtzman maybe or -- go ahead -- sir, stand up.
12 You were saying -- I have forgotten what your name was.

13 MR. JONES: Nathan Jones with Power Source Solar
14 in Springfield.

15 JUDGE DIPPELL: Go ahead and come forward.

16 NATHAN JONES,
17 being first duly sworn to testify the truth, the whole
18 truth, and nothing but the truth, testified as follows:

19 TESTIMONY OF NATHAN JONES

20 JUDGE DIPPELL: Would you state your name and
21 tell us who you are and what company you're with?

22 MR. JONES: Nathan Jones with Power Source Solar
23 in Springfield, Missouri. We're a small solar company
24 installer. And I just wanted to thank the Commissioners
25 and the Staff especially for the hard work. I know -- I

1 sat in on a couple of these and have been very impressed
2 with the diligence done by it.

3 I just want to voice my support for the comments
4 filed by MOSEIA. Those were studied and measured, and, I
5 believe, very logical.

6 And I wanted to address specifically the Empire
7 lawsuit. I'm a Plaintiff on that suit, so I'm going to
8 speak specifically for that. And I feel that Prop C was
9 -- was clear in its intent and trumps the prohibitive
10 statute that was granted to Empire.

11 And within the past month, we've hired two
12 additional master electricians at our shop, one from a
13 manufacturing plant that had cut back due to the economic
14 downturn and a second one that was out of work as a result
15 of the downturn in the residential construction.

16 We've had eight to ten of those guys come in
17 within the last 90 days asking us for work. We don't have
18 it for them because we're somewhat hampered by the
19 economic constraints of the Empire lawsuit because we're
20 affected by that geographically because we're very close
21 to that service area, and, in fact, somewhat surrounded by
22 them.

23 We'd love to give those guys jobs and put them
24 back out there to work. And we also feel that the
25 exemption penalizes and discriminates against any and all

1 customers served by Empire who wish to participate in the
2 benefits supposedly available to them by the passage of
3 Prop C.

4 And I would also ask that when Empire is brought
5 into compliance with Prop C that all customers eligible
6 for a rebate that were denied it because they installed
7 solar electrical system during the time period when Empire
8 was failing to comply with the requirements of Prop C be
9 compensated retroactively back to January 1st of this
10 year.

11 And -- and, again, the spirit of Proposition C
12 as it was passed by the voters was for a clean environment
13 in Missouri and burning coal within the borders or
14 immediately adjacent to Missouri and complying with the
15 RPS by buying RECs from everywhere, with the exception of
16 Hawaii, doesn't meet the spirit of the law as it was
17 written and passed by the voters in Missouri.

18 Currently, we're exporting untold millions, if
19 not billions, of dollars from Missouri to purchase coal as
20 the feed stock for our electrical needs.

21 And the second point that I want to make
22 regarding the spirit of Proposition C was the
23 establishment of green jobs in Missouri. Most people
24 believe that to mean, as I did, the long-term year upon
25 year growth of a new industry in Missouri to replace some

1 or all of those that we've lost and a mega solar project
2 installed by an affected utility regarding Proposition C
3 using out of state contractors that's over and finished in
4 a few months continues the process of exporting Missouri
5 dollars and hinders the establishment of an industry
6 providing the jobs intended by the spirit of Proposition C
7 within the borders of Missouri. That's all I have for
8 comments.

9 JUDGE DIPPELL: Thank you. Are there any
10 Commission questions?

11 COMMISSIONER GUNN: I don't. Thank you for
12 coming.

13 JUDGE DIPPELL: Thank you very much. And
14 Mr. Holtzman, I got you to stand up once. Would you like
15 to come forward and give some comments?

16 MR. HOLTZMAN: Yes. Thank you.

17 JAMES HOLTZMAN,
18 being first duly sworn to testify the truth, the whole
19 truth, and nothing but the truth, testified as follows:

20 TESTIMONY OF JAMES HOLTZMAN

21 JUDGE DIPPELL: Tell us your name and spell it,
22 if you don't mind.

23 MR. HOLTZMAN: My name is James Holtzman,
24 H-o-l-t-z-m-a-n. I am an architect from St. Louis, Lead
25 AP and also a participant in a renewable energy company

1 called Clean Power Design. I want to thank the Commission
2 for convening on such a bright, sunny day as we have
3 today. I think it's very appropriate.

4 The people of Missouri did speak, indeed,
5 strongly for renewable energy for the state when they
6 passed this statute in 2008 November. And coming into the
7 -- coming into town, I was actually behind a school bus
8 seeing all the rubber-necking going on by the 8 and
9 10-year-olds as they wound around the Capitol and just
10 reminding me of really what issues are at stake in the
11 discussions that we're currently having and why the
12 proposition was passed to begin with.

13 Missouri's blessed with abundant natural
14 resources. We have an insulation factor in the state of
15 almost five hours a day, which is equal to about 50
16 percent in the state of Florida.

17 And the Public Service Commission's most severe
18 responsibility to serve the intent of this statute is to
19 really price carbon in -- in a -- in a -- in a doable way
20 for the energy industry to be able to gear up to -- to
21 produce the renewable requirements that Prop C requires of
22 us all. The -- just a repeat. I know I'm not telling you
23 anything anybody doesn't already know.

24 But Prop C requires -- wants Missouri state
25 publicly held utilities to come up to 15 percent renewable

1 energy requirements within ten years. Germany, right now,
2 is almost 30 percent today to put things in perspective.
3 It also has less insulation than Seattle, Washington.

4 By pricing renewable energy credits, I've
5 submitted in documents support of MOSEIA's position of any
6 understandable rate, 33 cents a kilowatt hour, \$330 of
7 solar REC I think is a doable first start in minimum for a
8 pricing structure to be -- jump-start the industry.

9 We have many contracts that are ready to execute
10 today and many more as a result of any kind of action that
11 this Public Service Commission would deem -- would be deem
12 to take at this time.

13 The establishment of a set pricing structure for
14 renewable energy credits, as stated by Dane, does follow
15 in the footsteps of many states that have been successful
16 in the industry. It also taxes an externality of carbon
17 and fossil fuel production that is currently basically
18 free. We have a power production industry that is
19 polluting at no cost to itself or its shareholders, but at
20 some cost to the rest of us, I might say.

21 And, also, by pricing renewable energy credits
22 at a standard knowable rate over time would -- would price
23 the sunlight at a value that we -- we could all afford,
24 and it certainly deserves.

25 And finally, I've heard a lot of discussion

1 today regarding status quo and prudent pricing of -- of
2 energy. And, certainly, there's some people in this room
3 that have a lot more knowledge than I do on these matters.
4 But I -- I did have to ask myself the question as to
5 prudent -- prudent -- excuse me -- prudent for whom? Our
6 publicly regulated utilities primary goal is to have
7 shareholder return, which I certainly understand.

8 But in terms of long-term value for ratepayers,
9 I think a sustainable decentralized system that produces
10 power on a long-term basis, guaranteed power on a
11 long-term basis would serve the -- and also a levelized
12 production of energy cost over time would serve the
13 ratepayers a lot more than a centralized monopolistic
14 system than we have now that many of us seem to have
15 difficulty looking past.

16 So, lastly, I would -- I would just like to
17 really make the request that the Public Service Commission
18 give us the tools that we -- that we need to put Missouri
19 to work in a -- in a green way, green college jobs, so to
20 speak.

21 And we had this opportunity 30 years ago. It
22 has come around full circle now. And I think the moment
23 is -- is very pressing.

24 JUDGE DIPPELL: Thank you. Are there any
25 Commission questions?

1 COMMISSIONER GUNN: I have no questions.

2 JUDGE DIPPELL: Thank you very much.

3 COMMISSIONER GUNN: Thank you.

4 JUDGE DIPPELL: Well, I think that will lead us
5 up to lunch time. And I -- the Chairman wanted me to
6 express his regrets. He had to go to a meeting at the
7 Capitol, so -- at 1:00 is the reason he left there at the
8 end of those.

9 When we come back, I think we'll go back then to
10 Public Counsel and -- and talk about -- finish up sort of
11 where we were, the electric utilities, and then move
12 forward from there. Thank you. We can go off the record.

13 MR. DOTTHEIM: What time do we come back?

14 JUDGE DIPPELL: I'm sorry. Come back in one
15 hour. 2:00.

16 (Lunch recess.)

17 JUDGE DIPPELL: Okay. Let's go ahead and get
18 started again. Let's go ahead and go back on the record.
19 Okay. We're back on the record after our lunch break, and
20 we'll continue our rule-making hearing.

21 I think, at this point, we will switch back to
22 -- now we're back on the -- not only back on the record,
23 but back on the Internet. I think we will switch back to
24 talking about the comments from the electric utilities.
25 And I was going to begin, if I may, with Public Counsel.

1 MR. MILLS: Which location do you prefer?

2 MR. KIND: Here if that's okay.

3 RYAN KIND,

4 being first duly sworn to testify the truth, the whole
5 truth, and nothing but the truth, testified as follows:

6 TESTIMONY OF RYAN KIND

7 JUDGE DIPPELL: Now, could state your name for
8 us, please, and tell us --

9 MR. KIND: Okay.

10 JUDGE DIPPELL: --- your position?

11 MR. KIND: My name is Ryan Kind. And I am Chief
12 Energy Economist at the Missouri Office of Public Counsel.
13 As you've mentioned, Judge, we had some comments in
14 response to some of the comments that were made by
15 utilities.

16 I also wanted -- had some comments I wanted to
17 make in response to the -- the Staff's comments, their
18 written and oral comments as well and just sort of wanted
19 to cover some of the other subjects that Commissioners
20 have been asking questions about, too.

21 JUDGE DIPPELL: That would be good. Thank you.

22 MR. KIND: I guess some of the issues that have
23 been of interest to Commissioners and that we did not
24 specifically address in our comments were issues related
25 to the geographic sourcing of renewables and, also,

1 whether the rules should require a bundling of energy with
2 RECs.

3 And I -- on the geographic sourcing question. I
4 think that the suggestions that the utilities have made
5 that we permit sourcing would be the geographic footprint
6 of the RTOs that our utilities are members of, which are
7 SPP and MISO.

8 I'm not sure if that was actually their proposal
9 in that I also heard them say RTOs in which they operate,
10 which could pretty much expand throughout the entire
11 eastern interconnect. And I -- I don't think that would
12 be appropriate. So I -- that's OPC's position on that.
13 And then with respect to --

14 JUDGE DIPPELL: Mr. Kind, before you go on --

15 MR. KIND: Yes.

16 JUDGE DIPPELL: -- can you expand on that just a
17 little bit about why you think that would be
18 inappropriate?

19 MR. KIND: Well, I think the intent of the law
20 is to try and encourage renewables in Missouri and
21 renewables in the region close to Missouri. I mean, there
22 is the -- the adder that gets applied for renewables from
23 Missouri. So I think there's an intention that sort of
24 close to home development of renewables is important.

25 But I think to just -- the Staff had a good

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1 explanation of why just limiting it to Missouri alone
2 would not be appropriate and would sort of be inconsistent
3 with the -- with the language. It would be sort of a
4 non-sensical solution.

5 JUDGE DIPPELL: Okay. Thank you.

6 MR. KIND: You're welcome. Then with regard to
7 the bundling of energy and RECs, which currently is
8 required by the rule, our position is that that's not
9 consistent with the statute, and so that it should not be
10 required by the rule.

11 As -- as a lot of people have -- have noted, the
12 statute has specific language saying a utility may comply
13 with the standard in whole or in part by purchasing RECs.
14 And there was no concept that they would be required to
15 bundle those REC purchases with -- with the energy.

16 So while -- while it might make sense from some
17 perspectives as a policy to have that bundling, it doesn't
18 seem -- it seems that the law permits more discretion than
19 that and our rule, as written, I think, needs to be
20 adjusted to reflect that.

21 Let's see. I guess the -- another important
22 area I wanted to talk about was the -- the area of retail
23 rate impacts, how that gets calculated and what's been
24 characterized as either a -- an incremental or a
25 cumulative approach to calculating that. Public Counsel's

1 written comments that we filed yesterday were -- were
2 fairly limited. But this is one of the areas that we
3 addressed in the track changes version of the rule of just
4 segments of the rule that we attached to our comments.

5 And so I just wanted to point that out that,
6 specifically, if you look at the second page of our
7 attachment where we do a revision of 5-A, we have struck a
8 phrase at the end of the last sentence, the phrase that
9 reads, "And renewable energy resources previously
10 determined not to exceed the 1 percent threshold."

11 We just, in comparing the language in the
12 statute and the language in the rule, couldn't find any
13 justification to re -- retain that phrase. And I think
14 that phrase being in there is what would lead to more of
15 an incremental approach to looking at what the rate impact
16 would be of renewable investments or -- or acquisitions.

17 And it really should be a cumulative approach.
18 It should be -- it should consist of all the RES
19 compliance costs that customers are paying at a point in
20 time. And with this phrase in here, there would be an
21 exclusion of a portion of those costs as you calculated
22 the differential between two portfolios over the averaging
23 period.

24 And I -- I had -- I think the Staff has some
25 comments about that as well that they are supporting what

1 they refer to as a cumulative approach. And I don't know
2 that they have any specific language, though, that -- that
3 would move the current rule to that approach.

4 I've just had -- you know, I'm not sure if this
5 is what -- you know, if this would satisfy that this moves
6 it from an incremental to a cumulative approach from their
7 perspective or not. But it's -- we think that it does
8 that.

9 I guess that's a -- sort of a good opportunity
10 to start talking about some of the issues that the Staff
11 had raised in their -- in their written comments. There
12 are a lot of issues that they've addressed. And I think
13 we -- we probably support the majority of their suggested
14 changes.

15 Unfortunately, I haven't really had time to look
16 at each and every change. But there's some of them that
17 are -- are pretty important and significant enough that I
18 thought I would touch on them here, and we have a view of
19 whether we agree or disagree with those changes.

20 The one area I wanted to point out where we
21 disagree, it appears on Appendix 1-7, and it's at the
22 bottom of the page. I think it's the last sentence in the
23 second to last paragraph that it reads -- it's where
24 they're explaining why they believe that the requirement
25 in the existing rule for a ten-year average is too long

1 and should be shortened to three or four years.

2 And one of the things that they cite for support
3 of that is this statement again at the end of the second
4 to last paragraph on Appendix I-7. It says, for example,
5 using a ten-year period, it would be acceptable for an
6 electric utility to be granted a rate increase consistent
7 with a 10 percent -- and I forgot what their acronym
8 stands for, but it's the rate increase differential. In
9 the first 10 percent increase in the first year of an RES
10 compliance period as long as no further increases were to
11 be granted over the ten-year averaging period currently --
12 currently reflected in the proposed rules.

13 We think that that's a hypothetical example that
14 we can't -- we can't imagine the circumstances under which
15 it would occur, and for that reason, don't think it's a
16 reason for departing from the ten-year average. We
17 support the ten-year period for calculating the average
18 that's in the -- in the rule.

19 And I guess I'd just like to explain a little
20 why this idea that somehow you might have a surge in your
21 compliance costs in the first year of a ten-year period
22 and then -- of 10 percent in this example and then you
23 would have no -- essentially no RES compliance costs, at
24 least in terms of the differential between the -- the two
25 things you're comparing to see what -- see whether or not

1 it meets the rate increase average cap.

2 If you look at it in terms of what are you going
3 to do in order to comply with the requirements, with the
4 RES requirements, whether you have to have 2 percent in
5 your portfolio or the higher levels, you -- in order to
6 comply, if you don't already have some renewable
7 resources, you are going to either -- you are going to
8 either invest in some generation a -- a long-term asset.
9 If it's wind, it's going to be probably, you know,
10 depreciated over 20 or 30 years.

11 And that asset would be part of your cost
12 structure for all ten years. So you couldn't have it be a
13 huge part of your cost structure in the first year and
14 then go away in Years 2 through 9.

15 Now, just because of the nature of declining
16 rate base over a ten-year period, there could be a slight
17 -- that could decrease a little bit over time. And,
18 similarly, with other ways that you would comply with the
19 REC, you pretty much need to make expenditures every year,
20 whether you've got a PPA for some sort -- from some sort
21 of a renewable source that has RECs associated with it.
22 You're going to have to pay each and every year for that
23 energy that you're buying in order to comply.

24 Or if you were just buying RECs in every year,
25 still, you would have this expenditure level in every

1 year. So we don't see that being a big -- a possibility
2 of really a situation where you could have this sort of an
3 extreme circumstance occur.

4 And, you know, there were times when we thought
5 a 20 years more period would be more reasonable because
6 then it could just match up with IRP analysis. And
7 there's certainly some good rationale for having things
8 mesh between this rule and the IRP rule, but it's -- it's
9 taken a different direction from that. And -- but we
10 think that the ten-year time period is sort of a -- a
11 decent compromise between doing the minimum 20-year
12 analysis that would be required by IRP.

13 And we think that, in fact, there is the support
14 for do this averaging over some time period greater than a
15 year, it's not -- while it's not explicitly spelled out in
16 the statute, the statute speaks to -- that you're going to
17 be estimating an average. And so to us, that implies that
18 it's an average over some time period.

19 And the fact that you have -- have to be doing
20 an estimate, it needs -- means that you're not talking
21 about actual costs. You're going to be -- it's going to
22 be this forward-looking view of comparing, you know, the
23 -- what you estimate to be the cost of a certain renewable
24 acquisition with the hypothetical costs of -- of
25 non-renewable resources that you would otherwise be

1 adding.

2 So that -- just to move on to some other things
3 in the Staff comments, one of the -- the comments that
4 they have, on page 1-9, they talk about the need for
5 development of a RES re -- revenue requirement that would
6 sort of be, you know, what is your starting point if you
7 already have some renewables or if you've already -- I
8 think more -- in terms of if you've already done some
9 renewable acquisition to -- to comply with the RES.

10 And I think they make some important points --
11 an important point here that is just something we didn't
12 really think about in developing the rule that in actually
13 implementing the RESRAM, we're going to have to know, you
14 know, what's the -- what's the existing level of costs
15 that are already there? What's the new costs that are
16 being added in order to -- to use this RESRAM cost
17 recovery mechanism?

18 And so they suggest either that it -- because of
19 that, perhaps the first RESRAM should be done in a general
20 rate case. Either that or you would be establishing a
21 base level of RES costs in the initial RESRAM application.

22 Something that's sort of related to that to the
23 RESRAM cost recoveries on the next page of their comments
24 on Appendix 1-10, and they have some suggested language
25 that they're suggesting should be included in 6-B and 6-C

1 to reflect the -- the nature of how revenue requirements
2 decline over time for investments that are made at a
3 certain point in time because of the declining rate base.

4 Declining rate base means that you're going to
5 be getting a return on -- on a smaller level of rate base.
6 And so the revenue requirement impacts of investments are
7 going to decline year after year.

8 And I think that this is an important consumer
9 protection to make sure that that's taken into account
10 when we're calculating -- doing RESRAM calculations. It's
11 something that was taken into account in the development
12 of the ECRM rule and in terms of investments and some
13 environmental compliance assets such as scrubbers and
14 things like that that we're going to make sure we're not
15 over-charging consumers.

16 And it -- it's something that would normally
17 happen in -- in a rate case. You would -- you would
18 readjust the rate base to make it current to that point in
19 time. And you would make sure that you're just charging
20 just and reasonable rates for costs that exist in that
21 time in a rate -- in a rate case type of cost recovery.

22 But in a single issue cost recovery mechanism
23 such as this, you've got to take into account the same
24 dynamics in order to protect consumers.

25 That's all the -- the things in the Staff

1 comments that I had noticed in a quick review of them.

2 And I mentioned -- we mentioned wanting to address some of
3 the comments made by the utilities.

4 I think, just briefly, I wanted to address some
5 of the comments from Union Electric Company and,
6 specifically, the -- the example that Rex Jenkins was
7 giving up here of a -- an example of how you could use
8 this spreadsheet to do this type of rate impact analysis.

9 And I think he -- he was perhaps trying to make
10 a point that it's a very complex type of analysis and
11 maybe do people really know what is involved in doing this
12 type of thing? And to me, I guess I thought that it just
13 showed that at least one of our utilities has taken the
14 time to try and figure out exactly what would be involved.

15 And he mentioned that there were a number of --
16 of variables that you needed to make estimates of in order
17 to even do this analysis. And I think somehow it was
18 implied that -- that there was, you know, something maybe
19 questionable about making these investments out five, ten
20 years into the future.

21 And I just wanted to comment that what I took
22 from that is that they pretty much have the tools that
23 they need to do this analysis. And, in fact, our IRP
24 rule, which requires them to do much, much more complex
25 analysis than what's required here, all the variables that

1 they would need for the analysis that's done here are
2 already -- they're already coming up with estimates of all
3 of those variables for IRP.

4 And I think that's important for a couple
5 reasons. It's important because it's not all new work
6 that needs to be done in order to come up with these types
7 of estimates.

8 And the other thing that's important, I think,
9 is that it's this very same type of analysis that we use
10 in IRP to -- for utilities to make very important
11 decisions about what their long-run resource plans should
12 -- should be.

13 They make their best guess about what -- what
14 these key variables are. And that can lead them to make
15 multi-million, multi-billion dollar decisions. That is
16 just the nature of the -- of the business.

17 And I think because of the huge importance of --
18 of making estimates of these types of variables, both for
19 IRP analysis and for utilities' internal business
20 planning, I think that's -- it will be helpful in making
21 sure that they're pretty well-fleshed out estimates for
22 that -- that represent really knowledgeable estimates
23 about the future.

24 Also, the -- I guess the other thing I wanted to
25 speak to was some of the comments made by KCP&L today and

1 some of their proposed rule revisions, some of which I was
2 -- you know, sort of made me think about things that, oh,
3 I hadn't really thought about that before, and it's kind
4 of hard to respond to, you know, really quickly, maybe in
5 terms of the significance of some of their conclusions
6 they were drawing.

7 Some of the things that they had were like -- I
8 was thinking, well, if this was relevant, why wasn't this
9 brought up, you know, months ago earlier in the process
10 when they -- when they started talking about things like
11 preapproval?

12 But I wanted to go through a few of their
13 comments and specifically refer to their markup of the
14 rule that was Appendix A to their comments. And I think
15 the most important point they made to me was something
16 that really needs to be thought about by everyone is
17 whether the rule as written would actually somehow
18 constrain utilities from making investments in renewables
19 that make sense.

20 And when I say investments that make sense, I
21 mean the type of investments that would come out of a --
22 of a well-done, integrated resource planning process. And
23 I -- I had not really thought that there was a potential
24 for that type of conflict with the rule or that the rule
25 could potentially affect those types of investments. And

1 they've got a few changes to the rule that they've
2 proposed that are intended to address that problem.

3 And I think that we -- we are generally
4 supportive of -- of a couple of those changes. And,
5 specifically, I wanted to go to page 4 of the KCPL
6 Appendix A. And -- and they've got an insertion there at
7 -- it's from, I guess, Section 2 of the rule that comes
8 over from the prior page.

9 And, specifically, they have the insertion --
10 it's a rather long sentence that reads -- I'm just going
11 to read part of it maybe and then talk about how we like
12 the concept generally, but we have a suggested change to
13 their proposed insertion here.

14 Anyway, just so people can identify their
15 insertion, it starts with, The requirements set forth in
16 this rule shall not preclude an electric utility from
17 being able to prudently invest and recover all prudently
18 incurred costs in renewable energy resources that exceed
19 the requirements or limits of this rule.

20 And, again, we -- I don't know that there was
21 much discussion of the potential for this to happen, and
22 it's a little bit troubling that people wouldn't be
23 discussing it until this point in time. On the other
24 hand, we don't have really another opportunity to -- to
25 give you all feedback on this, so we're going to give you

1 just some -- some quick feedback or quick reaction.

2 And we -- we would say this type of language
3 would be desirable. We would make a small -- a small
4 change to this language. The -- the language essentially
5 consists of two pieces that are sort of joined together by
6 an or, where I had read up to exceed the limit -- exceed
7 the requirements or limits of this rule, and then it says
8 or the prudent implementation of any resource acquisition
9 strategy developed in compliance with 4 CSR 240.22, which
10 are the IRP rules.

11 Our suggestion is that they've -- they've got
12 the right concept, here but that or should be changed --
13 should be struck and replaced with and are consistent
14 with, and that's and, a-r-e, are consistent with so that
15 it would read then renewable resources that exceed the
16 requirements or limits of this rule and are consistent
17 with the prudent implementation of any resource
18 acquisition strategy developed in compliance with
19 4 CSR 240.22, and then it continues.

20 And KCP&L made a couple other changes that are
21 probably pretty crucial to implementing that concept. And
22 those -- those changes occur in Section 5 of the rule that
23 appears on page 10 of their Appendix A under 5-A, Retail
24 Rate Impact.

25 They've inserted the phrase "directly

1 attributable to RES compliance through." And they have
2 inserted the same phrase towards the end of 5-B. So the
3 -- the idea there is you -- that -- that they're getting
4 at is you would calculate these rate impacts. You
5 calculate a limit when they're making investments that are
6 directly attributable to RES compliance. But not all
7 renewable investments are directly contribute --
8 attributable to RES compliance.

9 They may already be exceeding compliance with
10 the RES, but there's more investments that make sense.
11 The way those three pieces work together -- and there may
12 -- they may have other pieces in here related to it.
13 Again, this is in quick feedback. That wouldn't feed into
14 the rate impact calculation. And Public Counsel thinks
15 that's -- that's an important concept to -- to consider in
16 this rule.

17 There are some other things in this rule that
18 Public Counsel finds much less appealing in the KCP&L
19 proposed revisions, to the rule, that is. And if we go to
20 page 12 of their Appendix A, they have inserted something
21 in 5, which is -- that's the subsection, actually. Six --
22 I don't know.

23 Anyway, their insertion on page 12 that's
24 labeled 5, they're talking there about alternative methods
25 of cost recovery. Essentially, instead of checking your

1 RES compliance cost through a RESRAM, they are suggesting
2 collecting those costs through regular rate cases and the
3 creation of a regulatory asset.

4 Public Counsel does not want to preclude that
5 option, and we -- we wouldn't oppose language that put
6 that option in the rule for the utility could apply for
7 regulatory asset treatment.

8 But this language in here goes way beyond just
9 giving them the right to apply to defer costs through a
10 regulatory asset. And -- and to the extent it does that,
11 we are opposed to it.

12 And just one other part of the KCPL markup that
13 I wanted to respond to, and it's the new pre-approval
14 section that appears on page 25. There's really no other
15 way to initially respond to this than just to say this is
16 just -- appears to be a huge, huge, huge, huge, huge reach
17 on behalf of the utility to -- to think that this somehow
18 belongs in the RES rule.

19 It -- it's a concept that we never -- we -- I
20 don't recall ever hearing discussed in workshops. And
21 when I look at the language here and the type of
22 accelerated procedural schedule here that I see where you
23 basically -- you give -- you know, the utility comes up
24 with something they want pre-approval of. Staff, OPC and
25 others have 60 days to -- to respond to this. I suppose

1 you're supposed to be able to do some discovery during
2 that 60 days. It might be possible.

3 And then there's another 60-day time period
4 where you're trying to reach agreement on differences.
5 And then there's another 60 days where the Commission
6 would be -- if there is not an agreement on preapproval,
7 they're going to be just, you know, figuring out how to
8 decide the issue themselves.

9 And then I think further says if they don't
10 decide the issue, the utility gets what they requested
11 anyway. And there's no provisions in here for -- for
12 evidentiary hearings or anything. And no time. And,
13 frankly, I look at it, and it reminds me of the type of
14 accelerated regulatory proceedings that I saw throughout
15 the Quip Legislation that was proposed last year that
16 seemed to -- seemed to be an attempt to -- to remove a lot
17 of important consumer protections.

18 And the last thing I would just mention is that
19 they have in the other extraordinary concept here that
20 there's going to be, through this rule, the Commission
21 will be determining that future Commissions can be bound
22 by these types of determinations.

23 So I guess the -- in response to, you know, one
24 of the -- I know one of the questions that we were getting
25 from Commissioner Davis was asking if there was anything

1 we saw in the rule that was in conflict with the statute.
2 And I think the main thing to us that appeared to be in --
3 in conflict that we addressed in our comments is this
4 phrase in 5-A that I discussed earlier in my -- my remarks
5 today where we had deleted the phrase from the end of 5-A
6 that said "and renewable energy resources previously
7 determined not to exceed the 1 percent threshold."

8 That -- that seemed to be inconsistent with the
9 language in the statute in 393.1030 to (1) where it talks
10 about how to go about doing this estimate of what the
11 average retail rate increase would be.

12 COMMISSIONER DAVIS: Okay. Thank you, Mr. Kind.

13 MR. KIND: And I think that's all I wanted to
14 address. I'd be -- be glad to try and respond to any
15 questions that Commissioners or the Judge has.

16 JUDGE DIPPELL: Thank you. Commissioner Davis,
17 did you have any additional questions for Mr. Kind?

18 COMMISSIONER DAVIS: I don't think so. It's
19 good to see you, Mr. Kind.

20 JUDGE DIPPELL: Commissioner Gunn?

21 COMMISSIONER GUNN: Yeah. Just a couple
22 clarifications. I think you said this, but I just want to
23 be sure. So Public Counsel is supportive of the ten-year
24 average?

25 MR. KIND: That's correct.

1 COMMISSIONER GUNN: But under a cumulative
2 approach rather than incremental?

3 MR. KIND: Yes.

4 COMMISSIONER GUNN: And then on the -- this
5 whole kind of what I've kind of deemed this "but for" test
6 that the only renewables that would be included under --
7 under the -- under the rate cap would be the ones that
8 would not have been built but for the renewable -- the
9 RES, you're also okay with that -- that concept, that a
10 certain amount of renewables, if they were a prudent
11 investment, would be pulled out of that -- out of that
12 rate cap because they would be treated just like any other
13 -- any other generation that would have been built
14 prudently in the normal course of the utility operations?

15 MR. KIND: That's right. And just to make sure
16 we're on the same page on that, I'm just -- the concept
17 that KCPL had on page 4 of their Appendix A is, I think,
18 what accomplished that. And we are -- we are good with
19 that concept as I had suggested, you know, with the
20 suggested changes to the language that I stated earlier
21 today.

22 COMMISSIONER GUNN: And I think I understand
23 your point about the pre-approval and the
24 predetermination, so I don't think I have any questions on
25 that. But you -- would you view that -- let's say that

1 there would be a -- a -- a process to determine whether or
2 not a specific project would -- would be under the rate
3 cap or not or, in your head, would that be what we talked
4 about which would be inside an IRP or a -- some sort of
5 regulatory plan process?

6 MR. KIND: Well, I think it would -- it would
7 evolve out of an IRP. The people who were involved in --
8 in IRPs with the various utilities knew what their
9 preferred resource plans were that they had chosen and
10 what renewables that were in them.

11 You could put together what they're seeking, you
12 know, special treatment for through the -- for RES
13 compliance resources versus others when you saw that
14 they're -- them seeking to recover some RES compliance
15 costs.

16 I think it could be sorted out in that process.
17 I think some people would even -- potentially could raise
18 questions and say, We didn't -- we didn't see this in your
19 preferred resource plan. And yet, you're also not
20 including the impact of this in the rate impact that
21 you're including.

22 COMMISSIONER GUNN: Right.

23 MR. KIND: And do you have an explanation? And,
24 hopefully, that's not going to happen because, as
25 utilities change, they're -- if they make a change in

1 their preferred resource plan, they're required to provide
2 timely notice to the Commission of that. So there
3 shouldn't be any big surprises.

4 But still, some of the details to be worked out,
5 I mean, I can even envision a situation where somebody is
6 going to build a -- a 200 megawatt wind farm and 100 of it
7 is for RES compliance. And the other piece is because it
8 made sense because their IRP said the -- that the 200
9 megawatts made sense. So they get sorted out and -- and
10 put in different buckets.

11 COMMISSIONER GUNN: And then, theoretically, you
12 could have a technological break-through or something that
13 makes a renewable resource lowest cost most efficient
14 manner that wouldn't necessarily be included in the IRP,
15 but would now make sense outside of any RES mandate that
16 would -- the Commission may be able to deem it at some
17 point to be appropriate?

18 MR. KIND: Well, I agree with there could be
19 things that are lowest cost, especially when you include
20 environmental compliance cost. But I don't understand why
21 you're indicating that somehow they'd be out -- somehow
22 they'd be outside of an IRP.

23 COMMISSIONER GUNN: Well, because an IRP is a
24 look-back, basically. I mean, if we're going to -- if
25 we're going to look to determine to see whether a project

1 is under -- under the IRP -- RES or is not, it would have
2 to have been included -- we would have to look backwards
3 at whatever current IRP plan exists.

4 MR. KIND: Yes. But you look -- they do an IRP
5 every three years. It covers 20 years.

6 COMMISSIONER GUNN: Right.

7 MR. KIND: And the -- I think we're moving
8 towards an IRP rule with annual updates, perhaps, as well.
9 So it would be a lot of look-back.

10 COMMISSIONER GUNN: And understanding that there
11 is a -- there is a timely -- there is a timely
12 notification, I'm just hypothesizing that there could be
13 something that would not necessarily have been
14 contemplated even in a year or three-year IRP that would
15 suddenly become appropriate -- appropriate to build.

16 Maybe it's a -- but I guess that would be
17 covered by the -- by the timely change in the IRP. If all
18 of a sudden, you know, that -- and I don't -- this is a --
19 a crazy hypothetical. But let's all assume that plentiful
20 hydrogen, you know, becomes a very low cost, efficient way
21 of generating energy.

22 MR. KIND: Uh-huh.

23 COMMISSIONER GUNN: And that's fairly new, but
24 everybody realizes that the technology is going to -- is
25 going to work better than anything that we have right now,

1 and it's going to be cleaner, and it's going to be very
2 low cost.

3 You would almost -- you could almost have a
4 situation where you would have simultaneous revisions to
5 the IRP plan -- to the IRP as well as wanting to move
6 forward rapidly with a -- with a construction project that
7 wouldn't necessarily be under the RES mandate.

8 MR. KIND: Conceivably, it is possible.

9 COMMISSIONER GUNN: Conceivably.

10 MR. KIND: Yes.

11 COMMISSIONER GUNN: I'm know I'm science
12 fictioning this a little bit. But we're just -- if we're
13 doing this, we want to plan for eventualities. You've got
14 to plan for what may happen in the future.

15 MR. KIND: Yeah. And what you don't anticipate
16 may happen, sure.

17 COMMISSIONER GUNN: We have to keep that
18 flexibility and think about that kind of snuff in case
19 that happens. So I don't have anything else, Mr. Kind.
20 Thank you. Appreciate it very much.

21 MR. KIND: Okay.

22 JUDGE DIPPELL: Thank you, Mr. Kind.

23 MR. KIND: Thank you.

24 JUDGE DIPPELL: Mr. Dottheim, do you have a --

25 MR. DOTTHEIM: Yes. At -- at this time, I just

1 would like to ask or make notes, since the Staff went
2 first, hopefully by the end of the day, the Staff might
3 have a -- a few minutes to address items that it -- that
4 have occurred.

5 For example, Commissioner Gunn started asking
6 his "but for" question after the Staff answered questions
7 from the Commissioners. So the Staff would like to
8 respond to Commissioner Gunn's "but for" question.

9 And -- and I have a few brief comments on some
10 of the presentations that have been made to this point.
11 And they are truly brief. But I -- I thought the Staff
12 would just wait until the -- the rest of the presentations
13 are -- are made.

14 JUDGE DIPPELL: I -- let's do that for now and
15 -- and keep going and seeing how -- how -- there are some
16 people in the room that may not be able to stay as late as
17 Staff.

18 Okay. Then at this point, then, I think that
19 sort of wraps up, with the exception of maybe some
20 response comments from Staff, sort of the utilities
21 portion.

22 We kind of have three groups. I think maybe
23 left sort of the Renew -- Renew Missouri has some
24 comments. We have still some of the solar people, I
25 think, in the room that didn't make comments. And we have

1 some of the industrials in the room that didn't -- haven't
2 made comments. Is there any other sort of group? We have
3 the -- yeah. Well, we have the wind people haven't made
4 comments.

5 So, logically speaking, I'm not sure this
6 necessarily leads, but since I started the solar already,
7 I think I'll finish them up. And then we can maybe move
8 to either the wind or the Renew Missouri and the
9 industrials. So go ahead and come forward.
10 Good afternoon.

11 CARLA KLEIN,
12 being first duly sworn to testify the truth, the whole
13 truth and nothing but the truth, testified as follows:

14 TESTIMONY OF CARLA KLEIN

15 JUDGE DIPPELL: Thank you. If you'd give us
16 your name and tell us who you're with again?

17 MS. KLEIN: Okay. All right. My name is Carla
18 Klein, K-l-e-i-n. And I am here representing the company
19 I work for, which is the Energy Savings Store. And we
20 have two locations, one is in the Kansas City area,
21 Kansas, and also in Webster Grove, St. Louis.

22 And I just want to echo some of the comments
23 that were made by MOSEIA. We definitely support their
24 comments. We'd also like to thank the Staff and
25 Commission. We understand how many hours you have put in

1 on this, and we really are very supportive of many of the
2 -- the changes that have been made thus far.

3 We have also experienced growth in our solar
4 market with the enactment of the \$2 watt rebate. So that
5 has been so beneficial. We're ready to hire two new Staff
6 people in the St. Louis office. And so it's been an
7 exciting time for us. And we look forward to the added
8 benefits when the SRECs are in place.

9 I -- to kind of step aside and talk on a
10 personal note for a moment, I am also a member of the
11 Ozarks Clean Air Alliance down in Springfield, Missouri.
12 And it's a 13-county voluntary advisory group that's come
13 together to form voluntary actions and -- and make an
14 action plan to address ozone.

15 And as I'm sure the Commission is aware, when we
16 have three of -- our major three metropolitan areas are
17 teetering on the non-attainment issue. And although
18 everyone on that committee cares very much about the
19 future of our children and health and environmental
20 issues, I can tell you that the driving factor is economic
21 reasons.

22 And, you know, they're very concerned about what
23 will happen when our cities do hit that non-attainment.
24 And I would just like to point out that in economic
25 considerations bringing the -- you know, using the

1 geographic sourcing to have clean energy resources in
2 Missouri not only helps small business, will grow our
3 markets, but it really cleans up our air and is also
4 helping on the economic edge of taking off our cities
5 going into that non-attainment.

6 So that was pretty much what I wanted to say
7 today. And I appreciate the opportunity to speak.

8 JUDGE DIPPELL: Thank you. Commissioner, any
9 questions?

10 COMMISSIONER GUNN: I don't. Thank you very
11 much for coming. Appreciate it.

12 MS. KLEIN: Thank you.

13 JUDGE DIPPELL: Thank you, Ms. Klein.

14 MR. RENTZ: My name is Henry Rentz with the
15 Missouri Valley Renewable --

16 JUDGE DIPPELL: Can I get you to raise your
17 right hand?

18 MR. RENTZ; oh, sorry. Yes, ma'am.

19 HENRY RENTZ,
20 being first duly sworn to testify the truth, the whole
21 truth, and nothing but the truth, testified as follows:

22 TESTIMONY OF HENRY RENTZ

23 JUDGE DIPPELL: Thank you. If you could state
24 your name and spell it for us, please.

25 MR. RENTZ: Henry Rentz, R-e-n-t-z, Missouri

1 valley Renewable Energy. My comments are kind of personal
2 in -- in a way. And in whole, I want to thank the
3 Commission for the good work they've done, the diligent
4 time they've spent investigating this and the
5 consideration that Commissioners have -- have put forth
6 into this.

7 I've been in a number of different meetings in
8 Governor's conference on agriculture recently and there
9 was discussion of this as well, so this is not an issue
10 that just goes to what is solar power and what is
11 renewable sources for the State and how will that benefit.

12 The intent -- one of the major intents when
13 Proposition C was introduced was primarily toward economic
14 development as well as relieving the use of coal and
15 carbon emissions in the state.

16 And I think probably this has gotten a little
17 bit convoluted to a degree that special interests groups,
18 including our own in the solar industry, have a --
19 something to gain from this. And I -- I think probably
20 what's being missed here is the -- the two to one --
21 pardon me -- by the populous of the voting public in
22 Missouri that wanted this.

23 And it was intended primarily that the small
24 homeowner that wanted to reduce their energy costs or
25 wanted to be a part of a green revolution in a sense, I

1 believe, is being forgotten here. I believe that the --
2 the whole intent here and my intent, my purpose behind it
3 began ten years ago when I started in this industry and
4 there was no industry in Missouri to speak of other than a
5 few other people other than myself.

6 And my goal was to build an industry and bring
7 in economic development to the state and how are we going
8 to face the future? And -- and so Proposition C was one,
9 in my mind, of a many different steps that I've taken in
10 the last ten years to bring this about.

11 The next step is how do we train the future?
12 How do we take economic development that's going to happen
13 beyond this? How do we train the future? And if we're
14 stymied through regulations and whatnot the way it appears
15 to be evolving here, it complicates the future for our
16 children.

17 The industry has grown from two installers ten
18 years ago actively, possibly three, to over 25 in our
19 association and in excess of 35 statewide that are not
20 members of our association. The -- Missouri is very
21 important as far as -- solar industry as far as the
22 manufacturing of the cells.

23 Our resources here are great. Solar is good.
24 But I think probably more importantly is -- is the
25 economic development part now. That is not included in

1 the bill, partly because we overlooked it. And it was
2 just a simple matter of we're new at this just like the
3 Commission is. This is a brand new area that we're moving
4 into. And mistakes were made, obviously.

5 But the -- the intent -- the intent was to
6 advance renewables in the Midwest. And there's been a
7 number of opportunities in the State for the University of
8 Missouri and Columbia Water & Light to get involved in all
9 of these things. And it's just -- it's just gotten to the
10 point that I believe it's being confused.

11 We have three utilities, major utilities, that
12 deal with this or are a part of it. One is in favor. The
13 -- one appears to be in favor, and one is totally opposed.
14 And it makes me wonder what the intentions are in that.

15 And the real question should be does Missouri
16 want to be in the forefront of renewable energy, or does
17 Missouri want to continue to lag behind the rest of the
18 country and to be 46th in the nation?

19 We're a state of leaders. And I -- I feel
20 discouraged sometimes that we have people that would like
21 to stop this in Missouri or at least stymie it to a
22 degree.

23 The discussion about SRECs and RECs not being
24 available or not being able to be geographically sourced
25 within the State, I believe, is totally erroneous. I will

1 tell you this, that there was a -- an elimination in the
2 original bill of animal waste production from animal
3 digesters intentionally taken out by some groups.

4 It has been reintroduced as State Bill 848,
5 which is on the floor for consideration today. The only
6 question when I testified before the Senate Committee on
7 Agriculture was why was it not included before? That was
8 their question. The answer was, we don't know. But it
9 was taken out.

10 So that will include and -- and bring into the
11 mix another 117,000 megawatt hours of electrical
12 production on Gary Farms alone in Missouri. When you add
13 in the hog production and animal production in the state,
14 which is our largest income producer, we're in excess of
15 400,000 megawatt hours of production.

16 To leave that out is criminal, almost. It will
17 be added back in. It appears to pass. It looks like it's
18 going to pass today. So there are strides being taken to
19 correct some of the issues that were left out.

20 And one of those will be another amendment that
21 will be included recently in the near future to add
22 economic development to the mix. We've got to create jobs
23 in this state. And if we can create jobs in this state
24 and we can keep it here, you know, just like Nathan said
25 earlier, he's got two people that want to come to work for

1 him. I do as well. And we can't hire them right now
2 because we don't have the business.

3 It's growing. We -- we've gone from a company
4 that started ten years ago with \$2,000 a year business to
5 a company that's doing over \$4 million a year in the last
6 ten years. And, you know, it's getting there. It's
7 getting there. And this is a step in the right direction.

8 I would encourage the Commissioners to take a
9 very close look at this and to understand that even though
10 some mistakes were made, economic development was left out
11 of it. That was one of the main intents. And we've got
12 to find a way to keep jobs in this state. And this is one
13 of the ways we can do it. Thank you for your time. Any
14 questions, I'd be glad to answer.

15 JUDGE DIPPELL: Thank you. Commissioner, any
16 questions?

17 COMMISSIONER GUNN: I just want to clarify
18 something you said at the beginning. You said that the
19 purpose of the initiative or proposition was to encourage
20 residential generation?

21 MR. HOLTZMAN: Right. Well, it was one of --
22 one of the -- one of the purposes.

23 COMMISSIONER GUNN: Because Prop C basically
24 talks about utility scale.

25 MR. HOLTZMAN: Well, it does not. The intent --

1 it does talk about that as well. But when you look at the
2 rebate program that is based on under 25 watt -- 25
3 kilowatts, or KW systems, that is -- and who voted on it,
4 who voted on it was the actual homeowners, you know, the
5 -- we raised 177,000 signatures, and we only needed
6 92,000.

7 So there was a great ground swell of support.
8 And, yes, a part of it was to the utilities because they
9 have to be a part of this as well. But the homeowners are
10 the ones that will really benefit from it. The majority
11 of my -- pardon me one second, Commission.

12 The majority of my systems are not to offset
13 electrical rates but to provide energy back-up systems for
14 my customers. I do a lot of my work -- and I'm not sure
15 about the others, but a lot of my work is battery back-up
16 systems that are grid connected so when the utility
17 company does go down, people still have power.

18 And those are more expensive to install, but in
19 my -- my customer base basically goes toward that. So --
20 and agriculture, as I do a lot in agriculture. So go
21 ahead. I'm sorry. Go ahead had with your question.

22 COMMISSIONER GUNN: No. That's fine. I don't
23 want to quibble. I don't disagree with you. But you do
24 understand that we have to go upon what's in the statute
25 rather than --

1 MR. HOLTZMAN: Sure.

2 COMMISSIONER GUNN: I mean, if something is
3 written in a way that isn't statute, we can't impute a lot
4 of intent or assume that people knew something different
5 than what they were voting for.

6 MR. HOLTZMAN: Right.

7 COMMISSIONER GUNN: I don't agree with a lot of
8 people that say, well, you know -- you know, like the
9 minimum wage bill, take an example, where people say, Oh,
10 people didn't understand that this meant indexing from
11 that.

12 Well, you know, I can't impute the fact that --
13 I'm not going to call voters stupid. I mean, I think that
14 they can read and they voted on what they voted on.

15 MR. HOLTZMAN: Sure.

16 COMMISSIONER GUNN: But we don't -- that's all
17 that we have to go on --

18 MR. HOLTZMAN: I understand that.

19 COMMISSIONER GUNN: -- is what passed and what
20 is written in the statute now.

21 MR. HOLTZMAN: Right.

22 COMMISSIONER GUNN: So to the extent that we
23 would -- we would love to take all these other things into
24 account, we are limited by, unfortunately, the words that
25 are written on -- on paper. I just want to be clear

1 that --

2 MR. HOLTZMAN: Sure.

3 COMMISSIONER GUNN: -- that that understanding
4 was there.

5 MR. HOLTZMAN: yeah. I totally understand that.
6 That's why I brought it up because I know that you can
7 only rule on what's there.

8 COMMISSIONER GUNN: Right.

9 MR. HOLTZMAN: But I -- I just felt personally
10 that I should express to the Commission and to the Judge
11 as well that the -- my intent -- I can only speak for
12 myself.

13 My intent was for economic development. I'm
14 involved right now in a program called Pathways from
15 Poverty where we're going to train 200 people to integrate
16 to the industry in the next two years. And that's the
17 next step is how to train people and how to get them
18 involved in it.

19 And I understand that -- your point exactly.
20 And that was the reason that I did bring it up that it was
21 left out and it was unintentional. You know, a lot of
22 times -- and maybe those that wrote it and those that
23 patterned it and framed it did not have that in mind. But
24 as far as my involvement personally, it was always for
25 economic development --

1 COMMISSIONER GUNN: Sure.

2 MR. HOLTZMAN: -- and job creation in the state.

3 COMMISSIONER GUNN: And we certainly hope that
4 that's a -- a -- a consequence of -- of what we're doing,
5 intended or unintended.

6 MR. HOLTZMAN: Absolutely. Right.

7 COMMISSIONER GUNN: So -- all right. Thank you
8 very much. I appreciate your time.

9 MR. HOLTZMAN: Thank you.

10 JUDGE DIPPELL: Thank you. Was there -- were
11 there others that were with the solar industry that wanted
12 to speak?

13 JUDGE DIPPELL: Can I get you to raise your
14 right hand, if you can get the microphone to cooperate?

15 MR. PROSE: Yes, you can. Yeah.

16 VAUGHN PROSE,
17 being first duly sworn to testify the truth, the whole
18 truth, and nothing but the truth, testified as follows:

19 TESTIMONY OF VAUGHN PROSE

20 JUDGE DIPPELL: Thank you.

21 MR. PROSE: Thank you. My name is Vaughn Prose
22 with Missouri Solar Applications. Commissioner, Judge, I
23 would like to -- I wrote out a few comments here, and I'd
24 like to just address those now. Thank you for your work
25 and service that you've done for the Missouri's utility

1 customers and citizens of the state, State of Missouri.

2 The Current draft rules for the renewable energy
3 standard require only a few additional changes which are
4 very important for orderly growth for the solar industry
5 in Missouri. Our company, Missouri Solar Applications,
6 LLC, strongly supports the MOSEIA comments to Rate Case
7 EX-2010-0169, which we're talking about now.

8 A couple points I'd like to make here concerning
9 that is on geographic sourcing. I'm going to echo a lot
10 of things that were said earlier from some of the solar
11 companies concerning Proposition C. Its title is Missouri
12 Clean Energy Initiative.

13 Well, I'm a citizen voting. I'm not dumb, I
14 know. It says Missouri Clean Energy Initiative. That's
15 what I voted on. And Missourians have to have the benefit
16 of the environmental attributes to the State of Missouri.
17 That's Missouri clean energy. I wanted clean energy for
18 Missouri, not for Wyoming, Nevada, northern Canada or
19 Hawaii. I wanted it for Missouri when I voted.

20 And that's why we got our signatures. We went
21 out and collected signatures and did all that work. It
22 was for clean energy for Missouri. Citizens voting read
23 Missouri Clean Energy, not Clean Energy in New Mexico,
24 Canada, Iowa, Kansas or any other state. Missouri voters
25 wanted clean energy for their state.

1 We cannot separate the generation facility from
2 the environmental benefits. Prop C provides that if
3 Missouri companies cannot build sufficient renewable
4 energy facilities in -- in Missouri, then the utilities
5 could have the option to look to buy renewable energy
6 credits from some other states or things.

7 But we -- the intent is to get the energy from
8 the State of Missouri. But there's a way that the
9 utilities can comply if that isn't possible. But we feel,
10 as an industry, it is possible to get all the renewable
11 energy credits which we actually need.

12 Associated with these new clean energy
13 generating facilities are the benefits to Missouri of
14 Missouri jobs and economic development that Henry was
15 addressing, and that was very important.

16 Missouri ratepayers are investing in renewable
17 energy facilities for many years to come. The question is
18 are Missouri ratepayers going to pay for the next
19 generation or two generations sending ratepayer money,
20 Missouri ratepayer money, to surrounding states like we're
21 locked in today?

22 One billion dollars -- Ameren sends one billion
23 dollars a year to coal mines in Wyoming and to the
24 railroad. Are we going to lock ourselves into that again
25 at the end of year? Because we're building wind farms in

1 Kansas, in Iowa or North Dakota or whatever. We're
2 locking ourselves into it and Missourians are paying --
3 sending billions of dollars every year to other places.

4 It's not going -- anything is staying in the
5 state. Just like the country is sending billions of
6 dollars overseas. There's no benefit to the United
7 States. And we're going to do that same thing here in the
8 State of Missouri? Which is crazy. It's crazy.

9 So we need to invest in Missouri to create
10 Missouri jobs and economic development and keep our monies
11 in the state as much as makes economic sense. That's why
12 it's important to do a cost benefit analysis and get
13 pre-approval from the Public Service Commission on where
14 these facilities are going to be -- going to be built.

15 I mean, there's a lot of things that go into
16 just the lowest cost rate. And there is jobs created.
17 There's taxes that can be created for the State of
18 Missouri. There's sales tax for the State of Missouri.
19 There's lands payments to the farmers who have wind farms
20 or whatever they have.

21 There's property taxes that we're missing out on
22 because they aren't built in the State of Missouri.
23 There's huge benefits in the State of Missouri that we're
24 just not even thinking about. And so it's a very
25 important that we consider all these factors.

1 I mean, my mother used to have a saying. It
2 was, Don't be penny wise and pound foolish. And we have
3 been penny wise and pound foolish. When you just look at
4 if we're going to save a half a cent per kilowatt hour and
5 we're going to buy it in northern Iowa, we're forgetting
6 about all of the benefits that we're losing to the State
7 of Missouri. So I wanted to address that particular point
8 on geographic sourcing.

9 The second point I want to address is solar RECs
10 are purchased based on the megawatt hours produced by a
11 solar gen -- generating system. For example, a home built
12 in Kansas City is -- whoever Clayton was talking about,
13 Kansas City, Missouri. If they installed a 3 kilowatt
14 system, which would only supplement their amount of energy
15 that they would use on the roof of their home, they would
16 produce about 4 megawatts of energy per year. That would
17 be about four RECs.

18 So you think about that. A 3 kilowatt system on
19 a residential home would produce on average about four
20 RECs. A REC we're proposing is approximately about \$330.
21 So that homeowner would get about \$1300 for the
22 environmental attributes that he would build -- that he
23 would build on his particular home. So I just want to put
24 those numbers in -- in perspective here. One megawatt
25 hour is equal to one REC. The homeowner owns the four
26

1 RECs, and he would like to sell them to the utility
2 company because that's the only logical one he could sell
3 it to, and that's what the standard offer contract is
4 about.

5 We're asking that the utility give that
6 homeowner an opportunity to sell those RECs to the utility
7 at a fixed price for the next ten -- for the next ten
8 years. And that's what we're talking about, getting a
9 price increment for the solar REC, which is talked about
10 in the rules yet, and MOSEIA has provided an economic
11 tool, what you saw on the screen here today, on how we
12 determine what that reasonable pricing is.

13 The MOSEIA's proposed method to determine the
14 solar REC pricing is based on pay-backs. And in the
15 residential and the commercial market, you know, they have
16 different investment scenarios on what they think is a
17 good investment decision.

18 Obviously, in the commercial area, you're going
19 to invest in your plant or some other way that you're
20 going to spend your money. You're looking at pay-back in
21 two to four years. If you don't get pay-back in that
22 amount of time, you're not going to invest in it. So
23 you're wanting a commercial company to invest in solar and
24 they have to see a pay-back in that particular range or
25 they're not going to invest in it because there's other

1 things they can invest their money in.

2 So if MOSEIA's -- if MOSEIA's solar REC value of
3 \$330 per REC or per megawatt hour is established, this
4 will create the market so that commercial and residential
5 people will invest in the -- in solar energy. The REC
6 value as proposed is in regulated states about -- the
7 price varies between 200 a REC to \$665 a REC. We are
8 proposing \$330, so we're at the lower end of the half end
9 in a regulated market where the RECs must come from that
10 state.

11 Now, if you're buying RECs in the voluntary
12 market, if you're buying them from Canada or Hawaii or New
13 Mexico or whatever, obviously, that rate is much, much
14 lower. For solar companies to meet the 2 percent solar
15 carve-out, we need the solar REC values established as
16 soon as the rules are published.

17 So the rules are going to be published hopefully
18 in August or September. We need that value established.
19 We're asking the Public Service Commission to establish
20 that value then. And then the industry can kick off, and
21 then we can build the number of solar facilities we need
22 to build in order to meet the renewable energy standard
23 that -- which was part of Proposition C.

24 That's the two important areas I wanted to
25 address in my comments, the solar REC value and sourcing

1 of those. I'm open to any questions.

2 JUDGE DIPPELL: Thank you. Commissioner Gunn?

3 COMMISSIONER GUNN: I don't think I have any.

4 Thank you.

5 JUDGE DIPPELL: Thank you.

6 MR. PROSE: Thank you very much.

7 JUDGE DIPPELL: I believe Mr. Caido?

8 MR. CAIDO: Yes. I kind of wanted to go last
9 because I'm not sure of the status of my standing. I'm
10 not actually -- oh, I'm sorry.

11 JUDGE DIPPELL: That's all right.

12 ARTHUR CAIDO,
13 being first duly sworn to testify the truth, the whole
14 truth, and nothing but the truth, testified as follows:

15 TESTIMONY OF ARTHUR CAIDO

16 MR. CAIDO: And first name is Arthur. Last name
17 is C-a-i-d-o, much more commonly known as Buz, which is a
18 nickname my mother gave to me when I was about 10 months
19 old and has stuck for 65 years.

20 JUDGE DIPPELL: Okay.

21 MR. CAIDO: I don't know if I can -- I'm not
22 officially a member of the industry association because
23 I'm not quite back into the industry yet. But I'm here as
24 a man wanting to get into the industry.

25 JUDGE DIPPELL: Can you turn the microphone a

1 little bit?

2 MR. CAIDO: Okay. Is that a little better? Is
3 it on?

4 JUDGE DIPPELL: Yeah. It is. I'm seeing nods
5 in the back of the room. They're saying it's better.

6 MR. CAIDO: Okay. But I'm -- I'm looking at it
7 as I'm here both as a businessman wanting to get into the
8 business and was in the business very -- you know, very
9 successfully for a couple of the nine years that I was in
10 the business before I made a huge investment, lost
11 \$400,000 my first two years, worked my butt off for
12 several years treading water in an economy with 24 percent
13 interest rates in a similar situation to what we have now
14 in the early '80s, and, finally, the last couple years,
15 got my act together and made enough money that after nine
16 years of 100 hour weeks, I broke even.

17 This time I'd like to make a little money at it
18 if I get back into it because, again, it requires a lot of
19 time and a lot of investment and a lot of commitment. I'm
20 here really as a prospective businessman that can bring
21 jobs to Missouri and hopefully be successful as a viable
22 business.

23 Right now, I mentioned there's 35 solar
24 businesses in the State of Missouri or in -- as members of
25 the association or potential members. 95 percent of those

1 businesses aren't making a dime because there's no
2 customers. We're all waiting for the Public Service
3 Commission to implement what they thought was the intent
4 and the wording of Proposition C.

5 It does turn out today I've learned a lot that
6 the way I read it and the way it seems like everyone in
7 the -- in the industry association had read it was as a
8 job Bill, an Economic Development Bill, and it was
9 intended to -- to allow homeowners and small businesses in
10 that 25 kilowatt hour -- kilowatt or less category to come
11 up with reasonable pay-backs and financing so that
12 Missouri -- I had a business that between my wholesale
13 business, my retail business and my consulting efforts was
14 responsible for about 400 jobs between my dealers and the
15 companies that I trained and started back in the -- in the
16 '80s.

17 It all evaporated when the tax credits expired
18 in the mid '80s. Spent a couple of years struggling and
19 gave up. There was a huge industry in the United States.
20 But thousands of people, all those factories went belly up
21 because the tax credits expired. Unfortunately, it's a
22 long-term investment.

23 Businesses don't want to make investments that
24 are going to take 25 years to get their money back.
25 Utility companies do that for a living. Homeowners can't

1 do it. But if you've got some incentives, it builds the
2 industry. And it's caused solar prices to plummet the
3 last couple of years because of what other states have
4 done and the volume being done.

5 New factories are being built in the United
6 States. And Proposition C was going to allow Missouri to
7 join those efforts if it's implemented the way Mr. Rentz
8 and many others that worked so hard intend to write it,
9 left out a few commas evidently, and maybe a paragraph to
10 explain it.

11 But as somewhat a layman reading Proposition C,
12 it seemed very clear that it was intended to develop jobs
13 and solar business and solar customers in the State of
14 Missouri with all the benefits that solar can bring by
15 providing a means to subsidize it without using tax money
16 like they have in so many other states.

17 Now instead, they kind of put the onus on the
18 utility companies. And I can't blame them as businesses
19 for not wanting to live with what I thought was the spirit
20 of the law. They have to -- like any other business, they
21 have to show returns for their stockholders. They have to
22 make money. And they want to generate their product as
23 cheaply as possible and sell it for as much as they can to
24 make a profit. If there's no profit, there's no business
25 for anybody. And pretty soon we have no infrastructure.

1 But so much of the language in that Bill, if you
2 think about it, is geared towards residential and small
3 businesses under 25 KW. The SRECs -- the language that
4 said the utility companies can meet their very small
5 mandate at this time by either generating the electricity
6 or buying SRECs -- it seemed pretty obvious because of the
7 125 percent credit for Missouri -- Missouri-based systems
8 because of the -- the -- I think the SRECs were intended
9 to go back to the homeowners, which is MOSEIA, and all of
10 their filings seemed to just assume that everybody
11 understood it was going back to the homeowners and the
12 small businesses.

13 And they were meant to be purchased by the
14 utility company to subsidize that installation and make it
15 cost effective so that we could build an industry with a
16 lot of jobs, get a lot of installations on homes, give the
17 citizens of Missouri, the small business and the
18 homeowners a chance to really invest in their own utility
19 company that's going to make electricity at a fixed rate
20 for 25 or 30 years.

21 The panels -- the systems have a 30-year
22 estimated life. The panels, in most cases, are guaranteed
23 for 25 years. Some of the other components are. It's a
24 permanent investment that will save you money every month,
25 but it takes a long time to pay for it.

1 With the tax credit with SRECs, with the rebate
2 from utility companies, a homeowner can actually justify
3 putting it on. It's still going to take a long time to
4 pay for itself. But if you get some kind of financing,
5 he's going to pay about the same amount of money a month
6 for that part of his electric bill and give him an
7 opportunity to own something and fix his costs.

8 And wise investors, the same people who bought
9 solar water heaters from me and solar thermal systems
10 20-some years -- 25 years ago will put -- will invest in
11 affordable things. Small businesses can fix their
12 electric costs combined with depreciation and SRECs.

13 If the utility companies buy SRECs from
14 companies in the center of Iowa and if they stretch that
15 out to about a third of the area in the United States, as
16 I understand it on that map, they're really just buying
17 electricity off the grid.

18 The producers with the wind farms and these are
19 all big money, large commercial wind farms, are pumping it
20 into the grid. They're not buying the electricity.
21 They're buying megawatts from the grid. Could be produced
22 with coal. Could be produced with hydro. Could be
23 produced with anything and everything.

24 But it's not doing anything for the state. It's
25 not produced in the State of Missouri. There's no income

1 generated in the State of Missouri. And income taxes,
2 business taxes, I mean, there's a lot of -- if it's
3 produced and installed here, the State makes money. The
4 set-up of the -- of Proposition C, the way I understood
5 it, allows -- kind of puts the onus on the utility
6 companies to spread the wealth around in a sense.

7 Everybody is going to pay. All consumers are
8 going to pay for it. They've got the choice of installing
9 it on their home or business or they've got the choice of
10 because of a small rate increase paying for it anyway and
11 letting somebody else benefit. So the wise consumers are
12 going to install it, if that makes sense.

13 I didn't prepare comments here, but that's the
14 way my mind's been working for the last several months
15 I've been looking at that and just wanting to get into it.
16 All I'm doing is being convinced that it's going to --
17 that my money's going to last as long as I do until I can
18 turn a profit again.

19 Without customers, I can't profit.
20 None of these other companies are going to profit. We
21 can't have -- we just aren't getting enough customers to
22 survive without some assistance, and the SRECs are a vital
23 part of that.

24 The intention, I think, was very clear if you
25 look at all the aspects of the Bill, when you talk to

1 Mr. Rentz and all the other people that worked so hard to
2 pass this thing right. The intent of it was and the
3 majority of the way it's written, it was intended to --
4 for SRECs to be generated by Missouri customers, Missouri
5 installations and have those bought at a reasonable price
6 by the utility companies, the investor-owned utilities at
7 a fair price.

8 And I think from reading MOSEIA's presentation,
9 almost everything is geared toward how to set a fair price
10 and equitable price for the value of the SRECs that would
11 be purchased from Missouri producers of energy and are
12 very near to buying something out of Wisconsin and -- and
13 when we get into or North America or even talking about
14 Mexico doesn't help the State either in air quality or in
15 becoming to a degree energy independent or generating
16 revenue or keeping long-term rates down.

17 Anyway, I'm taking up a lot of time. I'd just
18 like to urge that to be taken into consideration. You can
19 read it and everybody can come up with separate things.
20 But most of what the utility company proposals have been
21 to, basically, oh, gosh, we've got something else now
22 that's going to get into our profit. How can we satisfy
23 it as cheap as possible?

24 Well, we're buying some power off the grid.
25 That was generally plugged in somewhere with wind, but we

1 don't know what we're getting. It all goes into the same
2 grid. And when they buy from that cooperative, that grid,
3 who knows where it came from, where it came from, where
4 it's been generated. I thank you for your time.

5 JUDGE DIPPELL: Thank you. Commissioner Gunn,
6 did you have any questions?

7 MR. CAIDO: I'm sorry.

8 COMMISSIONER GUNN: I don't have any questions.
9 That's okay. Thank you very much for coming.

10 JUDGE DIPPELL: Thank you, sir. Was there
11 anyone else that was with the solar industry? Okay.
12 Mr. Parker, I swore you in earlier, so you will remain
13 under oath while you're --

14 MR. PARKER: Very well.

15 FURTHER TESTIMONY OF LELAND JASON PARKER

16 JUDGE DIPPELL: You might want to tell us in
17 what capacity -- what particular hat you're wearing right
18 now.

19 MR. PARKER: Thank you for the reminder. My
20 name is Jason Parker for the record once again. I am a
21 business owner of a solar design and installation business
22 called Certified Solar Solutions located in St. Charles,
23 Missouri.

24 I have -- I have some -- some fairly
25 broad-spanning comments. And -- and they're short, but

1 there are quite a few. So I -- I -- I've put a bit of a
2 structure on my comments, and I'm going to be reading
3 those sort of for the benefit of being able to sort out
4 the transcript afterwards.

5 I'm an engineer. I love structure. It's just
6 something I need to do to be comfortable, if you will. As
7 I said, I am an engineer. I'm a mechanical engineer and
8 also have been a practicing electrical engineering for
9 approximately 16 years for the likes of Anhauser Busch
10 doing industrial automation systems, and that's what led
11 to the -- the model that you guys saw today.

12 I spent quite a few years modeling manufacturing
13 systems, and those skills definitely came in handy. I
14 want to start out with just a general response to some
15 comments that I've -- that I've heard regarding this
16 renewable energy standard.

17 Several members of the Commission -- well, at
18 least two, let me be very specific here, repeated what I'm
19 sure is a very true statement that ratepayers want lower
20 rates. And I -- I have no doubt that that is, in fact,
21 the case.

22 That statement seems to be born more from a
23 survey question along the lines of, Do you want higher
24 rates or do you want lower rates? The answer is always
25 going to be we want lower rates.

1 In the case of Proposition C, however, there is
2 a -- there is a footnote to that statement, We want lower
3 rates, which is, unless it allows us to clean up our
4 energy source, our energy supplies. And I think that's
5 important to remember. It's not quite the black and white
6 higher rates versus lower rates issue.

7 The -- the voters of Missouri, the vast majority
8 of whom are investor-owned utility ratepayers have said
9 that this is what they want. And they were fully aware
10 that there's a rate impact on it. So I think it's
11 important to couch the discussion in the proper context.

12 So I -- I have some remarks with respect to
13 geographic sourcing. I'll try not to be too repetitive
14 since we've covered this pretty thoroughly so far. But
15 there is a published list of states which -- who have a
16 renewable energy standard, and it contains 25 states. And
17 I'm -- I'm sorry -- 24 states. Eleven of those states
18 specifically limit the sourcing to either generated in the
19 state or delivered into the state.

20 Now, I took the liberty of dropping Hawaii off
21 of that because I don't think they have much choice as to
22 where they -- where they generate. Now, it's -- it's
23 certainly true -- actually, this is -- okay. Geographic
24 sourcing is Item A.

25 And Comment 2 here is several comments have been

1 made to the effect that the REC can be separated from the
2 electricity itself. This is absolutely true. There is no
3 question that this is the case. However, the generation
4 itself can't be separated from the electricity, and the
5 environmental effects of that generation, of course, are
6 very much tied to the generation.

7 And that is what Proposition C is really about.
8 It's called the Clean Energy Initiative, not the Let's buy
9 a bunch of SRECs initiative. And I don't mean to sound
10 facetious, but that is the core issue here is clean
11 energy.

12 It's not really the SRECs. The SRECs are simply
13 a means to account for the generation. They are not the
14 end result that we're -- that we're looking for here. And
15 I -- I hope we're all agreed on that. And to -- to that
16 -- to that point, the initiative is called the Missouri
17 Clean Energy Initiative.

18 And just for the sake of comparison, it could
19 have been called the American Clean Energy Initiative, the
20 National Clean Energy Initiative, the Global Clean Energy
21 Initiative. There was an insertion in one of the comments
22 that Proposition C is a global program. It could even
23 have been called the Midwest Clean Energy Initiative. But
24 it -- it was not called any of these things. It was
25 called the Missouri Clean Energy Initiative.

1 Item 3, some concerns have been raised about
2 having to buy both electricity and SRECs as a bundle.
3 I've been studying both the statutory language and the
4 proposed rules for several weeks at a more than a
5 full-time job level of -- of commitment. And I saw no
6 such requirement that you have to buy both the electricity
7 and the SRECs. That was pretty simple.

8 MEDA raised concerns about having enough time to
9 evaluate the SREC price impact in their comments. Under
10 the MOSEIA recommendations, the price is established in an
11 annual workshop and is published, in fact, at least 15
12 months ahead of time, at least 15 months ahead of any
13 compliance deadline.

14 So there's certainly no -- under the workshop
15 structure, there is no concern about somebody being caught
16 by a very tight deadline. It is, in fact, years. In some
17 cases, at the very minimum 15 months, which should be more
18 than sufficient.

19 The -- this is going to -- a language technical
20 point. The sold to language is actually a bit problematic
21 because a customer -- residential customer or even a -- a
22 small commercial customer who has a system that -- well,
23 let's -- just for the sake of illustration, let's say they
24 have a system that offsets 100 percent of their
25 generation. There is no electricity being sold to that --

1 that account holder.

2 And so I -- I advise based on that that we -- we
3 use delivered to as opposed to sold to because there --
4 there is no sale of the electricity for someone who is
5 generating their own on what's called a net zero basis
6 where over the course of the year they generate just as
7 much as they use. There is no sale.

8 So in order to get -- get to resolve that, we
9 can use the delivered to language. The person is
10 certainly delivering the electricity to themselves, so
11 that -- that's logically sound.

12 Okay. Item 7, Missouri Industrial Energy
13 Consumers raised a point about whose interests should be
14 put in the forefront as we execute this program. So I
15 think the -- I think the proper viewpoint here is that the
16 interests we are serving by Proposition C are those of the
17 voting citizens of Missouri, the vast majority of whom are
18 ratepayers.

19 These are the people who have given us the
20 direction that we're now moving in, and it's their
21 interests. It's -- I -- I, as a business person, have to
22 service my customer. If I decide that I'm the most
23 important thing here, I'm not going to be in business very
24 long. So that is my viewpoint on it, and I think the --
25 the process by which Proposition C was passed also

1 illustrates that.

2 Okay. That gets us to the next topic, Topic B.
3 We'll call it AC versus DC. Now, the statute specifies
4 installed watts. I'm talking about the statute here, not
5 the proposed rules.

6 Installed watts is DC. AC watts are typically
7 called produced watts. There are something called
8 production-based incentives that are based on AC. And
9 when you want to measure AC, that's the terminology that
10 the industry uses. So the installed watts language in the
11 statutes indicates DC.

12 I -- Point No. 2 is attempting to determine AC
13 watts for rebate purposes will either require a separate
14 revenue meter or a case by case evaluation of every
15 system. There are several value -- variables that go into
16 produced watts. And it's far more -- far simpler to -- to
17 go with the installed watts, DC number, than to introduce
18 all of the other variables into the process.

19 I think we've -- we've already agreed here as a
20 group that this has been difficult enough as it is, and I
21 think we should take a -- you know, go easy on ourselves,
22 give ourselves a break and only add complexity where it
23 actually serves to -- to benefit the process.

24 In this case, we would be moving backwards if we
25 were to use AC watts. Also, at this point, many models

1 have been created using the DC rating following the
2 installed watts language in the statute. So a lot of that
3 work would be undone, and that's yet another reason to
4 just keep it simple and use DC watts.

5 Topic C, regarding 85 percent of the solar
6 resource being available every -- to every system in order
7 to qualify for rebates and the standard offer contract,
8 Kansas City Power & Light had a recommendation that the
9 customer be responsible for getting the installer as the
10 expert, the most qualified person to evaluate a system to
11 validate shading and orientation of facts on the system.

12 I thought that was a very wise recommendation
13 and would like to support that. There are two industry
14 recognized tools for doing this. They are -- one is
15 called the solar path finder. It is recognized by other
16 states with renewable energy standards as being a
17 calibrated field instrument for evaluating the systems.
18 Another, which is essentially equivalent, is called the
19 Solametric Sun I. And so we do have tools that would be
20 around for decades at this point that will easily
21 determine that 85 percent requirement.

22 Okay. Topic D, the standard offer contract,
23 just by way of example, Colorado, upon which our own
24 renewable energy standard is largely based, has a 20-year
25 standard offer contract. We -- we were looking for ten

1 and -- you know, compared to -- compared to the 20, which
2 is -- Colorado is one of the more successful states with
3 their -- with their execution of their system, their
4 renewable energy standard.

5 They seem to be proceeding in a very orderly
6 pace and have not over-incentivized or under-incentivized
7 installed, so I think they make a very good case study and
8 -- and example.

9 THE COURT REPORTER: Excuse me. I need to
10 change paper real quick.

11 JUDGE DIPPELL: Okay. Let's take just a quick,
12 quick break and go off the record so that the court
13 reporter can change her paper.

14 (Break in proceedings.)

15 JUDGE DIPPELL: Okay. Back on the record.
16 Continue. Sorry about that, Mr. Parker.

17 MR. PARKER: Okay. Not a problem. We support
18 Renew Missouri's recommendation that a second ten-year
19 contract, standard offer contract, be offered at the end
20 of the first standard offer contract period.

21 Basically, this -- this will continue to reward
22 the people who have taken on the leadership role. And
23 something very important when they contemplate a second
24 ten-year period is that that will -- that price will now
25 be ten years later in the future.

1 And every time one of these programs is done
2 successfully, the SREC price declines because that is a
3 motivating factor to the investors that they know the
4 offer they have today on this SREC is not going to be here
5 next year. And so it's a very strong signal to the
6 investors to invest now and not wait for the SREC to go
7 up. And that's a very important factor.

8 Also, under this standard offer contract, the --
9 the SREC payment really has to be upfront because
10 investors require predictability. That's one of the
11 factors that we've been talking about quite a bit today.
12 And this is one way to -- to introduce predictability into
13 the process for the investors, pay them a known price for
14 a ten-year period, and they can easily evaluate whether or
15 not that -- it makes a good investment or not.
16 And then, of course, people who invest today at the higher
17 SREC price are the ones who are most strongly rewarded.
18 People who invest, say, 2012 after the SREC has been
19 adjusted and most likely been adjusted down, they won't
20 get quite as good a price. So that predictability factor
21 tapers off over time or at least diminishes.

22 And the -- the conventional wisdom has it that
23 the -- the market volume that -- that is developed by that
24 time will allow us to reduce the SREC value and not have
25 to incentivize the market so much because, basically, the

1 installed costs without the incentives is dropping at the
2 same time.

3 Okay. Item E is rate impact comments.
4 Averaging definitely needs to be used in determining rate
5 impact. The renewable energy standard had a stair-step
6 fashion, a fairly course stair-step. And I -- I'm coming
7 into this process after the writing of the Proposition C.

8 But if I was faced with writing that
9 proposition, I would certainly choose to present something
10 that was simplified to the -- in the interest of
11 presentability and also ease of understanding. Again, not
12 to say that anyone at the voting poll was incapable of
13 understanding. But, of course, the better they understand
14 what they're voting on, the more likely they are to be
15 happy with it once -- once they get what they voted for.
16 So averaging does definitely need to be incorporated into
17 the -- into the rate impact.

18 Okay. Item F is penalties. There have been
19 some questions raised as to -- there was a question raised
20 as to the Commission's authority to levy these penalties.
21 And I think that is a misreading of the situation.
22 Section 393.1030, Subsection 2 specifies that the
23 Commission, except where the Department has specified,
24 shall make whatever rules are necessary to enforce the
25 renewable energy standards.

1 And that's all that's necessary here because the
2 penalties themselves are assigned by the statute. That is
3 the twice -- the penalty is in the amount of twice the
4 price of renewable energy credits that the -- that
5 comprise the shortfall. So there is no assessment of a
6 penalty here. It's merely an enforcement of a statutorily
7 authorized penalty.

8 And I -- I'd like to read into the record, just
9 for completeness, a definition of assess lest there be any
10 remaining doubt. Assess -- and this is from the Random
11 House Dictionary, 2010 Edition. To fix or determine the
12 amount of (damages) a tax applying, et cetera.

13 So there is no assessment being called for in
14 the rules. It's simply enforcement of a -- of a -- an
15 assessment that's covered in statutory law.

16 Item 6, Empire has a complaint there will be a
17 loss of current REC income due to diverting their RECs to
18 the compliance with the renewable energy standard. That
19 actually is not a result of Proposition C. For the
20 proposed rules, since it -- neither of these require
21 existing generation to be used for compliance or the SRECs
22 that come from existing generation to be used for
23 compliance, the -- the Empire and any other utility in
24 that situation has full discretion as to what appears to
25 be the -- the better option, will to continue selling

1 those SRECs as they are now for additional revenue or to
2 apply them towards compliance. So there is no -- there is
3 no enforced change there with respect to what they're
4 currently doing with their SRECs. They can continue do
5 that that if they choose and if it makes sense.

6 Okay. Item H is verification after five years.
7 Point No. 1, Empire raises a potential that systems might
8 be operated for only five years whereas the standard or
9 contract pays the owner for ten.

10 The rules do apply a penalty to the retail
11 account holder, so there is a strong disincentive to try
12 and gain an unfair advantage by retiring a system early,
13 decommissioning a system early.

14 If this penalty isn't sufficient, then we can
15 certainly verify at ten years, either move the
16 verification date to ten years or also verify at five and
17 ten years. And I don't -- under the -- under the current
18 distribution of solar in other states, Colorado, in
19 particular, the residential market, the 10 KW and smaller
20 comprises approximately 10 percent of the market.

21 So we're not talking about a whole lot of people
22 or -- or at least a significant portion of the market
23 having this opportunity if they choose to risk the
24 penalties. There's -- there's not a significant chance
25 that they'll have a major impact because it's just not

1 that big a portion of the market. So that is fairly
2 easily resolved either by the existing penalties or by
3 adding an additional verification at ten years if -- if
4 that's what it takes to get warm and fuzzy about that
5 point.

6 Okay. Topic No. I is the definition of customer
7 generator. The Public Service Commission Staff
8 recommended a language change to enable third party
9 ownership or alternative ownership situations as it's
10 expressed in their comments.

11 This recommendation is definitely called for,
12 but there's still a barrier that exists in the language
13 below that paragraph. And that is the requirement that
14 the customer generator meet all of the following criteria,
15 that they be in control of the property, that they own or
16 operate the system and that they also be the account
17 holder, the retail account holder.

18 Obviously, under a lease arrangement or power
19 purchase arrangement, the owner of the system is the
20 person who holds the lease, and the account holder is the
21 person who is the lessee in this case. So we need to
22 strike the word -- or the phrase the party under that
23 third criterion in order to -- in order to take out the
24 requirement that the owner and operator of the system also
25 be the account holder. That's the -- that's the nut of --

1 of what's getting in the way of leasing the PPAs in that
2 language.

3 Okay. Item J, fuel surcharges being itemized on
4 electric bill. Renew Missouri's -- Renew Missouri's point
5 that this unusually singles out the renewable energy
6 standard for attention is very appropriate. There is no
7 other form of fuel that's being treated in this manner.

8 And to that point, fossil fuels are -- are
9 highly subsidized. So do we want to start listing every
10 single fossil fuel on the bills? I would say that would
11 be a prohibited level of administrative burden and may not
12 be very meaningful to the ratepayers at that. So it could
13 be essentially a waste of time.

14 So we -- we see no purpose -- no real benefit to
15 adding a line item on the bill to track the renewable
16 energy standard compliance costs. There -- there will be
17 reports for those who want to -- get the whole picture.

18 Item K -- oh, yes. This is one that's been
19 kicked around quite a bit today. The disallowed
20 investment if we hit the 1 percent rate cap. Basically,
21 the way that I interpret this is that the -- up to 1
22 percent is preapproved. There's no need for a utility to
23 go to the Public Service Commission during an IRP process
24 or anything else to say, Hey, we'd like to install up to 1
25 percent or we'd like to spend up to 1 percent in order to

1 invest in renewable energy.

2 So that's already preapproved, and the language --
3 basically, the normal procedure would apply from there.
4 If they want to go above and beyond, then they can seek
5 authorization to do so during the -- through the regular
6 process.

7 Okay. Item L, voter intent regarding the 1
8 percent rate cap. This has been an interesting one today.
9 Point No. 1, Missourians For Honest Elections v. Missouri
10 Election Commission, a court case established that the
11 following -- establishes the following principle:
12 "Regardless of pre-election intentions of the crafters of
13 the Act, the Proposition and its expressed language became
14 the law of this state when the overwhelming majority of
15 the voters adopted the proposition."

16 Now, we admittedly have a distinct lack of
17 expressed language in this case, particularly, with
18 respect to the 1 percent rate impact. Therefore, we
19 should rely upon a further principle from the previously
20 cited court case, and that principle is that we should
21 seek and ascertain the intent of the law maker.

22 In this case, obviously, the voters passed the
23 proposition and they are the law maker in this case. What
24 was their intent? Most ratepayers are familiar with
25 annual rate cases, particularly of late. Therefore, that

1 is the -- is most likely to have been their understanding
2 at the time of reading and passing Proposition C.

3 At this time, that's conjecture on my part.
4 However, we do believe that the intent of the voters and
5 their understanding was to allow up to a 1 percent rate
6 impact year over year. We could certainly do a state-wide
7 survey by a third party and find out what intent comes
8 from a reading of the -- the valid language in any further
9 study that someone might undertake.

10 But -- and maybe that's what we should do. I
11 don't know. It would certainly be conclusive. But we
12 believe that there's a very strong case to be made that
13 the -- the language in Proposition C indicated a 1 percent
14 per year rate impact allowance.

15 Item G, Empire had a complaint -- oh, that's --
16 I've already covered that one. Enough of my notes are
17 getting covered already. I don't need to repeat myself.

18 Item M, standard offer contract payment. MOSEIA
19 rules recommend a monthly payment option for standard
20 offer contract. We believe that month -- that -- we
21 believe that monthly payment unduly burdens utilities with
22 administrative costs and, by extension, unduly burdens the
23 ratepayers.

24 We support the choice between annual payments or
25 a lump sum payment that's contained in the MOSEIA comments

1 regarding the standard offer contract. However, we find
2 monthly payments to be excessively burdensome. Therefore,
3 we support the annual payment option but recommend that
4 the Commission omit the monthly payment if this choice of
5 payment is included in the final rules.

6 And I'd like to give a -- an illustration by way
7 of example why these annual payments are actually a
8 valuable option. I have a customer who is on Social
9 Security. He has done -- he has done well enough that he
10 can afford a system.

11 However, due to being on Social Security, he's
12 limited by law to earn an income of \$14,600 a year. Any
13 incentives that would exceed that number are actually
14 problematic for this customer. And he's not the only
15 retired person that is interested in getting solar system.
16 So that's why these annual payments have a value of the
17 lump sum.

18 A second benefit is that -- is shift that
19 upfront impact of the standard offer contract. So instead
20 of having ten years worth of SREC purchase expenses show
21 up right in Year 0 or Year 1 -- no. It would be Year
22 Zero, those payments are spread out over ten -- ten years.
23 So it reduces that initial spike that might be otherwise
24 produced by the up front standard offer -- lump sum --
25 one-time lump sum.

1 Okay. Item N is the exemption in Section 9.
2 I'd like to share an illustration of why that Statute 1050
3 and 1045, for that matter, are -- have now been
4 essentially rescinded or superseded by Proposition C.

5 Here in Missouri, we have a balanced budget
6 amendment. And I think we all would agree that it serves
7 us very well. It was one of the -- oh, pardon me. I am
8 almost done.

9 If a future generation were to decide to do away
10 with that balanced budget amendment, that's perfectly
11 within the discretion. If they were then to also try and
12 make -- make it impossible for another balanced budget
13 amendment to be passed by a further future generation,
14 that would be invalid, plain and simple.

15 You cannot -- you cannot obligate a future
16 generation and remove their discretion to conduct their
17 own affairs. So this preemptive language of Sections 1045
18 and 1050 are simply invalid on that basis alone. You
19 can't modify a law that doesn't exist.

20 So that concludes my comments. I -- I -- there
21 was a comment, I don't recall from who, it was the wind
22 group, that they were not able to find any studies about
23 the jobs and economic development impact of Proposition C.
24 And I'd like to enter in a report from the Public Policy
25 Research Center, University of Missouri, St. Louis for --

1 for the public record for -- for anyone who is looking for
2 such information. That concludes my comments.

3 JUDGE DIPPELL: Thank you. If you'll just give
4 them -- a copy of that to the court reporter, and she can
5 mark that as Exhibit No. 2.

6 (Hearing Exhibit No. 2 was marked for
7 identification.)

8 MR. PARKER: Okay.

9 JUDGE DIPPELL: I'm sorry, Commissioner. Did
10 you have any questions?

11 COMMISSIONER GUNN: No.

12 JUDGE DIPPELL: I see someone waiting in the
13 wings.

14 MS. EYZAGUIRRE: There we go.

15 JUDGE DIPPELL: And what I'd like to do is
16 hopefully take a break at four, or a really short break.

17 MS. EYZAGUIRRE: Okay. Hello, everyone. My
18 name is Claudia Eyzaguirre, and I am the med {wis} Solar
19 Policy Director for the Society Solar Initiative.

20 JUDGE DIPPELL: We need to swear you in.

21 MS. EYZAGUIRRE: Sure.

22 CLAUDIA EYZAGUIRRE,
23 being first duly sworn to testify the truth, the whole
24 truth, and nothing but the truth, testified as follows:

25 TESTIMONY OF CLAUDIA EYZAGUIRRE

1 JUDGE DIPPELL: And could you spell your name,
2 please?

3 MS. EYZAGUIRRE: Sure. My first name is
4 Claudia, C-l-a-u-d-i-a. Last name is Eyzaguirre,
5 E-y-z-a-g-u-i-r-r-e. I've spelled it many times. So as I
6 said, I'm the Midwest Policy Director for the Vote Solar
7 Initiative. The Vote Solar Initiative has over close to
8 500 members here in Missouri.

9 They are all ratepayers, and they're all folks
10 who are eager to invest in solar or own solar systems,
11 support of solar or in the solar industry. I'm going to
12 try to keep my comments concise today and cover points
13 that haven't been covered by other folks.

14 A lot of great things have been said. I also
15 want to say one of the things that I do is I read
16 renewable energy standards from multiple states. I
17 probably had the joy of reading and following the process
18 of at least six states.

19 And I want to say that where the rules as they
20 were published for this hearing stand is that these --
21 when I read them, I see Missouri is going to have a
22 functioning renewable energy market. That's going to have
23 to come in, stay under the cost cap, and I feel really
24 confident about.

25 I do think there's a few things that we need to

1 iron out and clarify, and I'll talk a little bit about
2 that today. I submitted comments on Sunday evening, and
3 they are pretty detailed, and they offer some direct
4 changes to the RES language. And, you know, folks are
5 welcome to look at that as well, and I'm just going to try
6 to go over the highlights.

7 So one of the things I wanted to start out is
8 just briefly talking about the benefits of solar. And the
9 reason I bring these up is the benefits -- these benefits
10 of solar will -- will happen wherever -- wherever the
11 solar is installed. But whether we want those benefits to
12 be here in Missouri is up to the decision of the
13 Commissioners and with the aid of the Staff.

14 And one that hasn't been talked about today is
15 the benefit of solar of reducing peak demand, what we call
16 peak shaving. Peak demand for electricity occurs on hot
17 summer days when the air conditioners are at their maximum
18 use. And properly oriented solar power systems will
19 produce electricity closely matches this peak. And that
20 creates this peak shaving.

21 Electric utilities, they build or purchase
22 natural gas-fired peaking power plants, and those peakers
23 are -- are there at the margin all year long. And with
24 solar, we can help avoid some of the cost of solar, the
25 cost of the energy that's brought online, and that really

1 is an added value to solar and really adds value to the --
2 to the energy that it brings on the grid.

3 Additionally to that point, solar energy because of
4 its peak -- its matching of peak load really has the
5 opportunity to lessen the consumption of natural gas.
6 Natural gas prices are very volatile and hard to predict.
7 And it adds to its value.

8 A lot of folks have spoken about the
9 environmental damage that solar avoids. We don't need to
10 speak further on that. I do want to mention, though,
11 also, that it -- solar improves great efficiency. You
12 know, electricity is lost as it's transmitted over power
13 lines. So the more solar energy that we can put on at the
14 distribution level really helps reduce line losses, and it
15 also helps avoid transmission and distribution upgrades
16 which are very costly.

17 And transmission and distribution power lines
18 are most heavily utilized during times of peak power
19 demand, and that's when the solar systems are producing is
20 during peak power times. There's really great information
21 available online and from others really showing that
22 matching arch of solar peak production and peak energy use
23 time. So I think that's a -- a real value.

24 And one other thing I'm going to talk about with
25 value is I just think that this Commission would be so

1 remiss to miss this opportunity, the opportunity of the
2 economic development that solar is going to -- solar
3 energy development is going to create.

4 Dan Cammen at the Renewable Energy Lab in
5 Berkeley has done a study that's been part -- been
6 verified by other folks that solar energy produces more
7 jobs per megawatt than any other energy source.
8 And I think that's not really something that Missouri in
9 this economy should turn a blind eye to, but certainly not
10 in the original intent of the statute.

11 The other thing I want to say is this renewable
12 -- energy standard is being paid for by ratepayers, and we
13 want to think about where we send those ratepayer dollars.
14 Do we send them out of state, or do we keep those
15 ratepayer dollars, those hard-earned dollars that they're
16 paying to their utility in state? And those are really
17 tough choices, and I hope we will influence part of your
18 choice.

19 I think when I think about getting the rules
20 right and this -- RES, one of -- our overall goal is to
21 get these rules implemented as clearly and simply as
22 possible so that we really can move forward easily without
23 a tremendous amount of proceedings and interventions as we
24 go forward and it's just a smoother process.

25 To achieve that's, there's sort of the three

1 goals that I look for in a solar program. That's creating
2 a stable, sustainable and diverse solar market.
3 Sustainable means multi-year incentives that are clearly
4 available giving clear market signals that avoids the boom
5 and bust cycles that we saw in solar thermal in the early
6 '80s and that we saw just last year in Spain with an
7 over-heated solar market where we had these boom and busts
8 that went -- where companies went from 500 employees to
9 five employees in a year.

10 And the ratepayers in Spain are left paying for
11 expensive solar during a year when the market was
12 over-heated. So we want stable, multi-year incentives.
13 We want to see a dedicated funding source. And I think we
14 have that here with the RES structure with the retail --
15 with the funding coming from ratepayers in a retail rate
16 cap, but we have to have it organized in such a way that
17 that funding is stable for years to come.

18 And I think the last thing that I -- I mentioned
19 is diverse. And that means that we're firing on
20 multi-market segments. I'm going to spend the rest --
21 most of my time talking about that. You know, multiple --
22 a diverse solar market with multiple market segments. And
23 by that, I mean -- I'm referring to residential,
24 commercial, industrial, government and utility really all
25 playing in the solar industry is going to invite as many

1 players as possible, create competition and drive prices
2 down.

3 And one of the -- Vote Solar's goal is to bring
4 solar into the mainstream. And what that means is we're
5 an industry group. We want to bring solar prices down,
6 and we've witnessed that happening. And the way we set up
7 the system -- the program here in Missouri really can
8 execute -- exert a downward pricing force on the pricing,
9 the balance of system costs. Not only the modules. Those
10 prices are set globally. This is not a big enough market.

11 But we can effect pressure on the balance of
12 system costs and everything else besides the modules. And
13 I'll talk a little bit about that. So when I talk about
14 having these diverse markets, it's -- you know, it's
15 having these multiple market segments that allow the
16 market to deliver solar energy to residential, commercial,
17 industrial, government utility customers.

18 And so to do that, we need these -- we need to
19 serve some different needs. And I think the rules, as
20 written, do that right now. There is this one market
21 segment that's -- that's written in the rules, and this is
22 sort of the residential segment. Right now, it's 25
23 kilowatts and under.

24 And the current rules, as written, offer a
25 standard offer to these folks to -- to individuals who put

1 up their private investment to develop solar and then will
2 sell their RECs, their SRECs to the utility.

3 This is a tremendous thing, right? Private
4 investments driving solar. It really reduces the burden
5 of the costs to ratepayers, and that's something that we
6 want to encourage. But we -- there is a lot of question
7 about what is the standard offer? Why are we offering a
8 lump sum payment to residential customers?

9 Well, residential customers have limited
10 financing options to them to pay -- to deal with the up --
11 the large upfront outlay of costs that solar energy is.
12 And by offering them a lump sum rebate, a lump sum SREC
13 offer, it really is one of the ways that they can then
14 overcome that upfront barrier.

15 And one -- the one addition to clarification to
16 the comments that I -- to the rule as written is that I
17 would say for the purpose of keeping annual costs of the
18 solar portion of the renewable energy standard down was to
19 limit that lump sum offer just from zero to 10 kilowatts,
20 so, essentially, really just the residential market. And
21 then so that would sort of really allow the residential
22 segment to really function really well.

23 And we've seen this standard offer that we've --
24 that, you know, we've suggested for Missouri. It's not
25 something that we're making up. This is a tried and true

1 policy tool that's demonstrated incredible success in
2 Colorado, which has a really robust solar industry, which
3 is reporting some of the lowest solar, residential solar
4 installed costs in the nation. 5.60 a watt is what we're
5 seeing for solar. Very low. And that's because of the
6 competition in the market. And, also, in Colorado just a
7 few months ago, Governor Ritter signed a Bill to increase
8 the DG solar set asides up to almost one gigawatt. So,
9 you know, people -- it's very popular, and it's -- and
10 it's working.

11 And then looking at a second segment, sort of
12 the commercial segments, we're talking about 10 to 100
13 kilowatts. I think that what -- what works best here is a
14 standard offer, but not being lump sum, but being metered
15 as sort of a performance-based incentive for the RECs that
16 come there.

17 And the reason we need a standard offer for both
18 of these two segments for zero to 10 and 10 to 100 is the
19 -- the process to participate in a solar RFP -- and I've
20 looked at the ones that were in Pennsylvania, Peakco, and
21 I saw the one that Ameren put out.

22 This is really above the abilities of the
23 average residential -- of the average homeowner and,
24 certainly, average small business man or who is concerned
25 with their own business. The time to participate and the

1 cost to review those contracts, the legal expertise needed
2 negate the value that they're going to get from a standard
3 RFP.

4 So having a standard offer where the terms are
5 clear just allows them to turn over their RECs to the
6 utility in a simple manner, reduces cost for everyone.
7 Utilities get a guaranteed REC stream, and -- and it has
8 demonstrated to work really smoothly.

9 Above a hundred kilowatts, now we start talking
10 about some pretty sophisticated systems, and these really
11 do well, can participate in an RFP for SRECs. So there we
12 let true competitive market forces drive -- result in the
13 lowest priced solar available.

14 And, really, another great thing about these
15 competitive RFPs for over 100 kilowatts is they give us
16 for the first time in Missouri a benchmark of what solar
17 RECs are going to cost. If we make the average weighted
18 price of SRECs public, then we have a benchmark for what
19 an SREC costs. And that's a big question in everyone's
20 minds.

21 So I do think market segmentation is really
22 important. I think that we've gotten it almost right in
23 these rules, and with a few tweaks, it could really
24 function well and benefit everyone.

25 My next section I'm going to talk about, and

1 this is the last thing, is on setting these -- the SREC
2 values for standard offer contracts. That's a very
3 challenging thing. It's part art, part science.

4 We don't want to over-heat or under-heat the
5 market. Great examples to do that. And MOSEIA -- folks
6 at MOSEIA put together -- laid forth one methodology to
7 come up with an SREC process. I think MOSEIA and I agree
8 that the value of the SREC and the standard contract
9 should be set in a workshop.

10 I couldn't -- don't see that we're going to --
11 that in this process of these renewable energy standard
12 rules we're ready to come up with what that value is. But
13 a separate workshop, succinct, concise, led in the same
14 manner as the rule-making can really come up with that
15 value.

16 And there's a couple different -- there's
17 different methodologies that are at our disposal. MOSEIA
18 looked at pay-back time. That's what most customers look
19 at. Two others that I'm going to lay out is what is being
20 used in Ohio is they're using a -- the weighted average
21 price of SRECs that come in through the RFP bidding
22 process to benchmark the SREC for small systems. And the
23 rule currently is being written as no less than 80 percent
24 of that value. So it's bench-marking off of the
25 competitive price.

1 Another option for calculating the SREC value is
2 to look at what the levelized cost of energy is for solar.
3 And there are respected industry analysts who do this like
4 they are and then look at that and see -- and allow that
5 -- the difference between the cost of solar, the rebates
6 and levelized cost of energy and use that to establish the
7 SREC value.

8 So I think that there's very clear transparent
9 methods of doing that that everyone can participate --
10 stakeholders can participate in and come up with a value
11 that we agree upon. I think that's all I want to say
12 about incentives.

13 I just want to say that -- well, two other
14 things I want to say about incentives is I think it's
15 really important to get these right, like I said, so we
16 don't have boom and bust cycles, but, also, that we're
17 tracking the market as closely as possible.

18 For those of you who don't know, in 2009, solar
19 panel prices dropped 50 percent. So they were peaking at
20 the end of 2008 at \$4.20 a watt. Today, solar panels are
21 available at 2.40 a watt for U.S. produced panels, and
22 these sort of Chinese -- new Chinese brands solar panels
23 are selling at \$2 a watt.

24 So we want to make sure that our -- our SREC
25 values in the standard offer are reflecting declining

1 prices of solar and getting ratepayers the best value for
2 their money.

3 Lastly, the thing I want to offer you folks is
4 one of the things that vote Solar does do is we do cost
5 models for different solar programs. I -- in choosing to
6 put forward a solar policy design, we -- I put forward a
7 solar policy design that I know will work under the cost
8 containment structure that each -- that an RES
9 provides.

10 And so we took a -- I -- we put together a model
11 for looking at this cost of the solar program. It has --
12 assumes that 30 percent of the capacity will be built to a
13 distributed generation, so through a net metered system,
14 who receives the rebate in that 70 percent will come in
15 from wholesale utilities, an SREC only market.

16 Whether the energy is bundled or not doesn't
17 really matter because that energy is being sold at the
18 avoided cost of energy. And one of the things that we --
19 our conclusions found is that this solar program can be
20 built like this and stay within the 1 percent cost cap
21 with only really -- without -- with just a few years of
22 retail rate averaging.

23 And I have that here for you. I wasn't able to
24 file it with my comments because it wasn't done at that
25 time. So I -- I think today I have four copies.

1 I'll hand those around. So --

2 JUDGE DIPPELL: If you could give one of those
3 copies to the court reporter.

4 MS. EYZAGUIRRE: Court reporter.

5 JUDGE DIPPELL: And we'll have her mark those as
6 Exhibit 3.

7 (Hearing Exhibit No. 3 was marked for
8 identification.)

9 MS. EYZAGUIRRE: Thank you, Commissioner. And I
10 fed one to the Staff. And I have one extra if anybody
11 else would like to see it. So I think that concludes my
12 comments for today, and I don't know if folks have any
13 questions for me.

14 JUDGE DIPPELL: Commissioner Gunn?

15 COMMISSIONER GUNN: I just had a couple quick
16 ones. Does -- it's your organization represent all the
17 market segments as well, or is it just mostly the
18 residential?

19 MS. EYZAGUIRRE: We are a non-profit -- I don't
20 know if I said that. We are a non-profit solar advocacy
21 group. We don't represent industry. We represent -- our
22 goal is to bring solar into the mainstream. And the way
23 that we see of doing that is by driving competition
24 in-state.

25 COMMISSIONER GUNN: So it doesn't matter whether

1 it's -- whether it's -- who uses it?

2 MS. EYZAGUIRRE: We like getting it in the
3 mainstream and that means that it's available to
4 everybody, that it's not just solar farms or not just
5 residential rooftops. It's really the whole band wagon.

6 COMMISSIONER GUNN: The -- who was the author of
7 the National Renewable Energy Laboratory study that you
8 referenced about the -- about the job -- the job study?

9 MS. EYZAGUIRRE: That's from the Berkeley
10 Renewable Energy Labs, and that's Dan Cammen. And he's
11 cited, I think, in the comments I submitted on Sunday.
12 But if not, the comments I submitted for the earlier
13 revision, and I can get you that.

14 COMMISSIONER GUNN: All right. Now, the reason
15 why the boom and bust cycles happened, was that mostly due
16 to the tax credits and subsidies?

17 MS. EYZAGUIRRE: Not tax rebates. But
18 subsidies, yeah.

19 COMMISSIONER GUNN: Subsidies. And that -- and
20 what you're saying is we need to get the standard offer
21 contracts correct so we don't -- we have to write pricing
22 so we don't over-subsidize to -- to over-heat the market
23 and create these boom cycles?

24 MS. EYZAGUIRRE: Right. If you over-heat it,
25 we'll spend too much money, and we'll blow the cost cap,

1 and it will shut down. We've seen that happen in Spain,
2 and we don't want to see that happen here. If we
3 under-heat it, there's no particular private investment,
4 and, you know, we're not seeing that sector fill -- you
5 know, development fill out.

6 COMMISSIONER GUNN: And then in this -- in this
7 study --

8 MS. EYZAGUIRRE: Uh-huh.

9 COMMISSIONER GUNN: -- did you use the
10 incremental or cumulative approach to the calculation of
11 the rate?

12 MS. EYZAGUIRRE: Retail rate averaging. So that
13 study just actually didn't average. It just looked at
14 using wind numbers that were published in -- that were not
15 published that you took from an earlier study that was
16 done for the initial Prop C. I took the wind numbers from
17 there. I didn't model wind. I'm not a expert in wind
18 costs. And combined them with the solar costs.

19 And we -- the retail rate increase only bumped
20 over 1 percent in two different -- early in the first year
21 of the first two steps. And then in the other years, it
22 was well below 1 percent. So I felt pretty comfortable.

23 And I want to say that this -- I feel like this
24 study is pretty generous. We have 30 percent DG, 30
25 percent DG in the first two years. It's really a pretty

1 aggressive number. And the SREC value for the wholesale
2 doesn't include the avoided costs of energy because I was
3 not able to find a set of published -- a set -- source for
4 the avoided cost of energy here -- electricity here in
5 Missouri that I felt confident using in the model.
6 Actually, probably a slightly a little bit richer than it
7 would be otherwise.

8 COMMISSIONER GUNN: Okay. Thank you. I don't
9 have anything else.

10 JUDGE DIPPELL: Okay. Thank you. All right,
11 then. Let's take a quick break. A little less than ten
12 minutes and come back at 4:15. Let's go off the record.

13 (Break in proceedings.)

14 JUDGE DIPPELL: We can go ahead and get started
15 again. We can go ahead and get started again. So did
16 that cover everybody who was specifically solar? I think
17 so. Ms. Heisinger, after all this time, left the room
18 right as I was about to ask her if she wanted to speak.
19 Would you like to go next, Ms. Heisinger?

20 MS. HEISINGER: Sure.

21 JUDGE DIPPELL: I hit you right as you walk in
22 the door. Can I get you to raise your right hand?

23 KHRISTINE HEISINGER,
24 being first duly sworn to testify the truth, the whole
25 truth, and nothing but the truth, testified as follows:

1 TESTIMONY OF KHRISTINE HEISINGER

2 JUDGE DIPPELL: Thank you. If you could give us
3 your name and spell it, please.

4 MS. HEISINGER: Khristine Heisinger,
5 K-h-r-i-s-t-i-n-e, Heisinger, H-e-i-s-i-n-g-e-r.

6 JUDGE DIPPELL: Can I get you to pull the
7 microphone just a little closer? Thank you.

8 MS. HEISINGER: I'm with Stinson, Morrison,
9 Hecker. And I'm here on behalf of eight renewable energy
10 companies who mainly are wind energy producers,
11 independent power producers. They are BF Wind Energy,
12 enXco, Gamasa Energy, Iberdrola Renewables, Livenenergy,
13 NextEra Energy Resources, Trade Wind Energy and Wind
14 Capital Group.

15 And it's been a long day. I feel like I should
16 crack a joke or something, but I don't know any good ones.
17 We submitted written comments. And I think what I want to
18 do here is just kind of focus on responding to the
19 comments that I read and some of the things that we've
20 heard today.

21 One of the biggest things is I want to tell
22 Mr. Rentz, don't -- don't give up on whether or not you
23 have economic development in the Bill. I -- I think it's
24 in there even though you don't use the words.

25 As Commissioner Gunn noted, the way you figure

1 out intent is from reading what was passed. It's not
2 about what one particular voter wanted. It's not about
3 what was put out publicly. It's about what statute was
4 actually enacted.

5 And that's what this Commission has to look at.
6 And it may not be the most user friendly thing. It may be
7 burdensome in some ways, but the people passed it. And
8 it's -- it's what we've all got right now to work with.

9 First, I want to talk about the bundling and
10 unbundling, which I believe Chairman Clayton at one point
11 tried to separate from the geographic sourcing aspect.
12 And I can say that -- that I drafted that provision, and
13 it was never intended to require bundling of RECs with the
14 electric -- electricity.

15 It -- I agree that the statute clearly does say
16 that you can use RECs, that you can have unbundling.
17 But I think that you can have -- still have geographic
18 sourcing with unbundled energy.

19 And someone pointed out that the language says
20 the portfolio requirement shall apply to all power sold to
21 Missouri consumers, and that what that meant -- the sold
22 there just meant that was defining how you came up with a
23 percentage.

24 Well, I don't think there's a rule of statutory
25 construction that says that once you have found one

1 meaning for a word to be used that you -- that's it, you
2 know. Yeah. That's probably part of it. But if sold
3 didn't have another meaning, they could have put it in the
4 other part that says the following portions of each
5 electric utility sales for Missouri consumers. You know,
6 it appears in multiple places, and the word sold is used
7 and it's sold to Missouri consumers. So what you'd be
8 arguing for is that the portfolio requirement is a
9 percentage of power sold to Missouri consumers, but it's
10 not.

11 You know, it really has nothing to do with
12 what's sold to Missouri consumers, except mathematically.
13 And that's the interpretation that you all would have to
14 put on this is that it's purely mathematical, that it has
15 nothing to do with an intention to have things in Missouri
16 or around Missouri.

17 And I don't think that's what it is. You've got
18 -- you've got that language there. You can give meaning
19 to it. And the people -- you know, everybody voted for
20 this for a different reason. But what you can see there
21 is that they were willing to do something beyond what
22 currently happens.

23 They were willing -- they wanted to pay more to
24 go beyond the current rate recovery proceeding. They
25 probably knew that some utilities were already putting

1 renewables in their portfolio. But what they said is, We
2 want more of it and we're willing to pay more for it.

3 So it's not business as usual because that's not
4 what the people enacted. The people enacted something new
5 and different.

6 Now, I do agree that this should not be a way of
7 funneling utilities that want to put renewables in their
8 portfolio under a regular rate case from doing that. I
9 mean, that would be contrary to reason to say that this is
10 supposed to supplant all other kinds of renewable energy
11 from coming into electric utilities portfolios.

12 And I think that's what you were calling the but
13 for kind of, Commissioner Gunn. And I -- we definitely
14 support that. But as far as bundling and geographic
15 sourcing, basically, if the energy is sold -- and I think
16 Empire testified they sell the energy. It comes to their
17 customers. Sometimes they sell it on the market. But
18 their RECs are unbundled, and they've been selling them
19 separately.

20 That's proof that you can have unbundling of the
21 RECs from the energy. The energy can go one way. The
22 RECs can go another. They can be separate. You can have
23 -- this -- this will only applies to investor-owned
24 utilities.

25 But if you look at the service areas of the

1 three investor-owned utilities, you see that there's a lot
2 of areas in Missouri that are covered by electric co-ops.
3 There are also a lot of municipalities who do their own
4 energy.

5 And if you look at surrounding areas, you see
6 that there are other states surrounding Missouri that do
7 not have RES requirements. And if they're -- if they sell
8 their power into Missouri, but there's a REC they don't
9 need, any of these utilities could buy that REC, and it
10 would count.

11 And maybe it's not the most artfully worded in
12 here, but that was the intention is that -- or if Empire
13 had extra RECs that -- that they could sell them to
14 someone else. That's how you can have an unbundled REC
15 that is still geographically sourced.

16 The -- the other significant issue that -- there
17 seems to be coming up -- well, no. First, I want to talk
18 about -- I want to address one thing that was in there
19 about this. In -- well, I want to remind everyone that
20 this is not a national RES. It's a state RES.

21 And so to say that it -- everything should be
22 nationwide, we're competing with all the other states and
23 their own RES. We're trying to get our own slice of the
24 pie and to benefit ourselves. And I think that goes to
25 economic development, and I think that goes to geographic

1 sourcing.

2 Geographic sourcing can be done with unbundling.

3 I believe it was MEDA that submitted a chart that showed
4 states that have unbundled RECs. And when I compared that
5 to a chart from the NREL that had geographic sourcing,
6 there's overlap. There are a lot of states that have
7 state generation or delivery that are reported as allowing
8 unbundled RECs. So the two are definitely not hand in
9 hand. It's not like you -- if you have geographic
10 sourcing you necessarily cannot have unbundled RECs.

11 The next thing I want to talk about, really, is
12 the retail rate impact because this has been the biggest
13 issue. It does say average. And that's the biggest thing
14 is -- is you've got to average in some way or another.

15 And -- and a lot of people have said, Well, it
16 should be this, it should be that as far as how it
17 functions. They want it to be a total. They want it to
18 be a no more than at any time. But it's an average, and
19 you have to give meaning to that.

20 Staff has put forth three or four years based
21 upon what the milestones are for the portfolio
22 percentages, but they have admitted that that's pretty
23 much all they did. They just looked and said, Well,
24 that's three years, and that's four years. That does not
25 -- in their comments, they said they felt that addressed

1 the lumpiness. It doesn't address the lumpiness that it's
2 inherent in a milestone or a step method of a portfolio
3 standard.

4 If we added a little bit every year, that might
5 be a little bit different. But what it is every three or
6 four years, you add -- you go from 5 percent to -- or 2 to
7 5 to 10 to 15. It's a pretty big chunk, a pretty big
8 chunk.

9 And what they're proposing would be to take each
10 level out and separate it from the rest. So you're not
11 leveling out those big steps at all under their
12 methodology. You're not addressing that inherent
13 lumpiness.

14 And I think, you know, we put forth ten years as
15 kind of a -- a compromise. But we felt that 20 years, for
16 the same reasons that the Office of Public Counsel had
17 commented, made a lot of sense. That's the duration of
18 power purchase agreements. That's the planning horizon
19 and integrated resource planning. There are various
20 reasons that the 20 years would also be reasonable.

21 As far as incremental or cumulative, there's a
22 lot of discussions about that. And I have Elliot Roseman
23 here who did our modeling, and he can answer your
24 questions about cumulative versus incremental and -- and
25 how all that modeling worked.

1 The last thing I want to address -- I want to go
2 back to geographic sourcing. I've had so many notes today
3 that I'm jumping around a bit, and I apologize. There was
4 a comment that if you can buy RECs from outside of -- or
5 just anywhere in the RTO that that will help development
6 in Missouri, I think there is a -- there is just -- that's
7 inherently inconsistent. If you're buying something from
8 Arizona, how is that helping development of renewables in
9 Missouri?

10 The other one -- the other thing I want to say
11 about Staff's proposed method is they have not stated how
12 they would average it. And I think that's a huge issue
13 that even our language that we had put forth doesn't
14 address it adequately.

15 One of things that Office of Public Counsel put
16 in to suggest or clarify is that it's the succeeding ten
17 years. And I think that's very important. How are you
18 going to average it? You know, because there are so many
19 different ways that you can average something. You can go
20 backwards. You can go forwards. You can add them up.
21 You just divide by a number. So that whatever you do go
22 with, whatever averaging method you use, I think it needs
23 to be spelled out better in the rule than even what we had
24 submitted because the utilities need to know how that's
25 going to be done. And everybody needs to be on notice of

1 how it's going to be done.

2 And I think that's probably the sum of my
3 comments. The only thing I want to join in that we have
4 some concerns about is a line item on a utility bill. And
5 if it includes what would have otherwise been spent on
6 non-renewable energy, it may appear to inflate what the
7 costs of the Proposition c is because it's including the
8 total amount instead of just the differential or the
9 delta, the difference between non-renewables and
10 renewables.

11 And there are other comments, but they're --
12 they're in writing. And I don't want to take up any more
13 of everyone's time today. But if you have questions --
14 otherwise, I would like to bring Mr. Roseman up so that he
15 can talk about the modeling.

16 JUDGE DIPPELL: Commissioners, did you have
17 specific questions for Ms. Heisinger?

18 COMMISSIONER GUNN: I don't.

19 JUDGE DIPPELL: Commissioner Davis?

20 COMMISSIONER KENNEY: No, thanks.

21 COMMISSIONER DAVIS: For the sake of
22 administrative efficiency, I will waive my questions.

23 JUDGE DIPPELL: Okay. Would you please raise
24 your right hand?

25 ELLIOT ROSEMAN,

1 being first duly sworn to testify the truth, the whole
2 truth, and nothing but the truth, testified as follows:

3 TESTIMONY OF ELLIOT ROSEMAN

4 JUDGE DIPPELL: If you could indicate your name?

5 MR. ROSEMAN: My name is Elliot Roseman.

6 JUDGE DIPPELL: And spell it, please.

7 MR. ROSEMAN: E-l-l-i-o-t, just one T, Roseman,
8 R-o-s-e-m-a-n.

9 JUDGE DIPPELL: Go ahead.

10 MR. ROSEMAN: Thanks. Commissioner Kenney,
11 Commissioner Gunn, Commissioner Davis, Judge, thank you
12 for the opportunity to be here this afternoon and to
13 address you with regard to an important matter.

14 As Ms. Heisinger just indicated, I'm here on
15 behalf of a group of developers which we are calling The
16 Wind Alliance. My name is Elliot Roseman, as I mentioned.
17 I'm Vice President with ICP International, which is a
18 well-known consulting firm based in the Washington D.C.
19 area.

20 You may be familiar with ICF. We have dozens of
21 offices throughout the United States. We have about 500
22 people working in the energy and environmental area out of
23 a total group of about 4,000 people who work in the
24 company. I've been at -- doing energy consulting work for
25 over 30 years doing private and public sector work in a

1 variety of different settings.

2 I also teach at the -- in the graduate school at
3 George Washington University Graduate School of Political
4 Management where I teach a course in Worldwide Energy
5 Challenges. So I've been doing this stuff for a while.

6 Our work at ICF involves both work with the
7 public and private sector including many utility
8 companies, independent power companies, State Commissions
9 and Federal Government.

10 The Wind Alliance wishes to support the proposed
11 rule as regards the retail rate impact, and they've asked
12 me to speak specifically in support of Section 5, which,
13 as you know, refers to the potential impact on the revenue
14 requirements in retail rates of renewables.

15 We've submitted written comments for your
16 consideration. So what I'm going to do is briefly just
17 summarize a couple of the key principles that I'd like for
18 you to consider. And, of course, I can answer questions
19 in response.

20 Then mainly what I want to do, as Ms. Heisinger
21 indicated, is talk about the modeling that we did and what
22 some of the implications and inputs are to that for your
23 consideration -- excuse me -- for your consideration.

24 So the key principles that I'd like to put
25 forward for your consideration are these: First, the

1 Commission, we believe, should determine now in this
2 proceeding the detailed approach it will use to carry out
3 the retail calculation.

4 If you wait until the Commission receives a RES
5 filing, it runs the risk, it seems to us, of being highly
6 contentious since it will occur in the context of
7 considering a specific company's filing and resources.
8 And setting that approach now, I think, will save yourself
9 a lot of -- of challenges and -- and difficulty later on.

10 Second, it's appropriate, we believe, to
11 determine the impact of renewables on an incremental
12 basis. There's been a lot of discussion today about
13 cumulative versus incremental. I'll talk in a minute
14 about why we think the incremental approach is the
15 superior way.

16 But, briefly, we think that doing it in a
17 cumulative approach would compare apples and oranges and
18 also could constitute rate-making, which has a retroactive
19 aspect to it.

20 Third, it's appropriate, we think, to determine
21 the impact of renewables on revenue requirements by
22 averaging. And Ms. Heisinger and others have talked about
23 that. And by doing so over a ten-year period, though, we
24 do believe, also, as she said, that there is some
25 justification for doing so over even a longer term.

1 Fourth, the method of actually calculating
2 impact by looking at the revenue requirement under a
3 renewables future versus a non-renewables future does
4 require clarification, and so that leads to the last
5 principle, which is that there needs to be some tool,
6 there needs to be some approach or methodology. And we
7 offer the model that we developed with support of the Wind
8 Alliance as one that the -- the Commission might consider
9 as a starting point or as something that they may wish to
10 -- to consider for their use.

11 We'd also be willing, of course, if our alliance
12 supports it, to sit down with the -- with the folks from
13 Ameren who clearly developed a model also that they shared
14 with you earlier today in the interest of trying to get a
15 more consensus on what that methodology would be.

16 So we put these general principles forth. I'm
17 going to provide you some detail on the modeling of
18 revenue requirements and the results of our analysis.
19 There is -- we did file the model with the Commission
20 yesterday, so you have that available to you.

21 Also, in our written testimony, there was
22 examples of the results. I'm going to share some of those
23 with you. And in a moment when I get to those, I do have
24 copies for Commissioners and -- and the Judge here of the
25 items I'm just going to briefly summarize.

1 So the Alliance sponsored ICF to develop a tool
2 that's an Excel-based tool. And I'm going to describe
3 that to you in just a moment here. We did use AmerenUE as
4 a model for doing that analysis. But that's just a
5 template that could be applied to any of the utilities.

6 I do note that in the consideration leading up
7 to the proposed rule, we did submit a much earlier version
8 of this model. This one is new and improved.
9 And we think it has a lot of important issues that capture
10 the key moving parts that the Commission would want to
11 consider in determining the impact on revenue requirements
12 under Section 5.

13 Let me make two further points before describing
14 the results of our analysis. First, the proposition and
15 the proposed rule are clear that the impact of renewables
16 should be spread out over an appropriate period.

17 As you know, it uses the word average. Both of
18 them use the word average. The idea that we wish to
19 whole-heartedly support here is that just as the benefits
20 of renewables are long-term in nature, so should the costs
21 and benefits be looked at over that extended period of
22 time.

23 There are other reasons for that. It's the
24 period of long-term innovative resource planning, the term
25 of PPA as was mentioned as well. Second, in carrying out

1 the analysis, we looked at the two alternative ways,
2 cumulative and incremental, for doing this work.

3 And the Wind Alliance, as I said, strongly
4 supports the incremental approach. Basically, the
5 cumulative approach, as we interpret it, would carry out
6 the revenue requirement calculation for a RES filing by
7 aggregating all prior years of renewable costs and adding
8 to them the new costs and then comparing them to what the
9 utilities portfolio would have looked like without any
10 renewables at all.

11 The incremental approach, on the other hand,
12 would carry out the analysis of the impact on revenue
13 requirements in each year, say, 2011. But once that
14 analysis was done, the resources that would be added in
15 that year would become part of the utility's portfolio and
16 not counted against the cost of future renewables for the
17 purpose of the calculation; that is, there is no
18 retroactive assessment of the cost or appropriateness of
19 renewables once a filing and they have been accepted into
20 the resource base.

21 There's a screen shot, actually, in the
22 testimony that we have provided that shows how that would
23 work. We think the incremental approach is the fair way
24 to do the analysis.

25 In addition to being retroactive in nature, the

1 cumulative approach suffers, we think, from the drawback
2 that the numbers used for determining the impact on
3 revenue requirements such as fuel prices, load growth and
4 others, will have changed by the time that the analysis is
5 done at the next RES filing. Thus, there won't -- will
6 not be a consistency between the assumptions that are used
7 in doing the analysis in 2011 and in 2014, which are two
8 of the target or milestone years. Trying to correct for
9 these differences would be cumbersome, likely inaccurate
10 and, most importantly, unnecessary since we think the
11 incremental approach is the superior way to do so from the
12 outset.

13 So let me tell you what we did and what we found
14 in the analysis looking proactively on potential impact of
15 renewables on the revenue requirement using AmerenUE as
16 the model.

17 We wanted to come up with an approach that would
18 capture the calculation in a straightforward, yet
19 sophisticated way, so we developed this Excel model that I
20 mentioned earlier to do so. The spreadsheet, we believe,
21 captures the main moving parts required to carry out the
22 revenue requirement analysis.

23 For example, it looks at the utility's current
24 revenue requirement and how that requirement is likely to
25 change over time. It looked at the incremental cost of

1 renewables in each of the target or milestone years spread
2 out over or averaged over a period of time.

3 It includes the required solar percentage, of
4 course, and forecast of residential and wholesale solar
5 installations. It also looks at the savings or avoided
6 costs that utilities would realize as a result of not
7 having to procure the fuel that we would otherwise burn if
8 they were not -- if they were not procuring the
9 renewables, and it looks at the savings they'll realize
10 from lower consumption of emissions allowances, SOX, NOX
11 and potential IC02 in the future. These are what we call
12 the avoided costs.

13 So our guiding principle was to try and provide
14 an entire flexible and transparent tool that would be
15 broadly understandable rather than, say, a detailed
16 utility dispatch analysis. We thought that that would be
17 overkill for this type of proceeding.

18 ICF does a lot of that kind of modeling, but we
19 didn't think that that made sense in the context of this
20 proceeding. We captured what we think are the major items
21 that would affect the calculation and provided the user
22 with the opportunity to change any of them for any level
23 that they desired.

24 Now, at the same time, what we also did was we
25 grouped some of the major assumptions into -- into

1 categories that we called high impact, reference case and
2 low impact. So by selecting that shorthand, you get a
3 family of assumptions that would characterize an
4 assessment of what the impact would be that would be, as
5 the name implies, either high, low or somewhere in
6 between.

7 And the materials I'm going to give out to you
8 here -- in fact, why don't I do that right now? Show you
9 the shots, screen shots from that assessment.

10 JUDGE DIPPELL: Are these the same --

11 MR. ROSEMAN: These are in the materials that we
12 filed.

13 JUDGE DIPPELL: Okay.

14 MR. ROSEMAN: Yes.

15 JUDGE DIPPELL: I won't mark those separately,
16 then. Okay. Thank you. If you -- if you'd like to maybe
17 hand these back, I can follow along in the testimony.

18 MR. ROSEMAN: Okay. I'll keep one. So not
19 unlike the analysis that was shared earlier that UE
20 carried out, we looked at each milestone year. We
21 calculated how much renewable power in terms of megawatt
22 hours would be required to meet the 2, 5, 10 and 15
23 percent standards in each of those years.

24 This, of course, did require us -- and in
25 calculation doing so we would need to look and project the

1 demand to power and how it would change over time since
2 the RES requirement is a function of the retail sales.

3 We then defined, as I mentioned earlier, what is
4 meant to do the analysis on a incremental versus
5 cumulative basis. There's a lot of details that go into
6 this model. But since we've submitted the model for the
7 Commission's consideration, let me just finish by showing
8 you some of the results of the model. And that's why I've
9 given you these hand-outs and draw your attention to just
10 a couple of -- of items.

11 The first chart, the one that has at the top of
12 it Retail Rate Impact Model for AmerenUE, if you look at
13 top left-hand -- or towards the top left-hand side, you
14 can see that highlighted there is the -- it says Reference
15 Case. And that reference case, as I mentioned, is a
16 grouping of assumptions of the items that are shown just
17 to the low what's called variable parameters.

18 So we have a whole group of assumptions that
19 constitute the reference case with regard to retail sales
20 growth, with regard to the avoided cost calculation, with
21 regard to all of the other items that are shown here.

22 So just as an example, the retail sales growth
23 rate under the reference case, you can see is the 1.36.
24 Under the low impact case, that would have been -- that
25 would have been a lower number because there would be

1 fewer megawatt hours that would be required of renewables
2 under a lower growth case. And correspondingly, a higher
3 impact would be a higher growth rate for sales. So that
4 is just one example.

5 CO-2 price forecast is another. That is, I
6 think, either on or off in this case. There is gas price
7 forecast, et cetera, et cetera. So you see those are the
8 eight different driving assumptions that we used in the
9 analysis.

10 These are the ones that seemed to make the most
11 difference in the calculation. We could have certainly
12 used others, and we're amenable to modifying the model.
13 It's not -- probably not perfect. And we -- as I said, we
14 would be happy to -- to talk about the enhancements of
15 that if that was of interest.

16 In the -- in the middle, there is a description.
17 We -- we tried to capture the percentage of generation in
18 state and out of state as well, whether or not there would
19 be retrofits of scrubbers, for example, on -- on power
20 plants in Missouri. Whether or not the production tax
21 credit -- that turned out to be a pretty strong and
22 important driving assumption and for how long that would
23 continue. Would it continue just until 2012? Would it be
24 phased out over time? Would it be indefinitely, et
25 cetera?

1 What you assume for CO-2 prices or whether you
2 assume anything for CO-2 prices turns out to be pretty
3 important because if you can avoid those CO-2 purchases,
4 then you can save quite a bit of money by using
5 renewables.

6 And so you can see, some of the numbers in the
7 reference case, if you look in the next two pages, it
8 shows the same numbers, the same idea for both the low
9 case and the high impact cases. So you have those three
10 families there.

11 Now, what you also see -- down -- if you look at
12 all three of them, what you see at the bottom where it
13 says rate impact, you can see -- in each one of the target
14 years, you can see what the calculation is that we did in
15 the model to assess what that effect would be under those
16 three cases.

17 And if you scan them quickly -- and this is easy
18 to do. Actually, if you look at the bar charts that I
19 have also handed out so you don't have to scan between
20 those look at the bar charts.

21 There's one bar chart, for example, that at the
22 top says Incremental Rate Impact. You can see each year
23 what the impact would be under the low reference and high
24 impact cases. So you can see even under the incremental
25 rate impact scenario using the assumptions we did, which

1 we think were pretty conservative.

2 For much of the -- the span of time, it stays
3 below that 1 percent impact, but there is a case that is
4 shown on the far right in the end of the time period where
5 it goes above that 1 percent impact.

6 If you look at cumulative rate impact by
7 scenario, you can see that there is a -- that the numbers
8 are a bit higher and particularly as you get to 2018 and
9 2021 with more renewables coming into play, the
10 calculations that we show has that going -- has this going
11 through that 1 percent threshold sooner and to a greater
12 extent.

13 So what we tried to do -- and by the way, the
14 reason that that -- that the high case shows that impact
15 is for all the family of reasons. There's higher sales
16 growth. There is a historical mix of the avoided energy
17 costs which is more weighted towards coal in that
18 analysis, which is going to have less savings, less fuel
19 savings.

20 There's a lower price for natural gas. There's
21 no benefit from CO2 since we assume there would be no CO2
22 market that would emerge. There would not be scrubber
23 retrofits that would end the production tax credits. So
24 it's a whole group of assumptions, which, as I said, can
25 be varied and a higher share of renewables under that

1 scenario coming from out of state.

2 So we tried to provide an objective tool which,
3 depending on the conditions assumed, can show some changes
4 and stay within the 1 percent and some that go above. And
5 that -- that information is what we have -- have tried to
6 lay out for you. And, of course, I'll be happy to address
7 any questions that you may have about that.

8 The last item that I want to address are just a
9 couple of comments with regard to some other things that
10 have been mentioned throughout the course of the day, in
11 particular, some of the comments that have been made by
12 the Staff.

13 One of the comments in the Staff's written
14 testimony had to do with REC purchases. And they
15 suggested that REC purchases can be used as a way of
16 smoothing out the costs of renewables and, therefore,
17 would mitigate or might even eliminate the need for
18 averaging.

19 The -- there are certainly uses, legitimate
20 uses, for REC purchases that can be used for providing --
21 before there is actual projects online, you need to
22 purchase RECs in order to satisfy, say, the 2 percent
23 requirement in the early years and maybe -- maybe need it
24 for fine tuning. If you're not quite at the right number,
25 you're a little low, your load growth is higher than you

1 anticipated, but we don't see that that is appropriate for
2 this proceeding to use REC -- REC purchases instead of
3 averaging.

4 In fact, the REC purchases, really, and
5 averaging don't really have anything to do with each other
6 as far as we can see that the word average has any
7 meaning.

8 Direct purchases, also, if you think about it,
9 would be required in advance of when they would be needed.
10 They would be purchased in 2012 or 2013 before they would
11 be needed in 2014. So consumers are either going to pay
12 for those RECs before they're needed, or if the purchaser
13 were to sell them, then they're playing the market.

14 Then there's the uncertainty about the price
15 they buy them for and the price that they sell them for.
16 And Mr. Lutz of KCP&L, for example, earlier today said
17 that he was not interested in looking at sort of market
18 risk with regard to REC purchases.

19 They have legitimate functions, RECs do, but we
20 don't think that it fits in this context as a substitute
21 for averaging.

22 In addition, the Staff mentioned that there
23 would be increments that they would average over. They
24 would use the milestone years, and those were three or
25 four years apart for doing the averaging. And we don't

1 think that that really makes a lot of sense to us.

2 First of all, they're different numbers of years
3 clearly between those target years, so you have a
4 different denominator in doing the calculation depending
5 on what -- what period you're looking at.

6 Also, the last period from 2021 on is really --
7 it's really indeterminate, and Staff has chosen, I think,
8 fairly arbitrarily to use four years, but it's really
9 open-ended. So we just don't really see where the three
10 and four year selection fits with the average, and it
11 provides -- as I said, it provides that inconsistency.

12 The benefits for renewables are significant, and
13 they should be accommodated and incorporated over a longer
14 term period. Ten-year averaging is something we can
15 support even though there's some justification, as we
16 said, for something longer.

17 But in any case, what we do need is some
18 consistency. We need consistency of how that calculation
19 is going to be carried out as we enter into the period
20 when these milestone or target years are going to be
21 occurring.

22 So I thank you for your attention, and I look
23 forward for any questions that you may have.

24 JUDGE DIPPELL: Thank you. Are there Commission
25 questions? Commissioner Davis?

1 COMMISSIONER DAVIS: Once again, in the interest
2 of judicial economy, I respectfully pass.

3 JUDGE DIPPELL: Commissioner Gunn?

4 COMMISSIONER GUNN: Just a clarifying question.
5 These two bar charts, these two charts seem to indicate
6 that whether -- the -- it's -- the critical issue is the
7 averaging that, either under incremental or cumulative, if
8 you use the averaging, you come out below the 1 percent
9 rate cap in all years except 2021?

10 MR. ROSEMAN: Averaging is certainly very
11 important, Commissioner. You're right exactly to put your
12 finger on that. And if you look at just these numbers, it
13 has more of an impact than whether you choose cumulative
14 or incremental.

15 We think incremental is the right way to do it.
16 But if we were going to say -- if we had to choose one, it
17 would be certainly the averaging would be the most
18 important.

19 Now, we could have used clearly other
20 assumptions that would have pushed these numbers in
21 earlier years into that 1 percent territory as well. But
22 you have to get into the details of the model. But
23 averaging is very important.

24 COMMISSIONER GUNN: And -- and not just the
25 screen shot, but the modeling has been entered into the

1 record; is that -- is that correct?

2 MR. ROSEMAN: Yes.

3 COMMISSIONER GUNN: Okay. I don't have anything
4 else. Thank you.

5 JUDGE DIPPELL: Thank you. Commissioner Kenney?

6 COMMISSIONER KENNEY: No, thank you.

7 JUDGE DIPPELL: All right. Thank you. All
8 right, then. Do we have anyone who believes their
9 comments will be five minutes or less? I have a slight --
10 slight change of plans in that we need to shut down here
11 at five and move next door. So -- do, seriously? Five
12 minutes? Come on up.

13 MR. WILSON: Okay.

14 JUDGE DIPPELL: Or we can interrupt and --

15 MR. WILSON: Hi. I'm P.J. Wilson with Renew
16 Missouri.

17 JUDGE DIPPELL: Thank you. Please raise your
18 right hand.

19 P.J. WILSON,
20 being first duly sworn to testify the truth, the whole
21 truth, and nothing but the truth, testified as follows:

22 TESTIMONY OF P.J. WILSON

23 MR. WILSON: Yes. And I'll try and make it five
24 minutes or less.

25 JUDGE DIPPELL: Don't talk so fast the reporter

1 has trouble keeping up with you.

2 MR. WILSON: Okay. Okay. Most -- our comments
3 were filed with Renew Missouri, so I'm not going to repeat
4 what's been filed already on record with you. But I'll
5 respond to some of the things that has been presented
6 today. Let me know if I'm going too fast.

7 The first is the concept of the RESRAM -- RESRAM
8 appearing on monthly bills. I think that the Office of
9 Public Counsel commented on that in their -- in their
10 filings, and I just -- I think in Section 6-B and C, and I
11 urge you to take a look at the expense of that. I don't
12 know what it is, but printing something a million times
13 every month, I would argue, would be an unnecessary
14 expense.

15 And I think that if there's a result of the --
16 appearing right next to the people's taxes on their bills,
17 then I'd like to know what it is, I guess. And I think it
18 should not be listed there because it's not listed on
19 people's bills how much of their rates are going to pay
20 for coal or nuclear or natural gas or -- or anything else.

21 Also, to my knowledge, there's only two states
22 that do this. There's only two states in the nation that
23 list -- that has a separate line item in their bills, and
24 there's states that have to do that for other reasons.
25 It's because of a public benefits charge or some other

1 reason why they have to do it. So if we're going to do
2 that in Missouri, I'd just urge you to ask why we're doing
3 that and what the expense of that's going to be.

4 Second, coming from Office of Public Counsel,
5 preferences to the various scenarios of compliance over
6 and under 2 percent. And that's also in Section 6. I'd
7 like to request that that be removed altogether or at
8 least analyzed what the cost of that compliance is under
9 the different scenarios. From my perspective, it just
10 adds cost of compliance.

11 Third, Ameren commented on the independent
12 auditor requirement. And in the current rules, it's in
13 there that Staff can serve that role. And I'd just like
14 to reiterate why that's in there is to avoid -- because
15 solar and renewables in general are somewhat of a new
16 phenomenon, there have been mistakes.

17 There have been blunders in other states, and
18 one of them is in Nevada where they have a solar
19 requirement and the bidding process was a really tight
20 time window charging \$10,000 to apply. It is all geared
21 towards a Spanish company coming in and doing everything
22 in one great big project. So some sort of auditing is
23 probably in order because of the newness of the
24 technology.

25 Ameren also commented that the REC should be

1 able to be purchased separately from underlying
2 electricity. Agree with that. Ameren also commented that
3 geographic restrictions would be inappropriate and
4 inefficient. Disagree with that.

5 I'd like the record to -- wind capital groups
6 want all of the states to have in-state or in-region
7 requirements in their report. And two things to note
8 there. One is that almost all of them do have in-state or
9 in-region requirements. Second, that Hawaii is a
10 completely in-state requirement. That's supposed to be
11 funny.

12 Okay. Next, Ameren commented that if some sort
13 of geographic sourcing exists, then it should be the
14 regional transmission authority. Disagree with that
15 because that would be -- that would allow RECs to come
16 from as far south as Texas and north as Canada.

17 And, also, note that the footprint of the
18 regional transmission authority will change in the future.
19 So if you -- if you specify it as RTO or MISO or SPP, I
20 don't think anyone is anticipating that for all eternity
21 that footprint is going to stay the same. So I urge you
22 to use caution with the geographic sourcing requirement.

23 Also, Ameren and Empire pointed out that it
24 would be either difficult or impossible to track the sales
25 or delivery of electricity to customers in Missouri. Just

1 disagree with that. I think it's -- the utility's job is
2 figure out where the electricity is produced and where
3 you're selling. And tracking through sales is something
4 that's a lot easier than delivery.

5 Next, the upfront lump sum standard offer
6 contract concerns, Ameren has listed a few of them. Some
7 of them I agree with. Some of them I disagree with.
8 Completely unauthorized and beyond the scope of
9 Proposition C. This is for ten -- a ten-year requirement
10 for purchase of SRECs from small solar systems. I don't
11 disagree that it is beyond the scope of Prop C. It's -- I
12 believe that it's your all's jobs to both implement Prop C
13 and implement accompanying public policy that makes Prop C
14 work. Otherwise, we'd be right back here with a broken
15 system.

16 Many -- many other states do it. Colorado has a
17 20-year requirement for upfront purposes of RECs. So it's
18 a public policy decision that's in their hands. You never
19 know how many people want to use a standard offer contract
20 and the rebates could exceed the cost of solar. I agree
21 with both of those, and that's why we recommend an annual
22 workshop to figure that out. Don't want to over-run
23 incentivize that process.

24 Shortening the time period from ten years, don't
25 recommend that because it's already been shortened from

1 twenty years to ten years. Ten years matched up with the
2 life of the system that we specify it will probably take,
3 and there's no precedent out there for purchasing less
4 than ten years of SRECs upfront.

5 Okay. Next, Ameren says that utilities should
6 be allowed to utilize and recover for investment beyond
7 those required by Prop C. It's to comply at a higher
8 level, if that makes sense, cost-wise. Definitely want to
9 make sure we don't screw that up and have that precluding
10 them from doing more renewables than makes sense from a
11 cost basis.

12 Ameren requests to eliminate the use of APX and
13 allow utilities to self-regulate their -- their RECs. I
14 disagree with that just because statutorily that's laid
15 out that the Commission must select a program for tracking
16 and verifying the trading of RECs. APX was chosen after a
17 public bidding process. It seems to be the most efficient
18 way to do that is to trust APX as -- as a plan.

19 Ameren also has a requirement that RECs not
20 cause undue error, water or land impacts, recommendations
21 that be removed. Again, that's statutory. And the point
22 there is that there could theoretically be some sort of
23 renewable resources more damaging to the environment than
24 coal.

25 You'd have to want -- check that mechanism. And

1 I think that that's in there with the Department of
2 Natural Resources certifying renewable energy sources as
3 time goes on.

4 Ameren requests that the Public Service
5 Commission Staff declares the market value for RECs, and I
6 agree. I think we need more -- I don't know what it is,
7 but we need more language in there so there's a certainty
8 about what the market value of RECs is on a year-to-year
9 basis. I think annually would be sufficient for setting
10 that.

11 A few comments by Kansas City Power & Light.
12 One is -- first, I agree with a -- they recommend removing
13 the requirement that solar disable the unit -- that if
14 there's a power outage that it is disabled. They properly
15 point out that solar is often used as back-up power, so
16 you wouldn't want to disable the solar system in the event
17 of an outage.

18 In fact, I further recommend that all language
19 that attempts to duplicate the net metering law be removed
20 and that we just reference it in that law. Otherwise,
21 you're going to be putting things in two places.

22 Kansas City Power & Light recommends to delete
23 the definition of standard test conditions. I disagree
24 with that because I think it's necessary no matter how you
25 measure it to start off with a commonly agreed upon

1 starting point and standard test conditions for solar.

2 That's what rated -- that's what's on the sticker that's
3 on the back of the solar panels is based on STC.

4 Section 3-K, Kansas City Power & Light
5 references the ability for them to comply with RECs
6 purchased in the month of January following the end of the
7 year. I would urge you to look at time period. Maybe
8 that time period should be longer, January -- January,
9 February, March. The purpose there is to have a true-up
10 period. But I think the purpose of that is to allow them
11 to purchase RECs that came from the previous year so that
12 the compliance actually happens within the year where it's
13 set out.

14 Kansas City Power & Light also recommends
15 removing references to the California Energy Commission
16 and the installed watts being -- basically, they want the
17 rebate based on installed AC watts. I understand the
18 rationale for that. I just want to restate the case that
19 solar is installed in DC watts, and that is the trend of
20 how this is being recognized around the nation. It's the
21 simplest way to do it, so I recommend that you keep that
22 the way it is in the rules.

23 One-time lump sum standard offer contracts
24 offered at the -- at a utility's discretion. Kansas City
25 Power & Light recommends that that language be put in

1 there. Disagree with that. I'm sure there's some -- some
2 middle ground there, but for -- an upfront standard offer
3 contract to a homeowner, that's like a rebate. They're
4 treating it like a rebate in this upfront lump sum offer.
5 So if there's no certainty there on what that's going to
6 be, it may -- it's really hard for the sellers to go out
7 there and install systems. Almost done.

8 Kansas City Power & Light also recommends adding
9 another tier of 3 kilowatts and a five-year time period
10 for purchase of RECs. I believe that adding another tier
11 of the 3 kilowatts would just add complexity and cost to
12 the system.

13 And, again, Colorado's 20-year purchase of RECs
14 has been shortened to ten years already. That matches up
15 with the lifetime of the -- what it will take for the life
16 of the system. I think that's in the right -- I think ten
17 years is okay.

18 A couple of comments from MIEC. They want to
19 limit the rate impact to 1 percent at any moment in time.
20 I just want to -- there's some sort of average that needs
21 to be to happen, and it's your all's job to figure out
22 what that is. But some sort of averaging needs to occur
23 there.

24 They also -- they want to make sure that it's
25 not referred to as 1 percent per project, and we totally

1 agree with that.

2 Empire's solar exemption, General Counsel, I
3 believe, suggested that we deleted that reference to
4 because of the impending lawsuit that's happening, and we
5 agree with that. Empire has stated that they think that
6 that should be left in there because, otherwise, it will
7 send the wrong message to the courts.

8 So point out it's a -- there's two sides of that
9 coin. If you leave it in or if you take it out, whether
10 or not you're sending a message, that's up to you guys to
11 figure out. I urge you to think about the result, what's
12 going to happen if the lawsuit goes one way or another and
13 what's going to be easier, to take that out later or put
14 it back in later.

15 Solar leasing models, this just needs a little
16 bit more care. Over 80 percent of the solar that's going
17 in in the country today is some sort of power purchasing
18 agreement, something other than a person purchased solar
19 panels and that's what's sold to the grid.

20 Urge you to look at the definitions of the --
21 the definition of customer generator is now the owner or
22 operator of a system. That's good. But I urge you to
23 take a look at the references to customer owned. There's
24 lots of places where you might want to replace that with
25 customer cited, and retail account holder should be

1 replaced with system owner.

2 Finally, I'm glad to hear, Commissioner Davis,
3 the comment on your -- comments that you included there.
4 You noted that the rules, as written, give the wind and
5 solar industries almost all the benefit of doubt. I agree
6 with that. I'm glad to see that since it is the renewable
7 portfolio standard.

8 You also note that the time has come to curtail
9 wind farm welfare. I disagree with that based on, again,
10 another chart and Wind Capital Groups' statements where
11 they -- they display the subsidies for the -- to the oil
12 industry and for the wind industry and the solar industry.
13 And you'll see that there's extreme subsidies to the
14 fossil fuel industry. And if we were to remove all those,
15 then that would be a great conversation to have. But given
16 the State of affairs today, what we are trying to do is
17 level the playing field.

18 Finally, you said that the Public Service
19 Commission is reaching a point where you need to draw the
20 line as to how much we subsidize renewable energy. I
21 agree. And since the Public Service Commission has never
22 subsidized renewable in the past, I can only assume that
23 you would like to set the bar high and what you meant to
24 say was PSC is reaching a point where you need to do
25 everything in your power to create public policy promote

1 energy efficiency and renewable energy. Thanks very much.

2 That's my comments.

3 JUDGE DIPPELL: Thank you.

4 COMMISSIONER DAVIS: Question. First of all,
5 Mr. Wilson, have you registered as a lobbyist?

6 MR. WILSON: No.

7 COMMISSIONER DAVIS: Okay. Have you been
8 meeting with Legislators on Legislation? Have you been
9 meeting individually with our Staff?

10 MR. WILSON: I have been meeting with the Staff
11 off and on since Prop C passed.

12 COMMISSIONER DAVIS: Have you ever read the --
13 the statutes regarding lobbying?

14 MR. WILSON: No. I'll read those if you want.

15 COMMISSIONER DAVIS: Why don't you go look --
16 take a look at those, and we can have this conversation
17 the next time I see you about whether or not you should be
18 registered as a lobbyist.

19 MR. WILSON: Okay.

20 COMMISSIONER DAVIS: Testifying in a hearing
21 like this, perfectly fine. But there are other things
22 that you're doing that I'm concerned may be violating
23 State law.

24 MR. WILSON: Okay.

25 COMMISSIONER DAVIS: And I'd like you to take

1 care of those.

2 MR. WILSON: I'll look into that right away.

3 COMMISSIONER DAVIS: You know, once again,
4 Mr. Wilson, I mean, it's like you're talking about on one
5 hand you sit here and tell us, you know, don't want to
6 incur this cost of printing something. And then on the
7 other hand, it's like give me my ten-year standard offer
8 contract upfront, you know, let us count the cap in the
9 most favorable way. I mean, give us every inference
10 possible. And is there not a conflict there?

11 MR. WILSON: Yeah.

12 COMMISSIONER DAVIS: Give me -- I mean, is what
13 you're saying here today, Just give me all my stuff that I
14 want and don't give me anything that I don't want?

15 MR. WILSON: No. I guess what I'm saying is I
16 think that the intent of today is to identify the parts of
17 the rules that are unnecessary and would just be
18 unnecessary expense, which, in my opinion, printing
19 monthly bills would be one of those.

20 COMMISSIONER DAVIS: Anything you don't want is
21 unnecessary?

22 MR. WILSON: It's up to you all -- it's up to
23 you all to decide what's unnecessary. It's just my
24 testimony. You've heard from lots of people. So --

25 COMMISSIONER DAVIS: Don't you think it would be

1 important to tell people -- I think you did have one good
2 idea there, and that is --

3 MR. WILSON: Thanks.

4 COMMISSIONER DAVIS: -- let's -- let's tell them
5 what coal costs on a per kilowatt basis. Let's tell them
6 what nuclear energy costs on a per kilowatt basis. Let's
7 tell them what hydro-electricity costs on a per kilowatt basis,
8 and then let's tell them what solar and wind costs on a
9 per kilowatt basis.

10 MR. WILSON: And energy efficiency.

11 COMMISSIONER DAVIS: Huh?

12 MR. WILSON: And energy efficiency.

13 COMMISSIONER DAVIS: And energy efficiency. How
14 would you feel about that?

15 MR. WILSON: I don't know if I -- I think there
16 might be a another state or two other than that. I think
17 that would be great. Either on an annual or monthly basis
18 -- I'm not sure what would be warranted.

19 COMMISSIONER DAVIS: Right.

20 MR. WILSON: But there's definitely a lack of
21 awareness out there what happens when people plug their
22 vacuum cleaner into the wall. Missourians are at large
23 not really aware of where it comes from, so I think that
24 would be a great educational tool.

25 COMMISSIONER DAVIS: All right. I -- I have --

1 I have no further questions for this witness.

2 JUDGE DIPPELL: Mr. Chairman, did you have any
3 questions?

4 CHAIRMAN CLAYTON: No questions.

5 JUDGE DIPPELL: Commissioner Gunn?

6 COMMISSIONER GUNN: No. I don't have any
7 questions.

8 JUDGE DIPPELL: Commissioner Kenney?

9 COMMISSIONER KENNEY: Mr. Wilson, thanks for
10 your time.

11 MR. WILSON: Thank you.

12 JUDGE DIPPELL: Thank you. And with that, I'm
13 going to let the IS close us down here and move us to the
14 room next door, so we can go off the record.

15 (Break in proceedings.)

16 JUDGE DIPPELL: We can go back on the record.

17 Okay. We had a short break to regroup and switch rooms.

18 I will repeat what Daniel Smith was saying. This room is
19 a little different in that it has microphones up above in
20 the ceiling, and they are very sensitive.

21 And so they will pick up your side conversations
22 and broadcast them over the Internet and record them for
23 all posterity. So I'll ask you to keep those to a minimum
24 and not say anything that you don't want the world to
25 know. Would you like to raise your right hand?

1 HENRY ROBERTSON,
2 being first duly sworn to testify the truth, the whole
3 truth, and nothing but the truth, testified as follows:

4 TESTIMONY OF HENRY ROBERTSON

5 JUDGE DIPPELL: If you could state your name and
6 spell it for us, please.

7 MR. ROBERTSON: Henry Robertson,
8 R-o-b-e-r-t-s-o-n. I'm the attorney for Renew Missouri.
9 I want to be very brief. I thought I should just stick my
10 head above the parapet since I am the attorney who filed
11 the lawsuit that we've been hearing about all day.

12 A couple of quick comments, and then I'll
13 address Commissioner Davis' questions which you've been
14 asking for, and it's related to that suit. I wanted to
15 make sure there was a response to the utilities' arguments
16 this morning that the standard offer contract is not
17 authorized by Proposition C.

18 In fact, it's fully consistent with Prop C and
19 flows from two provisions of the statute. One is the
20 provision that the customer generator owns the RECs, the
21 SRECs. And the other is the 2 percent solar carve-out,
22 Prop C. It brings those two together, and it ought to be
23 a win-win, although utilities don't see it that way.

24 But the standard offer contract gives the
25 customer generator some value for the SRECs they're

1 creating for renewable energy generation. The utilities
2 get a steady stream of SRECs, however small, which they
3 can use to satisfy the 2 percent target.

4 I also want to agree with what Mr. Fairbank said
5 earlier in the day about the 500 watt minimum for solar
6 panels. There is nothing in the law that authorizes such
7 a minimum. I think if a customer wants to install a 200
8 watt panel, they're just as entitled to the solar rebate
9 as anybody else, and they would certainly expect it and
10 they would be surprised, unpleasantly, if it were denied.

11 To Judge Davis' question, what would be -- what
12 would you have to take out of the rule, how would you have
13 to change it if it turns out that 1050 and 1045 are not
14 valid?

15 I want to say, first of all, that there's only
16 one inconsistency between 1045 and Prop C, and that is
17 where 1045 says that the utilities are entitled to a
18 1 percent annual rate increase. That is inconsistent with
19 Proposition C, which says that rates can never increase or
20 bills can never increase more than 1 percent over the
21 whole lifetime of the RES, subject to some variations due
22 to averaging.

23 But, no, they are not entitled to more than
24 that. So what would have to come out would be Section 9,
25 which is the Empire exemption. I think Section 6 is fine,

1 except that you would have to remove the references to
2 393.1045 as you would also have to do with Section 11.

3 Section 5 might have to be revised. I -- I -- I
4 admit I am having trouble getting my head around this
5 incremental and cumulative, the way those terms are being
6 used in this context. And it looks to me like you could
7 read Section 5, particularly A and D, to say that the
8 utilities could get a -- a rate increase of more than 1
9 percent over the life of the statute.

10 Now, maybe I can read Mr. Roseman's filed
11 comments and -- and see how I've been mistaken and -- and
12 it's all right. But until I'm satisfied with that, it may
13 be necessary to revise Section 5 due to the invalidity of
14 Section 393.1045.

15 And what Commissioner Clayton said this morning
16 is absolutely correct. If you take out Section 9, the
17 Empire exemption, it can't possibly hurt because, you
18 know, if it turns out that a Court upholds the Empire
19 exemption, they will be entitled to it whether it's in the
20 in the rule or not. Their statute will trump the rule.

21 The lawsuit that we filed had nothing to do
22 directly with this rule, nothing at all. So I just
23 really, at this point, want to see a clean rule -- a clean
24 rule go to JCAR that can't be questioned as being in
25 violation of any provision of the law.

1 That's all I have unless there are questions.

2 And I know you just missed practically everything I said,
3 but --

4 COMMISSIONER GUNN: I'll read it. But, no, I
5 don't have any questions. Thank you.

6 MR. ROBERTSON: Thank you.

7 JUDGE DIPPELL: Thank you. All right, then.

8 Mr. Downey?

9 MR. DOWNEY: Sure.

10 JUDGE DIPPELL: You've been waiting very
11 patiently.

12 EDWARD DOWNEY,
13 being first duly sworn to testify the truth, the whole
14 truth, and nothing but the truth, testified as follows:

15 TESTIMONY OF EDWARD DOWNEY

16 JUDGE DIPPELL: Thank you. Could you spell your
17 name, please, for the court reporter?

18 MR. DOWNEY: Sure. My name is Ed Downey,
19 D-o-w-n-e-y. I'm an attorney, and I represent the MIEC.
20 That's the Missouri Industrial Energy Consumers. And also
21 here today representing the MIEC is Morris Brubaker, and I
22 believe he'll have comments as well.

23 The MIEC consists of large Missouri employers
24 who are large consumers of electricity. And because
25 they're large consumers of electricity, they're acutely

1 aware of this proposition, Proposition C, in this
2 regulation. And they're very concerned about the
3 consequences of -- of rate increases triggered by
4 Proposition C.

5 I've been here all day. I've heard all the
6 comments today. I did not have an opportunity to read all
7 of the written comments. There were just too many of them
8 that came in too fast last night.

9 However, it looks to me like there are a couple
10 areas of agreement. One is we all want to see a
11 regulation that is crystal clear and unambiguous. The
12 other thing I think that -- that we all agree on is that
13 for purposes of determining this rate impact, we start
14 with a revenue requirement for generating electricity
15 wholly from non-renewable sources, and we compare that to
16 the revenue requirement for generating electricity from
17 renewable mandate compliant resources. So I think we
18 agree on those two things. Maybe somebody will correct me
19 later.

20 As far as the MIEC is concerned, there was one
21 key area of disagreement, and that is what is this 1
22 percent rate impact? And if -- it's derived from Section
23 393.1030.2(1), which provides that the PSC regulation that
24 enforces this renewable standard "Shall include a maximum
25 average retail rate increase of 1 percent."

1 Now, the ballot title for the adoption of this
2 statute gives us our best guidance on legislative intent
3 because it is what the voters read when they approved this
4 provision. And that's included on the very first page of
5 the MIEC comments.

6 And I know it's late, but I'm going to read it
7 into the record. The official ballot title provided,
8 "Shall Missouri law be amended to require investor-owned
9 electric utilities to generate or purchase electricity
10 from a renewable energy source -- excuse me -- sources
11 such as solar, wind, biomass and hydro power with the
12 renewable energy sources equaling at least 2 percent of
13 retail sales by 2011, increasing incrementally to at least
14 15 percent by 2021, including at least 2 percent from
15 solar -- solar energy." And then the key, last provision
16 is "and restricting to no more than 1 percent any rate
17 increase to consumers for this renewable energy."

18 So the question is what is meant by this
19 renewable energy? Well, obviously, the answer lies in the
20 words of the ballot title. It's the renewable mandate,
21 the renewable mandate that requires the 2 percent
22 renewables in 2011 increasing incrementally to at least 15
23 percent by 2021.

24 In other words, the rate increase from the
25 entire mandate should be capped at 1 percent. To answer

1 your -- your question, Commissioner Gunn, we do agree that
2 it's a "but for" test. So in other words, what my clients
3 are going to want to know in 2015 is how much would their
4 energy have been without this mandate? And then how much
5 are they paying in 2015 with this mandate?

6 If that difference is more than 1 percent,
7 they're going to have problems with the result of this
8 regulation. And I -- I don't think it's my clients. I
9 don't know think it's just sophisticated corporations. I
10 think your average voter is going to -- going to run the
11 analysis exactly that way.

12 I mean, what we have here is a good,
13 old-fashioned statutory construction issue. What do these
14 statutes mean? And, you know, the word "incremental,"
15 yes, you can find it in the ballot title. The word
16 "average," yes, you can find it in the statute.
17 But I -- I think you have to totally twist and turn those
18 words around to come up with a construction that says take
19 the actual impact that the utilities have to pass onto
20 consumers and divide it by 10 or divide it by 20 and
21 that's the -- the impact.

22 If you look at the fiscal note for this
23 regulation, it doesn't say one-tenth of 45 million. It
24 says 45 million. That's going to be the impact on
25 utilities in the first year, and, presumably, the impact

1 on consumers, not one-tenth of that.

2 I'm going to try and be very brief because it's
3 late. Now, we did raise a number of other points, which
4 I'll call technical corrections to the regulation. Some
5 of them have -- have been discussed today. Two of them
6 were not. And, frankly, I wasn't sure when we drafted our
7 comments if we were reading the regulation correctly.

8 But -- but in -- in reading the records of the
9 draft regulation, we came to the conclusion that the cost
10 of fuel savings was double-counted, and the -- the benefit
11 from, you know, avoiding environmental regulation was
12 double-counted.

13 We -- we -- we stated that in our comments. I
14 haven't heard anyone today disagree with that. So I'm
15 assuming we read that right. However the Commission
16 amends this draft regulation, there -- it should be fair
17 in its comparison of the revenue requirement without the
18 mandate to the revenue requirement with the mandate, and
19 no cost and no benefit should be double-counted.

20 Those are my comments. They're very brief. If
21 you have any questions, I'm certainly happy to answer
22 them. Mr. Brubaker also has comments.

23 JUDGE DIPPELL: Mr. Chairman, did you have
24 questions?

25 CHAIRMAN CLAYTON: No, ma'am.

1 COMMISSIONER GUNN: Well, so you're saying that
2 since the ballot title amended the word "average" but the
3 stat -- the word "average" is in the statute, we disregard
4 that average because the statute says -- and I don't have
5 the -- I did have the exact language in front of me.

6 The maximum average retail rate increase of 1
7 percent. So that's actually in the statute, but we should
8 disregard that average -- that word average, and go back
9 to the ballot title?

10 MR. DOWNEY: No. No. That's not our position.
11 In our comments, you will see that our position is that --
12 that that -- the word "average" means across rate classes.
13 So the -- the increase -- the impact to consumers could --
14 across the customer classes cannot be more than 1 percent.

15 COMMISSIONER GUNN: But if you -- if you -- if
16 you read it that way, then what you're saying is that the
17 voters approved a ballot -- or approved -- approved a rate
18 increase that would contemplate that one rate class would
19 get a 2 percent increase and one rate class -- let's say
20 that -- let's assume for argument's sake that there are
21 ten classes. So five could get a 2 percent rate increase,
22 and five could get a 0 percent increase. And you think
23 that's what the voters contemplated with average?
24 Because you're only talking about across the -- the -- the
25 rate class.

1 MR. DOWNEY: In fairness, I don't think hardly
2 any of the voters actually read the statute. I think the
3 voters read the ballot title. So what the voters
4 contemplated was that at no time would they be paying more
5 than an extra 1 percent on their electric bills because of
6 the renewable mandate.

7 COMMISSIONER GUNN: Well, then your
8 interpretation of average doesn't work either because,
9 under your interpretation, they were contemplating that
10 members of the residential class could be paying -- could
11 be getting a 2 percent increase. Right?

12 MR. DOWNEY: I -- I understand your point. Yes.
13 If you assume that the voters who approved this actually
14 read the statute that they were adopting, then there has
15 to be some meaning given to the word "average." I -- I
16 understand that.

17 COMMISSIONER GUNN: Right.

18 MR. DOWNEY: And I'm not certainly suggesting
19 mine is the only reading. But I think my suggestion is
20 the only reading that makes sense when you consider the
21 ballot title.

22 COMMISSIONER GUNN: But that's in -- it's -- but
23 your argument about the ballot title is inconsistent with
24 your interpretation of what average should be because if
25 your ballot title says that the -- the ratepayers at no

1 time contemplated that someone would pay more than 1
2 percent, then if you take the average to the rate classes,
3 there are rate classes that, under that argument, would be
4 paying more than 2 percent. So there's an internal
5 inconsistency in your argument.

6 MR. DOWNEY: I understand your point. It's the
7 difference between customer with a small c and Customers
8 with a capital C. Collectively, customers should not
9 incur expenses or increased cost due to this mandate that
10 exceed 1 percent.

11 COMMISSIONER GUNN: But your -- but your
12 argument of that is based upon a voter's reading of the
13 ballot language, which didn't have the word "average" in
14 it.

15 MR. DOWNEY: I'm trying to give significance to
16 the word "average" as used in the statute as are the other
17 parties. We all have our own construction of the word
18 "average." It just so happens our construction of the
19 word "average" is consistent with the overall purpose of
20 the Commission, which is to protect consumers. And it
21 seems to be consistent with the ballot title.

22 COMMISSIONER GUNN: It's not to protect all
23 consumers because, under your reading of it, some
24 consumers could get a 2 percent increase. They're not
25 protected by the 1 percent cap.

1 MR. DOWNEY: I understand your point,
2 Commissioner.

3 COMMISSIONER GUNN: Okay. All right. Then I
4 don't have anything further.

5 JUDGE DIPPELL: Thank you, Mr. Downey.

6 MR. DOWNEY: Thank you.

7 JUDGE DIPPELL: And, Mr. Brubaker, did you want
8 to --

9 MORRIS BRUBAKER,
10 being first duly sworn to testify the truth, the whole
11 truth, and nothing but the truth, testified as follows:

12 TESTIMONY OF MAURICE BRUBAKER

13 JUDGE DIPPELL: Thank you. If you could state
14 your name and spell it, please?

15 MR. BRUBAKER: It's Maurice Brubaker,
16 M-a-u-r-i-c-e B-r-u-b-a-k-e-r. I'm the President of
17 Brubaker & Associates, a utility rate and economic
18 consultant in St. Louis. And I'm also here today on
19 behalf of Missouri Industrial Energy Consumers.

20 I'm not going to re-plow the ground that
21 Mr. Downey went over. He had a particular role to play,
22 and so do I. So I want to limit my comments and remarks
23 to some of the modeling and some of the calculation of the
24 averages.

25 Our position, of course, is that the 1 percent

1 is a hard cap to be observed over time. But then there
2 are questions about whether you do incremental or
3 cumulative and whether you average or not. So I -- I
4 guess because it's the most recent item before us, I want
5 to talk about the Wind Alliance model that Dr. Roseman
6 from ICF talked about and just give you some observations
7 there.

8 And first, I want to state that models are
9 great. Models have a lot of moving parts to them. Models
10 are influenced -- outputs are influenced by the
11 assumptions that you make and how you do the mechanics in
12 terms of the model.

13 This particular result was delivered yesterday
14 in comments. We, as parties or as participants, were not
15 provided the -- the disk with the model on it. So all
16 we've been able to look at is what's in the hard copy of
17 the comments that went on EFIS. So I want that to be --
18 to be clear.

19 The inputs, as I say, influence the outputs. If
20 you look at the percentage rate impacts that are in these
21 comments and you look at the model results that were
22 presented by the Wind Alliance back in October, it's about
23 a two to one ratio in the results in terms of the rate
24 impact, so I don't -- my suggestions are don't get hung up
25 on a particular model and don't be tempted to believe that

1 because the results with a particular set of assumptions
2 at a particular point in time may look attractive and look
3 less than 1 percent or less than whatever your bogie is
4 doesn't necessarily mean that when we do these in
5 real-time and go through and vet everything that that's
6 going to be the answer. The models provide relationships.

7 The biggest thing I want to point out and the
8 biggest problem I have with this is the difference first
9 between incremental and cumulative. The cumulative -- the
10 incremental approach seems to say you look every time
11 you're going to add a resource, and if you make the 1
12 percent bogie or whatever it is, you're fine. Move on to
13 the next increment, do the same thing.

14 If you keep doing that over time, you're going
15 to accumulate up to much more than 1 percent. So if you
16 believe that the 1 percent average over time or the
17 1 percent at any time is how this should be done, I don't
18 think you can do the incremental approach because the
19 incremental approach would let you take 1 percent now, 1
20 percent, 1 percent, 1 percent, 1 percent, 1 percent.
21 Pretty soon, you've got a whole lot of 1 percents and a
22 pretty -- pretty large impact.

23 So I think that we need to look at the
24 cumulative approach to this. And that let's us say what
25 is -- at any time, what is the overall difference in rates

1 between what they would have been without the RES and what
2 they are with the RES? That should be our test.
3 Cumulative difference over time.

4 When I -- when I look at page 13 of the
5 comments, the summary screen shots I get from the ICF
6 model, and I see cumulative impacts on line 5 here,
7 starting out at 1.3 percent increasing over time up to in
8 the neighborhood of 4 to 5 percent. And I look down at
9 line 15, I guess it is, the cumulative case and the net
10 effects. All those numbers are divided by ten. So in
11 actual impact, cumulative impact in a particular year of
12 3.1 percent from the top line, come down and divide by
13 ten, and it's -- it's not 3.1 anymore. It's .31.

14 Customers aren't paying .31 percent in that
15 year. They're paying 3.1 percent. So I think if we're
16 going to use cumulative and use the model, we've got to
17 look at the top line before we divide by ten. If you
18 wanted to do to an average, I think you would average the
19 cumulatives. And in this case, it's 2.5 percent over ten
20 years. That's the real average impact that the customers
21 would see.

22 So I think you just have to be very, very
23 careful in the interpretation of results. If you start
24 taking percentage increases and dividing them by 5, 10 or
25 20 and spreading them over years and using that as a

1 decision base, I think that you could wind up with -- with
2 some results that you probably didn't think you would get
3 because, as Mr. Downey pointed out, the fiscal note
4 calculated the first year impact as \$45 million, which is
5 1 percent roughly of the retail electric revenues of the
6 regulated utilities.

7 It's not 4 and a half million. It's not
8 one-tenth of that. It's the full shot. And the full shot
9 is what customers would see in their bills. So as you
10 decide on how to construct this and how to -- how to
11 interpret that, I would just ask you to keep that in mind
12 and -- and be mindful of -- of what customers are going to
13 see.

14 If you give a utility a 5 percent rate increase,
15 a customer sees 5 percent rate increase, 5 percent, 5
16 percent, 5 percent, same number successively. They don't
17 see a half percent the first year and another half
18 percent, another half percent. It's up and done with.
19 But it's the same concept with that too. So that
20 concludes my comments.

21 CHAIRMAN CLAYTON: No questions. Good to see
22 you.

23 JUDGE DIPPELL: Commissioner Gunn?

24 COMMISSIONER GUNN: Just one, maybe two. So the
25 2.5 percent that you referenced, was that after the -- the

1 ten-year averaging? You're saying that if you -- if you
2 take the cumulative sum and divide that by ten, that's
3 when you -- that when you get the 2.5?

4 MR. BRUBAKER: Correct.

5 COMMISSIONER GUNN: Okay. So that's after the
6 -- the averaging?

7 MR. BRUBAKER: Yes.

8 COMMISSIONER GUNN: And then the other question,
9 and it just popped into my head. It may not -- it may not
10 be relevant. But rate base essentially resets, doesn't
11 it? I mean, once you get -- one you get an increase in
12 rate base, rate base essentially resets, and that's what
13 you -- what you -- that higher level is what you base any
14 increase off of in a traditional rate-making?

15 MR. BRUBAKER: Each time you would have a rate
16 case, you would have a new determination of the rate base.

17 COMMISSIONER GUNN: Right. And so -- and so --
18 and so while you're still -- while it's still cumulative,
19 when we take about percentage increases, it's off the
20 higher -- it's off the higher rate base, right? I mean,
21 so --

22 MR. BRUBAKER: It would be, yes.

23 COMMISSIONER GUNN: Okay.

24 MR. BRUBAKER: Yeah.

25 COMMISSIONER GUNN: Like I said, I'm not sure it

1 has any relevance at all.

2 MR. BRUBAKER: Yeah. Without having all the
3 details of the model, it's hard to say exactly what it is.
4 But in general, that's -- you're correct.

5 COMMISSIONER GUNN: Okay. I don't have anything
6 further. Thank you very much.

7 MR. BRUBAKER: Okay. Thank you.

8 JUDGE DIPPELL: Thank you. Okay. Who else
9 wanted to give comments that I didn't get to? Is there
10 anyone else? All right, then. Mr. Dottheim, do you want
11 to go ahead with your --

12 MR. DOTTHEIM: Okay. Thank you.

13 JUDGE DIPPELL: Go ahead, Mr. Dottheim.

14 FURTHER TESTIMONY OF STEVE DOTTHEIM

15 MR. DOTTHEIM: I'll try to keep this brief since
16 the Staff went first. The Commissioners, in particular,
17 Commissioner Gunn, asked a question, a "but for" question
18 of the participants which was not asked of the Staff which
19 I'd like to direct to Mr. Oligschlaeger. But just in
20 general, I'd like to make some comments, and I'd like to
21 direct a question or two to Mr. Taylor.

22 When the Commissioners are deliberating on this
23 rule-making, I hope they are able to remember their prior
24 discussions of the various drafts, versions of the rule in
25 the agenda sessions.

1 And the reason I suggest that is I think we have
2 the phenomenon of the comments that were filed. I think
3 all but one set of comments were filed yesterday. We have
4 the phenomenon of comments that we've never seen before.
5 Frequently, if not what I think is generally the case,
6 when there is a workshop process, when ultimately comments
7 are filed and there is a -- a hearing, the -- the comments
8 that are made and the -- the hearing that's held deals
9 with matters that pretty much are around items, areas that
10 have previously been discussed, dealt with.

11 In various aspects, I don't believe that's the
12 situation here. So as a consequence, various
13 participants, I don't believe, have had much of an
14 opportunity to respond given that the comments were filed
15 yesterday. As a consequence, I -- I would like to make
16 the general recommendation -- and, unfortunately, although
17 I've participated in any number of Commission
18 rule-makings, this has been, as of late, one of the more
19 complex ones, and I would like to recommend that -- that
20 the Commission set the filing date for comments more than
21 one day in advance of the hearing.

22 And I -- I've also been through rule-makings
23 where the comments are set to be filed on the very day of
24 the hearing itself. But, again, my recollection, as of
25 late, involves rule-makings that are not as complicated as

1 -- as this situation.

2 I think we've had references earlier to models
3 that were submitted or filed yesterday that other
4 participants have not received the -- the disk of. The
5 Staff did receive a courtesy copy. That's probably
6 because the -- the Staff is generally deemed to be a party
7 to -- to all Commission proceedings as is the -- the
8 Office of Public Counsel.

9 The Staff hasn't looked at the disk. I don't
10 know if on the disk we will find work papers which,
11 traditionally, regarding items such as models we like to
12 see work papers.

13 So -- and the -- the new items are -- are not
14 limited to the -- the ICF model. I think Public Counsel
15 earlier today referred to the filing of Kansas City Power
16 & Light Company.

17 Amongst other things, there is a proposal in the
18 Kansas City Power & Light filing for pre-approval.
19 Various participants have seen that, I think, preapproval
20 language previously. It was in the Chapter 22 workshops.
21 It was not in the renewable energy standards workshops.

22 There's a very interesting section in there that
23 the Commissioners, in particular, amongst other
24 participants might find interesting. The Commission has
25 180 days to enter an order. If no order issues within

1 that time, the treatment proposed by the electric utility
2 in its application is deemed approved.

3 Well, that's just one of the items that appears
4 in the draft proposal that various participants are seeing
5 for the first time from Kansas City Power & Light Company.

6 At -- at -- at this point, with those
7 introductory comments, I'd like to ask Mark Oligschlaeger
8 to respond to Commissioner Gunn's "but for" question. Or
9 if Commissioner Gunn would like to ask his "but for"
10 question or any variation of that question or any question
11 related to that to -- to Mr. Oligschlaeger.

12 COMMISSIONER GUNN: Thank you. I knew I was
13 going to regret calling it that, and I already do right
14 now.

15 TESTIMONY OF MARK OLIGSCHLAEGER

16 COMMISSIONER GUNN: So the basic concept that
17 we've heard today is that there are basically two pots of
18 renewables that we might potentially be looking at, one
19 that is specifically designed to fulfill the percentage
20 mandates required under Prop C, and the others that would
21 be integrated regardless of any statutory mandate.

22 That would be -- just like adding a wind farm
23 would be treated the same as adding a -- a natural gas
24 plant or a -- or a new coal plant, and that that second
25 bucket of renewable resource would not be subject to a

1 price -- to the price cap because it wasn't directly
2 proposed to fulfill the renewable mandate.

3 So your only -- so the "but for" comes in there
4 is that you would -- the only the generation that would --
5 that would not have been introduced but for the renewable
6 mandate gets -- gets counted.

7 MR. OLIGSCHLAEGER: I would agree with that with
8 the -- perhaps one minor nuance.

9 COMMISSIONER GUNN: Okay.

10 MR. OLIGSCHLAEGER: I'm not sure I'm going to be
11 actually disagreeing with what anyone said before. They
12 -- you know, maybe we just didn't talk about it in enough
13 detail. Companies will have to introduce a certain level
14 of renewables to meet the standards --

15 COMMISSIONER GUNN: Right.

16 MR. OLIGSCHLAEGER: -- under this rule. And
17 for that purpose, I don't think it makes a difference
18 whether that is least -- the least cost option or what
19 I'll call in this context the non-economic additions
20 because it doesn't matter. They have to do it regardless
21 to meet the rule.

22 Where I think the second tier comes in is
23 they've met the rule. They have their 2 percent in 2011.
24 But it turns out that additional renewables are still
25 least cost and should still be added to their generation

1 portfolio even though it's not required under the rule.

2 It is those additional resources that we believe
3 should not be covered under this rule, should not be
4 subject to the 1 percent retail rate impact cap, should
5 not be subject to recovery in the RESRAM.

6 COMMISSIONER GUNN: So there's a condition. The
7 condition is you meet your requirements under the mandate?

8 MR. OLIGSCHLAEGER: Uh-huh.

9 COMMISSIONER GUNN: And with renewables. Those
10 were all counted first?

11 MR. OLIGSCHLAEGER: Right.

12 COMMISSIONER GUNN: And then once we get past
13 that threshold, then the -- then as long as you
14 demonstrate that it's a prudent least cost item to go into
15 your generation portfolio, it's treated -- it's treated
16 like any other generation, any other non-renewable
17 generation?

18 MR. OLIGSCHLAEGER: Yes.

19 COMMISSIONER GUNN: Okay. Okay. That's
20 helpful.

21 MR. OLIGSCHLAEGER: Okay. And there was one
22 additional item I wanted to address, and this has to do
23 with the comments submitted by Kansas City Power & Light.
24 I think on page 12 of Appendix A, their write-up or
25 highlights strike out version of the rules.

1 They present an alternative means by which
2 companies can conceivably recover their RES investment,
3 and that's not to use the RESRAM, but instead to defer the
4 cost of compliance into a regulatory asset in a subsequent
5 general rate case, receive recovery of that through an
6 amortization.

7 Two points. And the first point is I don't
8 think this is their intent based on the language. Staff
9 would note you shouldn't mix and match these approaches
10 with the same investment. In other words, you shouldn't
11 start out booking it to a regulatory asset, accruing FADC
12 and the next RESRAM include that in your RESRAM recovery.
13 They should be truly alternative for a given piece of
14 investment.

15 The second point I would make, and this is
16 probably the more important one, it's not referenced in
17 the rule. And it particularly comes in with a -- I think
18 they're seeking basically more or less guaranteed rate
19 treatment through an amortization over ten years by this
20 language.

21 It is our belief that the retail rate impact cap
22 would apply as much to recovery under this alternative
23 approach as it would under the RESRAM approach. So
24 whatever recovery they might be able to get in the general
25 rate case through an amortization should still be subject

1 to the 1 percent RRI cap.

2 COMMISSIONER GUNN: Okay. That's it for me.

3 MR. DOTTHEIM: And, lastly, if I could direct an
4 item or two to Mr. Taylor that was raised earlier today
5 respecting first size limitation for renewable energy
6 resources.

7 FURTHER TESTIMONY OF MICHAEL TAYLOR

8 MR. TAYLOR: Certain individuals have mentioned
9 this 500 watt lower limit for qualifying a solar system
10 for inclusion. That was inserted in the rule as a result
11 of conversations held during the workshops and -- and
12 other events, concern that people would go out and buy a
13 five watt solar cell at Wal-Mart and try to take credit
14 for it.

15 The 500 watts was arbitrarily chosen. It may be
16 too high. So Staff's position is, you know, that can be
17 changed. We're not supporting 500 watts over any other
18 minimum. And if this is a minimum, you know, I'm not sure
19 what the right number is.

20 Part of the concern was if you get a really
21 small system, by the time you did all the things you have
22 to do with the SRECs and the rebates, it's hardly worth
23 it. So that -- that was why that was in there. But we --
24 we don't have a strong position on that.

25 COMMISSIONER GUNN: Can I -- did you have a

1 question? Would the -- what I heard the primary concern
2 was is that when people start small --

3 MR. TAYLOR: Right.

4 COMMISSIONER GUNN: -- they want to be able to
5 scale out?

6 MR. TAYLOR: Yeah.

7 COMMISSIONER GUNN: So if you took away the
8 minimum, would it -- would it be -- would it be better to
9 insert a requirement that whatever -- if you don't have a
10 minimum that that particular system will be required to be
11 scaled with?

12 MR. TAYLOR: I don't know --

13 COMMISSIONER GUNN: Or to -- can we do that?

14 MR. TAYLOR: I assume we could. But it was
15 really -- this is another thing that I should mention.
16 The rule requires that the solar system be interconnected
17 with the utility company.

18 COMMISSIONER GUNN: Okay.

19 MR. TAYLOR: So that covers part of it right
20 there. If you want to spend the money for this small
21 system --

22 COMMISSIONER GUNN: Got it.

23 MR. TAYLOR: -- you're going to have to spend
24 some money to do the interconnection. And then there's a
25 break even point there.

1 COMMISSIONER GUNN: Okay. So there's a point it
2 doesn't make any economic sense --

3 MR. TAYLOR: To anybody.

4 COMMISSIONER GUNN: -- to buy this little one
5 and put it in?

6 MR. TAYLOR: Right.

7 COMMISSIONER GUNN: But if we take away the
8 minimum and they feel like they can hook it into the
9 system --

10 MR. TAYLOR: Right.

11 COMMISSIONER GUNN: -- since that requirement is
12 there, that might be okay?

13 MR. TAYLOR: Right.

14 COMMISSIONER GUNN: Okay.

15 MR. TAYLOR: And then one other thing that was
16 talked about this afternoon, Mr. Roseman was, I believe,
17 commenting on Staff comments, specifically, the comments
18 talking about, as he phrased it, REC purchases and using
19 that as a smoothing effect on the -- the rate impact and
20 things like that.

21 The Staff comment, I don't believe, talks about
22 REC purchases. The Staff comment was literally directed
23 at the three-year accumulation period as it's allowed by
24 the rule. In other words, a -- a REC has a three-year
25 lifetime.

1 So if I have too many RECs this year, I use some
2 of them next year. That will have a smoothing effect on
3 the rate impact. And, you know, if you -- if you build a
4 wind farm in 2012 and the next increment isn't until 2014,
5 you can accumulate RECs in 12 and 13. And we will see
6 that in the first compliance year. Utilities will have
7 accumulated three years worth of RECs if they've had a
8 facility in service during that period of time.

9 So Staff's comment was specifically regarding
10 that accumulation period and REC lifetime.

11 JUDGE DIPPELL: Thank you, Mr. Taylor.

12 MR. TAYLOR: Thank you.

13 JUDGE DIPPELL: Did you have any anything else?

14 MR. DOTTHEIM: Thank you for your -- no. Thank
15 you for your indulgence.

16 COMMISSIONER GUNN: Just a quick comment. I
17 wouldn't -- we haven't had a chance to read all the
18 comments either. So I wouldn't assume just because we ask
19 questions about it that we're forgetting what our
20 deliberations were.

21 We're under the same sort of restrictions that
22 everybody were with the amount of comments that were
23 coming in.

24 MR. DOTTHEIM: Yeah. And I didn't mean to imply
25 anything --

1 COMMISSIONER GUNN: I didn't think so.

2 MR. DOTTHEIM: -- by that.

3 COMMISSIONER GUNN: But your point is
4 well-taken. Your point is well-taken.

5 MR. DOTTHEIM: Because I have to shake my own
6 memory and check with other people to make sure or try to
7 make sure did we or did we not discuss a certain item?

8 COMMISSIONER GUNN: Right. Thanks, Steve.

9 JUDGE DIPPELL: Was there anyone else who wanted
10 to respond to any of the comments today that didn't have
11 an opportunity already to do so? Anyone else that has
12 additional comments? Yes, sir. Mr. Parker?

13 FURTHER TESTIMONY OF JASON PARKER

14 MR. PARKER: Thank you. I would like to just
15 speak briefly to the 500 watt minimum. The point raised
16 is exactly correct. There's a certain threshold below
17 which it just -- you're not going to be grid connected.

18 We could put a number to that today. That
19 number is basically about 180 watts. That could change in
20 the future. I -- I recommend that we simply let that
21 natural threshold assert itself, and that should work out
22 fine in my estimation.

23 JUDGE DIPPELL: Thank you. All right, then. It
24 looks like we have finally come to a conclusion. Thank
25 you all for your patience and participation today.

1 And I will apologize. I believe it was more of
2 an oversight in setting the comment period right up
3 against the hearing in this particular rule that probably
4 should have had some lead time there given the complexity,
5 and -- and we will definitely work on that. We've already
6 been discussing that before today.

7 So I appreciate your participation. And we are
8 adjourned. We will go off the record.

9 (The proceedings were concluded at 6:10 p.m. on
10 April 6, 2010.)

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1 REPORTER'S CERTIFICATE

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(Original exhibits were retained by the Missouri
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