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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

December 2, 2002

Jefferson City, Missouri

Volume 3

In the Matter of the Tariff Filing of)Case No. GT-2003-0117
Laclede Gas Company to Implement an)Tariff No.
Experimental Low Income Assistance)JG-2003-0396
Program Called Catch-Up/Keep-Up.)

BEFORE:

VICKY RUTH, Presiding,
SENIOR REGULATORY LAW JUDGE
CONNIE MURRAY,
SHEILA LUMPE,
STEVE GAW,
BRYAN FORBIS,
COMMISSIONERS.

REPORTED BY:
TRACY L. CAVE, CSR
ASSOCIATED COURT REPORTERS

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FOR: Staff of the Missouri Public Service Commission

1 JUDGE RUTH: My name is Vicky Ruth, and I'm
2 the Regulatory Law Judge assigned to this case. Today is
3 Monday, December 2nd, 2002, it's almost 8:45. And we are
4 here for a hearing in GT-2003-0117 in the matter of the
5 tariff filing of Laclede Gas Company to implement an
6 experimental low-income assistance program called
7 Catch-Up/Keep-Up.

8 I'd like to begin with entries of appearances.
9 Laclede.

10 MR. PENDERGAST: Thank you, your Honor.
11 Michael C. Pendergast, Rick Zucker and James Swearengen
12 appearing on behalf of Laclede Gas Company. My business
13 address is 720 Olive Street, St. Louis, Missouri 63101.

14 JUDGE RUTH: Thank you.
15 Staff.

16 MS. SHEMWELL: Good morning. Thank you. Tim
17 Schwarz -- Thomas R. Schwarz, Jr., David Meyer and Lera
18 Shemwell representing the Staff of the Commission, Post
19 Office Box 360, Jefferson City, Missouri 65102.

20 JUDGE RUTH: Thank you.
21 Public Counsel.

22 MR. COFFMAN: Thanks. John B. Coffman and
23 Douglas E. Micheel for the Office of the Public Counsel,
24 P.O. Box 7800, Jefferson City, Missouri 65102.

25 JUDGE RUTH: Thank you.

1 And Department of Natural Resources.

2 MR. MOLTENI: Ronald Molteni, assistant
3 Attorney General on behalf of the Missouri Department of
4 Natural Resources. My office address is P.O. Box 899,
5 Jefferson City, Missouri 65102.

6 JUDGE RUTH: Thank you.

7 Today's hearing procedure will be starting
8 with opening statements. Laclede will start, followed by
9 Staff, then the Office of Public Counsel and DNR. We'll
10 move to direct testimony, immediately followed by rebuttal
11 and then we'll move on to the cross-examination.

12 Some of the first witnesses I may have to
13 recall for some Commission questions later this afternoon,
14 so please keep all of your witnesses available unless you
15 specifically ask to have a witness excused and we address
16 that at that time.

17 The order of cross-examination will be as
18 noted by the parties in your witness list filed earlier.
19 And I'll remind the parties that the procedural schedule
20 currently directs all the parties to file proposed Findings
21 of Facts and Conclusions of Law and briefs by December 9,
22 2002. The procedural schedule also provides that the
23 transcript is due December 4th.

24 The parties have indicated that it may be
25 necessary to have some additional time for the hearing and

1 if that's the case, we'll amend the procedural schedule at
2 that time and I'll allow you to give some input if you feel
3 the need.

4 Are there any other preliminary matters that
5 need to be addressed at this time?

6 Okay. Seeing none, we're going to take about
7 a two-minute recess while I inform the Commissioners that
8 we're ready for opening statements.

9 MS. SHEMWELL: Do we want to mark exhibits?

10 JUDGE RUTH: I'm sorry. Yes. Hold on.

11 MR. PENDERGAST: And another --

12 JUDGE RUTH: I can't hear you, Mr. Pendergast.
13 I'm sorry.

14 MR. PENDERGAST: One matter. We did file for
15 a standard protective order the other day. There was some
16 testimony that was filed that addressed some highly
17 confidential material that had been provided, and I think it
18 would be helpful for the course of these proceedings if we
19 could get a ruling on that, your Honor.

20 JUDGE RUTH: Can you remind me of the date
21 that was filed?

22 MR. PENDERGAST: I believe it was the
23 Wednesday before Thanksgiving, so it was relatively
24 recently.

25 JUDGE RUTH: Have all the parties had an

1 opportunity to see the protective order, or do you have any
2 questions or objections to it?

3 MR. MOLTENI: No, ma'am. We haven't seen the
4 protective order. And I doubt that we'll have objections to
5 it other than the fact that I don't know in
6 cross-examination what Laclede might be deeming as highly
7 confidential.

8 MR. PENDERGAST: And, your Honor, I don't
9 believe it would be our intention probably to deem anything
10 to be highly confidential other than what parties have
11 already marked as highly confidential in their testimony.

12 MS. SHEMWELL: Is David Sommerer the only one?

13 MR. PENDERGAST: I believe that's correct.

14 MS. SHEMWELL: So Dave Sommerer may be the
15 only one. I don't think we have any problem with -- I have
16 not read it because I've been out of town, but with the
17 protective order.

18 JUDGE RUTH: You've not read the protective
19 order or the request at this time?

20 MS. SHEMWELL: That's right. I've been out of
21 town.

22 JUDGE RUTH: I'm going to defer ruling on the
23 protective order at this time. Hopefully, at the first
24 break all the parties can get a copy of the request for the
25 protective order, review it and I'll rule on it after our

1 first break. I don't think that --

2 MS. SHEMWELL: We won't get to Mr. Sommerer.

3 JUDGE RUTH: Yeah. We won't get to that

4 witness before we have a chance to rule on it.

5 Okay, we're going to go off the record for

6 just two minutes. I'd appreciate it if you'd stay in the

7 room or stay close by, because I expect it to be a very

8 short break.

9 (A RECESS WAS TAKEN.)

10 (EXHIBIT NOS. 1 THROUGH 12 WERE MARKED FOR

11 IDENTIFICATION.)

12 JUDGE RUTH: Laclede, I'll ask you to go ahead

13 and move up here and start your opening statement.

14 MR. PENDERGAST: Good morning.

15 JUDGE RUTH: Okay. You may proceed.

16 MR. PENDERGAST: If it would please the

17 Commission. Good morning.

18 We are here today to address Laclede's

19 proposal to implement what we believe is an innovative

20 low-income assistance and incentive program for the

21 company's most vulnerable customers.

22 As the name suggests, the Catch-Up/Keep-Up

23 program is designed to give customers who are struggling to

24 make ends meet a meaningful opportunity to catch up and then

25 ultimately keep up on their bills for natural gas service.

1 And like other low-income programs that have
2 been approved by the Commission, the Catch-Up/Keep-Up
3 program seeks to provide this opportunity in a way that is
4 calculated to benefit -- and like other low-income programs
5 that have been approved by the Commission, the
6 Catch-Up/Keep-Up program seeks to provide this opportunity
7 in a way that's calculated to benefit both those customers
8 who are participating in the program as well as those
9 customers who are not.

10 For those low-income customers who are
11 eligible to participate, the program offers them an
12 opportunity to initiate or retain utility service at an
13 overall charge that is significantly more affordable and in
14 line with their very limited incomes that in many cases
15 average around \$600 to \$700 per month.

16 It does so by computing the bill on a 12-month
17 levelized basis with arrearages excluded making that
18 calculation and with any financial assistance received from
19 other sources used to reduce this levelized payment amount
20 by an additional increment.

21 In addition, the program gives customers an
22 opportunity to work off those arrearages over time so that
23 in the future they will have an opportunity to have that
24 particular albatross removed from around their necks and
25 perhaps for the first time have a real chance to break the

1 cycle of missed payments and prolonged service interruptions
2 that they've experienced in the past.

3 However, while the program is designed to give
4 customers who need it, a hand up, it does not simply provide
5 them with a handout. In exchange for receiving the more
6 affordable rate and the grants that are required to work off
7 their arrearages, the customers must agree, among other
8 things, to seek energy assistance from governmental sources
9 for which they may be eligible, agree to review and observe
10 no-cost conservation measures that they can implement on
11 their own and perhaps most significantly, demonstrate a
12 commitment to making timely and complete payments on their
13 reduced energy bills.

14 As they do so, a portion of their arrearages
15 will be paid down each quarter through the funding
16 mechanism -- pipeline discount funding mechanism that I'll
17 discuss in a moment. As a result, customers have a real
18 financial incentive to improve their payment performance.

19 And the good news is that experience in other
20 states has shown that these kind of programs do indeed
21 produce benefits for all customers in the long run by
22 reducing uncollectible, disconnection and collection
23 expenses below the levels that would have otherwise been
24 incurred in the absence of such programs.

25 The program also provides an additional

1 incentive to reduce costs for all customers by using a
2 funding source that depends on the company's successful
3 efforts to negotiate payment obligations with its
4 out-of-state pipeline suppliers that are below the maximum
5 rates for storage and transportation services that the
6 Federal Energy Regulatory Commission has deemed to be just
7 and reasonable.

8 In our view, this represents an enhancement to
9 other low-income programs that have been approved by the
10 Commission in that rather than simply increasing the base
11 rates of all other customers in order to go ahead and
12 provide funding for the program, the Catch-Up/Keep-Up
13 program provides an incentive to generate that funding by
14 reducing, not increasing, an element of the company's cost
15 of service.

16 In short, the program provides both the
17 company and its most vulnerable customers with incentives to
18 take actions that are reasonably calculated to benefit all
19 customers.

20 Notably, there's little or no dispute among
21 the parties to this case regarding the need for a low-income
22 assistance program. And for good reason. It's anticipated
23 that the level of federal funding available to Missouri this
24 winter under the Low-Income Energy Assistance
25 Program -- and you probably know that as LIHEAP -- will be

1 some \$9 million less than what was received last winter and
2 over \$19 million or about 40 percent less than what was
3 received for the winter of 2000/2001.

4 In addition, we believe it's very unlikely
5 that the state of Missouri itself will be in a position to
6 provide any meaningful energy assistance this winter under
7 the state's UtiliCare program given the budgetary
8 constraints that are being faced by the state.

9 At the same time, many of the company's
10 customers continue to experience difficulty in paying their
11 bills as evidenced by the fact that as of September 30th,
12 2002 there were over 110,000 residential customers on
13 Laclede's system with total arrearages of approximately
14 18.5 million.

15 Even more significant, about 21,000 of those
16 customers' accounts with arrearages of nearly 10 million or
17 over \$450 per customer on average had been finaled, meaning
18 that those customers were not currently receiving gas
19 service at that time.

20 One can cite facts and figures all day long,
21 however, and they can't begin to bring the point home
22 regarding the need for this program with the same force and
23 conviction as those people who testified at the local public
24 hearing that was held in this case.

25 These included people who struggle every day

1 to make ends meet on absurdly low incomes, people who had
2 disabilities of their own or who were caring for others with
3 disabilities under very trying circumstances, people who
4 were elderly and living on fixed incomes and people who had
5 experienced both repeated and prolonged interruptions of
6 service.

7 And there were people like Jackie Hutchinson,
8 a young lady from Legal Services, who work every day to help
9 these people cope with what, in many cases, appear to be a
10 hopeless situation.

11 Each in their own way told you how the
12 Catch-Up/Keep-Up program could be instrumental in helping
13 them break the cycle of service interruptions and give them
14 a realistic chance of becoming good paying customers.

15 Fortunately, with the help of our customer
16 service people and the agencies, we were able to find some
17 energy assistance and ways to keep -- to restore service for
18 these people who testified, but there are thousands more
19 like them in the same kind of situation. And the question
20 before you today is whether we were actually going to do
21 something meaningful to help these customers as well.

22 Laclede has attempted to do whatever it
23 reasonably can to make that a reality. We began by
24 developing a program that has its roots in low-income grant
25 programs and incentive mechanisms that have previously been

1 approved by the Commission. And then we made a number of
2 significant revisions to the program since it was first
3 filed in an effort to address the concerns and incorporate
4 the suggestions of other parties.

5 These include, among others, the elimination
6 of the company's right to retain 10 percent of the pipeline
7 discounts for its own use, the imposition of an overall cap
8 on program funding and the establishment of escrow and
9 refund safeguards.

10 We also indicated in our statement of
11 positions our willingness to fully or partially implement a
12 number of the program provisions that were proposed by the
13 Office of Public Counsel and the Staff in their Direct
14 Testimony.

15 Specifically, we indicated a willingness to
16 incorporate Public Counsel's and Staff's recommendation that
17 there be a specific termination date for the program,
18 although we think it should be one that's further out in
19 time, that there should be three full winters of experience
20 under which the program should be tested.

21 We indicated our willingness to adopt Public
22 Counsel's proposal of administrative cost for outside third
23 parties be limited to 5 percent of the program's funding
24 cap; Public Counsel's proposal that the average arrearage
25 reduction per quarter be equal or lesser of one-fourth of

1 the customer's arrearages or \$375; Public Counsel's proposal
2 to add back language, which we had in our initial tariff
3 filing and during the course of discussions took out but are
4 certainly willing to put back in making it very clear that
5 any reductions in the company's uncollectible expense
6 arising from the program will, in fact, be reflected in the
7 company's cost of service in its next rate case.

8 Public Counsel's proposal to lower the
9 eligibility threshold for the program from 175 percent of
10 the poverty level to something lower, although we believe
11 that lower amount should be 150 percent for the first year,
12 not 125, and then go up to 175 again after the first year of
13 the program.

14 Public Counsel's recommendations to observe
15 certain additional record-keeping requirements as reflected
16 at pages 13 and 14 of Barbara Meisenheimer's testimony, a
17 revision that we believe also is responsive to certain
18 record-keeping recommendations made by the Staff.

19 And Public Counsel's proposal that \$300,000 in
20 program funding be devoted to supplementing the company's
21 existing low-income weatherization program an agreement that
22 will hopefully serve to address, at least partially, the
23 proposals that were made by DNR in this case.

24 With these and other changes, the company
25 believes the program represents a well designed and

1 carefully constructed initiative for addressing the needs of
2 its low-income customers while protecting the interests of
3 all of its customers. And I want to commend the Office of
4 Public Counsel in particular for playing such a constructive
5 role in suggesting changes to the program that would make it
6 acceptable to it.

7 Obviously, though, we haven't worked out all
8 of our differences and that's why we're here today. There
9 is the issue of funding, including both the amount of the
10 funding and source of the funding.

11 As to the amount, given the magnitude of the
12 need that has been identified for additional energy
13 assistance, Laclede believes that the proposed \$6 million
14 funding cap for the program is reasonable and proportionate
15 to that need.

16 In the event the Commission is inclined,
17 however, to consider a lower funding cap, as others have
18 recommended, Laclede believes that it should at least be
19 equal to the amount of program funding that would have been
20 produced before the company proposed to supplement that
21 funding with its -- with a 10 percent share of pipeline
22 discounts that it had originally proposed to retain for
23 itself. That would result in an overall cap of
24 approximately 4.6 million.

25 As to the source of the funding, Laclede

1 believes the program must and practically can be funded only
2 through the use of the 30 percent of the pipeline discount
3 savings achieved by the company.

4 The Commission has previously permitted gas
5 utilities in Missouri to retain for their own use a
6 percentage ranging from 10 to 30 percent of all or a portion
7 of the discounts they negotiate with their pipeline
8 suppliers for transportation and storage service.

9 The fact that such discounts would now be used
10 to assist low-income customers under the company's program
11 rather than retained for the company for its own profit only
12 adds to the reasonableness and propriety of a mechanism that
13 has previously been used by the Commission for a number of
14 utilities.

15 We also believe that our funding proposal is
16 the only one that's been presented in this proceeding since
17 the AAO proposed by Staff does not provide any current
18 funding whatsoever nor any increase in the cash requirements
19 needed to fund the program nor any assurance of adequate
20 funding in the future. In fact, as demonstrated in the
21 Direct Testimony of Laclede, Mr. Fallert, the AAO process
22 usually results in an under-recovery of costs over the long
23 term.

24 And, finally, I would like to just say a word
25 about what the Staff seems to have primarily focused on in

1 its testimony; namely, the possibility that the company
2 could receive some kind of financial benefit because the
3 Catch-Up/Keep-Up program may make it more likely that the
4 company will actually be paid for the services that we have
5 provided.

6 We don't believe it's a novel concept that
7 being compensated for the services that you've actually
8 provided is an appropriate thing. And we're, quite frankly,
9 a little bit surprised about all this focus about these
10 indirect benefits that the company might receive.

11 As this Commission well knows, the Commission
12 all the time and in numerous occasions in the past has made
13 changes in gas pipeline safety requirements, changes in
14 billing requirements, sometimes the Commission's assessment
15 to utilities increase, there have been record-keeping
16 requirements in conjunction with depreciation rules that
17 have been passed in the Commission before, there have been
18 changes in affiliate transaction rules that have increased
19 costs for utilities.

20 And I have yet to hear somebody from Staff
21 when these have cost impacts on utilities in between rate
22 cases, to advise the Commission that it can't take those
23 kind of actions because it would have a detrimental impact
24 on the utility.

25 And I don't understand why, if that's the

1 case, that we should have a double standard that says when
2 something may have a beneficial impact on the company, then
3 suddenly it's something that shouldn't be done. I think
4 this is particularly true in light of the fact that there
5 are already regulatory mechanisms in place that ensure that
6 if there is any benefit to the company, those benefits will
7 go to the customers as well.

8 They'll either be taken into account when the
9 Commission, if we assume an ongoing program, establishes a
10 bad debt level in a future case and that those are based on
11 averages which would reflect any impact that the program
12 would have on bad debts, as well as the fact that we have a
13 mechanism in our case right now that was designed to
14 implement the terms of the Commission's Cold Weather
15 Emergency Amendments. And under those, we keep track of all
16 customers that came on the system and what their bad debts
17 were as a result of that particular amendment.

18 And to the extent that this program helps
19 those customers to go ahead and pay their bad debts, that
20 will be filtered through that tracking mechanism and, once
21 again, all of our other customers will receive the benefit
22 of it.

23 In short, every last dollar of the 30 percent
24 share pipeline discounts would be used to fund and
25 administer the program and, therefore, go in their entirety

1 to benefiting customers. Any potential benefit to Laclede
2 would be an indirect one.

3 Laclede hopes that it will, in fact, result in
4 benefits, at least these indirect ones to the company,
5 because it will only do so if its customers are also
6 benefiting.

7 In Laclede's view, the program's potential for
8 producing this kind of win/win/win result under which all
9 customers would be benefited generally, low-income customers
10 benefited specifically, and Laclede perhaps benefited
11 indirectly should be recognized as a good public policy
12 outcome that further enhances the program's attractiveness.
13 Thank you very much.

14 JUDGE RUTH: Thank you.

15 Staff.

16 MS. SHEMWELL: Good morning. May it please
17 the Commission.

18 First, let me note that Staff's very concerned
19 with the energy burden on low-income customers and certainly
20 recognizes that there's a need for assistance for low-income
21 customers at this time. We just aren't sure that this
22 program will actually work. And, frankly, nobody can be
23 sure that this program will actually work.

24 We put up as an example of a program that we
25 think will work as MGE's program. We certainly feel,

1 however, that this program is worth a try to see if it
2 actually assists some low-income customers in becoming
3 regular paying customers.

4 No one knows if this will actually work
5 because unlike weatherization, which is a more permanent
6 fix, this program depends on changing the behavior of
7 customers who, frankly, over time have developed certain
8 behaviors as a response to their limited resources.

9 The program assumes that if arrearages are
10 forgiven, customers will have a greater ability to pay their
11 gas bills regularly, even though they haven't been able to
12 do so in the past.

13 And I would point out that in the last two
14 years, rates have increased by \$31 million. And we simply
15 can't get past the fact that this program would increase all
16 residential customers' rates by an additional 6 million.

17 The positive, that customers don't have to pay
18 as much to get back on, is also the potential negative in
19 that if customers get back on without paying any of their
20 arrearages and then are unable to take advantage of the
21 program, ut could have the unintended consequence of
22 actually increasing customers' arrearages so that many of
23 those low-income customers could actually owe more.

24 Certainly we want to see people get back on
25 and have gas service and we encourage the Commission to look

1 at ways to do that. Staff's concern, as we expressed in our
2 statement of position on the issues and through our
3 testimony, is that the theory behind this program just may
4 not work.

5 Staff recognizes that there is definitely a
6 need to reduce the energy burden on low-income customers.
7 We tried to work with Laclede to come up with a program that
8 would do that. And we made a lot of suggestions, they took
9 some of them, they took a lot of OPC's suggestions. But I
10 would point out unless a tariff was filed last week, I don't
11 think most of these changes are in the current tariff on
12 file. I was out of town last week, but I don't think that
13 many of the things that Mr. Pendergast listed are in the
14 current tariffs that are on file, those changes.

15 Despite hours of negotiation and discussion,
16 what Staff could not agree on was the method and level of
17 funding. It's not the program that we disagree with
18 necessarily, although we have concerns that it will work,
19 but it's the method and level of funding.

20 Again, we can't get past the fact that all
21 residential customers' rates are going to go up by
22 \$6 million. And Laclede is really not required to obtain
23 any greater discounts in order to take that \$6 million.
24 Currently customers get 100 percent of the discount. Now
25 they're going to be charged an additional 6 million above

1 Laclede's costs for gas transportation to fund this program.

2 Mr. Pendergast mentioned the people that
3 appeared at the public hearing, but my understanding is they
4 favored the program until they found out how it was going to
5 be funded and then their approval of the program dropped
6 significantly, that there was a definite shift in what
7 people thought about the program when they realized how it
8 was to be funded.

9 Staff cannot agree with \$6 million as a
10 starting point. And I think that 4.6 million is probably
11 too high because we don't know how many people are going to
12 be able to take advantage of this. No one can know until
13 the program has started and been in process for a while how
14 it's going to work, because, again, it's dependent upon
15 changing customers' behavior.

16 And we don't know if the incentive is going to
17 be great enough for someone who makes \$700 a month -- \$700 a
18 month, how are they going to pay their gas bill in August
19 when they have other bills? Are they going to be able to
20 and willing with an arrearage and forgiveness program to do
21 that?

22 So the question then becomes, who should pay
23 to test the theory that behavior of low-income customers
24 will change as Laclede predicts and the program will become
25 cost effective?

1 Certainly Staff would agree with including
2 this program in the cost of service if it were cost
3 effective. And we look at that in terms of the
4 weatherization program, which has been shown to actually
5 save I think it's over \$3 for every dollar spent. That's
6 certainly a cost effective program.

7 Let me note that this program probably will
8 assist some customers, but we don't think it's the most
9 vulnerable. It will probably assist those customers who
10 have gotten behind for some reason, but could normally
11 afford to pay. But someone making \$600 a month, our concern
12 is that it won't benefit them.

13 If the Commission believes that the theory is
14 worthy of further study to determine if the program works,
15 and Staff certainly believes that it is, the Commission can
16 approve the program on an experimental basis so that it can
17 be implemented to see if it is effective in assisting some
18 low-income customers or perhaps all as well as whether or
19 not it's cost effective. Again, the question is funding.
20 Who pays?

21 Staff proposes that the Commission approve the
22 program and grant Laclede an AAO as a fair and reasonable
23 way to fund the program for the following reasons. We think
24 it's the win/win that Laclede said it hopes to achieve and
25 that this is fair to everyone.

1 It's fair to customers because they won't pay
2 for it until it's been proven to be effective. Laclede
3 designed and proposed this program, so that the risk of
4 testing the theory should be on Laclede. In the MGE
5 program, OPC proposed and designed that program. The risk
6 was on their client, the customers. In this case, Laclede
7 proposed the program.

8 It's fair to low-income customers because they
9 will not have a rate increase on top of the other recent
10 rate increases until they've had an advantage to take -- an
11 opportunity to take advantage of the program. And if it
12 proves effective, then these customers can develop a regular
13 habit of paying and withstand the rate increase when this
14 program, if it works, is included in the cost of service.

15 It's also fair to Laclede for a number of
16 reasons. It allows them to institute a program immediately
17 to assist their most vulnerable, when they've said it's very
18 much needed. Laclede has just gotten their weather rate
19 design that will reduce their earnings volatility so that
20 they should be stronger financially.

21 If the program works as Laclede suggests and
22 testifies that it will, then their costs will be reduced
23 which will increase their earnings. The cost of bad debt
24 was included in the last rate case at approximately
25 8 million. If their bad debt is reduced, then that

1 8 million -- that portion of the 8 million then will go to
2 their bottom line.

3 If Laclede reduces the cost of reconnecting
4 and disconnecting customers -- those costs are all included
5 in the cost of service. So if it reduces those costs, then
6 any savings will go directly to their bottom line. And
7 Laclede has said that these are the benefits that will
8 result from the program. So Laclede will benefit from
9 those. All prudently incurred costs can be recovered under
10 an AAO.

11 It's also fair that initially Laclede bear the
12 risk because as a designer and proponent of the program, it
13 should be the one to test it. It was a choice made
14 deliberately by Laclede to file this and pursue it outside
15 of a rate case. We've just finished a rate case. They
16 initially filed this in July. They could have included it
17 in the rate case.

18 It's also fair to the Commission to do it this
19 way, because it does not have to choose between rejecting a
20 low-income assistance program or approving funding that
21 Staff would suggest is unlawful. If it's done outside of a
22 rate case, it could be single-issue rate-making.

23 The tariff has not been filed as a GSIP. So
24 if the Commission approves it as a GSIP, it really guts the
25 theory behind GSIPs that a company should only share when

1 they have achieved incremental benefits for customers.

2 It's fair to other LDCs because it will not
3 cause -- bring into question the validity of the ACA/PGA
4 process. That process was determined to be lawful because
5 it only included gas costs. And including this cost in the
6 PGA/ACA process is a margin cost and it should not be
7 included in that process and it could call in effect the
8 lawfulness of that process.

9 It's fair to Office of Public Counsel because
10 they're interested in studying these kinds of programs. And
11 Laclede would need to keep records to prove the
12 effectiveness of the program. Also, the Public Counsel
13 could study them compared to the program that they propose,
14 the MGE program, and see which approach is most effective or
15 if some combined approach is effective.

16 So you have to wonder why Laclede is so
17 opposed to an AAO. And Staff can only think it's because
18 they don't know if this program is going to work either.
19 Nobody knows. You can't know. They've described it as
20 innovative. Again, Staff thinks it will help some people,
21 but we're not sure how many.

22 Many of the factors involved in whether or not
23 it will help people are certainly beyond anyone's control,
24 such as the weather. If you have a \$600 a month income and
25 you have any little emergency, it's going to affect your

1 ability to pay discretionary bills.

2 In suggesting that AAO solution to the funding
3 and to the legal issues raised when Laclede filed this
4 tariff outside of a rate case, Staff has attempted to find a
5 solution on which we can all stand and say we acted in the
6 public interest. Thank you.

7 JUDGE RUTH: Public Counsel.

8 MR. COFFMAN: Thank you. Good morning. May
9 it please the Commission.

10 I would like to stand here before you today
11 and tell you that the Commission should approve an
12 innovative experimental arrearage reduction program or
13 arrearage forgiveness program, but unfortunately, I can't do
14 that.

15 I would like to see how some arrearage related
16 program would work in Missouri. In fact, Public Counsel
17 proposed an experiment with what was called arrearage
18 forgiveness as part of a more comprehensive program several
19 years ago. It was combined with low-income rates and with
20 weatherization and it was not approved. Significantly, that
21 was proposed in the context of a rate case.

22 The funding mechanism that Laclede has put
23 together in this proposed Catch-Up/Keep-Up plan is an unfair
24 and unreasonable scheme to raise rates outside of a rate
25 case and through a mechanism that wasn't designed for such a

1 thing and should be rejected.

2 The plan would require consumers to forego up
3 to \$6 million in discounts, approximately \$10 a year,
4 prevent them from simultaneously receiving corresponding
5 benefits. And the level of cost, the method of funding
6 would not be addressed at the same time as those potential
7 benefits and what that would mean for rates would be
8 analyzed like you can do in a rate case when all relevant
9 factors are considered.

10 The prohibition against single-issue
11 rate-making I know is discussed all the time. I'm going to
12 remind you again that this is one of the most important
13 consumer safeguards we have in the area of rate-making.

14 And there's an exception to this prohibition
15 against single-issue rate-making that the courts here in
16 Missouri have recognized and that is for the PGA/ACA, the
17 purchased gas adjustment/actual cost adjustment process.

18 This exception is premised on the theory that
19 this process deals exclusively with gas costs, the wholesale
20 cost of gas and some storage costs. And the theory is that
21 this is the actual product that is passed through to the
22 end-user and consumed by the customer.

23 The issues that we're talking about here
24 today, uncollectibles, bad debts, write-offs, collection
25 costs, these are not gas costs. They're undeniably non-gas

1 costs. They do not legally belong in the PGA/ACA process.

2 The Catch-Up/Keep-Up proposal is further
3 unreasonable and inequitable in ways that are detailed in
4 the testimony of Staff Witnesses Imhoff, Cassidy and
5 Rackers. It would allow for potentially double recovery of
6 write-offs, excess funds would be carried over from one year
7 to another and would not be trued up through the ACA
8 process.

9 Firm sales customers would bear more than
10 their fair share of costs while firm transportation
11 customers could benefit without contributing to the cost of
12 the program. And, again, Laclede's shareholders are not
13 putting up additional funds on their own.

14 Laclede would reap significant financial
15 benefits from this plan at the expense of forgone discounts
16 to ratepayers and a significant amount of forgone discounts.
17 But unlike other recent low-income programs that have been
18 agreed upon and approved by the Commission here recently, no
19 shareholder funds would be directed. None of it would be
20 below the line, so to say.

21 Public Counsel has been fairly amenable to
22 using experiments to test new programs, particularly in this
23 area -- very difficult area of low-income energy needs, but
24 almost always through a rate case and not through the PGA
25 process.

1 When the original Catch-Up/Keep-Up plan was
2 filed, settlement talks had begun in the Laclede rate case.
3 Public Counsel urged Laclede to consider making that a part
4 of its ongoing settlement talks, but that did not happen.

5 Now, if the Commission does decide that it
6 wants to approve an arrearage program that would be
7 implemented through the PGA process, Public Counsel has gone
8 ahead and offered some suggestions for improving the
9 proposal, although those would not be our preference. The
10 suggestions do not obviate our objections based on what we
11 believe is an unfair funding scheme, but they do somewhat
12 mitigate the harms we perceive.

13 Foremost, perhaps, is that any experiment
14 should have a definite end date. If you perform an
15 experiment, there should be a time when it's over and a time
16 when it's evaluated and certain terms by which you would
17 evaluate it. We believe that should be in a rate case.

18 If you're going to make a decision that will
19 raise rates here this month, at least correspond the
20 termination or the sunset of this program to the next
21 opportunity to review Laclede's rates.

22 I note that in Laclede's position statements,
23 it has proposed phase-out dates that extend beyond its next
24 expected rate case into the year 2006. Again, we believe
25 that the Commission should be given an opportunity to

1 evaluate it. Hopefully, we would have two winters of
2 experience and would then be able to consider all relevant
3 factors in that next rate case.

4 If the Commission approves a single-issue
5 funding mechanism, again, it should be in the rate case when
6 all interrelated factors can be properly analyzed so that
7 the corresponding benefits can be addressed at the very same
8 time that the cost to ratepayers of implementing this
9 program can be addressed. And we believe that ratepayers at
10 least deserve that.

11 Second most important concept I think is the
12 level of funding. We believe that the proposed scope of
13 this experiment should be reduced. If an experiment of this
14 sort is to be initiated prior to the study of the potential
15 benefits and before ratepayers can be granted any
16 corresponding benefits, the scope of the program should be
17 significantly reduced.

18 Our analysis of the data relating to
19 low-income customers' arrearages and the experiences that
20 the company's had in recent years do not justify a program
21 that would cost ratepayers up to \$6 million.

22 The data provided by Laclede would suggest
23 that a level of 7 percent of its residential consumers or
24 low-income consumers is a reasonable lower bound for
25 potential participation. Average arrearage data suggests

1 that an annual offset would be about \$200.

2 Doing the math would suggest that about
3 \$2.6 million for arrearage reduction would be a more
4 realistic level of funding then the \$6 million figure.
5 Assuming a more realistic and prudent level of
6 administrative costs of around \$129,000 and adding a
7 weatherization component of \$300,000, the program would be
8 funded at approximately \$3 million, one half of the proposed
9 level.

10 If the Commission again wants to go down this
11 Catch-Up/Keep-Up path, there are a variety of other program
12 changes that have been suggested and are contained in the
13 testimony of Public Counsel Witness Barb Meisenheimer.

14 Some of these changes Laclede has recognized
15 that it would make, some of them -- some of its statements
16 about what it would agree I guess still need some
17 clarification, but we do believe there's still a
18 significance difference between the scope and terms of what
19 an experiment should be along these lines and, again, we
20 oppose implementing through the PGA/ACA process. Thank you.

21 JUDGE RUTH: Thank you.

22 Department of Natural Resources.

23 MR. MOLTENI: Good morning. The Missouri
24 Department of Natural Resources Energy Center intervened in
25 this case to share with the Commission some of its insights

1 on the benefits of a true weatherization program.

2 DNR is not here to berate Laclede for
3 proposing low-income assistance. We don't contest any of
4 the procedural issues that I think Office of Public Counsel
5 has responsibly raised in this. And DNR is not going to
6 address the effect that Catch-Up/Keep-Up has on Laclede's
7 bottom line and ignores really who's paying for
8 Catch-Up/Keep-Up.

9 What DNR is concerned with is that Laclede's
10 Catch-Up/Keep-Up proposal will be confused with a real
11 weatherization plan for low-income customers and that it
12 will create a precedent under the guise of weatherization
13 that actually moves away from true weatherization programs
14 simply to a program that's simply designed to reduce bad
15 debt.

16 Catch-Up/Keep-Up is not a weatherization plan
17 and comparing it to one of the established weatherization
18 plans is confusing and, I give Laclede the benefit of the
19 doubt, unintentionally misleading.

20 For example, Catch-Up/Keep-Up allocates
21 \$5.4 million to arrearages, which means that \$600,000 of
22 that program goes to weatherization, education, bill
23 counseling, monitoring or other activities. And I say
24 weatherization as what Laclede calls weatherization.

25 But Catch-Up/Keep-Up contemplates

1 weatherization as a simple list of no-cost practices
2 designed to reduce energy consumption. And while those
3 practices might have a marginal benefit, there's no way to
4 accurately document those benefits. And the list of no-cost
5 energy practices is not consistent with any established and
6 proven weatherization program.

7 If it is Laclede's intent to help its needier
8 cus-- it's neediest customers, in fact, there is a better
9 mousetrap than Catch-Up/Clean-Up -- I'm sorry --
10 Catch-Up/Keep-Up. Laclede is ignoring a greater opportunity
11 to achieve greater operational efficiencies.

12 A substantive weatherization program that's
13 targeted at Laclede's neediest customers will have
14 substantive long-term benefits for all stakeholders. And
15 this Commission has seen good low-income weatherization
16 programs that reap tangible benefits for low-income
17 customers immediately and that benefit LDCs and their
18 customers in the long run. The federal weatherization
19 program is an example, MGE, Ameren's and even Laclede's own
20 weatherization program achieved those ends.

21 DNR is here to tell the Commission, its Staff,
22 OPC and, of course, Laclede that it stands ready, willing
23 and able to help all the parties here design such a program.

24 I encourage you to ask Ron Wyse, DNR's witness
25 in this case, questions about the benefits of weatherization

1 and the differences between low-cost/no-cost weatherization
2 practices and actual meaningful weatherization measures.
3 Thank you.

4 JUDGE RUTH: Okay. Laclede, would you please
5 call your first witness.

6 MR. PENDERGAST: At this time we would call
7 John Moten to the stand.

8 JUDGE RUTH: Mr. Moten, would you please raise
9 your right hand.

10 (Witness sworn.)

11 JUDGE RUTH: Thank you. Please be seated.
12 Would you state your full name and position
13 first.

14 THE WITNESS: Sure. John Moten, M-o-t-e-n,
15 Jr., senior vice president, operations and marketing.

16 JUDGE RUTH: Okay. Laclede, I'll let you
17 proceed with direct and then we'll have rebuttal.

18 MR. PENDERGAST: Would you prefer that we do
19 that at the podium?

20 JUDGE RUTH: Yes, please. Be sure and use the
21 mic. That's the only way that it picks up for the video
22 streaming.

23 MR. PENDERGAST: Thank you.

24 JOHN MOTEN, JR., having been sworn, testified as follows:
25 DIRECT EXAMINATION BY MR. PENDERGAST:

1 Q. Mr. Moten, once again, would you please state
2 your name and business address for the record.

3 A. John Moten, M-o-t-e-n, Jr., 720 Olive Street,
4 St. Louis, Missouri 63101.

5 Q. And are you the same John Moten, Jr., who has
6 previously caused to be filed in this proceeding Direct
7 Testimony?

8 A. Yes, I am.

9 Q. That has been previously marked as Exhibit 1?

10 A. Yes.

11 Q. And if I were to ask you the same questions
12 that appear in your Direct Testimony today, would your
13 answers be the same?

14 A. Yes, sir, they would.

15 Q. And are those answers true and correct, to the
16 best of your knowledge and belief?

17 A. Yes, they are.

18 Q. And is the information contained in your
19 schedule true and correct, to the best of your information
20 and belief?

21 A. Yes, they are.

22 MR. PENDERGAST; With that, I would request
23 that Exhibit No. 1 be admitted into evidence.

24 JUDGE RUTH: Okay. Exhibit 1, Mr. Moten's
25 Direct Testimony, has been offered. Are there any

1 objections to it being received into the record?

2 MR. SCHWARZ: None.

3 JUDGE RUTH: Okay. Public Counsel?

4 MR. COFFMAN: No objections.

5 JUDGE RUTH: Okay. Exhibit 1 is received into

6 the record. Please proceed.

7 (EXHIBIT NO. 1 WAS RECEIVED INTO EVIDENCE.)

8 MR. PENDERGAST: Thank you. I'd like to

9 proceed with some Rebuttal Testimony if I could, your Honor.

10 JUDGE RUTH: Yes.

11 BY MR. PENDERGAST:

12 Q. Mr. Moten, are you familiar with the Direct

13 Testimony that was filed on behalf of DNR by Ronald Wyse in

14 this case?

15 A. Yes, sir.

16 Q. And are you familiar with his statement at

17 page 3, line 17 that arrearage forgiveness itself does not

18 address the problems that low-income residential customers

19 simply cannot afford energy cost above a certain level?

20 A. Yes, sir, I'm familiar with that statement.

21 Q. Do you agree with that statement?

22 A. Not fully. First, I think that as stated by

23 OPC Expert Witness Roger Colton, that we need to use

24 multiple sources or resources to assist low-income

25 customers.

1 If I may elaborate, for example,
2 weatherization does assist in reducing energy usage, but
3 I've not seen any conclusive data that indicates that
4 weatherization will reduce the energy in low-income
5 households to a point where it makes those bills affordable
6 on its own.

7 I think Mr. Colton in his testimony stated
8 that both energy assistance and energy efficiency
9 improvements of weatherization are both required in order to
10 fully assist low-income customers.

11 Q. And are you familiar with whether he said that
12 in a paper called Structuring a Public Purpose Distribution
13 Feed for Missouri?

14 A. Yes, sir. I believe he said that on pages
15 5 and 8.

16 Q. And was that cited by Mr. Wyse in support of
17 his testimony?

18 A. Yes, sir. That study that was cited in
19 Mr. Wyse's testimony.

20 Q. Okay. And does Laclede have a current
21 weatherization program in effect?

22 A. Yes, we do. In our rate case before last we
23 agreed to a weatherization program at a funding level of I
24 believe \$300,000 per year in our service area.

25 Q. And has Laclede agreed with a suggestion by

1 Public Counsel that approximately \$300,000 in program
2 funding under the Catch-Up/Keep-Up program be devoted to
3 supplementing that current program?

4 A. Yes, sir. We are agreeable to that.

5 Q. Okay. Just with respect to some of the
6 claimed benefits for weatherization, do you agree with
7 Mr. Wyse's estimate that for every dollar invested you get
8 \$3.37 worth of benefits?

9 A. No, sir, I do not. It is my understanding
10 based on Mr. Wyse's testimony, that that is a projected
11 number for a proposed program I think an east Missouri
12 community -- committee action agency is proposing to do and
13 that's a relatively large sample. And as far as I know,
14 that is a projection.

15 The numbers that have been experienced in
16 other programs such as the MGE program, it's my
17 understanding that that cost of benefit ratio was estimated
18 at about a \$1.63 per dollar. The Oak Ridge National
19 Laboratory, which has done some research in this estimates
20 about \$1.51 to the dollar in those programs -- or numbers
21 there.

22 In our experience, we saw a cost of benefit
23 ratio of about 77 -- 76, 77 cents to the dollar or less than
24 a one cost to benefit ratio. And it's my understanding in
25 the Ameren program that the cost of benefit ratio number was

1 86 cents to the dollar and if natural gas were included
2 alone, that that number would be about 65 cents to the
3 dollar.

4 So the numbers -- while they vary widely, I've
5 not seen any numbers to approach that projected number of
6 \$3.31.

7 Q. Despite those very numbers, do you still
8 believe that some form of weatherization program should be a
9 component of the company's approach to its low-income
10 customers?

11 A. Yes, sir. I do support what Mr. Colton had
12 said and that is that we want to use all the resources that
13 are available to assist customers. And certainly
14 weatherization can provide some long-term benefits, but it
15 cannot do it alone.

16 Q. Okay. I'd like to turn to the testimony that
17 was filed by Staff Witness Henry Warren. And on page 6,
18 lines 1 to 12 of his Direct Testimony, he discusses
19 information needed to evaluate and monitor the success of
20 the program. What would your response be to those comments?

21 A. We have in our filing made some suggestions of
22 information that would be used to prepare an annual report.
23 And we concur with many of the suggestions made by OPC
24 Witness Meisenheimer with regard to additional
25 record-keeping requirements. And we think that those will

1 be sufficient to provide the information that the Commission
2 would require in order to evaluate the program.

3 Q. Mr. Warren also discusses, I believe at pages
4 7 and 8 of his Direct Testimony as an alternative to the
5 company's proposal, using an outside vendor to develop,
6 implement and administer the program. Do you believe the
7 Commission should pursue that alternative?

8 A. No, sir, I do not. I think that, one, we have
9 put in place a number of objective ways in which to look at
10 the program. The amount that customers would receive in
11 arrearage forgiveness is established and we would be
12 consistent with what the Office of Public Counsel had
13 recommended in that regard.

14 Number two, the eligibility is objective since
15 it is determined based on the recipient's household income.
16 And that would be determined by an objective third party,
17 the agencies who qualify those persons.

18 And then the only subjective component in the
19 program having to do with extenuating circumstances would be
20 managed by an impartial third party and the agencies that
21 are trained and qualified to deal with low-income issues,
22 and that would be the Community Action Agencies.

23 Q. Okay. And you're familiar with the agreements
24 that the company expressed in its statement of positions to
25 other recommendations that were made by Ms. Meisenheimer in

1 her testimony regarding revisions to the program?

2 A. Yes, I am.

3 Q. And do you agree with and support making those
4 modifications to the program?

5 A. Yes, sir.

6 Q. Let me ask you about one of those
7 modifications; namely, the record-keeping requirement. Will
8 complying with those record-keeping requirements require the
9 cooperation of agencies to a certain degree?

10 A. It will, because the agencies have the income
11 data that is necessary in order to -- I believe in
12 Ms. Meisenheimer's testimony she wanted to differentiate the
13 customers by the various levels of poverty in terms of the
14 income. And we don't track income data on our customers, so
15 we would need the agencies who qualify the people to verify
16 that income information and provide that to us so we would
17 be able to make those differentiations.

18 Q. I believe Ms. Meisenheimer also made a
19 recommendation that any contracts with the agencies or with
20 Dollar-Help be provided to the parties for comment and they
21 subsequently be approved by the Commission before the
22 program would be implemented. Do you agree with that
23 particular recommendation?

24 A. I agree with it in principle. I would hope
25 that we would be able to expedite it so that we would be

1 able to implement the program as early as possible this
2 winter, but certainly would not object to having that data
3 reviewed.

4 Q. And are you familiar with whether or not there
5 was a provision in the weatherization program that had those
6 contracts subject to review by Public Counsel and the Staff?

7 A. It is my understanding that that was the case
8 in the weatherization program.

9 Q. But do you recall whether there was any
10 specific Commission approval required before that program
11 could be implemented?

12 A. I don't recall, but I don't think so. I'm not
13 sure on that one, sir.

14 Q. Thank you. And was your willingness to make
15 these various modifications that had been suggested by
16 Public Counsel based in part on Public Counsel's statement
17 at page 6 of Ms. Meisenheimer's testimony that Public
18 Counsel would not oppose the implementation of a more
19 limited arrearage plan on an experimental basis provided
20 that certain conditions are adopted by the Commission and
21 required of Laclede?

22 A. Yes, sir.

23 MR. PENDERGAST: Okay. Thank you very much.
24 I have no further questions.

25 JUDGE RUTH: Okay. Public Counsel, we'll

1 begin cross-examination with you.

2 MR. COFFMAN: Thank you.

3 CROSS-EXAMINATION BY MR. COFFMAN:

4 Q. Good morning, Mr. Moten.

5 A. Good morning.

6 Q. How are you doing?

7 A. Good.

8 Q. I've got several areas of questions I'd like

9 to discuss with you.

10 Can you tell me if Laclede performed a study

11 to evaluate the potential benefits of the Catch-Up/Keep-Up

12 program before it was filed?

13 A. No, sir. Not a -- not the kind of study that

14 I'm assuming you're asking in your question, no. But I

15 don't think that that's unique for low-income programs

16 because of the nature of the population you're serving.

17 Q. And you've spent a good number of years

18 looking at low-income measures and programs I assume from

19 other states --

20 A. Yes, sir.

21 Q. -- and at the federal and state level?

22 A. Yes, sir, that is correct.

23 Q. And were you the primary architect of the

24 Catch-Up/Keep-Up program?

25 A. I helped develop it in conjunction with other

1 staff members at Laclede Gas, yes, sir.

2 Q. Was there a primary architect who came up with
3 this innovative idea?

4 A. I guess much of that probably would be me.
5 And that had to do with the fact, as you know, if I may add,
6 that for many years we had attempted to try to find a
7 solution to the energy poverty issue which is one of the
8 reasons why the Committee to Keep Missourians Warm was
9 established.

10 And one of the big stumbling blocks we had was
11 coming up with a way to develop a program that would provide
12 needed services to deal with the affordability gap that many
13 low-income customers experience.

14 Q. Was this program based on any other program
15 implemented in any other state?

16 A. Not similar to this one, no, not that I'm
17 aware of. It has components that would be similar to
18 programs in other states, but I do not know of a program
19 exactly like this one.

20 Q. Do you know how many arrearage forgiveness or
21 arrearage management programs you've reviewed?

22 A. Yes. The Ohio Pacific Income Payment Plan, as
23 you know, is a form of arrearage forgiveness program. The
24 Illinois program that was implemented some years ago using
25 oil over-charge funds had an arrearage forgiveness component

1 in the way the payments were structured.

2 And, of course, there are other programs in
3 other states. I believe Pennsylvania has two or three
4 programs in their state that they have implemented that have
5 arrearage forgiveness components. And each one of those, I
6 might add, are a little bit unique to that particular state.

7 Q. The Ohio plan, isn't that a plan that combines
8 a low-income rate with an arrearage forgiveness?

9 A. Yes, sir, it does.

10 Q. Do you know whether that program was
11 established in the context of a rate case or not?

12 A. It is my understanding the program was
13 established outside the context of a rate case in response
14 to severe weather conditions experienced in that state, I'm
15 estimating, about 10 years ago.

16 And what the program was designed to do was to
17 establish percent of income payment plan. I remember at the
18 time of 10 percent for home heating energy, 5 percent for
19 electric costs. And what they did was defer the arrearages
20 or the difference between the PIPP payments and the actual
21 cost of the bill. And then the theory was that the
22 customers would ultimately repay that if they ever were
23 removed from their poverty status.

24 I have not looked at that program in a number
25 of years, but when I looked at it some years ago, the amount

1 of the unrecovered arrearages from that program due to the
2 PIPP component at the time I looked was in excess of
3 \$350 million to all utilities in the state.

4 Q. That was cumulative over a period of time?

5 A. Yes, sir, that is correct.

6 Q. The Illinois program you referred to, I assume
7 from your comment that that program is no longer in effect?

8 A. Yes, sir. That program was established, as
9 some of you may remember, when the oil over-charges
10 stickerwell money came to the states.

11 And during this implementation it seemed to
12 work well, but the problem was when the state government
13 recognized that they could not afford to continue the
14 program out of their state revenues when the oil over-charge
15 monies were depleted led to the dismissal of the program by
16 Governor Edgar, who I believe was the governor at that time.

17 Q. Okay. Are you aware of the default rates that
18 have been experienced by other companies in other states
19 that have implemented arrearage programs?

20 A. Off the top of my head, I couldn't answer
21 that. I couldn't answer that.

22 Q. Would it surprise you if I were to tell you
23 that some arrearage management programs had default rates in
24 the area of 40 percent?

25 A. That wouldn't surprise me considering the very

1 low income to the customers, but I think that we would have
2 to look at it from the perspective of the 60 percent who
3 really benefited from it and who had their payment behaviors
4 change. We're dealing with a pretty challenging population
5 so, therefore, my expectations wouldn't be where they would
6 be for a middle income household.

7 Q. Is it your opinion that Laclede has a
8 significantly larger percentage of its customers that would
9 be classified as low income compared to other natural gas
10 companies of similar size?

11 A. That -- that I would not know. I need to look
12 at national survey data. I wouldn't know that offhand.

13 Q. Okay. Can you tell me if there are Laclede
14 Gas customers who prefer to pay their bill more frequently
15 than once a month, like to make smaller payments?

16 A. I don't know the answer to that in terms of
17 what that population might be. I assume that there might be
18 people who might find it more convenient to do that, but
19 what the numbers would be and the rationale, I couldn't
20 answer.

21 Q. In the experience that you do have in looking
22 at low-income programs, would it be your experience that
23 there's a significant number of low-income customers who
24 have to make very serious decisions about their bill paying
25 and do so on a very short decision-making horizon?

1 A. I would agree with that in that the incomes
2 are so low and the burdens that they bury -- carry in terms
3 of their responsibilities are so great. And that's one of
4 the reasons why we thought that the program we're proposing
5 would assist in that it would reduce the energy burden that
6 those customers were responsible for in terms of their
7 income.

8 By that I mean if you were to take whatever
9 that customer's arrearages are, we move them so they're not
10 now divided by 12 to get to a payment level and then
11 subtract any applicable grants and then divide that by the
12 usage. It would bring the estimated payments down much
13 lower than it would be if the arrears were included.

14 Q. But the proposed Catch-Up/Keep-Up plan would
15 not actually lower any of Laclede's rates, would it?

16 A. No. It would not lower our rates, no, sir.

17 Q. And it's not your intention to combine this
18 arrearage program with any low-income rate or reduced rate
19 or discounted rate?

20 A. No, sir.

21 Q. Can you tell me why that is?

22 A. Well, we feel that we have designed a program
23 that addresses this in a way that that would not be
24 necessary. For example -- and I can just use hypothetical
25 numbers if you want --

1 Q. Well, let me just stop you for a second and
2 ask you that if you have customers who have experienced a
3 problem paying, obviously -- or presumably they do not have
4 an income that allows them to cover all their bills --

5 A. Yes, sir.

6 Q. -- and have gotten behind. They were not able
7 to keep up.

8 A. Uh-huh.

9 Q. Even if all their arrearages are forgiven, how
10 can you expect these customers to keep up in the future
11 without some reduction in the rate that they're expected to
12 pay?

13 A. I think that we have to look at the way the
14 system operates. Number one, most of these customers under
15 the current energy assistance program receive only grants
16 sufficient to maintain service. When we establish service
17 for customers under our five case rule, they're
18 automatically granted a \$500 credit to try to get them into
19 a more affordable range.

20 So what happens is they get caught in the
21 cycle of increasing arrearages because what happens is the
22 \$500 credit then is rolled over into the arrearage side of
23 their bill as well as the fact that they're only getting a
24 minimum grant at these very low-income levels.

25 What we feel is more important is to remove

1 those arrears, net out the grant so that the payments would
2 go, let's say, theoretically from \$150 a month for a person
3 making \$700 a month to more like \$50 a month. And I think
4 that that data can be gleaned from what we filed.

5 Q. Wouldn't you presume that these customers --
6 or a good number of the customers who have accrued arrears
7 weren't able to pay their bills when they didn't have
8 arrearages piled on top of them?

9 A. Well, I would say if you would look at the
10 records -- and Department of Social Services can answer this
11 better, but I think most of the customers confronting
12 arrears are multi-year problems that were exacerbated by the
13 2000/2001 winter.

14 So I think that you'll find that going into
15 the winter, most of these customers are paying minimum
16 amounts from grants and accruing arrears year after year,
17 which is the reason why you have the cycle of the prolonged
18 off and on cycle of cut-offs.

19 Q. Let me ask you a question about
20 weatherization, and say that I'm glad to hear that you'd be
21 agreeable to including a weatherization component --

22 A. Yes, sir.

23 Q. -- with an arrearage program.

24 Not every participant in the proposed
25 Catch-Up/Keep-Up plan would be able to benefit from the

1 weatherization proposed, would they?

2 A. No. And may I add to that?

3 Q. Sure.

4 A. The reason why I support the concept that

5 Mr. Colton presented is that if we take the number of

6 customers who are assisted, let's say, at \$600,000 and at

7 \$2,000 about 300 households, we have about 20,000 households

8 over, so we have to have a way to assist those remaining

9 households. And that's why we think the double edge part of

10 the Catch-Up/Keep-Up makes sense in that we're providing

11 cash assistance as well as weatherization assistance.

12 Q. Doesn't Mr. Colton -- or rather Dr. Colton

13 propose actual discounted rates?

14 A. Yes. I have seen that proposal from him, yes.

15 Yes. If I might add, the discounted rate program that I'm

16 familiar with is the one in California. And I believe that

17 that one is about a 10 percent discount, which I think for

18 most low-income customers would not provide the level of

19 support that we're proposing in Catch-Up/Keep-Up.

20 Q. But it would provide more rate relief than the

21 Catch-Up/Keep-Up plan, wouldn't it?

22 A. I would disagree with that because --

23 Q. No, you -- I'm sorry.

24 MR. PENDERGAST: Could the witness finish?

25 BY MR. COFFMAN:

1 Q. Go ahead.

2 A. If we were to take a customer who has, let's

3 say, a \$1,000 bill -- just saying hypothetical numbers -- a

4 10 percent discount would move that bill to \$900 annually.

5 And what we're proposing in Catch-Up/Keep-Up would allow

6 that customer to remove arrearages, which would be added on

7 top of that \$900. So we think that we're bringing the

8 customer to a more affordable payment level.

9 Q. I guess my concern though was with your

10 statement that you were proposing a more affordable rate.

11 Didn't you agree with me earlier that the Catch-Up/Keep-Up

12 plan does not reduce any of Laclede's rates?

13 A. I said that, and that is correct.

14 Q. Okay.

15 A. I think there's a matter of semantics here in

16 that I was not talking about a rate, but I was talking about

17 reduced payments and I stand corrected. Thank you.

18 Q. Okay. I assume you can probably tell me this

19 and you probably know better than I. What is the federal

20 poverty guideline for low-income energy assistance for a

21 household of one or two individuals?

22 A. I rely on my memory, but I believe for a

23 household of one, we're probably looking somewhere in the

24 range of about \$8,000, \$9,000. I think for a household of

25 three, we're probably somewhere around 12,000, 13,000. And

1 for a household of four, I think we're somewhere around
2 16,000. That's off the top of my head.

3 Q. And do you recall what percentage of the
4 poverty guidelines those income levels represent?

5 A. I believe that those are the 125 percent that
6 the state is currently using. I'm relying on my memory on
7 that, but if I --

8 Q. That is for a family of four?

9 A. The 16,000 I believe would be for a family of
10 four.

11 Q. And that would be approximately 125 percent of
12 the poverty level?

13 A. Yes, sir. That's my guess, uh-huh.

14 Q. Okay. And there are other factors that go
15 into eligibility for energy assistance other than income
16 level; isn't that correct?

17 A. Income level is the primary one. I'm not sure
18 whether -- the states have an option to either use the
19 federal poverty guidelines at 60 percent of the state median
20 income for determining eligibility.

21 Q. Okay. I want to ask you something about the
22 label that I've heard Laclede apply to this program and that
23 it's not just a win/win, but it's a win/win/win.

24 I understand how Laclede would win with this
25 program and I think I understand how the low-income

1 participants would benefit, but I'd like to talk about how
2 you believe the other general body of ratepayers would
3 benefit from this program.

4 You mentioned a reduction in uncollectible
5 expense and in collection costs. Do you dispute the
6 testimony of Staff witnesses regarding the level of
7 uncollectible expense that has been built into the rates or
8 what they believe has been built into the rates of Laclede
9 Gas Company?

10 A. With all due respect, I'm not an expert in
11 that area. Our witness, Mr. Fallert, I think will be better
12 qualified to address that.

13 Q. Maybe we can ask some questions of him
14 regarding actual level of uncollectible expense and
15 collection cost.

16 A. Yes, sir.

17 Q. Could you tell me if this program were to be
18 implemented much the way you propose and then were to be
19 evaluated at some later date, what would be the measure of
20 success as far as whether this is a win for the general body
21 of ratepayers?

22 A. I think the measure of success would be if we
23 could have a successful participation on the part of our
24 customers at 60, 70 or more percent of a customer where
25 we've changed the payment behavior of that many customers

1 who are participating.

2 If 60 percent of our customers who participate
3 in this program have a noticeable change in payment
4 behavior, I think, one, it will have some benefits and
5 effects to the customers. I think it will have benefits and
6 effects to society as a whole.

7 It means that customers -- the recipient
8 customers now are better able to alter their lifestyle so
9 that they will have more affordable living.

10 Q. Now, would you agree with me that the
11 potential forgone discount to the general body of ratepayers
12 would be up to \$10 a year per customer?

13 A. At \$6 million and roughly 600,000 customers,
14 yes, sir.

15 Q. If it was at \$6 million. Assuming that that
16 was the forgone savings or forgone discounts to the general
17 body of ratepayers, what level of reduction in uncollectible
18 expense or other collection costs would be necessary, in
19 your mind, before this could be validly considered a benefit
20 to the general body of ratepayers?

21 A. That's a financial question. I wouldn't even
22 begin to hazard a guess on that, because I'm not that
23 familiar with what our overall collection costs are.

24 Q. Would you agree that there would need to be a
25 significant reduction in the company's uncollectible expense

1 to consider this program a success for all customers?

2 A. No, sir. And the reason I would say that is

3 the presumption there is that all of our collection expenses

4 are tied to low-income customers and all those low-income

5 customers have been identified. And we don't have that data

6 because we don't collect income data. So when we say

7 significant, I'm not sure what that would mean.

8 Q. Well, do you expect there to be some reduction

9 in Laclede's cost of service whether it be uncollectible

10 expense or some other cost?

11 A. We would expect that. It's just that I cannot

12 comment on the magnitude.

13 Q. Well, I'm not asking you to speculate on what

14 that would be. I'm asking you to tell me what benchmark,

15 what standard, what level of reduction in that expense would

16 be considered a benefit to justify or to consider this

17 program a success to the general body of ratepayers?

18 A. I think you might want to ask Mr. Fallert that

19 question, because it presumes -- and in order for that

20 success to be measured, I'm assuming we're talking about a

21 fraction. And that means that I've got to know the answer

22 to both the numerator and the denominator, and I don't.

23 Q. All right. Let me ask you a couple questions

24 based on some statements made in Laclede's position

25 statements.

1 A. Yes, sir.

2 Q. And I assume you've reviewed that --

3 A. Yes, sir.

4 Q. -- and are familiar with it?

5 I guess on page 4, second bullet point,

6 Laclede states that it does not object to Public Counsel's

7 proposal, quote, that administrative costs for outside third

8 parties be limited to 5 percent of the program's funding

9 cap.

10 And I guess I've got some disagreement about

11 exactly characterizing Public Counsel testimony exactly in

12 that way. Have you reviewed Ms. Meisenheimer's Direct

13 Testimony?

14 A. Yes, I have.

15 Q. And do you recall what she said about

16 administrative costs?

17 A. If I remember correctly, she said that the

18 standard for most administrative costs in programs was

19 around 10 percent. And because of the fact -- the

20 incremental nature of this program, she thought that

21 5 percent would be appropriate since the agencies are doing

22 a certain amount of this work already. And I believe that

23 that is how the 5 percent number was reached, if I'm not

24 mistaken.

25 Q. And didn't she say that if the company

1 believes a greater level of administrative costs are
2 necessary, that it should submit a detailed proposal for
3 review?

4 A. I believe she did say that, yes, sir.

5 Q. Okay. And on the next page, next bullet
6 point, the position statement says, Laclede does not object
7 to Public Counsel's proposal that arrearage reduction per
8 quarter be equal to the lesser of one-fourth of the
9 customers arrearages or 375?

10 A. Yes, sir.

11 Q. And you think that that's appropriate as
12 opposed to simply granting, as the file tariffs would do,
13 simply up to 375 each quarter?

14 A. Well, I felt that the logic that
15 Ms. Meisenheimer put forward made sense in that you would
16 still reach the goal of arrearage payoffs within one year.
17 And what it does, it just simply put a stop on it so that
18 the money does not go beyond what the actual arrears are
19 over the 12-month period.

20 Q. And I'm at this point concerned that there
21 might be a clarification that's still needed when we're
22 talking about one-fourth of arrears. And I guess the
23 confusion might be one-fourth of what? One-fourth of the
24 arrears as a participant begins the program or one-fourth of
25 the arrears as they stand each quarter?

1 A. One-fourth as the participant begins the
2 program so that the payoff would be in a 12-month period.
3 If we were to take one-fourth each quarter of the remaining
4 arrears, what it would do is extend the program beyond what
5 we have proposed.

6 Q. So what you would agree and what Laclede's
7 stating here is that it would agree that one-fourth of the
8 arrears as they stand at the beginning when a participant
9 enters the program would be forgiven each quarter?

10 A. Yes, sir. I believe that is what is also
11 stated in the tariff.

12 Q. Okay. Okay. And can you show me where it --
13 where that's stated in the current tariff that's on file?

14 A. I may have to borrow your copy. I thought I
15 saw it in the -- let me see.

16 Q. Here.

17 MR. COFFMAN: Permission to approach the
18 witness.

19 JUDGE RUTH: Yes. Are you showing the witness
20 the tariff?

21 MR. COFFMAN: Yes. And these are the tariffs
22 that were filed on September 23, 2002.

23 THE WITNESS: Let me see if I can find that.
24 Let's see. I'm having trouble finding it now, but I'm
25 pretty sure I thought I saw it in here.

1 MR. PENDERGAST: If I can speed --
2 JUDGE RUTH: Yes, Mr. Pendergast.
3 MR. PENDERGAST: If I could speed things
4 along, because we are trying to get through quite a few
5 witnesses in a limited period of time, could you refer
6 Mr. Moten to paragraph H1 where it says, As of the date they
7 first entered the program 11 or 12 lines down.
8 THE WITNESS: Okay.
9 MR. COFFMAN: I'm afraid I'm having trouble.
10 BY MR. COFFMAN:
11 Q. And if you find the provision that refers
12 to --
13 A. Oh, yes. I have it here.
14 Q. -- reducing the one-fourth --
15 A. May I read it?
16 Q. Please.
17 A. It's at the very end of the sentence. I'm
18 assuming I'm starting at the first sentence. To that end,
19 the program will work in partnership with Dollar-Help and
20 social service agencies that customarily distribute
21 governmental courses of low-income energy assistance, the
22 agencies, to provide eligible customers with grants that
23 would be applied to reduce their arrearages as measured on
24 the date they first entered the program, end of sentence.
25 Q. Okay. But the tariffs as currently filed, as

1 I understand, do not refer to forgiving or reducing
2 one-fourth of a customer's bills?

3 A. I'm not sure I understand your question.

4 Q. Well, regardless of what the current tariffs
5 say, you're here today committing that if the program were
6 to be approved, you would agree to Public Counsel's proposal
7 that the amount of reduction be equal to the lesser of
8 one-fourth of the customer's arrears as they begin the
9 program or \$375, whichever is less?

10 A. Yes.

11 Q. Okay.

12 A. With the understanding, if I understand your
13 question, that is that is one-fourth of the arrears that the
14 customer owes at the time they enter the program. So
15 regardless of that amount, what we're saying is that it will
16 not exceed \$375. And if the arrears divided by 4 for that
17 customer is less than \$375 at the time they enter the
18 program, that that would be applicable.

19 Q. Okay. Let me move down to the next bullet
20 point, Laclede does not object to the idea of adding -- as
21 your position statement says, adding back language to its
22 tariff, quote, specifying that any reduction in the
23 company's uncollectible expense arising from the program
24 will be reflected in the company's cost of service in its
25 next rate case.

1 Can you tell me what exactly this is
2 committing Laclede to recognizing that would otherwise not
3 be recognized in a rate case, or is this simply stating what
4 you believe would be recognized in a rate case normally?

5 A. Well, I'm not the regulatory person, as you
6 know. But I would think that what we would be agreeable to
7 is looking at the program at the time of the next rate case,
8 not ending the program. And I think the spirit and intent
9 of that was that if there are any recognizable savings that
10 can be attributed to the program, that those would then be
11 recognized in the cost of service. I believe that's the
12 spirit in which it was intended.

13 Q. You're certainly not telling the Commission
14 that it should ignore the Catch-Up/Keep-Up program if it's
15 approved in the next rate case? It shouldn't -- I mean, it
16 should recognize what happens in any Catch-Up/Keep-Up plan
17 in the next rate case. Correct?

18 A. Yes, sir. Yes, sir.

19 Q. And nothing would prohibit the Commission in
20 the next rate case from either ending or changing the terms
21 of the Catch-Up/Keep-Up program, would it?

22 A. No, sir. But we would hope that if I -- if I
23 may back up a minute for clarification -- and that is that
24 our next -- earliest next rate filing I believe is April of
25 2004. And so, therefore, we will have only experienced part

1 of this winter and a portion of the following winter for the
2 program.

3 And my question would be whether or not that
4 would be sufficient time to have evaluated the program to
5 the point where we could make fully definitive conclusions
6 about how the program has operated. As you probably know,
7 in most of these programs there are multi-year efforts in
8 order to grab enough baseline data to know how effective
9 they are.

10 Q. Wouldn't sufficient time have elapsed by the
11 time any hearing of that rate case would reach the
12 Commission? Wouldn't sufficient data be collected by that
13 time to review two winters' experience?

14 A. Probably a winter and a half. I'm not sure it
15 would be two full winters. If you add, let's say, 10 or 11
16 months onto April, you would be in the middle of the
17 following winter, so the completed winter data would be
18 whatever portion from this winter and data from next year's
19 winter.

20 Q. Okay. Let me move down to the next bullet
21 point where the statement is that Laclede would not object
22 to Public Counsel's proposal to lower the eligibility
23 threshold for the program from 175 percent of the poverty
24 level to something lower provided that the reduction applies
25 to the first year only of the program.

1 The current tariffs would allow an eligibility
2 level up to 175?
3 A. Yes, sir.
4 Q. And is it your understanding of the tariffs
5 that that level of eligibility could actually be increased
6 without any new tariffs being filed?
7 A. You'll have to give me that question again.
8 I'm not sure I understand what you're asking me.
9 Q. Let me read from the tariffs as they are filed
10 and then you can give me your understanding --
11 A. Yes, sir.
12 Q. -- of that.
13 Measures shall be taken to ensure that -- I'm
14 quoting from paragraph H, lower case a, in the middle of
15 that paragraph. Quote, Measures shall be taken to ensure
16 that the assistance made available through such program
17 funds is provided on behalf of residential customers
18 residing in households with income less than or equal to
19 175 percent of the federal poverty level, comma, provided
20 that the income threshold for eligibility may be raised in
21 the event and to the extent program funds remain available
22 after satisfying those customers with incomes at or below
23 the threshold.
24 Now, Mr. Moten, the phrase there "may be
25 raised," can you tell me if it's your understanding that

1 that eligibility level would be raised unilaterally by
2 Laclede?

3 A. Oh, I would hope that we would be doing it in
4 concert with others. If I may explain the rationale behind
5 it, it has long been argued, as you know, in social service
6 circles that there is a -- a need for assistance on the part
7 of very poor low-income households that we're talking about,
8 but also the issue of assistance for the working poor where
9 you have two working members of the family working at
10 minimum wage or something slightly above that. And so,
11 therefore, they have some difficulties under certain
12 circumstances also.

13 And what we were trying to do was once we
14 satisfied the very poorest, was to move to just a slight
15 notch above so that we would meet the needs of what is often
16 discussed as the working poor. What we were trying to do
17 was make sure that we had enough coverage so the people --
18 so the persons or households are not eliminated from the
19 program because they make just a few dollars more than
20 someone who otherwise would be eligible.

21 Q. Okay. I understand that. My question goes to
22 whether there would need to be any new tariff filing made
23 before eligibility requirements could be raised above
24 175 based on this tariff?

25 A. I'm not -- I don't know what the answer to

1 that is.

2 Q. Okay. And I guess all that Laclede is

3 committing to in this bullet point is that it would agree to

4 lower the threshold of the 150 percent level for the first

5 year; is that correct?

6 A. Yes, sir.

7 Q. And Public Counsel's proposal was a threshold

8 of 125 percent of the --

9 A. Yes, sir.

10 Q. -- poverty level?

11 A. Yes, sir.

12 Q. Thank you. The last bullet point, the

13 statement is that Laclede does not object to the

14 recording -- record-keeping requirements proposed by Public

15 Counsel at pages 13 through 14 of Barbara A. Meisenheimer's

16 testimony.

17 And as I look at those pages, there is a

18 statement, I guess, involving final approval that actually

19 starts on page 12. I don't know. Do you have a copy of

20 Ms. Meisenheimer's testimony with you?

21 A. I may have it buried in all this testimony.

22 If you want to point me to a specific section --

23 Q. Be paragraph No. 5 on page 12.

24 A. Okay. I have to put on my glasses. You said

25 page 12?

1 Q. Yes. And paragraph 5.

2 A. Yes, sir, I have it.

3 Q. Okay. All right. Well, I guess this isn't a
4 record-keeping requirement exactly, but Ms. Meisenheimer
5 suggests that if such a program is approved, that it should
6 not receive final approvment until the finalized contract
7 between Laclede, Dollar-Help or any other participating
8 agency has been reviewed and approved by the Commission
9 following a reasonable period of comment and recommendations
10 by other parties.

11 Do you have any comment on that suggestion?

12 A. Yes, sir. I think that that suggestion, as
13 written precisely here, I think would delay implementation
14 of the program this winter, which is something that we were
15 hoping to do.

16 It would be our hope that there would be a way
17 to expedite this process such that these reviews, while not
18 saying that they should not occur, would occur in a timely
19 manner or would be allowed to be developed so they could be
20 subject to subsequent review and adjustment if necessary.

21 Q. Given recent confusions following the
22 settlement of the rate case, wouldn't it be a good idea
23 though to have a lot of the terms of such a program in
24 writing and filed with the Commission before the program
25 takes effect?

1 A. Under ideal circumstances where we had more
2 time in which to do this, I would wholeheartedly agree. My
3 comments are not designed to take people out of the process,
4 but to try to expedite the process.

5 Q. Okay. Let me ask you one more question based
6 on the position statements of Laclede --

7 A. Yes, sir.

8 Q. -- under the issue heading of what level of
9 funding is appropriate.

10 A. Yes, sir.

11 Q. And I think I understand what Laclede is
12 saying and what your counsel said earlier, but I want to
13 make sure I understand the exact amount of funding that
14 Laclede is talking about in the second sentence there under
15 paragraph 3 where it's stated that in the event the
16 Commission is inclined to consider a lower funding cap,
17 Laclede believes that it should at least be equal to the
18 amount of program funding that would have been produced
19 before company proposed to supplement that funding with a
20 10 percent share of pipeline discounts that it had
21 originally proposed to retain for its own use.

22 Can you tell me what would be the total amount
23 of dollars that the program be capped at given that
24 scenario?

25 A. Six million dollars, sir.

1 Q. Okay. Well, isn't that the current proposal?

2 A. If I understand what you just read there was
3 that what would happen is the money that the company felt it
4 had the right to retain would be not retained by the
5 company, but would be added to the program for program
6 implementation.

7 Q. Okay. So Laclede's not really proposing any
8 alternative reduction to that \$6 million as an alternative?

9 A. Well, in that position statement we are not.
10 What we did subsequently say after we looked at
11 Mrs. Meisenheimer's testimony was that we would be willing
12 to consider an alternative. But in that statement, that is
13 what we're saying, yes, sir.

14 Q. Okay. Just a second. I think I have a couple
15 more questions. Hold on.

16 I want to also take an opportunity to try to
17 clear up some confusion that may have occurred with regard
18 to the weatherization component --

19 A. Yes, sir.

20 Q. -- that I guess has just been agreed to in
21 some degree in the position statement. Public Counsel had
22 suggested that approximately \$300,000 of program funding be
23 committed to the low-income weatherization assistance
24 program that is run by DNR.

25 And the position statement here says that

1 Laclede has no objection to Public Counsel's proposal
2 regarding being committed to company's weatherization
3 program.

4 And so I guess I would like to clarify exactly
5 what it is that Laclede would not have an objection to.
6 Where would the money go? Into what program?

7 A. We would -- in that statement we were
8 referring to the assisting weatherization program that was
9 settled in our rate case of 2001, I believe it was, and is
10 currently being funded at \$300,000 per year, so an
11 additional \$300,000. And that's a program that's being
12 conducted in conjunction with DNR and local agencies.

13 Q. Okay. So what you're proposing is that it be
14 added to the money that's currently being allocated from the
15 general body of ratepayers to the Laclede weatherization
16 program?

17 A. Yes, sir. In other words, for efficiency
18 purposes, we would just include that into an existing
19 program.

20 Q. Okay. Okay. In your experience, isn't there
21 a pattern or a phenomenon whereby many customers who have --
22 well, for whatever reason, tend to leave the Laclede system
23 in April or some time shortly after the cold weather period?

24 A. Yes. That has been the case. And much of
25 that has to do with the fact that the bills are so high for

1 the reasons why we wanted to recommend the Catch-Up/Keep-Up
2 program or propose it.

3 And that is that by the time they enter the
4 program and you take their arrears and their forward-going
5 estimate of what they're going to use, the bills are so high
6 and so unaffordable, that then they're forced to make
7 difficult choices that we feel they would not have to make
8 if the Catch-Up/Keep-Up program were implemented. So, yes,
9 sir, that is the experience.

10 Q. Okay. And would you agree with me that one of
11 the reasons that people disconnect in April or some time
12 after the cold weather period is that the natural gas is no
13 longer a necessity to heat their homes?

14 A. For heating their homes it is no longer a
15 necessity, but our concern, which is why we think this
16 program is valuable, there is a need for hot water for
17 sanitation purposes and other applications beyond just home
18 heating.

19 Q. Okay. And it would be your -- would it be
20 your expectation that if the Catch-Up/Keep-Up program was
21 implemented, that you would see a significant reduction in
22 the number of customers who left the system in April?

23 A. That is my expectation, yes, sir.

24 Q. Could you speculate about what level of
25 reduction you would expect to see?

1 A. What I stated, as you know, in the meetings we
2 had with Office of Public Counsel and Staff was that I would
3 consider success if we had a 70 percent retention rate. I
4 felt that that number -- if you took elderly and handicapped
5 households who have a consistent level of payment if given
6 the opportunity, supplemented by other families with
7 children and etc., that I think that that would be
8 successful.

9 I think I would certainly be misleading to say
10 that the number would be significantly higher than that. I
11 just couldn't say that.

12 Q. Would you consider the proposed
13 Catch-Up/Keep-Up plan to be a behavior modification
14 proposal?

15 A. It is our hope and expectation that it will
16 be, yes, sir.

17 Q. If a customer has -- if in the first quarter,
18 for instance, all of the arrears that a customer had are
19 eliminated, is there any more incentive to remain on the
20 program?

21 A. To me -- let's see. If all the arrears were
22 eliminated in the first payment?

23 Q. Yes.

24 A. The way it's structured we couldn't do that,
25 because, remember the agreement would be one-fourth at the

1 time they sign on.

2 But it would be my expectation that many
3 people will see the value of the program and that they will
4 understand where they will end up if they allow the arrears
5 to rebuild up as we heard in the public testimony at the
6 public hearing in St. Louis.

7 Q. Okay. If a customer still does not have
8 enough income to cover all of its bills, including it's now
9 reduced payment plan, what incentive would there be for a
10 customer to make a decision to pay for natural gas after the
11 winter is over when it has other bills, including medicine
12 and food from which to choose from?

13 A. Persons that you described, medicine and food,
14 to me the incentive would be that they would alleviate what
15 I consider to be a pretty significant burden, because
16 they've already lived through the alternative so they
17 understand what will happen if they fall back into that
18 situation.

19 Q. Well, if they are aware that they can simply
20 re-enroll in the program in the next year and take whatever
21 arrears that they have accumulated during that following
22 year and then have those forgiven again during the winter
23 when they re-enroll in the program, doesn't that somewhat
24 reduce the incentive to continue to stay current through the
25 non-winter period?

1 A. I believe in the tariff that we have filed, we
2 state that if a customer has defaulted on a prior agreement,
3 that they not be eligible to participate.

4 Q. But isn't there an exception in there where --
5 whether Laclede or someone could make an exception for
6 someone who has defaulted?

7 A. And that would presume to be not a multi-year
8 situation. What we envision in that situation would be
9 where a person might have an automobile break down and they
10 need that to get them back and forth to work and might cause
11 them to miss one, maybe two payments.

12 It is our feeling that it would be much easier
13 for social service agencies to assist customers at this
14 reduced payment level to keep them current then it would be
15 under the old system.

16 Q. And who would be making that judgment call?

17 A. The social service agencies, not Laclede.

18 Q. Okay.

19 JUDGE RUTH: Mr. Coffman, I'm going to need to
20 ask you to stop now so we can take a break brief.

21 MR. COFFMAN: I think I was at the end.

22 JUDGE RUTH: Well, it worked out well then.

23 When we come back on the record, I'll ask you --

24 MR. COFFMAN: That's all the questions that I
25 have.

1 JUDGE RUTH: Then we're going to go off the
2 record for 15 minutes. We'll come back at a quarter till.
3 We're off the record now.

4 (A RECESS WAS TAKEN.)

5 JUDGE RUTH: And it's my understanding that
6 Public Counsel was finished with cross-examination of this
7 witness and we'll move on to DNR. You may proceed,
8 Mr. Molteni.

9 MR. MOLTENI: Thank you, your Honor.

10 CROSS-EXAMINATION BY MR. MOLTENI:

11 Q. Good morning, Mr. Moten.

12 A. Good morning, sir.

13 Q. Mr. Moten, you're a senior vice president for
14 marketing at Laclede?

15 A. Operations and marketing, yeah.

16 Q. Operations and marketing. And you have
17 overall responsibility for Laclede's operations?

18 A. Yes, sir.

19 Q. And you're responsible for Laclede's efforts
20 to obtain funding for energy assistance for low-income
21 households?

22 A. Yes, sir.

23 Q. And that includes Laclede's Employee Volunteer
24 Weatherization Program?

25 A. Yes, sir.

1 Q. And Laclede's EnergySmart Program?

2 A. Yes, sir.

3 Q. And Dollar-Help?

4 A. Yes.

5 Q. What does Laclede's Employee Volunteer

6 Weatherization Program encompass?

7 A. It's a program where on two Saturdays in

8 October our employees and their family members and friends

9 volunteer on weekends to perform basic weatherization on the

10 homes of recommended elderly and low-income -- elderly and

11 handicapped low-income customers. And these are people who

12 are generally referred to us by the community action

13 agencies and other sources.

14 Q. And what do you mean by "basic

15 weatherization"? What kind of things do Laclede's employees

16 do?

17 A. What we do, put plastic over the windows is

18 the primary vehicle. Some minor amount of weather

19 stripping, but that's the essence of it, yes.

20 Q. These are the kind of low-cost weatherizations

21 that would be included in the Catch-Up/Keep-Up program as

22 was filed in the testimony or described in your testimony?

23 A. It would be similar to that. We have done

24 some similar programs, if I may add, through churches where

25 they've done similar type programs, yes, sir, something on

1 that order. In addition to providing energy efficiency
2 improvements information.

3 Q. And, Mr. Moten, you have an undergraduate
4 degree in chemistry?

5 A. Yes, sir, I do.

6 Q. And you served as Laclede's director of
7 conservation services for six years; is that right?

8 A. That's correct.

9 Q. So I assume that you have some familiarity
10 with weatherization programs, in general?

11 A. Yes, sir.

12 Q. I want to ask you a couple questions about
13 your Rebuttal Testimony. You took issue on rebuttal with
14 the statement made in the Direct Testimony of Ronald Wyse.
15 And specifically you took issue with Mr. Wyse's statement
16 that arrearage forgiveness itself does not address the
17 problems that low-income residential customers simply cannot
18 afford energy costs above a certain level and related
19 impacts on all customers.

20 Do you recall that questioning from
21 Mr. Pendergast?

22 A. Yes, sir.

23 Q. And, in fact, I think I understood your
24 testimony to be that arrearage forgiveness coupled with
25 weatherization does address that problem for low-income

1 customers; is that right?

2 A. Yes, sir. I think that we would have to
3 divide them into two sets. The arrearage forgiveness would
4 be a broader program in providing assistance. And a subset
5 of those customers, because of the inherent costs, would
6 also receive the benefit of weatherization assistance, yes,
7 sir.

8 Q. Is there a pool of customers -- specifically
9 would it be a pool of very low-income customers that would
10 only be benefited by both the weatherization and arrearage
11 forgiveness?

12 A. I'm not sure I understand your question. In
13 other words, if -- I'll try to answer it. If I'm off
14 target, please let me know. If you're saying that there
15 would be a pool of customers who would only receive benefit
16 from both and that would be a subset of all of the customers
17 who might participate in the Catch-Up/Keep-Up program, I
18 would agree with that, yes, sir.

19 Q. And your testimony doesn't cite any data or
20 study that proves that arrearage forgiveness alone addresses
21 long-term problems for low-income customers, does it?

22 A. My testimony does not, but I would refer you
23 to the testimony of Mr. Roger Colton who I think addresses
24 that. If not in the particular study that was cited in
25 1997, Mr. Colton has written extensively on arrearage

1 forgiveness over the years.

2 Q. Okay. Mr. Colton did not file testimony on
3 behalf of Laclede in this case, did he?

4 A. No, sir, he did not.

5 Q. And if I also -- if I understood correctly
6 based upon the position statement that Laclede has filed in
7 this case, Laclede is now committing to through part of the
8 Catch-Up/Keep-Up program that \$300,000 will go to its
9 existing weatherization program; is that correct?

10 A. That's correct. It would be in addition to
11 the current funding level of \$300,000.

12 Q. And we're talking about the weatherization
13 that's contemplated by the existing program rather than the
14 low-cost or no-cost weatherization practices that are
15 described in the testimony that Laclede's filed; is that
16 right?

17 A. That is correct, sir.

18 Q. Okay. That being the case, I may be able to
19 streamline my cross-examination a little bit.

20 Your testimony states at page 17, line 7
21 through 9, and I'll quote, In exchange for making timely
22 payments and agreeing to implement low- or no-cost
23 weatherization and conservation measures that will also
24 benefit them, these customers will be entitled to receive
25 service under more affordable terms.

1 What exact weatherization and conservation
2 measures were you describing in that particular passage of
3 your testimony?

4 A. I was talking about low-cost -- in some cases
5 low-cost measures. It has been documented -- as you know,
6 in energy audits, there are three levels of energy audits a
7 person can conduct. It can be a Class A audit, Class B
8 audit, Class audit.

9 And the simplest audit I believe is the
10 Class C audit. And it was originally recommended that for
11 those customers who could not receive the benefit of a
12 Class A audit in full-blown weatherization that were talking
13 about through DNR, that there should be some practices that
14 they should implement in changes and behaviors so that they
15 would receive some benefit of savings until they could
16 receive full-blown weatherization.

17 Q. Because there is a difference between the
18 low-cost or no-cost practices and actually full-blown
19 weatherization program?

20 A. There is a difference, yes.

21 Q. And in your testimony when you talk about
22 Missouri Gas Energy's program or even Laclede's program or
23 the Ameren program, you're talking about full-blown
24 weatherization programs that have substantive effects on
25 residences. Correct?

1 A. Full-blown weatherization -- as you heard in
2 my testimony, the question depends on what you mean by
3 substantive effects, but they do have a positive effect.

4 Q. And deeper effects than the low-cost or
5 no-cost practices?

6 A. Well, there are two schools of thought on
7 that. As you know, if you're talking about cost benefit
8 ratios, you probably are at a dead heat or better with the
9 low-cost or no-cost because the investment amount is so
10 small, that any return you get actually will make the cost
11 benefit ratio much greater.

12 For example, investment in a clock thermostat
13 has been shown for each 1 to 2 degree reduction can reduce
14 the energy usage by between 1 and 2 percent depending on
15 housing style.

16 If you're talking about in lieu of what would
17 be replacement windows, a simple caulking around windows
18 would be considered a low-cost weatherization measure that
19 can reduce air infiltration and reduce energy consumption by
20 amounts up to 15 percent.

21 Now, certainly low-cost measures would not
22 include changes in the heating plan and attic or roof and
23 ceiling insulation, which would be a part of the full-blown
24 weatherization program.

25 Q. And those full-blown weatherization program

1 changes like insulation, like changes in air cooling,
2 they're going to have, in the long run, absolute greater
3 dollar reductions and greater energy conservation than
4 low-cost practices?

5 A. Well, as you know, in my testimony what I said
6 was in the program that we operated on our system, for an
7 average investment of about \$2,600 per household, the
8 savings amounted to about \$156 a year. So I don't know if
9 you would call that substantive, but would I call them long
10 term.

11 Q. And on the type of low-cost or no-cost
12 practices that were contemplated originally --

13 A. Uh-huh.

14 Q. -- in your testimony prior to Laclede's
15 commitment to put \$300,000 in the weatherization program --

16 A. Yes, sir.

17 Q. -- Laclede didn't conduct any study prior to
18 filing the Catch-Up/Keep-Up tariff filing on the -- any
19 scientific study on the effects of those practices.
20 Correct?

21 A. We have done some work -- I don't have it with
22 me -- where we have looked at the results of our volunteer
23 weatherization program. I'd have to go back and look at the
24 results, but if I remember correctly, the results were a
25 positive cost of benefit ratios.

1 But the program was never designed to do an
2 overall weatherization of the home but to provide some
3 relief for persons who otherwise wouldn't have any
4 assistance in the way of -- in the area of weatherization.

5 Q. But you didn't include any of that data in
6 your testimony?

7 A. No, sir, I did not.

8 MR. MOLTENI: All right. I think I'm through.
9 Thank you, sir.

10 THE WITNESS: You're welcome, sir.

11 JUDGE RUTH: Staff.

12 CROSS-EXAMINATION BY MR. SCHWARZ:

13 Q. Good morning, John.

14 A. Good morning. How are you?

15 Q. Pretty good.

16 What does your position as head of operations
17 entail?

18 A. I have overall responsibility for our
19 operating division, which is the largest single division of
20 the company with some 1,400 employees. That includes
21 engineering, construction, service, call center, etc.

22 I also have responsibility for our marketing
23 group, about 60 people, where we promote the use of natural
24 gas on our system. I also have responsibility for our
25 information systems group, a little under 60 employees,

1 where we actually process, manage and store the company's
2 data and records.

3 I also have responsibility for the company's
4 information security department. And that is where -- the
5 department that is responsible for making sure that we keep
6 our data in our information systems group secure or as
7 secure as possible from either loss or damage or, you know,
8 other inappropriate activities.

9 And, last, I also have responsibility for our
10 corporate safety group. And they're responsible for making
11 sure that we conduct safe -- proper safety practices on the
12 part of our construction service and other operating
13 personnel primarily.

14 Q. Let me ask, if the data needs to design and
15 evaluate an experimental program would be something that
16 would come under your watch as part of the information
17 system?

18 A. Certainly a portion of it. The financial side
19 of it would not. I have no responsibility for the financial
20 side of the business and the regulatory side. But in terms
21 of support components that could help in the evaluation,
22 yes, sir.

23 Q. How much energy assistance does Laclede get
24 from LIHEAP every year?

25 A. I think the estimated amount for the last

1 winter was about 3.5 million. And I would add a clarifying
2 point on that. We receive that on behalf of customers.

3 Q. Customers.

4 A. Yes, sir.

5 Q. And how much in ESIP?

6 A. Oh, gee. I don't know offhand. I would
7 estimate it would be something less than the LIHEAP amount,
8 but the exact amount I don't know.

9 Q. I think in your testimony you indicate that
10 Dollar-Help is now up to about \$800,000 a year?

11 A. Yes, sir.

12 Q. And how much assistance is provided through
13 WeatherWise?

14 A. Okay. Let me back up and say that of the
15 800,000 that's received -- that Dollar-Help distributes, not
16 all of that comes to Laclede. A lion's share does, but
17 Dollar-Help has a commitment to assist customers regardless
18 of the heating source.

19 The EnergyWise Program, which is a program
20 where we offer advantageous rates for the installation of
21 heating equipment for customers, I think we've done about
22 \$10 million in loans in that program, but I don't recall
23 what the savings numbers are.

24 Q. No, no, no. On an annual basis, what's the
25 program expenditures?

1 A. I think the EnergyWise Program probably is
2 somewhere around a million a year right now. I'd have to
3 guess at that. I'd haven't looked at that recently.

4 Q. Okay. And between LIHEAP, ESIP, Dollar-Help
5 and EnergyWise, how many customers are benefited?

6 A. Maybe I better back up. When you say
7 EnergyWise, he have EnergySmart Programs and we have
8 EnergyWise Programs. The EnergySmart Programs are designed
9 to assist low-income customers. The EnergyWise Programs are
10 designed to assist customers regardless of income who want
11 to purchase more efficient heating equipment.

12 Q. Let's just focus on the low income.

13 A. Yes, sir. Then that would be the EnergySmart
14 Programs, yes, sir.

15 Q. Okay. And how many between ESIP, LIHEAP,
16 Dollar-Help and --

17 A. I would probably use the LIHEAP number, which
18 is probably somewhere in the neighborhood of about 15,000
19 customers in our most recent year. I think it has been as
20 high as 20,000 customers.

21 I'd be reluctant to add the other numbers on
22 top because those programs are designed to be safety net
23 programs and so many of the customers who get LIHEAP also
24 might receive ESIP and/or Dollar-Help and DollarMore. So if
25 I were to add them altogether, I'd probably give you a

1 number higher than what the actual count would be.

2 Q. Right. And customers also receive help
3 through the Salvation Army and ROLL and other community
4 sources?

5 A. Sure. And, in fact, the pecking order would
6 be this. Probably the largest source of the assistance in
7 terms of average grant and number of people assisted would
8 be LIHEAP, probably followed by ESIP, then probably followed
9 by Dollar-Help and/or DollarMore depending on the season of
10 the year.

11 The Salvation Army, churches and others do
12 make contributions, but usually those are very small grants
13 designed to supplement or help in the packaging of getting
14 enough money for people to maintain service.

15 Q. Okay. And when you use the term energy
16 burden, what do you mean?

17 A. That is typically defined as the ratio of the
18 customer's household energy cost divided by their income.

19 Q. And the energy cost would comprehend both gas
20 and electric?

21 A. Yes, sir.

22 Q. And does the federal government have a
23 guideline that not only includes the energy burden but also
24 the other housing costs? Is that recommended to be around
25 30 percent?

1 A. Yes, sir. I believe that is in Mr. Colton's
2 1997 study.

3 Q. So 30 percent overall for housing and energy?

4 A. Yes, sir.

5 Q. What do you think for the low-income payment
6 troubled customers would be a reasonable energy burden with
7 respect to gas service?

8 A. Reasonable energy burden --

9 Q. Yes.

10 A. -- gas alone?

11 I would think somewhere in the range of 10 or
12 15 percent, depending on the income and the circumstances.
13 I know that some might argue it should be less and ideally
14 it should be, but I'm also trying to be realistic with
15 regard to energy costs and their incomes.

16 Their incomes are so low, that it's very
17 difficult to get much below 10 percent. If you're talking
18 about someone with a household income of \$600 a month, it is
19 very difficult to presume that their overall energy costs
20 are going to be less than \$60 per month.

21 Q. Overall energy or gas?

22 A. Well, even -- in many cases even gas, because
23 we're talking about difficult housing stock, which is why we
24 were talking about weatherization, yes, sir.

25 Q. Where's my notes?

1 How long have low-income customers been
2 payment troubled?

3 A. If I understand, you mean how long have
4 low-income customers had difficulty paying their bills?

5 Q. Yes.

6 A. For as long as I can recall, sir. I don't
7 have an answer to that.

8 Q. More than 10 years?

9 A. I would say so. Probably more than 20.

10 Q. In the past 10 years, has Laclede Gas Company
11 asked for income information from any of the state or
12 federal agencies in order to design or assess low-income
13 programs?

14 A. We have gotten data from studies that give
15 sort of gross information, overall averages. If you're
16 referring to specific customers, no, sir. And there is a
17 reason why, if you want me to explain that.

18 Q. Well, it's your testimony. I mean --

19 A. Oh, okay. No, I wasn't trying to be clever.

20 Q. No.

21 A. What I was trying to say was we feel that it
22 is very difficult to protect the privacy of customers by
23 being a repository of that kind of very specific household
24 data. Sure you know something about a customer because they
25 got an energy assistance grant, but it's not the kind of

1 information that we want to have down to the detail in terms
2 of household size, actually monthly income and those kinds
3 of things.

4 Q. Well, let me ask you this. You have a
5 chemistry background?

6 A. That was a long time ago.

7 Q. Well, if a student were given the assignment
8 of estimating the heat of formation of water --

9 A. Okay.

10 Q. Okay. And the student came back and said, I
11 will tell you, professor, what the cost of the equipment
12 was, what the cost of the laboratory overhead was, I will
13 tell you what the cost of the hydrogen was, I will tell you
14 what the cost of the oxygen was and if anybody manages to
15 notice and record it, we may tell you the beginning masses,
16 the ending masses, the beginning temperatures and the ending
17 temperatures if that information happens to be available.
18 Would you consider that a good experimental design?

19 A. Well, I don't know that we've answered all of
20 the questions, you know. If we're talking about the heat of
21 formation, you know, you're going to require some kind of a
22 calorimeter in order to measure the actual heat of
23 formation. That is an exothermic reaction that will result
24 in a temperature increase in the system.

25 So that would mean you would have to have a

1 confined system so that you would have to be able to monitor
2 the reaction and monitor the heat release, because
3 ultimately that's the question that you asked.

4 Q. So that if the student didn't say that I will
5 definitely record the beginning temperature and the ending
6 temperature, there would be a problem with that experimental
7 design?

8 A. Yes, it would.

9 Q. You have your testimony with you?

10 A. Yes.

11 Q. Would you take a look at page 3 of 4 of your
12 schedule, which is the tariff sheets? And that's sheet
13 28J --

14 A. Uh-huh.

15 Q. -- paragraph HF.

16 A. All right.

17 Q. If you look at the sub-numbered items there,
18 what I'd like to ask you about is little Roman numeral V --

19 A. Uh-huh.

20 Q. -- to the extent available --

21 A. Uh-huh.

22 Q. -- information detailing the impact of the
23 program on reducing customer arrearages, encouraging
24 conservation and lessening uncollectible expense.

25 A. Uh-huh.

1 Q. Now, aren't those items exactly what this
2 program is supposed to be designed to do?

3 A. Yes.

4 Q. And Laclede is only going to provide
5 experimental information to the extent that information is
6 available?

7 A. Well, you remember when you gave your
8 experimental analogy on the heat of formation of water?

9 Q. Yes.

10 A. In any experiment the conclusions you draw
11 will be based on the information that's available that you
12 can gather. And what we're saying here is that to the
13 maximum extent that we can gather that information, we will
14 make it available and we will do an assessment of the
15 results.

16 Q. But Laclede is designing an experiment to
17 gauge the effect of paying off customer arrears on reducing
18 the arrears, encouraging conservation and lessening the
19 uncollectible expense, but your experimental design doesn't
20 require that you gather that data, does it?

21 A. The experimental designs -- what it says here
22 is that to the extent available, the information will --
23 will be gathered and evaluated. So I don't think that
24 that's saying that we will not do that.

25 Q. No, it doesn't. But it's not a commitment in

1 the experimental design to gather the information that you
2 will need to evaluate the results of the experiment.

3 A. I believe I said earlier in my previous
4 testimony to the Public Counsel was that we'd be agreeable
5 to the additional data requirements recommended by
6 Mrs. Meisenheimer. So I think that to the extent that you
7 take this and add that to the other data that was requested
8 that we've agreed to provide, I think we're striving to try
9 to put that information together.

10 Q. So is it my understanding then that Laclede is
11 committing now to ensure that the information will be
12 recorded and maintained as outlined on pages 13 and 14 of
13 Ms. Meisenheimer's testimony?

14 A. To the extent that we can gather the data,
15 yes, sir. I mean, unless you want me to go down each
16 individual item, I think I made it very clear that we're not
17 denying that we want to gather the data, that we will gather
18 the data and we'll make the data available. I'm -- in other
19 words, so I'm not saying that we will not do that.

20 Q. Do you have Ms. Meisenheimer's testimony with
21 you?

22 A. I have it here somewhere. Bear with me. I've
23 got quite a few papers here.

24 Q. Yes.

25 A. Yes, sir, I have it.

1 Q. Okay. Can you turn to page 13?

2 A. All right. Yes, sir.

3 Q. Begins with paragraph 6 and let's go through

4 the letter sub-accounts. Can you commit -- can Laclede

5 commit to providing the information required in A?

6 A. And that, I take it, would be the individual

7 records and detailed description of each administrative cost

8 paid for with program funds?

9 Q. Yes.

10 A. Yes, sir.

11 Q. How about B?

12 A. That's the Department of Natural Resources

13 low-income weatherization activity. Yes, sir, we would

14 include that in the data that we currently gather under our

15 existing weatherization program.

16 Q. How about C, the monthly number of customers

17 receiving funding at or below 100 percent and 125 percent of

18 the federal poverty level?

19 A. To the extent that we can get that income

20 information from the agencies. We don't have that income

21 information.

22 Q. Will Laclede make a commitment to ask for that

23 information?

24 A. Yes.

25 Q. How about D, the monthly total arrearages for

1 customers at or below 100 percent and 125 percent of the
2 federal poverty level?

3 A. To the extent that we can gather that. I'd
4 have to talk to our people to see how we would have to get
5 that out of our system, yes.

6 Q. Well, again, though at the income levels,
7 that's information you have to get from the --

8 A. We have to get the income information levels
9 and then what we have to do is then obviously do a subset to
10 pull those customers out and then monitor their data. And
11 some of these are going to require, you know, a significant
12 amount of data gathering and work. And what I'm trying to
13 say there would be two issues, the workload and the
14 timeliness of it. And so to the extent that we can do that
15 in a timely manner, yes, sir.

16 Q. Wouldn't it be true that all of the LIHEAP --
17 all of the customers receiving LIHEAP assistance would be at
18 or below 125 percent of the federal poverty level?

19 A. Yes. But they ask a two-tier question.
20 100 percent and 125, so we'd have to run a subset of the 100
21 percent in addition to the -- in other words, the entire
22 population -- if they set the guideline at that year, we'd
23 have the 125 percent, but now we have to run a subset and
24 get data from DFS in order to get to the 100 percent.

25 Q. But could Laclede commit to providing that

1 information on the customers that receive LIHEAP?

2 A. Yes, sir.

3 Q. Okay. And Laclede may have other customers

4 who are at or below 125 percent of the poverty level who

5 don't receive LIHEAP?

6 A. Yes, sir.

7 Q. So that there's not an exact --

8 A. Yes, sir.

9 Q. -- match of customers?

10 A. That's correct, yes, sir.

11 Q. And would the same response hold for E, the

12 monthly number of customers at those levels?

13 A. Let's see. Yes. The -- obviously the LIHEAP

14 recipients we would have. We'd have to supplement that with

15 data at the 100 percent of the poverty level.

16 Q. And the same --

17 A. Same question, same -- similar answer.

18 Q. All the way through as far as 100--

19 A. Let's see. Yes, sir. To F and G. Yes.

20 Q. And, likewise, does Laclede have and could

21 they provide that information on the customers that it knows

22 receive the LIHEAP assistance?

23 A. Yes. We can identify customers who receive

24 LIHEAP, yes, sir.

25 Q. Okay. And the other customers, depending on

1 if the information can become --

2 A. Is available, yes, sir.

3 Q. -- available?

4 Okay. Referring again to the tariffs that are
5 attached to your testimony, on page 2 of 4, subparagraph C
6 talks about qualifications that households must meet unless
7 otherwise prevented from doing so due to extenuating
8 circumstances.

9 Assume for a moment that a program participant
10 is determined to have a budget bill of \$60 a month. Okay?
11 But due to extenuating circumstances, they're only able to
12 make payments of \$20 in each of the three months in a
13 quarter. Would that customer still be eligible for
14 arrearage forgiveness?

15 A. I -- well, I think it would be a two-step
16 process. The first thing, if a customer would fall under
17 those circumstances, the first thing we would do is see if
18 there was some additional assistance available for those
19 customers to get the additional \$40 a month.

20 I have been told by many social service
21 agencies who have looked at the program, that they find that
22 an easier way to assist the customer then having to come up
23 with 150, 200, 300 dollars. So the first thing we would do
24 is see if that person can get additional assistance to
25 supplement that.

1 Or if the agency has deemed that that's the
2 maximum that customer can pay just for that short period of
3 time, but if allowed to continue the program, that they
4 would resume their program behavior, I think we'd want to
5 take that into consideration. But we would be relying very,
6 very heavily on the social service agency to make that
7 determination.

8 Q. In fact, wouldn't the social service agency
9 make that determination?

10 A. Yes. With regard to extenuating
11 circumstances, yes, sir. I thought you were asking me --

12 Q. I'm just --

13 A. Yes, sir.

14 Q. -- trying to gauge what your reading of the
15 tariff is. So that at the end of that quarter the
16 customers -- if the budget amount was 60 and the payments
17 were \$20 for each of those three months, the budget bill
18 balance for that customer in addition to being out of
19 balance due to anticipated seasonal fluctuations in the bill
20 would also be \$120 in additional arrearages because they
21 haven't been able to make those full budget balance
22 payments; is that correct?

23 A. Assuming that they did not receive any
24 assistance from other sources. I'd be speculating there.
25 But I think that -- I think the bottom line of the question,

1 if I understand the question you're asking, is we would be
2 relying on the social service agency to tell us that this,
3 for whatever reason, is a case where they should not
4 continue in the program. Whether that should be three
5 months, two months, six months, I don't know.

6 I'll give an example. What would happen if
7 that household were to experience a serious illness? Do we
8 judge that on a basis of three months, six months, one
9 month? I don't know.

10 Q. So you can't tell from the tariff what the
11 result would be?

12 A. No, sir. And that was by design, because I
13 can't -- I can't anticipate what all extenuating
14 circumstances might be.

15 Q. But getting back to my example --

16 A. Yes, sir.

17 Q. -- would the customer's budget bill be \$120
18 behind in addition to the normal seasonal balances that are
19 built in?

20 A. If they did not receive any additional
21 assistance, it would be \$120 behind, yes, sir.

22 Q. So that at the end of that 12-month cycle and
23 assuming that they made all the other payments, they would
24 have an additional \$120 to make up at the beginning of the
25 second cycle; is that correct?

1 A. Well, they would have \$120 in arrears that
2 they would have to make up. And if they remained in the
3 program for a year, virtually all of the arrears would be
4 gone so they'd have that 120 and whatever remaining arrears
5 that would be included in that, yes, sir.

6 Q. In designing this program -- well, strike
7 that.

8 Can you tell me out of the -- and I think it's
9 at page 16 of your testimony you talk about number of
10 customers, line 14 there. You talk about 110,000
11 residential customers with total arrearages at
12 \$18.5 million.

13 A. Yes.

14 Q. Can you tell me how many of those customers
15 were in arrears for 30, 60, 90 and 120 days?

16 A. No. But I think Mr. Fallert -- that would be
17 his area of expertise.

18 Q. Was that something -- excuse me. I'm sorry.

19 A. No. I'm sorry.

20 Q. Is that something that you took into account
21 when you designed the program?

22 A. You mean the number of months that those
23 customers would be in arrears?

24 Q. Yes.

25 A. This happens to be a number that represents

1 all customers who are in arrears. What we were focusing in
2 on the Catch-Up/Keep-Up would be customers at 175 percent of
3 poverty or below.

4 Q. But did you take into account in designing the
5 program whether the customers had been in arrears for 30,
6 60, 90 or 120 days?

7 A. Our primary focus would have been those
8 customers who were eligible for energy assistance and had
9 substantial arrears. Now, if you're asking -- the answer to
10 the question is I don't know.

11 Q. You don't know --

12 A. No, the answer is no. In other words, do I
13 know that the program designed said -- I think what you're
14 asking is if a customer only owed one month's bill, would
15 they automatically be included in the program.

16 Q. No. I'm asking are they automatically
17 included in these numbers?

18 A. I said -- well, I think this number says these
19 are all the customers on the system in arrears. Now, I
20 don't have a breakdown with regard to how many are 30 days,
21 60 days or 90 days behind. I don't have that.

22 Q. Okay. And when you were designing the
23 program, did you take into account how many owed, say, less
24 than \$200, less than \$500, less than \$700 and more than
25 \$700?

1 A. I don't have that break out, no, sir.

2 Q. So you don't know how many customers might owe
3 more than \$800?

4 A. No. We have an average number, which is
5 around 500, but how many of those -- the subsets in various
6 gradations, no, sir.

7 Q. Okay. And wouldn't you think that that might
8 be something that you should take into account in designing
9 a program of this nature?

10 A. I don't understand your question. In terms
11 of -- what information are you saying it would provide?

12 Q. Well, wouldn't both the age of the arrearages
13 and the amounts that customers owed help you design a
14 program that would help the most number of people with the
15 fewest number of dollars?

16 A. That information could be helpful, yes.

17 Q. If I understand your testimony, affordability
18 is the relationship between a customer's income and the cost
19 of, in this case, energy services --

20 A. Uh-huh.

21 Q. -- is that generally --

22 A. Yes, sir.

23 Q. -- correct?

24 And in calculating the bill for energy service
25 there are a number of components, aren't -- for instance,

1 the amount of arrearages that have to be amortized and paid,
2 the bill for current usage, which is composed of a customer
3 charge, and then margin charges that are based on
4 consumption --

5 A. Uh-huh.

6 Q. -- and the gas cost, which is based on the
7 current cost of gas, the current rate for gas times the
8 customer's usage.

9 Okay. And it's my understanding that
10 Catch-Up/Keep-Up is designed to address principally the
11 portion of arrearage --

12 A. Yes, sir.

13 Q. -- is that correct?

14 A. Yes, sir.

15 Q. So that it doesn't really address in a
16 substantial manner the affordability of, for instance, the
17 gas rates and consumption and does nothing to address a
18 low-income customer's ability to deal with the non-gas
19 costs?

20 A. In the aggregate, I think the program does
21 that. And it does that by -- as you stated, there's several
22 components that make up the bill. And one of the components
23 would be the arrears, which when divided by 12 becomes a
24 part of that customer's monthly payment obligation in
25 addition to the other factors.

1 And what we're saying, by removing the arrears
2 component from the computation, that you will reduce what
3 the customer would pay if they otherwise were not allowed to
4 have the arrears taken out of that equation.

5 Q. To your knowledge, have you, as management
6 responsible for low-income affairs, ever calculated -- you
7 know, kind of backed into what the energy burdens for gas
8 should be, how much of the gas bill would be devoted to
9 taxes, how much would be devoted to the customer charge to
10 get an actual cost of gas that would match with the energy
11 burden that, say, someone on \$700 a month would be able to
12 pay?

13 A. Are you saying that computing the energy
14 burden absent taxes and other factors?

15 Q. No, no, no. Yes. I mean, taxes you can't
16 avoid.

17 A. Yes.

18 Q. The customer charge is fixed.

19 A. Yes.

20 Q. And the commodity rate is fixed. So those
21 elements of the monthly gas bill are pretty well known. If
22 the customer averages 60 therms a month, you can calculate
23 those. And if you subtract all those out of the affordable
24 gas bill, you get a cost for gas.

25 A. Okay.

1 Q. Okay. Has Laclede ever calculated what that
2 cost for gas would be in keeping with the recommended energy
3 burden?

4 A. No, sir. I don't understand why we would do
5 that.

6 Q. Well, because then you could tell your gas
7 buyers if -- you know, we've done some calculations and we
8 think that if the cost of gas itself is more than, say, \$4
9 an MCF, we're going to have 100,000 customers who are going
10 to have a hard time paying their energy bill.

11 A. Well, I am not an expert in gas procurement.
12 That's another division of the company, as you know. But
13 I'm really a little confused on how the market price would
14 be set based on that assumption.

15 If I remember correctly the testimony of
16 Mr. Denato Essay (phonetic spelling) during the winter of
17 2000/2001 when the prices were escalated, Mr. Essay stated
18 in his testimony that since the state of Missouri uses
19 something less than 2 percent of the natural gas in the
20 country and Laclede something around 1 percent that's
21 consumed each year, that we would not have that kind of
22 market power to drive prices. I think that was a question
23 that was asked by the Attorney General at that time.

24 Q. That's not my question. My question is, if a
25 customer's income is \$600 a month --

1 A. Okay.

2 Q. -- and you're going to have an energy burden
3 of 10 percent --

4 A. Okay.

5 Q. -- that's a \$60 a month gas bill; is that --

6 A. Okay.

7 Q. Okay. 10 percent of that, let's say, goes to
8 taxes because I can handle 10 percent.

9 A. Okay.

10 Q. That leaves you \$54 a month for non-tax.
11 You've got a \$12 a month customer charge, you've got, say,
12 another \$3, just for estimation purposes, of commodity of
13 margin, so that's \$15.

14 A. Uh-huh. That's 39.

15 Q. 39. Okay. You figure roughly a third for
16 transportation, because 39 is divisible by 3.

17 A. Okay. If you say divisible by 3. You need
18 someone else to talk about --

19 Q. That would be \$13?

20 A. Yes.

21 Q. Okay. So that would leave you \$26 a month --

22 A. Uh-huh.

23 Q. -- for the commodity cost. 26 times 12,
24 that's 52 -- help me here, John.

25 A. I think you're around \$312.

1 Q. Is that right?

2 A. 52 and then 26 --

3 Q. Yeah. All right. \$312. If the average

4 customer uses -- and I think Mr. Colton's figure was 65 MCF

5 a month -- and I'm not even going to try that, but it comes

6 out to some number.

7 A. Uh-huh.

8 Q. If you told your gas buyers, Look, whatever

9 that number is, that's about what customers can afford to

10 pay for MCF for gas, if you see an opportunity at that

11 price, that would be a good thing for customers. Has

12 Laclede ever undertaken an analysis like that?

13 A. You'd have to ask our procurement people.

14 That is not my area of responsibility.

15 Q. Well, but your area of responsibility is

16 knowing what the income and energy burden --

17 A. Yes.

18 Q. -- figures are?

19 A. Yes.

20 Q. And have you ever undertaken that kind of --

21 A. Not that analysis. I don't deal with our

22 suppliers. I need to make that very clear. I don't

23 negotiate transportation or procurement, so I would not have

24 been involved in that process.

25 Q. But you deal with customers, do you not?

1 A. Yes, I do. Yes, I do.

2 Q. And I'm not suggesting that the gas buyers
3 could buy at what the customers could afford.

4 A. Uh-huh.

5 Q. Okay. But the gas buyers ought to at least,
6 shouldn't they, know when they get market signals -- when
7 they get the opportunity to buy at what might be an
8 affordable level, that that would be a good price to lock
9 in. Wouldn't that be a bit of information that you think
10 the gas buyers would find helpful?

11 A. I think -- like you said, I can deal with the
12 income, I can deal with the energy burden. I think that
13 when you talk about interaction in terms of the procurement
14 process, I would prefer you defer that to someone who's an
15 expert in that area. I am not.

16 Q. But as someone who's interested in ensuring
17 that gas service is affordable for customers, isn't this
18 kind of an analysis -- and I'm not necessarily concerned if
19 it's your bailiwick or -- Lord, I don't know who's buying --
20 Mr. Nysee's (phonetic spelling), whoever's it is, that some
21 kind of analysis on where the rubber meets the road as far
22 as your customers being able to pay or not pay, isn't that
23 some kind of a calculation and something that Laclede could
24 do at relatively low cost that would directly impact the
25 affordability of the service that you're providing to your

1 customers?

2 MR. PENDERGAST: Your Honor, at this point I'm
3 going to object.

4 JUDGE RUTH: Can you use your microphone,
5 please, Mr. Pendergast?

6 MR. PENDERGAST: I apologize. I'm going to
7 object. I think this question's been asked or answered or
8 Mr. Moten has indicated that this question, which goes to
9 what sort of prices our gas procurement people should be
10 looking at is not something that he's familiar with. And I
11 don't see what additional questioning along these lines will
12 produce. I think he's given all the information he can
13 give.

14 JUDGE RUTH: It's my understanding though the
15 question was not do you know the answer to the question, but
16 isn't this a question that someone should consider. And I
17 don't think he's answered that question.

18 Mr. Schwarz, you can respond.

19 MR. SCHWARZ: My initial question was, is this
20 something that you could do and he answered no to that. And
21 I then changed it, isn't it something that someone at
22 Laclede or Laclede as the overall entity should be looking
23 at in terms of whether their customers can afford the
24 service. So I think it's a different question than the one
25 that was originally answered.

1 JUDGE RUTH: And that question has not been
2 answered yet, so I'll overrule the objection and you can
3 answer the last question Mr. Schwarz clarified.

4 THE WITNESS: Okay. If he's asking if that's
5 something that should be looked at, the honest answer I can
6 give you since I don't know anything about that process, I
7 don't know. I honestly don't know. You know, I mean, that
8 would be no different than if you asked me how you would
9 negotiate prices for all of our customers.

10 BY MR. SCHWARZ:

11 Q. No, that's not the question that I'm asking.
12 I'm not asking you about negotiating the price with
13 suppliers. I'm not asking you about what the market is
14 going to actually bear.

15 What I'm asking is, in considering whether gas
16 service is affordable for a substantial portion, maybe 20
17 percent or 25 percent of its customers, shouldn't Laclede
18 have some idea as to the gas price at which those customers
19 will be able to afford or not be able to afford payments
20 according to information that's readily available?

21 MR. PENDERGAST: I'm going to object again.
22 The witness has said I don't know. And under those
23 circumstances, repeating the question seems to me to be a
24 futile exercise.

25 JUDGE RUTH: Let me clarify something here.

1 Mr. Schwarz, the witness did say, If he's, referring to you,
2 asking if that's something that should be looked at, the
3 honest answer I can give since I don't know anything about
4 that process is I don't know. Then he went on and made
5 another statement that had to do with something else. So I
6 think he has answered the question and I'll ask you to move
7 on.

8 BY MR. SCHWARZ:

9 Q. On page 17 of your testimony, you refer to
10 Roger Colton's testimony in GR-2001-292, which was MGE's
11 rate case last year?

12 A. Yes. Starting at line 22?

13 Q. Yeah. Isn't it true that many of those
14 programs involve some kind of reduced rate or percentage of
15 income rate as opposed to strictly arrearage forgiveness?

16 A. Yes. Many of them do, yes.

17 Q. The tariffs that were filed on September 23rd
18 that have been attached to your testimony --

19 A. Yes, sir.

20 Q. -- those would not be sufficient to implement
21 the entirety of the Catch-Up/Keep-Up program, would they?

22 A. If you mean does the tariff contain the entire
23 program design, the answer would be no.

24 Q. Not the entire program design. There is no
25 tariff here which would actually generate the \$6 million a

1 year that Laclede says it would need to operate the program;
2 is that correct?

3 A. Yes. This does not deal with that, yes.

4 Q. So if the Commission approved the program,
5 Laclede would have to make a PGA filing to perhaps impose a
6 surcharge to generate an additional \$6 million a year to
7 fund the program?

8 A. That -- I think you might want to ask Witness
9 Cline how that procedure actually works. Like I said, I'm
10 not a regulatory person.

11 Q. But you designed this program, did you not?

12 A. Yes. I can speak specifically to the program.

13 Q. Okay. Well --

14 A. But I never said I was an expert in the
15 funding mechanism, but I can speak to the mechanics of the
16 program, yes, sir.

17 Q. Okay. Laclede anticipates contracting with
18 any number of different CAP agencies to administer the
19 program?

20 A. Yes, sir.

21 Q. And the tariff as filed doesn't have any
22 common guidelines as to what extenuating circumstances would
23 be?

24 A. No, we do not.

25 Q. So that each CAP agency would be able, on a

1 case-by-case ad hoc basis, to decide what extenuating
2 circumstances are?

3 A. It would be my expectation that we would meet
4 and establish some broad guidelines that would operate
5 within some parameters to where this could operate. I don't
6 think we would just say any excuse will do. We'd have to
7 refine that, yes.

8 Q. But that's not something that's been done yet?

9 A. No, sir, it has not. As you recall, when we
10 were in the meeting discussing this, I was cautioned not to
11 engage in that activity until after the Commission had
12 approved the program, by Staff.

13 Q. The object of this program is to change
14 customer behavior, is it not?

15 A. Yes, sir.

16 Q. And assuming the \$6 million -- the program as
17 originally filed, just because those numbers I think I'm
18 more familiar with --

19 A. Uh-huh.

20 Q. -- there would be \$6 million which could be
21 spent on the program, \$5.4 million would go to arrears
22 forgiveness and then 600,000, part would go to
23 administrative costs of the CAP agencies and then the
24 balance of the remaining funds would actually be spent
25 towards modifying customer behavior. Is that my

1 understanding of --

2 A. Yes. In general. Very broadly stated, yes,
3 sir. And the assumption that was made there was that in
4 some cases people would need counseling in order to
5 understand what was -- what the expectations are for their
6 participation in the program.

7 Q. There is a provision that the program funds
8 would be placed in escrow, I think?

9 A. Yes, sir.

10 Q. And any unspent funds would carry over from
11 year to year and eventually be returned to the customers
12 whenever the program terminates; is that --

13 A. Yes, sir.

14 Q. So that there's not necessarily any limit on
15 how much money could be collected from customers and simply
16 held in an escrow account for an indeterminate period of
17 time pending termination of the program?

18 A. That would assume that there were not very
19 many takers to the program in that equation. In order for
20 the funds to accumulate, that would mean fairly low
21 participation, which is something we don't anticipate.

22 Q. And let me ask you this. Would the nature and
23 extent of extenuating circumstances have an effect on that
24 as well; that is, if what is considered a extenuating
25 circumstance is broadly defined, then the amount of program

1 funds consumed would be increase, all other things equal?

2 A. Agreeing with the analogy that you gave
3 earlier about the customer who paid the \$20 a month on the
4 \$60 bill, I think we agreed that at the end of that year if
5 that balance was still there, that that customer would have
6 that obligation.

7 Q. What's an extenuating circumstance on a \$600 a
8 month budget?

9 A. Well, I could think of a medical emergency. I
10 could think of a situation where a customer making a
11 marginal income might have a vehicle that breaks down
12 because of the lack of public transportation in the
13 St. Louis area where they would need to have the
14 transportation to maintain their job. You know, it could be
15 something that might break in the house.

16 I mean, I don't -- like I said before, I
17 don't -- I don't have, let's say, a laundry list. I think
18 that will vary lot with the household and with their
19 circumstances.

20 Q. So that's not anything that Laclede has looked
21 at at this stage to see the nature and size of what might
22 constitute extenuating circumstances?

23 A. I have looked at them. I don't have a full
24 list, but I can -- you remember I gave the analogy of the
25 person who had the automobile breakdown. And in that

1 circumstance, this person had a very low-income job and if
2 they had to have their automobile repaired in order to get
3 to work, I would think that would be an extenuating or
4 difficult circumstance. Illness of someone in the family.
5 I mean, you could go down an entire list, but I'm not sure
6 that I could give you the entirety of it.

7 Q. Understood. Understood.

8 You think someone with \$600 a month income can
9 afford a car?

10 A. I know of people who are working in very
11 marginal jobs who don't work every week who have to subsist
12 off of that and they have to have transportation to get to
13 work, yes. You see, the presumption that you're making,
14 which I think needs to be clarified, is that all poor people
15 do not work.

16 Q. No, sir. I'm not making any assumptions at
17 all about poor people. I'm talking about \$600 a month
18 income, which is a hypothetical estimate. And if 30 percent
19 of the income is supposed to go to housing, that's \$180,
20 that leaves \$420 a month. And I don't understand how you
21 can afford an automobile and -- I just --

22 A. I'll give an example. Many domestic workers
23 who work partial work are given automobiles by their
24 employers. That is not uncommon for domestic workers, for
25 example.

1 Q. And would the automobile be considered part of
2 the income --
3 A. I don't know.
4 Q. -- use of the automobile?
5 A. I don't know
6 Q. Thank you.
7 MR. SCHWARZ: May I approach the witness?
8 JUDGE RUTH: Yes.
9 BY MR. SCHWARZ:
10 Q. Mr. Moten --
11 A. Uh-huh.
12 Q. -- I have you -- I'm handing you the final
13 report --
14 A. Uh-huh.
15 Q. -- on Laclede's weatherization program in
16 1999. Was this prepared --
17 A. 1997.
18 Q. 1997, I'm sorry. Was this prepared under your
19 direction or with your participation?
20 A. With my participation, yes.
21 Q. And it was filed with the Commission?
22 A. Yes, sir.
23 Q. Where does it state that the return on the
24 weatherization is 77 cents per dollar invested?
25 A. It's contained in the executive summary, it

1 should be. I have a copy of the executive summary here, but
2 let's see. I can find it in the executive summary. If we
3 were to turn to page -- I guess this would be page A-1 of 1.
4 Q. Yes.
5 A. These are the numbers I cited in my testimony
6 earlier.
7 Q. Okay.
8 A. Excuse me.
9 MR. SCHWARZ: Thank you. Nothing further.
10 JUDGE RUTH: Okay. I think we're going to get
11 ready to break for lunch. I want to address the motion for
12 protective order real quick.
13 You may step down, Mr. Moten.
14 THE WITNESS: Thank you.
15 JUDGE RUTH: And we will recall you after
16 lunch.
17 Have all the parties had an opportunity to now
18 look at Laclede's request for a protective order? Public
19 Counsel, yes?
20 MR. COFFMAN: Yes. No objection.
21 JUDGE RUTH: DNR?
22 MR. MOLTENI: No objection.
23 JUDGE RUTH: And Staff?
24 MR. SCHWARZ: No objection.
25 JUDGE RUTH: All right. Then Public Counsel's

1 motion for the standard protective order, which was filed on
2 Wednesday, November 27th, is hereby granted. I'll follow-up
3 with a notice to that effect. It won't go out until
4 tomorrow morning, however, but it is granted.

5 We will take a break for lunch. And we're
6 going to start back up at -- I'm going to make it five after
7 1:00, and that's because I'm going to have the IS people
8 come up and make sure that I get this going correctly and I
9 want to give them time to get back here. So we're off the
10 record and we'll start back at five after 1:00.

11 (A RECESS WAS TAKEN.)

12 JUDGE RUTH: Before we broke for lunch, it's
13 my understanding that Mr. Schwarz concluded his
14 cross-examination. He's not here so I can't confirm that
15 with him, but I'll go ahead then and at this time we're
16 going to skip questions from the Bench and move to recross.
17 We may have to bring this witness back for the recross.

18 Public Counsel?

19 MR. COFFMAN: I do have a -- I'm sorry. I do
20 have a couple of questions. I'm not sure if they are -- I
21 guess they came out based on questions -- based on Staff
22 questions. Would it be appropriate to ask -- I have two
23 small questions, but --

24 JUDGE RUTH: Okay. Say that again.

25 MR. COFFMAN: You're offering an opportunity

1 for recross and I'm understanding it's based on what
2 questions?

3 JUDGE RUTH: We'll go to --

4 MR. COFFMAN: There haven't been any questions
5 from the Bench.

6 JUDGE RUTH: Well, I can ask a few questions
7 from the Bench that they left me, but I'm still going to
8 have to bring this witness back. But maybe we'll do that
9 and maybe some of the other Commissioners will come before
10 we finish.

11 QUESTIONS BY JUDGE RUTH:

12 Q. And the first ones are from Commissioner
13 Forbis. And his question is, why did you pick this
14 approach, meaning the one that is in the tariff plan? You
15 mentioned that you looked at Ohio and Illinois, I think, and
16 maybe California, that theirs were a little bit different.
17 So his question is why did you pick this one? And I assume
18 he means maybe as compared to the other plans you saw out
19 there.

20 A. We felt that this program offered several
21 advantages. One, it would allow customers to alleviate the
22 arrearages in a relatively short period of time and get them
23 to -- in a more affordable payment level in a -- in a faster
24 period of time.

25 The other two programs that were mentioned,

1 the one in Ohio, the arrears have never gone away. They've
2 just been sort of escrowed. And so, therefore, I'm not sure
3 there's been a funding mechanism in place that takes them
4 away or if they're taken away. The assumption is that the
5 low-income recipients will some day repay those dollars. So
6 we felt that this was a cleaner way to do it, in my opinion.

7 With regard to the one in Illinois, the
8 funding source was such that it could not sustain the
9 program. And we felt that we had a more sustainable funding
10 source than what they were using in Illinois which was
11 the -- which were the oil over-charge dollars.

12 Q. Could you clarify that again about -- you said
13 one of the programs did not have a funding source and so
14 what did they do with the arrearages?

15 A. The one in Ohio, they do collect money, I
16 should say, from other customers added to their rates, but
17 they make the assumption that the customers who are the
18 recipients, they keep a total of those arrears and assume
19 that some day those customers are going to be able to pay
20 those arrears off.

21 And we think that what we're proposing is a
22 lot more feasible than awaiting for people -- their economic
23 circumstances to rise to the point where they would be able
24 to pay off that substantial amount of money.

25 Q. Okay. His next question was, is any other

1 state doing something similar to the way you're proposing
2 that we handle it here?

3 A. I am not aware of any other state doing a
4 program like ours, no, you know, as we have stated in the
5 tariff.

6 Q. Okay. Now, I think this was addressed a
7 little bit with Mr. Schwarz, but let me try to clarify.
8 He's interested in knowing do you have any studies or have
9 you reviewed any studies that show that this approach will
10 work; in other words, that you can change behavior type
11 studies?

12 A. The testimony that was submitted some years
13 ago by Mr. Gyant (phonetic spelling) in Wisconsin, I believe
14 in his report he indicates that there was an improvement in
15 payment behavior. I don't recall the statistics, but I'd
16 have to pull the study out. But, yes, I would say that the
17 experience in Wisconsin indicates there is a change in
18 behavior.

19 Q. And so that's the one study that you saw that
20 indicated a change in behavior, but you're not sure of
21 statistics for that?

22 A. That's correct.

23 Q. I'll make a note of that. Commissioner Forbis
24 may want to ask you some more questions on that.

25 A. Sure.

1 Q. And why is Laclede opposed to an AAO?

2 A. I think Witness Fallert would be better

3 qualified to answer that.

4 Q. Okay. Public Counsel mentioned that during

5 the rate case proceeding they had suggested that Laclede

6 include this program in the rate case settlement. Why was

7 that not done?

8 A. Witnesses Cline or Fallert -- I'm not involved

9 in the regulatory side of the business.

10 Q. Okay. And I'm not sure if I can put this

11 exactly how he wanted it, but can you clarify more how this

12 is a win/win/win situation?

13 Laclede winning seems understandable, perhaps

14 the low-income customers, we can understand that. But he

15 has some notes here asking if you could clarify how the

16 customer group as a whole, that this is a win, especially --

17 it's our understanding that if there wasn't a program,

18 100 percent of those certain pipeline discounts would go

19 back to all customers; is that right?

20 A. Yes.

21 Q. Okay. So how is this situation better than

22 all those discounts going back to customers for the large

23 customer base group?

24 A. Well, we feel in the long run with the

25 reduction in arrearages that these customers owe that would

1 be recovered in rates and the associated costs for
2 collection and other related activities, that all ratepayers
3 would benefit since if those costs were not covered by this
4 program, they would be recovered in rates.

5 Q. Would they benefit as much as if there had
6 been no program as proposed by Laclede?

7 A. I don't have an answer to that.

8 Q. Do you understand what I'm asking?

9 A. What you're saying is if we were to compare no
10 program to a program, would the customers be better off. I
11 don't really have enough statistics to say for sure. I
12 think that might be better for one of the other witnesses,
13 Fallert or -- who deal more with the financial side of the
14 business.

15 JUDGE RUTH: Okay. Laclede -- Laclede? I'm
16 sorry, Mr. Pendergast. I wanted to point out then when we
17 get to your other witnesses, these are some issues that
18 Commissioner Forbis has specifically asked be addressed,
19 especially this last one, the comparison that I asked.

20 MR. PENDERGAST: Certainly.

21 JUDGE RUTH: Hopefully you understood the
22 question.

23 MR. PENDERGAST: And they will be prepared to
24 address it.

25 JUDGE RUTH: Thank you.

1 Okay. That's all the questions that
2 Commissioner Forbis had noted. He may want you recalled.
3 THE WITNESS: Sure.
4 JUDGE RUTH: And it's my understanding he'll
5 be here later this afternoon. But at this time,
6 Commissioner Murray, do you have any questions for this
7 witness?
8 COMMISSIONER MURRAY: Yes, I do. Thank you,
9 Judge.
10 QUESTIONS BY COMMISSIONER MURRAY:
11 Q. Good afternoon.
12 A. Good afternoon.
13 Q. Do you know how many customers would qualify
14 for the program as Laclede has proposed it?
15 A. The outlying number that was given in the
16 testimony by Jackie Hutchinson at the public hearing, I
17 think there's some 90,000 LIHEAP eligible households in the
18 Laclede service area I believe was her testimony. So the
19 potential could be as high as 90,000.
20 Q. But as Laclede has proposed it, it is for
21 those who are within 175 percent of the poverty level; is
22 that right?
23 A. Yes, ma'am. And so that means that that
24 number could be higher than just the basic LIHEAP
25 population. So that 90,000 number might be low in terms of

1 overall eligibility.

2 Q. But you don't know what the number is?

3 A. No, ma'am, I do not.

4 Q. And what is the -- what is 175 percent of the
5 poverty level for a family of four, do you know?

6 A. Offhand, I think it would be a number
7 approaching \$20,000 a year. That's relying on my memory,
8 Commissioner.

9 Q. All right. And how did Laclede arrive at the
10 funding level required for the program?

11 A. Using the prior experience that -- it's my
12 understanding, from what the company was allowed to retain
13 from prior cost saving programs or incentive programs. And
14 it was felt that since there was a precedent for retaining
15 certain percentages of those savings, that there was a
16 precedent that existed to allow this to be used -- the
17 funding to be used for this program.

18 Q. Now, that was the savings -- the pipeline
19 discount savings?

20 A. That is my understanding.

21 Q. But that really didn't tell anything about
22 what it would take to provide this program for the eligible
23 recipients, did it?

24 A. Not in that context, no, ma'am. If I
25 understand what you're saying, did we match up the available

1 funding with the available need. No. We were just looking,
2 as my understanding, at what would be an available and
3 reasonable source of funding that we could tap right away to
4 implement the program.

5 Q. Okay. What do you think about Office of
6 Public Counsel's concern that this program could offer a
7 revolving door because there are no prohibitions on
8 re-enrollment?

9 A. I think that that is something that we had
10 talked about at informal meetings. And I think that's
11 something that can and should be instituted and that is to
12 not have it as a revolving door. The program is designed to
13 change payment behaviors, so in that regard I would support
14 the idea that in some way we make sure that it does not
15 become a revolving door and does not -- results in, you
16 know, true changes in payment behavior.

17 Q. Well, as the tariff is written or as it would
18 be written with the suggested changes that Laclede has
19 apparently agreed to, would that be possible?

20 A. I'm not sure that we have a -- a specifically
21 worded stop in there, but I'm sure we'd be agreeable to
22 working -- to working one out.

23 Q. And if the program is insufficient -- the
24 funding is insufficient to allow all qualified low-income
25 customers to participate, how will Laclede determine which

1 customers will participate?

2 A. The determination will not be made by Laclede.
3 The determination would be made by the social service
4 agencies. The way we envision the program operating, the
5 eligibility determination would be made by the social -- the
6 CAP agencies. So they would be the people who would
7 determine eligibility and they would be the people who would
8 enroll the people -- the customers into the program.

9 Q. Now, will they receive any funding for
10 administrative costs?

11 A. Yes. We have not agreed on a final number,
12 but we feel that there would be some administrative costs
13 that they would need to recover in order to implement the
14 program both in the processing of the applications and
15 performing any outreach or counseling service that --
16 services that might be required.

17 Q. So what administrative functions would Laclede
18 have for the program?

19 A. Ours would include providing the necessary
20 data on arrearages, customer accounts to support the data
21 that we get from the CAP agencies, providing data on
22 customers who fail to make timely payments and so on. That
23 information that would be available that we could pull from
24 our records.

25 And in addition, we would want to provide some

1 type of administrative oversight support, assuming the
2 responsibility or leadership role in the implementation of
3 the program.

4 Q. Okay. And do you know how Laclede estimated
5 the administrative costs of the program?

6 A. Just from the customary 10 percent that
7 agencies normally get for administering such programs.

8 Q. And as far as Laclede's portion of the costs,
9 do you know how they were --

10 A. I don't have an estimate on that.

11 Q. Okay. Are you familiar with the conditions
12 that Office of Public Counsel proposed in Ms. Meisenheimer's
13 testimony? I believe it's been referenced here earlier.
14 Mr. Pendergast I think addressed the first four conditions
15 in his opening statement and I think Mr. Coffman went into
16 some of them with you earlier.

17 A. Yes. I read her testimony. I don't know if
18 I -- I don't have it all committed to memory, but I have it
19 before me.

20 Q. Okay. On page 12 of her testimony, that's
21 where she mentions those, I believe.

22 A. Okay.

23 Q. And --

24 A. I have page 12 now.

25 Q. And I believe with No. 5, you suggested to

1 Mr. Coffman that that would significantly delay the
2 implementation of the program --

3 A. Yes, ma'am.

4 Q. -- is that correct?

5 And on No. 6, more extensive records for
6 evaluating the success, would those requirements for the
7 types of evaluation that are suggested there, would that
8 increase the administrative costs?

9 A. Yes, it would. Because it would mean that the
10 agencies would have to separate out the customers, not just
11 because they're eligible for energy assistance, but separate
12 them out at the income levels that are requested here at
13 100 percent and 125 percent of poverty. So there would be
14 some additional work in terms of dividing the customers up
15 in those groups.

16 Q. For the agencies. How about for the company?

17 A. There would be some additional work in that we
18 would have to then divide those customers from our records
19 into two separate groups.

20 Q. Any way to estimate the additional cost that
21 would be incurred?

22 A. I have no estimate, no.

23 Q. And do you understand Staff's argument that
24 was made by Mr. Rackers that Laclede would be able to double
25 charge its customers for bad debt expense and keep the

1 resulting profits?

2 A. I am not expert in that area. That is one I
3 believe that Mr. Fallert will be responding to.

4 Q. And do you have Mr. Warren's testimony with
5 you?

6 A. Yes, I do. If I could have a moment to find
7 it.

8 Q. I need a moment to find it also.

9 A. Yes. I have Mr. Warren's testimony.

10 Q. All right. On page 6 he goes into some
11 parameters that he says need -- that the program would need
12 to have. And he said on line 4, Some of these parameters
13 are the number of eligible customers, number of applicants,
14 number of participants in the program along with the amount
15 of Laclede's arrearages that are attributable to low-income
16 customers and how the program affects these participants and
17 the overall level of arrearages.

18 Do you see that?

19 A. Yes, ma'am.

20 Q. And he says tracking would also be required.
21 Can you tell me if you have any problem with those
22 parameters that he talks about there?

23 A. I have a problem with one or two of them. The
24 number of eligible customers would be a difficult one for
25 the question you asked earlier. There is -- there is data

1 available on those persons that are eligible for energy
2 assistance. I'm not sure.

3 It may be available from census data on the
4 number of eligible customers, but I have not seen that data,
5 so I -- I'm reluctant to say that I know it's readily
6 available. I'm assuming that it is, but I -- since I don't
7 have it, I don't know.

8 Q. And the number of applicants?

9 A. The number of applicants, that would be a
10 speculative number since, as we said earlier, that would be
11 determined by the people who come into the agencies to seek
12 assistance. We would know after the fact, but I'm saying I
13 don't know that we would necessarily know before the fact.
14 It would be nothing more than a calculated guess.

15 Q. And then after the fact, you would certainly
16 know the number of participants in the program. Right?

17 A. Yes. Absolutely.

18 Q. And then how about the amount of Laclede's
19 arrearages that are attributable to low-income customers?

20 A. That would be difficult because we don't know
21 who all of our low-income customers are on our system. We
22 only know or can have an identity of low-income customer
23 assistance based on having received a LIHEAP grant because
24 then that identifies their income.

25 But if they're low-income and they do not

1 receive an energy assistance grant, we don't have a way to
2 say categorically that that customer is low-income.

3 Q. But if they don't qualify for LIHEAP, they
4 wouldn't be participating in this program, would they?

5 A. No, they would not. What I was trying to say,
6 Commissioner, is that all eligible households by income do
7 not necessarily apply for LIHEAP. Only a fraction of them
8 do. And part of that has to do with available funding and
9 the other part is many people either do not know they're
10 eligible or choose not to participate in the program.

11 Q. But if they don't comply -- if they're
12 eligible for LIHEAP but don't apply, would they not be able
13 to participate in this program?

14 A. It would be difficult, because they would have
15 to go through some kind of gate-keeping process so that
16 their income could be verified and then the agency could
17 certify that they're eligible for the program.

18 So there would have to be some process that
19 they would have to go through in order to show that they are
20 eligible for assistance. And as we have the tariff written,
21 we would expect them to apply for all available federal
22 assistance in addition to the funds that would be available
23 for them from this program.

24 Q. So is there any way to know with some of the
25 customers that have arrearages whether they might qualify

1 for assistance but have not sought it?

2 A. In terms of numbers, I probably could get some
3 estimates from Department of Social Services or the CAP
4 agencies, but I don't know that beyond the number that --
5 the number I cited that was in Ms. Hutchinson's testimony,
6 that's about as good a number as I'm aware of in terms of
7 the number of potentially eligible customers. That --
8 beyond the data that she would have as someone working in
9 the area, I wouldn't have any better numbers.

10 Q. Does Laclede make an effort to inform its
11 customers that there are programs available for assistance?

12 A. Yes, ma'am, we do. We do it in several ways.
13 One, in our customer assistance program, those customers who
14 received energy assistance the winter before and their gas
15 is off at the start of the cold weather period, we
16 voluntarily ask our meter readers to look at those houses
17 without inquiry to determine if they're occupied or not.
18 And if they appear to be occupied, we will mail to that
19 residence information about energy assistance.

20 In our collection notices that we send to
21 customers with delinquent bills, information during the cold
22 weather period on energy assistance is also included in that
23 bill. And we have periodically run ads in local newspapers
24 making people aware of the fact that energy assistance is
25 available.

1 And we do make available energy assistance
2 applications and customer assistance guides available in our
3 business office when customers come in to work out payment
4 arrangements. And, also, when customers call in to seek
5 protection under the Cold Weather Rule, they are advised by
6 our customer service representatives that they should seek
7 energy assistance.

8 Q. Okay.

9 A. And if they want, we also mail them
10 information. We have developed, Commissioner -- if I may
11 add this?

12 Q. Sure. Go ahead.

13 A. What is called a customer assistance guide.
14 AmerenUE and Laclede jointly publish this each year. And
15 inside that guide it explains the guidelines for the Cold
16 Weather Rule, local agencies where energy assistance is
17 available. And this year there are plans to publish this
18 guide in more than one language.

19 Q. And they would be available in your local
20 offices?

21 A. Yes. They would be -- we make them available
22 to the CAP agencies in our offices and we mail them out to
23 customers who are experiencing any difficulty that we can
24 identify. And we also make them available to churches or
25 anyone else, you know, who would want that information.

1 Q. Do you have a record of all of the customers
2 that have received weatherization assistance?

3 A. No, we do not. We would have records of those
4 who participated in the programs that are funded by Laclede,
5 but I'm not aware that we've ever received a printout of the
6 all the customers in the Laclede system who have
7 participated in the low-income weatherization program, no,
8 ma'am. I would imagine they would make that available to
9 us, but I am not aware that we have it now.

10 Q. Okay. So you wouldn't know how many customers
11 that have received weatherization help are presently current
12 in their utility bills?

13 A. I wouldn't know that, no. Not at this point I
14 would not know that, no, ma'am.

15 Q. So is there any way you could make any
16 estimate as to how weatherization affects arrearages?

17 A. I am not aware of any study in Missouri that
18 specifically pinpoints that, because most of the programs,
19 perhaps with the exception of MGE, have been pilot or
20 experimental programs. There might be some appropriate --
21 might be some extrapolation that could be done, but I don't
22 know -- I don't have access to that information. Others
23 may, but I do not.

24 Q. If a customer had arrearages above \$1,500 and
25 the \$375 quarterly would exhaust that -- I mean, it would be

1 that \$1,500 after the first year, do they have to pay down
2 those excess arrearages or what happens to that?

3 A. At this point as the program is currently
4 written, the customers at the end of that period would be
5 placed on a new budget plan. I would think that customers
6 who have arrearages of that significant amount and they're
7 on a system, it would mean that they would be experiencing
8 some extenuating circumstances.

9 We do have customers on the system who have
10 very high arrearages because there's an ill person in the
11 house who might be on some kind of a medical device and
12 their service would be extended longer than normal.

13 Q. And how long -- I mean, is there any maximum
14 that it could be extended?

15 A. I don't know. I would imagine there is some
16 point. It's just that I don't know what that point is.

17 Q. So when you go into year two -- you're saying
18 that in year two, the first quarter, they would be able to
19 write off up to \$375; is that right?

20 A. Right now we have the program written --
21 there's a one-year program to assist those customers. I
22 would imagine in those rather difficult circumstances where
23 the extenuating circumstances can be verified, it might be
24 justifiable in the case of those specific customers to allow
25 them a little extra time so that their payments could get

1 down to a more affordable level.

2 Q. Would they be limited to the \$375 quarterly?

3 A. The way it is written right now, yes, ma'am.

4 Q. And if this program is not approved, what is
5 the likely scenario for those customers whose debt would
6 otherwise be forgiven under the program?

7 A. Based on the way current energy assistance
8 works currently, their arrearages will continue to rise and
9 they would continue for the following reasons. They will
10 come into the winter typically with some level of
11 arrearages.

12 That one added to the current bill will
13 typically make the payments so high, even that of grants,
14 that what will happen is they will probably stay on until
15 finally they miss one or two payments or struggle to make it
16 until spring. The service is disconnected and because the
17 bill is based on a levelized basis, a spread over 12 months,
18 and they use more energy in the winter than they do in the
19 summer, then those arrearages will in all likelihood grow.

20 Q. What about those customers currently
21 disconnected for non-payment?

22 A. I'm sorry?

23 Q. That currently --

24 A. Well, their arrearages I guess until they are
25 written off, would just remain there because if they're

1 disconnected, that means that they're not making any
2 payments would be my assumption.

3 Q. Do you know how many are in that situation?

4 A. The most recent number I have is that there
5 are about 20,000 of our customers who are currently
6 disconnected or their bills have been finaled out.

7 Q. Is that 20,000 households?

8 A. 20,000 households, excuse me, yes.

9 Q. And how many of those do you think would be
10 reconnected if this program were approved?

11 A. I'd have to ask Mr. Fallert that question.
12 That's more in his area, ma'am.

13 Q. And this may be his area again, but if this
14 program is not approved, how do you think the actual bad
15 debts -- I'm pretty sure this is not your area -- the actual
16 bad debt costs will compare to the amount that's currently
17 allowed in rate base for bad debts?

18 A. That would not be my area, no, ma'am.

19 Q. One witness at the local public hearing
20 suggested that the Commission should do another emergency
21 amendment to the Cold Weather Rule. And do you know how the
22 mechanics of that would work with Laclede's program or how
23 they would -- what interplay there would be?

24 A. If I -- if my recollection of the emergency
25 Cold Weather Rule program, which I think was a payment of

1 \$250 or I believe 25 percent of the bill, whichever is less,
2 the percentage of bill, in my recollection, combining that
3 program with the Catch-Up/Keep-Up would raise the cost of
4 the Catch-Up/Keep-Up program.

5 Because what it would mean is that those
6 customers then would not necessarily receive the maximum
7 amount of energy assistance that they otherwise would have
8 been entitled to since all they need is a maximum \$250 to
9 restore service. In some cases, very poor households that
10 might receive multiple grants could add up to substantially
11 more than that.

12 Q. Now, let me see if I followed that. You said
13 it would raise the cost of the Catch-Up/Keep-Up?

14 A. In the sense that the amount of arrears at the
15 time that you start the program would be greater. May I
16 give an example?

17 Q. Yes, please.

18 A. Let us say a customer comes in -- and these
19 are hypothetical numbers. I haven't thought it through.

20 But let's say that customer for round numbers
21 owes \$1,000 in arrears at the time they come into the
22 program. So they pay \$250 to get the service restored. The
23 arrears would then be 750.

24 There are circumstances where that customer at
25 the very low-income might be eligible for grants that might

1 even total \$500, because under our five case rule, we
2 generally extend about \$500 worth of credit. So that means
3 that their arrears would be \$250 more than they otherwise
4 would have been without the Emergency Cold Weather Rule to
5 start -- at the start of the program. Would you want me to
6 elaborate a little more?

7 Q. If you think it would help.

8 A. Well, what I'm saying is that there are
9 circumstances when a customer, depending on their income and
10 their circumstances, might be eligible for not only a LIHEAP
11 grant, which averages about \$200, but also a ESIP grant and
12 in some cases maybe even a Dollar-Help grant. They
13 obviously would have much larger bills than my \$1,000
14 example.

15 So what I'm saying is that if you're only
16 limited to a maximum of a 250 payment, then the more your
17 arrears are, the more arrears you carry into the start of
18 the program.

19 Q. Now I understand. Thank you.

20 A. Okay. You're welcome.

21 Q. And this also may be for another witness, but
22 without the program do you know if there are any incentives
23 for or any benefit to the company from the discounts -- the
24 pipeline discounts that it receives?

25 A. That would probably be for another witness.

1 I'm not expert in that area.

2 COMMISSIONER MURRAY: All right. I believe
3 that's all I have. Thank you.

4 THE WITNESS: You're welcome.

5 FURTHER QUESTIONS BY JUDGE RUTH:

6 Q. I have a question from Commissioner Lumpe --

7 A. Yes.

8 Q. -- for you.

9 And, again, she may wish to recall you and
10 clarify this, but she wants you to look at the statement of
11 positions that Laclede filed or -- do you have one he can
12 look at? You may be able to do this from memory.

13 But her question is, Laclede specifically
14 indicates on page 4 and 5 --

15 A. I'm trying to find it, your Honor. I've got
16 too many pieces of paper here, I think. I'll have to get a
17 copy from counsel.

18 Q. I believe counsel is now handing you a copy of
19 Laclede's position statement?

20 A. Yes. Yes.

21 Q. On pages 4 and 5 there are some bulleted items
22 where Laclede indicates that it would be willing to adopt
23 certain proposals that Staff or OPC have made. Commissioner
24 Lumpe requests that you reiterate which ones are you not
25 willing to adopt. In other words, what proposals that OPC

1 or Staff requested that Laclede's not willing to do?

2 A. You mean that are not listed on this list

3 here?

4 Q. Yes. These are the things that Laclede was

5 willing to change to accommodate Public Counsel or Staff.

6 So Commissioner Lumpe's question is what was it you were not

7 willing to change?

8 A. Well, we felt that the program ought to have

9 two full winters plus this partial winter.

10 Q. So the time?

11 A. Yes. Is one.

12 Q. Okay.

13 A. We feel that the \$6 million funding level is

14 adequate. We felt that a minimum level would be the

15 4.6 million if you exclude the 10 percent that the company

16 had wanted the right to retain. So those are two items that

17 we consider to be important.

18 I won't say that we absolutely positively will

19 not make some accommodation on those, but these are ones we

20 feel are important to getting a successful program off the

21 ground.

22 Q. So those are the only things that Public

23 Counsel or Staff had requested that you'd do differently?

24 A. Off the top of my head and my memory -- we've

25 had a lot of meetings and there may have been some other

1 proposals and I may have overlooked them, but at this point,
2 they are the two that come to mind.

3 JUDGE RUTH: All right. Thank you.

4 FURTHER QUESTIONS BY COMMISSIONER MURRAY:

5 Q. Just one or two more questions.

6 A. Yes.

7 Q. On page 17 of your testimony you talk about
8 other customers beginning on line 11.

9 A. Bear with me one second. I'll get to it here.
10 What page was that, Commissioner?

11 Q. On page 17.

12 A. Okay. I have it.

13 Q. And this is as discussed in the Direct
14 Testimony of Mr. Fallert. All of the company's paying
15 customers pay for the bad debts of those who don't pay since
16 these bad debts are ultimately recovered as a cost of
17 service through the rate-making mechanism.

18 And then you talk about basically lowering the
19 cost of service through this program and the benefits, down
20 on line 18, will also eventually flow to all customers in
21 the form of reductions in these elements of the company's
22 cost of service.

23 When would they flow through to the other
24 customers? Would it be at the end of the rate moratorium?

25 A. I think that would be one that Mr. Fallert

1 probably could answer better. I got this information from
2 him, but I think he would be more knowledgeable at technical
3 details.

4 Q. And then --

5 COMMISSIONER MURRAY: Okay. I think that's
6 all this time. Thank you.

7 THE WITNESS: You're welcome.

8 JUDGE RUTH: Give me just a moment, please.

9 Okay. Mr. Moten, as I said before,
10 Commissioner Forbis or Commissioner Lumpe may want to recall
11 you to clarify some issues, but at this time that will be
12 everything from the Bench and we'll move on to recross based
13 on the questions from the Bench. And Public Counsel?

14 MR. COFFMAN: Thank you.

15 RE CROSS-EXAMINATION BY MR. COFFMAN:

16 Q. Good afternoon now.

17 A. Good afternoon.

18 Q. I was surprised to hear you mention Mr. Al
19 Gyant. It brought back memories of 10 years ago --

20 A. Yeah.

21 Q. -- and Laclede's Case No. GR-92-165. And I
22 assume that you remember that or have recalled and reread
23 some of the case materials from that case?

24 A. No. I -- I read Mr. Gyant's testimony, but I
25 don't remember all of the details of that case. I'm sure --

1 I know we talked about that a lot --

2 Q. Right.

3 A. -- but I'm not going to pretend that I

4 remember all of it.

5 Q. And he was a representative of Wisconsin

6 Public Service Commission, was he not?

7 A. That's correct.

8 Q. And he was a witness sponsored by the Missouri

9 Office of the Public Counsel in that case --

10 A. That's correct.

11 Q. -- to talk about their Wisconsin program?

12 And isn't it true that the program which he

13 was touting and talking about the benefits of was a program

14 that addressed both reduced payment, in other words, the

15 affordability, as well as arrearage forgiveness and

16 weatherization; isn't that true?

17 A. It's my recollection that -- and I believe if

18 I'm not correct, the programs he described had various of

19 these components that varied by company by company. I think

20 in his testimony he indicated that they allow the local

21 companies to tailor the program based on what they felt were

22 the needs within the communities that they served.

23 Q. And in that rate case, do you recall that

24 Public Counsel made a proposal that also addressed those

25 three components?

1 A. I believe -- I believe that's the case, yes,
2 sir.

3 Q. That had an arrearage forgiveness, a reduced
4 rate and a weatherization program. And do you recall what
5 Laclede's position was about that proposal?

6 A. I believe that we were not supportive of the
7 program at that time. As structured at that -- the way it
8 was structured, yes, sir.

9 Q. All right. In response to Commissioner
10 Murray, you made a statement about eligibility for LIHEAP
11 assistance. And I just want to try to clarify that again.
12 Isn't it true that the eligibility for LIHEAP in Missouri is
13 dependent on income as well as household size and other
14 resource --

15 A. Yes, sir.

16 Q. -- resources that are available to that
17 customer?

18 A. Yes, sir. That is true.

19 Q. And the income thresholds are essentially at
20 125 and 150 in some situations --

21 A. Yes.

22 Q. -- rather -- perhaps the ESIP is 150?

23 A. I know that times they've had -- that they've
24 used variable flexibility mechanisms depending on the amount
25 of need and the amount of available funding, as you know.

1 They are allowed to go anywhere between 110 to 150 percent
2 at the discretion of the state.

3 Q. But if your income -- just your income is
4 higher than 150 percent of the federal poverty guidelines,
5 is it your understanding that you'd be eligible for any
6 LIHEAP or ESIP assistance in Missouri?

7 A. Not that I'm aware of, no, sir.

8 Q. If your income level is between 150 and 175,
9 there would be no state or federal assistance for energy
10 needs; is that correct?

11 A. That is correct.

12 Q. And at another point, it may have just been
13 the way you happened to phrase it at the time, but I think
14 you mentioned the weatherization programs that Laclede
15 provides?

16 A. Yes.

17 Q. Now, what programs were you referring to when
18 you --

19 A. I believe at the time, if I recall the
20 question, we were talking about the program we were doing in
21 conjunction with the Department of Natural Resources.

22 Q. Now --

23 A. You're talking about in the questions from the
24 Bench?

25 Q. Yeah. I thought that's what you were

1 referring to, but let me clarify.

2 A. Yes.

3 Q. That's a program that is fully funded by the
4 ratepayers of Laclede Gas Company; is that correct?

5 A. Yes, sir, that is correct.

6 MR. COFFMAN: Thanks a lot.

7 JUDGE RUTH: DNR?

8 RECROSS-EXAMINATION BY MR. MOLTENI:

9 Q. I just have a couple of questions. In
10 following up on the question from Commissioner Lumpe that
11 Judge Ruth asked about the points Laclede would agree to
12 changes, in essence, to Catch-Up/Keep-Up in Laclede's
13 position statement and the commitment that you made to
14 finance what I'll call substantive weatherization through
15 the program that exists currently with DNR, doesn't Laclede
16 have to file a new tariff sheet for that to effectuate those
17 programs?

18 A. I don't know that, sir. I mean, one of the
19 other witnesses who deal on the regulatory side of the
20 business can answer that question. I don't know.

21 MR. MOLTENI: Okay. Thank you.

22 JUDGE RUTH: And Staff?

23 RECROSS-EXAMINATION BY MR. SCHWARZ:

24 Q. Mr. Moten, Commissioner Murray asked you a
25 question about combining the terms of the Emergency Cold

1 Weather Rule with the provisions of the Catch-Up/Keep-Up.

2 A. Yes, sir.

3 Q. And I'm confused. I'd ask you to look at the

4 tariff, page 2 of 4 of the schedule to your --

5 A. Okay. Let me find it here. All right. I

6 have page 2 of 4.

7 Q. Okay. Paragraph C, sub i, one of the

8 requirements is that they first apply for other forms of

9 energy assistance for which they may be eligible which

10 energy assistance shall be applied in determining whether

11 the customer has satisfied the payment obligations

12 hereunder.

13 A. Uh-huh.

14 Q. And let me give you a hypothetical. Say

15 there's a customer who's \$500 in arrears --

16 A. Right.

17 Q. -- is currently disconnected, so he needs

18 service reconnected. He's able to get a \$200 LIHEAP grant

19 and his budget bill would be \$60 a month. How would that

20 \$200 be applied?

21 A. That \$200 would be -- my understanding would

22 be a portion of what would be required at the 25 percent or

23 \$250 maximum under the Cold Weather Rule E, if that's what

24 you're referring to, sir.

25 Q. Well, that's what I'm trying to make clear.

1 I'm not sure. It also says -- the proposed tariff says that
2 the energy assistance shall be applied in determining
3 whether the customer has satisfied the payment obligations
4 under the Catch-Up/Keep-Up. So I'm --

5 A. I would -- my interpretation of that would be
6 that that would go toward meeting the obligation for the
7 customer to get their service restored.

8 Q. So let's just assume that Laclede would
9 require \$125 or \$150. That would leave \$50 of that LIHEAP
10 grant. Would that be considered a credit against one of the
11 \$60 monthly installments?

12 A. It would be my feeling that that would be
13 considered a credit against the arrears, because that's at
14 the very start of the program and service will have been
15 restored.

16 But I would like to add one thing. Typically
17 what the agencies do is they pay the minimum amount to
18 restore service. So if only 125 is required, the LIHEAP
19 grant amounts are up to amounts. All customers don't
20 necessarily receive that. It would be my interpretation
21 that the agencies would only pay the 125.

22 Q. Now if same scenario, \$500 in arrears, LIHEAP
23 grant of \$200 -- the LIHEAP grant is a flat amount, isn't
24 it?

25 A. No, it is not. It's an up to amount.

1 Typically -- and that \$200 is an average number. In other
2 words, there are customers who will get more or less grant
3 amounts depending on family size and -- you know, and their
4 income.

5 Typically what the agencies have historically
6 done, because the LIHEAP funding has been relatively low
7 compared to the need, they normally will inquire about what
8 is the minimum amount that they have to put together to
9 restore service. So because a customer's eligible does not
10 guarantee they'll necessarily get that \$200. They'll get
11 the minimum.

12 Q. Well, then let's change the hypothetical a
13 bit. Again, assume that he's \$500 in arrears, that his
14 budget payment would be \$60 a month and he gets a LIHEAP
15 grant, but he's currently on the system. You don't have to
16 be disconnected to get LIHEAP, do you?

17 A. No, you do not.

18 Q. So, again, just assume \$200, which is probably
19 high given the current --

20 A. Uh-huh.

21 Q. Assume \$200. How would that \$200 be applied?

22 A. Well, if the customer is already on the system
23 and the \$200 is applied, that LIHEAP grant, as we said,
24 would be applied -- the arrears that the customer owes at
25 that time, as the tariff is written, would be suspended.

1 And then the new payment that the customer would pay would
2 be net of any grants received over the next 12 months.

3 Q. And I know that we found in paragraph 1 that
4 it was going to be -- that the program was to reduce
5 arrearages as measured on the date they first entered the
6 program?

7 A. Yes, sir.

8 Q. So I'm still not quite clear. So the \$200
9 would go to reduce the \$300 -- the \$500 in arrears to \$300
10 and then that would be spread over --

11 A. It is my interpretation that what would happen
12 is the way this is written, on the date the customer entered
13 the program, the arrears that that customer has, as written
14 in the tariff here, would be suspended.

15 Then what would happen is there would be an
16 estimate made of how much gas that that customer would use
17 over the next 12 months and that would be an annualized
18 amount, minus any grants received, divided by 12 would be
19 the customer's new monthly payment.

20 Q. Okay. So Laclede would get the \$200, say, the
21 15th of December and then it would be credited to the
22 customer's account ratably over the next 12 months?

23 A. If "ratably" means they would subtract that
24 from the estimated total and then divide it by 12, yes, sir.

25 MR. SCHWARZ: I think that's all. Thank you.

1 JUDGE RUTH: Redirect? I'm sorry. Wait.
2 Hold off. We're going to have some more questions from the
3 Bench.
4 FURTHER QUESTIONS BY COMMISSIONER MURRAY:
5 Q. I apologize, but I realized after Mr. Schwarz
6 questioned you a little more, that I'm still a little
7 confused about something.
8 I'd like to take an example of a customer
9 who's \$3,500 in arrears.
10 A. All right.
11 Q. Does that customer have to begin paying
12 anything on those arrearages?
13 A. Excuse me. At the start of the program, those
14 arrearages would be suspended, so initially, no. As it is
15 currently written, no, ma'am.
16 Q. And they would be suspended for a full year?
17 A. Yes.
18 Q. And during that year, \$1,500 of that 3,500
19 would be written off?
20 A. That is correct.
21 Q. So long as the customer --
22 A. Makes the timely --
23 Q. -- makes all the other commitments?
24 A. Yes, ma'am.
25 Q. And then at the end of that first year, that

1 customer would either -- I know you mentioned that there
2 might be extenuating circumstances under which that customer
3 could continue to have some of the arrearages written off.

4 A. Uh-huh.

5 Q. And assuming that's not the case, what happens
6 to that customer then with the other \$2,000 of arrearages?

7 A. What we would hope to do with a customer with
8 arrearages that high is to work with them to see if they
9 can't get, you know, additional assistance through the
10 various funding sources so that they now would then have a
11 net amount minus any available grants, assuming that there's
12 no extenuating circumstance provision implemented in -- you
13 know, in the case of that customer.

14 And the customer would still have a re-- a
15 lower amount of monthly payment obligations that they would
16 be expected to pay then they would absent the program.

17 Q. And that's their current usage?

18 A. Yes. May I use your example, please?

19 Q. Please do.

20 A. If we took -- under the -- under the original
21 scenario without the program -- and I'm just going to do a
22 little rounding up. Let's say the 3,500 is 3,600. That
23 translates to \$300 a month.

24 Then if you were to add their current usage
25 at -- I'm just going to say 1,200 because the numbers are

1 round numbers -- that would mean that they would have a
2 monthly payment obligation of \$400 a month without the
3 program.

4 With the program after the first year and they
5 still have \$1,000 in arrears after the first year, plus the
6 2,000, dividing that by 12, the payment would be 250 a
7 month, assuming that there are no extenuating circumstances
8 or other support. And I have not netted out any available
9 grant monies that they might be eligible for in the second
10 year.

11 Q. All right. So you're saying that in that case
12 the \$2,000 would be spread over what period of time?

13 A. Yes. There are provisions I believe under the
14 Cold Weather Rule to extend payments I think up to two
15 years, which would then reduce that payment amount to about
16 \$80 a month attributable to that part of it.

17 Now, the 2,000 -- I don't want to make it
18 confusing but what I didn't do and I should have done, let's
19 say that that person goes to the first year and they have
20 2,000 in arrears. Depending on their income and
21 circumstances, they would be eligible again in the second
22 year for additional LIHEAP or other grants.

23 And so that 2,000, minus those grants, plus
24 whatever the projected annual usage, the net of those
25 numbers divided by 12 would be the new payment level. And

1 so the point I'm making is that that customer would be
2 better off in terms of the expected monthly payments then
3 they would be without the program.

4 Q. All right. And how about the other customers?
5 Which is better for the other customers under that scenario?
6 Without the program that customer would be making payments
7 of \$400 a month to continue getting service?

8 A. Yes, ma'am.

9 Q. And --

10 A. If the customer --

11 Q. -- with the program, that customer would only
12 be making payments of \$100 a month?

13 A. Yes. It would be a smaller amount, yes.
14 Spread over the two months the 800, plus another 100, about
15 180 if you net out grants. I'm making some assumptions on
16 grant amounts also to stay within the range of round
17 numbers.

18 And I just made an assumption that for sake of
19 discussion for round numbers, let's say the customer got
20 \$400 in grants, LIHEAP and ESIP, 1,600 plus the 2600 they
21 would have in ongoing usage. That payment amount would be
22 200. And assuming, you know, that the 1,600 is spread over
23 two years -- I'm going to have to do the math myself. I'm
24 starting to get caught up in my own numbers.

25 Q. But with the program, a portion of the bad

1 debt is being -- I say written off, but it's actually being
2 paid by the pipeline discounts?

3 A. Yes, ma'am.

4 Q. That would ordinarily be going --

5 A. Back to all customers.

6 Q. -- into the rates of all customers?

7 A. That's correct.

8 Q. So I'm trying to quantify in my mind in this
9 scenario with this particular bad debt customer, are the
10 other customers better off with your program or without it?

11 A. In my opinion, from a qualitative perspective,
12 I think the other customers would be better off, because
13 what it would mean is that there would be a reduced amount
14 of exposure arrearages that those customers would owe.

15 And without the program, if they can't
16 maintain those -- those payments, they're eventually going
17 to lose service, the amount of debt is so insurmountable,
18 that it's unlikely that we're going to collect it.

19 Q. And then you would incur additional
20 collection -- attempted collection costs?

21 A. Yes, ma'am.

22 COMMISSIONER MURRAY: Now I do think I'm
23 finished. Thank you.

24 THE WITNESS: You're welcome.

25 FURTHER QUESTIONS BY JUDGE RUTH:

1 Q. I want to clarify that last part.

2 A. Uh-huh.

3 Q. So dollar-wise when you're looking at all

4 customers, you say that they would be better off with your

5 program because what other -- whatever dollars that will be

6 paid from the arrearages that wouldn't have been paid in

7 arrearages will benefit them more than if they had

8 receive -- then if there had been no program and they just

9 received the discount from those certain pipeline discounts?

10 A. In my opinion, yes. Because you would have

11 not only the amount that would be -- the amount of the

12 arrears that would have been reduced, but then you would add

13 on the additional collection costs. So there would be an

14 additional incremental cost. Even if you flowed it all

15 back, then there would still be the additional collection

16 cost and attempt to recover that money.

17 Q. Have you calculated that out before today's

18 hearing?

19 A. I have not.

20 Q. Have not?

21 A. Huh-uh.

22 Q. So your answer is based on an estimate at this

23 time? An estimate just calculated from today's hearing?

24 A. Yes.

25 Q. You didn't -- okay.

1 A. Uh-huh.

2 Q. I may not have done it very artfully, but
3 that's part of what Commissioner Forbis was trying to get
4 at, so I think you may have answered more of his question
5 too.

6 JUDGE RUTH: Now that we've had some
7 additional questions from the Bench, we will do recross
8 again. Public Counsel?

9 MR. COFFMAN: No further questions.

10 JUDGE RUTH: DNR?

11 MR. MOLTENI: No questions, your Honor.

12 JUDGE RUTH: Staff?

13 MR. SCHWARZ: I don't have any questions.

14 JUDGE RUTH: Then now we'll move to redirect.

15 MR. PENDERGAST: Thank you.

16 REDIRECT EXAMINATION BY MR. PENDERGAST:

17 Q. Just a couple of questions, Mr. Moten, if I
18 could. And I think maybe you clarified some of these
19 already in your responses, but just to make absolutely sure,
20 I'll ask it again.

21 You were asked a number of questions I believe
22 by Mr. Coffman about the ability of this program to not only
23 help customers catch up, but also keep up with their
24 service, particularly if those are low-income customers like
25 the one that makes \$600 or \$700 per month. Do you recall

1 those?

2 A. Yes, sir.

3 Q. And I think in response to Commissioner
4 Murray, you were given an example of a customer that has
5 \$400 in arrears and under the program would be allowed to
6 pay an amount, once all sources of funding are taken into
7 consideration, the levelized amounts taken into
8 consideration of about \$180.

9 Based on your experience, do you think it's
10 likely that a customer that has an income of that level and
11 \$400 per month bill is ever going to pay that \$400 per month
12 bill?

13 A. No, sir, it is not likely.

14 Q. Is it more likely, in your opinion, that that
15 customer is going to go ahead and pay \$180?

16 A. I think that that customer would be in a
17 better position to do it net of grants that they would be
18 able to receive. A customer at that low income level would
19 be eligible for an ESIP grant, a LIHEAP grant and probably
20 a Dollar-Help grant which would then help move that into a
21 more affordable level. What this program offers is an
22 opportunity to not have the arrears as part of that
23 calculation.

24 Q. Okay. And as far as those customers and
25 what -- those customers that might be in that situation,

1 were a number of those customers -- did they appear at the
2 local public hearing in this case?

3 A. Yes, sir, they did.

4 Q. As well as people that work with those
5 customers every day to try and help them cope --

6 A. Yes, sir.

7 Q. -- with their bills?

8 And did they view this as a program that could
9 help them to retain service or restore service and make it
10 affordable for them?

11 A. Yes, sir, they did. We had a situation where
12 we had a customer who was a caregiver for an ill child who
13 that precluded her from working because of the difficulties
14 with the child. We had, I think it was, at least two other
15 customers who had personal health difficulties themselves
16 that made it difficult for them to work and participated in
17 the program. I think we had two other customers who were
18 just -- their income was just so low that they didn't feel
19 that they could make it absent the program.

20 And with regard to the social service
21 providers, the person from legal services indicated that
22 with the clients that she is working with and familiar with,
23 that the program would be of some value as did the
24 representative from the CAP agency.

25 Q. And just to be absolutely clear, did any of

1 those people that initially voiced support for the program
2 at any time during that public hearing change their
3 supportive comments?

4 A. None of them to a person changed their
5 position, sir.

6 Q. Okay. You were also asked a number of
7 questions about the extenuating circumstances, I believe by
8 Mr. Schwarz, and how that would be implemented. And I'd
9 like to just ask you some questions about that and the whole
10 concept of customers who fail to abide by their commitment
11 to make timely payments.

12 Is it true that for a customer to be eligible
13 under the program, that one of the conditions is they not
14 break a previous payment agreement entered into under the
15 program?

16 A. Yes, sir. I think that's Item No. 3 under the
17 eligibility requirements.

18 Q. Okay. And that's subject to this overall
19 exception that says but if there are extenuating
20 circumstances, that can be excused?

21 A. Yes, sir.

22 Q. Okay. Let me ask you this. Was that
23 extenuating circumstances language in the company's original
24 proposal?

25 A. No, sir, it was not.

1 Q. And can you tell me why that extenuating
2 circumstance language was added?

3 A. It was added at the request of the Commission
4 Staff, sir.

5 Q. And can you tell me when we added that
6 language, did anybody provide us with any criteria or
7 laundry list or specification of how you would go ahead and
8 define extenuating circumstances?

9 A. No, sir.

10 Q. Are you familiar with the MGE program?

11 A. To a certain extent. I'm not expert at it,
12 but I'm familiar with some provisions of it.

13 Q. I'd like to refer you -- do you have a copy of
14 Mr. Cline's testimony?

15 A. Let me see. Yes, sir, I have a copy of
16 Mister -- no.

17 MR. PENDERGAST: If I could approach the
18 witness.

19 JUDGE RUTH: Yes.

20 THE WITNESS: I'm looking at the testimony of
21 Mr. Michael Cline, Schedule MTC-3, page 3 of 4.

22 BY MR. PENDERGAST:

23 Q. And does that set out the criteria that a
24 customer has to follow in order to be eligible for the
25 program?

1 A. Yes, sir, it does.

2 Q. And can you read at the bottom what it has to
3 say about the terms and conditions under which a customer
4 who has not complied with those provisions can become
5 reinstated to the program?

6 A. Yes, sir. I'm reading Item No. 6 on the
7 aforementioned page. And it reads as follows: If the
8 participant does not conform to MGE's RS rules and
9 regulations, comma, and as a result, the participant has RS
10 service discontinued by MGE, reinstatement of the ELR credit
11 will be at the discretion of MGE.

12 Q. So does that, in your view, simply say that
13 MGE decides when they're going to reinstate somebody?

14 A. Yes, sir.

15 Q. Does it provide any criteria on how that would
16 happen?

17 A. No, sir.

18 Q. Does it say anything about whether there need
19 to be extenuating circumstances?

20 A. No, sir.

21 Q. And is it your understanding that under the
22 MGE program customers, based on their income levels, can
23 receive credits ranging from \$40 a month to \$20 a month?

24 A. Yes, sir. I understand that the lower the
25 income, the higher the credit; the higher the income within

1 the eligibility guidelines, the lower the credit.

2 Q. And do you understand that that has -- that

3 that is paid by a charge assessed against other customers?

4 A. Yes, sir.

5 Q. Okay. Do you have any reason to believe that

6 the Commission would approve that if it thought that funding

7 those kind of credits to customers it was not beneficial to

8 all customers, that it would have approved that?

9 A. No, sir. I have no reason to believe that

10 that would not have been the case.

11 Q. And, to your knowledge, does it make any

12 difference to a customer whether his payment is being

13 reduced because he's getting a credit to his current rate or

14 because he's getting a portion of his arrearages paid down?

15 A. No, sir. It's been my experience based on the

16 material I've read that customers look at the bill itself

17 and the affordability issue as opposed to the funding

18 source.

19 Q. You were asked a number of questions about

20 administrative costs under the program and I just want to be

21 very clear. Is Laclede seeking any reimbursement for any

22 administrative costs that Laclede itself might incur?

23 A. No, sir.

24 Q. These are administrative costs under the

25 program just for third-party agencies?

1 A. That is correct, sir.

2 Q. Just to clarify, the \$300,000 that we've
3 agreed should be devoted to weatherization program, is that
4 in addition to \$300,000 funding that's already approved
5 under our program?

6 A. That is correct. It is in addition to.

7 Q. Okay. You were also asked a question I think
8 on behalf of Commissioner Lumpe about what we didn't agree
9 to. And just so the record's straight, I'd like to ask you
10 a couple questions about that. And you're not the witness
11 that's testifying on these, but let's not let that stop us.

12 Just broadly speaking though, has the company
13 agreed to the Staff's AAO proposal for funding this program?

14 A. No, sir.

15 Q. Okay. And just by way of clarification, in
16 agreeing to lowering the 175 percent, is that only for one
17 year?

18 A. That is our -- our position, that it would be
19 only for the first year, sir.

20 Q. And Public Counsel proposed that it be lowered
21 to 125 percent; is that correct?

22 A. Yes, sir.

23 Q. And one other item that I think we've had some
24 discussion about today, but Public Counsel's proposal that
25 the contracts be agreed upon and resubmitted to the

1 Commission for approval before the program could ever be
2 implemented, is it Laclede's testimony that -- or your
3 testimony that you're concerned that could delay
4 implementation of the program?

5 A. Yes, sir.

6 Q. One final question. On the MGE funding
7 mechanism, which is a charge that's just assessed against
8 all customers, once that charge is assessed, is there any
9 incentive for MGE to try and reduce costs associated with
10 that funding mechanism?

11 A. Not that I'm aware of.

12 MR. PENDERGAST: Okay. I have no further
13 questions. Thank you.

14 JUDGE RUTH: Okay. Mr. Moten, you may step
15 down, but you're not excused. Thank you.

16 MR. MOLTENI: Judge Ruth, before we go any
17 further, I'd like to make a motion that the Commission
18 suspend this proceeding until Laclede Gas is able to file an
19 amended tariff sheet.

20 Laclede has made commitments through
21 Mr. Moten's testimony that are both appreciated and I think
22 material. But those commitments cannot be effectuated
23 unless and until a tariff sheet is filed and they can't be
24 analyzed by the other parties until a tariff sheet has been
25 filed.

1 And we're going to have another afternoon and
2 maybe another day or two of hearings on a program that is
3 materially different than what Laclede Gas now is agreeing
4 to commit to. And, therefore, I'm going to ask the
5 Commission to suspend the proceedings until those tariff
6 sheets with the new commitments Laclede is proposing can be
7 filed.

8 JUDGE RUTH: Let me ask you a question. So if
9 the Commission were to deny your request, how do you
10 anticipate it would proceed?

11 MR. MOLTENI: Then I would have an alternative
12 motion. And the alternative motion would be that the
13 Commission order Laclede to file amended tariff sheets prior
14 to concluding the hearing in this case and allow the other
15 parties comment -- an opportunity to evaluate the amended
16 tariff sheets and what really is an amended program.

17 JUDGE RUTH: Okay. Let me make a statement
18 and then you can tell me whether or not you agree or
19 disagree.

20 Before you brought this up, it was my
21 expectation that the Commission would either, A, approve the
22 tariff sheets as they are or, B, reject them but state they
23 might be interested in tariff sheets that do X, Y and Z.
24 That's just a possibility. I can't say for sure that's
25 really what the Commission would do.

1 Are you saying that the second alternative, if
2 that's the way the Commission would go, is not adequate?
3 MR. MOLTENI: I think the second alternative
4 would still require that Laclede file tariff sheets that
5 would then be --
6 JUDGE RUTH: Yes.
7 MR. MOLTENI: -- the other parties would
8 lawfully have the opportunity to comment on and would start
9 the proceeding over again. I think that's what the effect
10 would be.
11 JUDGE RUTH: Well, okay. That's what I'm
12 asking. You don't think that the Commission could
13 sufficiently define the terms that they would approve such
14 that Laclede could file a tariff sheet in compliance with
15 that?
16 MR. MOLTENI: On a prospective basis, I do not
17 know the answer to that.
18 MS. SHEMWELL: May Staff comment?
19 JUDGE RUTH: I'll let all the parties comment.
20 I just want to make sure I understand your proposal. So
21 your first motion is a motion to suspend until Laclede --
22 MR. MOLTENI: Until Laclede can file an
23 amended tariff sheet. And I haven't made a second motion
24 yet.
25 JUDGE RUTH: That was in response to a

1 question.

2 MR. MOLTENI: Yes, ma'am.

3 JUDGE RUTH: Have you discussed this with

4 Laclede outside of the hearing room?

5 MR. MOLTENI: No, ma'am.

6 JUDGE RUTH: Okay. So the parties have not

7 discussed this at all. And I would want to give all parties

8 an opportunity to respond will be my next step. So I'm

9 getting lots of looks.

10 MR. MOLTENI: We haven't discussed this with

11 all the parties. The idea is a new one to me and I think --

12 but it's one that I think has value even though it hasn't

13 been flushed out obviously or I would not have made the

14 motion. I have --

15 JUDGE RUTH: While we're still on that though,

16 let me ask you a question. Laclede filed in their statement

17 of positions, which I don't have the date on that, but I

18 think it's been filed for a good 10 days, if not longer.

19 MR. MOLTENI: Uh-huh.

20 JUDGE RUTH: Laclede might be able to --

21 Laclede, can you confirm --

22 MR. MOLTENI: It was a week ago Friday, wasn't

23 it, that the statement of positions were due?

24 JUDGE RUTH: So --

25 MR. MOLTENI: Would have been the 22nd.

1 JUDGE RUTH: -- in that statement of position
2 that Laclede offered, they had those bullet points of things
3 they would change that they agreed to change. Why are you
4 asking now in the middle of the hearing instead of before?

5 MR. MOLTENI: I think there have been a higher
6 degree of refinement and clarification about what Laclede is
7 committing to. And I still think that regardless of what
8 their statement of position is, which all the parties
9 reserve the right to make changes to, Laclede still has to
10 file a tariff to effectuate the changes that they've -- to
11 the Catch-Up/Keep-Up program that they are orally on the
12 record having committed to.

13 JUDGE RUTH: At this point there's only one
14 tariff on file and the Commission will either approve or
15 reject that one tariff.

16 MR. MOLTENI: Right. And that may not be a
17 productive exercise to anybody.

18 JUDGE RUTH: Then I'll ask you to go ahead and
19 sit down for just a moment. And if any party wants to
20 respond to the oral motion made by the Department of Natural
21 Resources, you may do so, but please be sure and use a
22 microphone.

23 Staff, you want to go first? You seem eager.

24 MS. SHEMWELL: Well -- is this on?

25 JUDGE RUTH: No.

1 MS. SHEMWELL: It seemed to me in listening to
2 the testimony today and Laclede's opening statement, that
3 they had agreed to make a number of changes and some of
4 Mr. Moten's testimony which related to the tariff as it is
5 on file.

6 It seems that we're -- since they've already
7 agreed to make these changes, it would be much more helpful
8 for the parties to actually see the filed tariff and see the
9 language that they've -- when they've agreed to make the
10 changes so we can have the hearing on the tariff that
11 they're actually now proposing.

12 And I don't know what is the most efficient
13 way of doing it. It just occurred to me that maybe we
14 should do something differently, but it seems that if all
15 the questions are directed to the tariff as filed, then
16 we're not really asking questions on the tariff that Laclede
17 may ultimately file.

18 It's much more helpful for the parties to be
19 able to see the actual language in the tariff and then go
20 forward on that, or else it seems to me that if the
21 Commission rejects -- let's say they do and then say the
22 tariff should contain these items, the language still has to
23 be worked out. So there might be questions and problems.

24 If we can look at the language now, if they
25 can prepare the tariff and file it, it seems to me that

1 that's going to be the quicker way of doing it. Might I --

2 JUDGE RUTH: For hearing time, but yet would
3 delay the procedure until Laclede could file tariffs.

4 MS. SHEMWELL: I don't know how long that
5 would be. And Mr. Schwarz is anxious to jump in, so --

6 JUDGE RUTH: Please do so.

7 MR. SCHWARZ: I would just like to point out
8 that there's a history of this kind of approach to things;
9 that is, in Laclede's incentive hedging program, the
10 Commission may recall, that it wasn't until after the
11 hearing was concluded and after the Commission had issued
12 its order that Laclede filed under seal an explanation of
13 its understanding of the program that the Commission had
14 approved.

15 In Case GT-2000-329, which was Laclede's last
16 case asking for extension of its GSIP, a case that by the
17 way is going -- is scheduled for argument in the circuit
18 court on Thursday, Laclede proposed a program in its Direct
19 Testimony with the filed tariffs, amended it again in
20 rebuttal and amended it yet again in surrebuttal and there
21 were changes made also from the stand.

22 And certainty the recent embroglio that the
23 Commission had to resolve between and among the parties
24 concerning the implementation of an agreement among the
25 parties in Laclede's rate case is an indication that -- I

1 think that the Commission would be well served by having
2 very specific written proposals from Laclede, which is the
3 moving party, to examine during the course of its
4 proceedings.

5 And I'm not necessarily sure that a tariff
6 filing is in order, but I'm not sure that the statement of
7 positions is entirely consistent with the changes that
8 Mr. Moten has indicated from the stand.

9 Laclede has certainly had a considerable
10 amount of time. Mr. Moten referenced repeatedly the
11 discussions that the parties have had beginning in July when
12 they originally filed a proposal to bring the program more
13 in line with the expectations of the parties.

14 And I would think that certainly having
15 something in writing to look at would assist the parties and
16 I'm sure it would assist the Commission in its deliberations
17 to understand the amorphous concepts that this program seems
18 to embody.

19 JUDGE RUTH: Okay. Laclede, I'd like to give
20 you an opportunity -- well, sorry. I skipped Public
21 Counsel. Let you go first. Sorry.

22 MR. COFFMAN: I'll just briefly second the
23 concerns that Mr. Schwarz just mentioned. And I also have
24 concerns given this company and the complexity of this
25 particular proposal and recent events. I'm sure the

1 Commission doesn't need reminding about the confusion we can
2 get into when there are misunderstandings about what
3 actually was agreed upon.

4 I attempted in cross-examination to clear up
5 some of my questions about what was being said in the
6 position statements that were just filed at the end of last
7 week, but it wouldn't surprise me if there were disputes or
8 issues about what was actually meant if the Commission
9 refers to particular changes in position or agreements that
10 are made at this hearing or here towards the very end of
11 this case. So certainly written proposals would be good.

12 I would prefer to have a tariff to look at a
13 few days before briefs would be due at the latest so that we
14 could understand exactly how some of these commitments would
15 be incorporated or interrelated with some of the other
16 language that Laclede is proposing, but --

17 JUDGE RUTH: I'm not quite sure I followed you
18 then. Mr. Molteni had suggested that the Commission suspend
19 the hearing until those tariff sheets -- revised tariff
20 sheets are filed. Is that correct, Mr. Molteni?

21 MR. MOLTENI: Yes. I think that ultimately
22 has more benefit because it allows the parties and the
23 Commissioners to ask questions about the newly filed tariff
24 sheets. And I think while that ends up having the effect of
25 delaying the hearings, I think in the long run it will have

1 the beneficial effect of -- because -- well, it would likely
2 have the beneficial effect of expediting any process that
3 might involve unrolling a Catch-Up/Keep-Up type plan.

4 JUDGE RUTH: And, Mr. Coffman, you mentioned
5 that you might be willing to actually just look at the
6 revised tariffs a few days before briefs. Is that what you
7 meant?

8 MR. COFFMAN: Let me support Mr. Molteni's
9 motion. I think that would be the preferable approach so
10 that everyone could look at language and cross-examine and
11 ask questions about it at that time.

12 JUDGE RUTH: So your answer is --

13 MR. COFFMAN: At the very last, I would like
14 to see a tariff before we had to submit briefs.

15 JUDGE RUTH: I think Staff suggested that
16 perhaps the proposal wouldn't have to be in the tariff form.
17 Do you think that it would need to be in a tariff form or
18 could it be in some kind of supplement testimony?

19 MR. COFFMAN: Again, a tariff is preferable.
20 You know, the more specific we can get now, the more likely
21 we're to prevent extended proceedings after the proceeding.

22 JUDGE RUTH: You have something else,
23 Mr. Schwarz?

24 MR. SCHWARZ: Well, I just want to make clear
25 that Ms. Shemwell and I have not had a chance to check with

1 Staff management to ascertain exactly what Staff's position
2 is. It seems to me that the more explicit things get, the
3 easier it is for all involved to analyze what the
4 propositions are and what their effects might be.

5 I'm also aware of the crunch on hearing time
6 and the Commission's time for consideration and we're
7 checking with Staff management now to see what --

8 MS. SHEMWELL: Certainly our intent is not to
9 delay, Judge Ruth, but it seems to me that if we got tariffs
10 and everybody objected, we're starting the process over
11 again. I'm just trying to look at the most efficient way of
12 getting through this and I'm not sure what it is. Perhaps
13 the parties should discuss it among themselves and make a
14 proposal to the Commission.

15 JUDGE RUTH: Well, I'm going to give
16 Mr. Pendergast an opportunity to respond. There's been an
17 oral motion, some comments have been made and,
18 unfortunately, it is a good time to take a break because we
19 have been on the record for about an hour and a half and we
20 will come back after the break and perhaps have some more
21 discussion.

22 But, Mr. Pendergast, please, you may go ahead
23 and offer your comments or response.

24 MR. PENDERGAST: Thank you, your Honor. Well,
25 I suppose no --

1 JUDGE RUTH: Would you make sure that
2 microphone is on?

3 MR. PENDERGAST: No good deed goes unpunished.
4 Our effort, as it has been throughout this proceeding, was
5 to try and accommodate what we thought the legitimate
6 concerns of the parties were, and what we did is something
7 that has done in virtually any proceeding that I'm aware of.

8 I know that as the course of rate cases unfold
9 and the course of individual cases unfold, there are
10 always -- or almost always concessions that are made by
11 parties where they say, I can accept this or I can accept
12 that or I can do this and I can do that.

13 And I have never recalled an instance where
14 somebody has gone ahead and said, Let's stop everything,
15 you've agreed to go ahead and do a lower revenue
16 requirement, you better file another tariff with that lower
17 revenue requirement amount in it, or you've agreed to go
18 ahead and do this element of the program, you better stop
19 everything and go ahead and file a new tariff to go ahead
20 and express that.

21 I think the Commission recognizes this for
22 what it is and it's an unfortunate effort to go ahead and
23 delay these proceedings.

24 And, furthermore, perhaps it's just that I
25 have more confidence in the Commission's ability to go ahead

1 and clarify what specific terms that we've agreed upon they
2 would like us to make in our tariff if, in fact, they think
3 that our agreeing with the other parties makes sense.

4 You know, having tariff language that says
5 average reduction per quarter will be equal or lesser to
6 one-fourth of the customer's arrearage and 375 is not a
7 terribly complicated concept to put on paper and to make
8 sure that it's happened.

9 Changing 175 to 150 is not a terribly
10 difficult thing to do. You change a few numbers. Saying
11 that we'll go ahead and have a definitive termination date
12 on it in accordance with what we had in our position
13 statement is not a terribly difficult thing to go ahead and
14 reflect in a tariff.

15 Saying that administrative costs will be
16 5 percent of the overall cap, that's something that one can
17 go ahead and look at and say, Does this language accomplish
18 this, and I think pretty easily conclude that it does if
19 it's the Commission's desire to do that. So I see
20 absolutely no reason why this motion should even be
21 entertained by the Commission.

22 Furthermore, if the Commission desires these
23 things are so easy to do, we can do them and we can have
24 something to you tomorrow, but suggesting that there's a
25 reason to delay this hearing given the limited time we have

1 and given the need for this program that our customers are
2 experiencing every day, saying that we need to go ahead and
3 stop it so that people can go ahead and look at these
4 changes and determine whether or not it accords with their
5 understanding of what we've done I think would be very
6 regrettable and unnecessary. Thank you.

7 MR. MOLTENI: May I reply to Mr. Pendergast's
8 statements?

9 JUDGE RUTH: I will allow very brief replies,
10 one more round. And then Mr. Pendergast will get his final
11 say. Make it brief.

12 MR. MOLTENI: Mr. Pendergast --

13 JUDGE RUTH: Use your microphone, please.

14 MR. MOLTENI: Mr. Pendergast completely --

15 JUDGE RUTH: It's not on.

16 MR. MOLTENI: I'll just step up.

17 Mr. Pendergast completely misinterprets the
18 Department's intentions in making this motion. The motion
19 is not done to delay. Rather, the motion is to expedite a
20 program that has, because of things stated today, become
21 100 percent more palatable to the Department and may have
22 become more palatable to Staff and the Office of Public
23 Counsel.

24 And if Mr. Pendergast is correct that all it
25 takes is to change a few terms in the tariff filing and they

1 could be done overnight, then we would fully support that.
2 It doesn't sound like any suspension in the hearing process
3 will likely delay either the Commission's decision, the
4 hearing time itself or any roll-out of what ends up being
5 the Catch-Up/Keep-Up program.

6 JUDGE RUTH: Staff, do you want to respond?

7 MS. SHEMWELL: We have discussed with Staff
8 and Staff supports the motion. Staff's intent is not to
9 delay at all, but simply to try to make the process more
10 efficient so that we all know what we're talking about.

11 If we're asking questions about a tariff
12 that's going to change, it would just seem to delay the
13 process and that is not our intent at all. Again, I would
14 echo the idea that if it's as simple as Mr. Pendergast has
15 portrayed it, then it should be a matter that could be done
16 pretty quickly and not delay anything. Thank you.

17 JUDGE RUTH: Public Counsel?

18 MR. COFFMAN: Yes. Two points. Number one,
19 we would prefer to see these tariff changes as soon as
20 possible. And we also prefer to see the contracts that were
21 referred to with the various agencies. We would prefer to
22 see these before the program be fully implemented. I think
23 that's a related issue that we could address at least in
24 some procedural way now.

25 The second point is although our position is

1 that we would rather not see any Catch-Up/Keep-Up program
2 that is implemented through the PGA/ACA process in this way,
3 we think that the process would be -- you know, if there is
4 to be a program, definitely a program is more likely to be
5 well implemented if as much as possible can be put into
6 writing as early as possible in this process.

7 JUDGE RUTH: And, Laclede, did you want a
8 final response?

9 MR. PENDERGAST: Thank you, your Honor. I do
10 appreciate Mr. Molteni's comments that agreeing to these
11 various conditions has made the program more palatable.
12 That was our objective all along. And I would suggest that
13 we could go ahead and have something available by tomorrow.

14 I do not think it would be appropriate or
15 necessary to file new tariff sheets, but I do believe that
16 we can easily accommodate having specimen tariff sheets
17 available, I would say by noon tomorrow at the latest, that
18 incorporate the changes that we've talked about, which would
19 in all likelihood be prior to the time when Staff's
20 witnesses go on.

21 And obviously if anybody needs to be recalled
22 to comment on them, they can certainly do that. And
23 hopefully having that specific language in the form of
24 specimen tariff sheets that we can hand out tomorrow would
25 accommodate everybody's interests.

1 JUDGE RUTH: Okay. Thank you. In just a
2 moment we are going to go off the record and have a
3 20-minute break. While we're on break, I suggest that the
4 parties get together and discuss this just a little bit more
5 among yourselves.

6 Laclede has offered to have specimen tariff
7 sheets available by noon tomorrow, so I would like the
8 parties to discuss whether this would be acceptable, in
9 which case DNR would want to withdraw its motion. If it's
10 not acceptable, then we'll come back on the record and DNR
11 can state that they stand by their motion and I will rule on
12 it at that time.

13 So we will now break for 20 minutes. We'll
14 come back at three o'clock. Thank you.

15 (A RECESS WAS TAKEN.)

16 JUDGE RUTH: We took a break and while we were
17 on break, I assume that the parties may have discussed the
18 pending motion to suspend the hearing. Correct? Well, let
19 me ask. Does the pending motion stand as it was or has
20 there been some other type of agreement? Mr. Molten, since
21 it's your motion, I'll ask you.

22 MR. MOLTENI: My understanding from the
23 discussion we've had with the parties is Laclede will file
24 specimen tariff sheets by noon. I certainly thank Laclede,
25 but I'm not going to withdraw the motion. That's where we

1 stand.

2 JUDGE RUTH: Let me inquire to your reasoning.
3 You do not think the specimen tariff sheets are adequate or
4 the timing is not enough to allow you to review those
5 specimen tariff sheets and proceed?

6 MR. MOLTENI: I am concerned more about the
7 latter than the former.

8 JUDGE RUTH: So it's the timing?

9 MR. MOLTENI: Yes.

10 JUDGE RUTH: Do any of the parties have any
11 other comment they want to make on the pending motion?
12 Mr. Pendergast?

13 MR. PENDERGAST: Just by way of clarification,
14 our intention was to hand out those specimen tariff sheets,
15 not formally file them but make them available to the
16 parties tomorrow at noon.

17 And I would also make one final observation
18 when it comes to the timing aspect of it. As I recall under
19 the Commission's rules, Rebuttal Testimony which we have an
20 opportunity to do live in this case --

21 JUDGE RUTH: Could I stop you?

22 MR. PENDERGAST: Of course.

23 JUDGE RUTH: I don't think I have this set up
24 right. I apologize, Mr. Pendergast, you may proceed.

25 MR. PENDERGAST: Yes. I just wanted, from a

1 timing standpoint, to make the observation that my
2 recollection is -- although I don't have the rules in front
3 of me -- that one of the purposes for Rebuttal Testimony,
4 which we're permitted to do live here, is to give a response
5 to what's been filed in Direct Testimony and to the extent
6 that a party has proposed something, to suggest whatever
7 alternatives to that you believe are appropriate. Obviously
8 an alternative that says I accept some of it but reject
9 other parts of it is fully in keeping with that.

10 And, you know, we could have waited until we
11 had the opportunity to do live rebuttal to go ahead and say
12 we were willing to do this or willing to do that. Instead,
13 we attempted to go ahead and give the parties an advance
14 look at what we were going to do and did it over a week ago
15 so that there wouldn't be concerns about surprise, even
16 though I think we were entitled under the set-up in this
17 case to wait until rebuttal to do that.

18 So from the standpoint of complaints about
19 timing, I think the company has probably gone above and
20 beyond in an effort to try and give parties additional time
21 to look at this stuff by the actions it took. That's all I
22 have to say. Thank you.

23 JUDGE RUTH: Let me ask you a question,
24 Mr. Pendergast. You said that you would be willing to
25 circulate specimen tariff sheets by noon tomorrow, but you

1 had not intended on filing those; is that correct?

2 MR. PENDERGAST: No. Excuse me. Yes, that is
3 correct. We were not intending on filing them. I mean, if
4 the Commission desires, we could always make an additional
5 filing, but we would not be filing them as substitute tariff
6 sheets or anything of that nature.

7 What we would anticipate is having a red-lined
8 version that shows exactly what changes we're willing to go
9 ahead and make and have that available. I'm hopeful that
10 we'd be able to do it before noon, but we need to get some
11 material from back home and work on it tonight. If we can
12 have it by the beginning of the process tomorrow, we'll have
13 it then.

14 JUDGE RUTH: Okay. Let me ask you why you
15 would prefer to do it in that manner instead of filing
16 either substitute tariff sheets or even filing red-lined
17 versions as an exhibit?

18 MR. PENDERGAST: That would be fine. I think
19 submitting it as an exhibit -- and if you'd like it filed as
20 well with the folks downstairs, we could do that as well.

21 What I didn't want was to go ahead and
22 undertake an obligation to file entirely new tariff sheets
23 in some sort of formal way. I think providing specimen
24 tariff sheets, making them an exhibit and saying that that
25 represents where we are right now to me makes sense.

1 JUDGE RUTH: Well, the motion that is pending
2 from the Department of Natural Resources to suspend the
3 tariff until such time -- I'm sorry -- suspend the hearing
4 until such time as revised tariff sheets are filed, the
5 Commission has considered the motion and it is going to deny
6 it for several reasons.

7 One, that's not the standard procedure so in
8 order to act in that manner, I would need a compelling
9 reason. And I don't feel that it's been provided at this
10 time.

11 I think that it would be appropriate for
12 Mr. Pendergast to do as he's offered, and that is to file a
13 red-lined version -- I'm sorry, not file -- to bring
14 tomorrow to the hearing a red-lined version of the tariff
15 sheets and offer those as an exhibit. That way I can mark
16 it, put it in the record, the Commissioners can have a copy
17 and can follow along.

18 And I'll request that you bring those
19 red-lined tariffs as soon as you can in the morning. If
20 they're not ready until noon, that's when we'll get them,
21 but if they're ready sooner, please bring that to my
22 attention too.

23 MR. PENDERGAST: We will, your Honor.

24 JUDGE RUTH: Before we move on to the next
25 witness, give me just a moment.

1 Laclede, would you please call your next
2 witness.

3 MR. PENDERGAST: Thank you, your Honor. At
4 this time we would call James Fallert to the stand.

5 JUDGE RUTH: Okay. Thank you.

6 Mr. Fallert, would you please raise your right
7 hand?

8 (Witness sworn.)

9 JUDGE RUTH: Okay. Thank you. Please
10 proceed, Mr. Pendergast. You may do your direct and then
11 your rebuttal.

12 MR. PENDERGAST: Thank you, your Honor.

13 JAMES A. FALLERT, having been sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. PENDERGAST:

15 Q. Mr. Fallert, would you please state your name
16 and business address for the record.

17 A. James A. Fallert, 720 Olive Street, St. Louis,
18 Missouri 63101.

19 Q. Are you the same James A. Fallert who has
20 previously caused to be filed in this proceeding Direct
21 Testimony that has been premarked as Exhibit 2?

22 A. Yes.

23 Q. And if I were to ask you the same questions
24 today that appear in your pre-filed Direct Testimony, would
25 your answers be the same?

1 A. Yes.

2 Q. And are those answers and all the other
3 information presented in your Direct Testimony true and
4 correct, to the best of your knowledge and belief?

5 A. Yes, they are.

6 MR. PENDERGAST: At this time, your Honor, I
7 would request that Mr. Fallert's testimony be admitted into
8 evidence.

9 JUDGE RUTH: Okay. Mr. Fallert's testimony
10 has been premarked as Exhibit 2 and it's been offered. Are
11 there any objections to receiving it into the record at this
12 time?

13 Seeing none, Exhibit 2 is received into the
14 record.

15 (EXHIBIT NO. 2 WAS RECEIVED INTO EVIDENCE.)

16 MR. PENDERGAST: Thank you, your Honor.

17 BY MR. PENDERGAST:

18 Q. At this time, Mr. Fallert, I'd like to turn to
19 some brief questions in rebuttal to some of the testimony
20 that's been filed by the witnesses for the other parties in
21 this case.

22 Are you familiar with the Direct Testimony
23 that was filed by Mr. Cassidy in this case?

24 A. Yes, I am.

25 Q. And are you familiar with his assertion that

1 Laclede Gas Company over-collected \$412,282 in rates for
2 uncollectible expense beginning with the rates established
3 in 1998 and ending on September 30th, 2002?

4 A. Yes, I am.

5 Q. And do you agree with that assertion?

6 A. No, I don't.

7 Q. Would you please explain why?

8 A. Mr. Cassidy's analysis he started with the
9 date that rates went into effect from our 1998 rate case,
10 which was November 15th, 1998. And he extended his analysis
11 through September 30, 2002, which at the time was the most
12 recent data he had available.

13 So the period he looked at in his analysis was
14 actually a period of 3 years and 10 1/2 months. So he
15 actually had three Octobers, three and a half Novembers and
16 four -- four of all the rest of the months in the year in
17 the period he looked at.

18 As it happens, October and November are our
19 highest write-off months because we have very strong
20 seasonal pattern to our write-offs. So in the period he
21 looked at by excluding an October and half of a November, it
22 really -- that can skew the results and it did in this
23 instance.

24 What I did was extended Mr. Cassidy's analysis
25 out for another month to take it out through the October 31

1 period, because we now have those numbers available. When I
2 made that adjustment to Mr. Cassidy's analysis, the \$412,000
3 over-collection that he had observed actually changed to an
4 \$800,000 under-collection.

5 Q. And in addition to updating his analysis for
6 that additional month's worth of information, did you also
7 attempt to go back further than 1998 and determine what the
8 company's experience had been with the recovery of its bad
9 debt expense?

10 A. I did. I went back and I looked at the two
11 rate cases prior to the 1998 rate case and I also looked at
12 the two rate cases subsequent to the 1998 rate case.

13 And in each instance, I found that using
14 Mr. Cassidy's analysis, the company had actually
15 under-collected its uncollectible accounts expensed during
16 all those periods.

17 In fact, going back to the first rate case I
18 looked at in the 1994 rate case, which covered -- that
19 period was from September 1, 1994 through August 31, 2002,
20 which gave full 12-month periods, the under-collection was
21 actually about \$7.5 million during that period.

22 Q. Do you believe that whether the company's
23 under-collected or over-collected its bad debt expense over
24 that period of time is of particular relevance to this
25 proceeding?

1 A. I really only offer these numbers to set the
2 record straight on what has been our experience with bad
3 debt collections to date. But really for purposes of the
4 Catch-Up/Keep-Up plan, the plan is not designed or intended
5 to account for those past differences and whether the
6 company has over- or under-collected in the past really
7 isn't of much relevance.

8 Q. Are you also familiar with the testimony of
9 Mr. Cassidy, Rackers and Imhoff in terms of the impact of
10 having \$6 million in funding available for the
11 Catch-Up/Keep-Up program and what that means in terms of the
12 company's recovery of its bad debt expense?

13 A. Yes, I am.

14 Q. And is it appropriate to take that 6 million
15 and assume that that will translate on a dollar for dollar
16 basis into reductions in bad debt expense for the company?

17 A. No, it's not. First of all, there's
18 10 percent or about 600,000 of that is earmarked for
19 conservation and weatherization, administrative costs.

20 But even if the remaining 5.4 million were
21 fully utilized by the potential participants in the plan, we
22 wouldn't expect bad debts to be reduced by that amount. And
23 the reason being that most -- customers who will participate
24 in this plan in many instances or at least in some instances
25 will scrape together the money really to pay off a portion

1 of their arrears in order to keep their gas service on. So
2 it's not reasonable to assume that all of those dollars
3 would go to reduce bad debt.

4 Q. And is there also a funding mechanism that was
5 approved or a tracking mechanism that was approved in Case
6 No. GR-2001-629 and then continued in our last rate case
7 that would have an impact on whether or not whatever
8 reductions in bad debts occurred would flow through to the
9 company financially?

10 A. Yes. Under the Emergency Cold Weather Rule,
11 which was implemented last November, the -- in our 2001 rate
12 case, a tracking mechanism was implemented under which any
13 incremental costs associated with the rule would be flowed
14 through the tracking mechanism and eventually recovered by
15 the company.

16 So to the extent that customers who would
17 participate in Catch-Up/Keep-Up have arrearage relief and
18 eventual reduction in bad debts as a result of that plan, we
19 would expect to see fewer dollars flowing back through the
20 Emergency Cold Weather Rule tracking mechanism, so there's
21 an offsetting impact through that mechanism.

22 Q. Does that, in your view, mean that to the
23 extent that it does reduce bad debts for the company and
24 that positive impact on bad debts will be tracked and
25 ultimately flowed through to the company's other customers?

1 A. Yes.

2 Q. Mr. Rackers also asked a question, I suppose
3 it was, page 4 of his Direct Testimony that asked how the
4 Catch-Up/Keep-Up plan could allow Laclede to manipulate its
5 earnings by avoiding charges to bad debt expense. Do you
6 have any response to that?

7 A. I'd just like to say for the record that
8 Laclede Gas Company does not and will not manipulate its
9 earnings. Our estimates of the appropriate reserves on our
10 books are based on generally accepted accounting principles
11 and we really don't like the inference that we'd do anything
12 differently than that.

13 Q. He also mentioned that Laclede had
14 \$8.9 million in arrears for finaled customers as of
15 September 30th, 2002. Do you recall that?

16 A. Yes.

17 Q. Can you tell us, is that on top of the amounts
18 that Laclede had written off as of September 30th, 2002?

19 A. Yes. That would be in addition to the
20 \$11.3 million we wrote off in 2002.

21 Q. This tracking mechanism that you've discussed,
22 doesn't that also have an impact on what the company has
23 included in its reserve for bad debts?

24 A. Yes, it does.

25 Q. There was a significant amount of discussion

1 by Mr. Imhoff, Mr. Rackers in their testimony about the
2 beneficial impact of this or the potential financial
3 beneficial impact of this on Laclede. Do you have any
4 response to that?

5 A. Well, I think it's important to keep in mind
6 that the only way this program can have a beneficial impact
7 on Laclede or on all of its other customers who eventually
8 would benefit from reduced bad debts is to the extent that
9 the program is successful and it is helping low-income
10 customers who need the help achieve arrears forgiveness and
11 also develop good payment habits.

12 Q. And with respect to a potential beneficial
13 impact on Laclede, are you aware of other instances where
14 the Commission has taken actions in between rate cases that
15 have had a detrimental financial impact on the company?

16 A. I think there have been such instances,
17 changes in billing practices, gas safety rules, changes in
18 the regulatory commission assessment that comes out each
19 year. So, yes, I have noticed such instances.

20 Q. And are you aware of any instance where the
21 Staff has indicated that those kind of actions should not be
22 taken by the Commission because it would have a detrimental
23 financial impact on the utility?

24 A. Not to my knowledge, no.

25 Q. Have you reviewed the Direct Testimony of

1 Mrs. Meisenheimer?

2 A. Yes, I have.

3 Q. And are you familiar with the way that she
4 quantified the amount that she suggested if the Commission
5 were to approve a plan should be adopted?

6 A. Yes, I have. And I think she's to be
7 commended on her efforts to really come up with a number
8 defining what the need really is here for this plan.

9 Q. What's your understanding of the approach she
10 took to try and do that?

11 A. Well, basically she first identified what she
12 felt was the number of customers who would be eligible for
13 this plan. And she looked at some history that the company
14 provided on LIHEAP customers who were in arrears, she looked
15 at some of the -- I think some of the LIHEAP eligibility
16 numbers, came up with a number about 13,000 customers. She
17 then multiplied that by a \$200 average arrearage amount to
18 come up with about \$2.6 million need prior to administrative
19 costs or weatherization costs.

20 Q. And, as a general process, do you think that
21 was a reasonable approach?

22 A. I think the basic approach was reasonable.
23 The one refinement that I think needs to be made there is
24 that the \$200 average arrears amount, which was an amount
25 that was provided in data requests that she had asked from

1 the company, that's an amount that's related to active
2 customers only.

3 I think it's -- our expectation would be that
4 customers who have been disconnected would have average
5 arrearage amounts which would be considerably in excess of
6 \$200. I think a more reasonable estimate's about \$1,000 for
7 those -- that class of customers, those who have been
8 disconnected for non-payment.

9 And of the 13,000 customers, I would estimate
10 that probably at least 3,000 of those customers would be in
11 that status where they've been disconnected.

12 Q. And why do you believe \$1,000 would be a more
13 reasonable estimate for disconnected customers?

14 A. Well, while we don't have -- in our arrears
15 numbers at any point in time we don't really have it split
16 out to know how many heat grant customers are in arrears,
17 what we do have available is the point we've cut off heat
18 grant customers for non-payment. We know what their
19 balances were at that point in time.

20 And from looking at that data here over the
21 past year, the average balance for people that we've cut off
22 who had heat grants was about \$1,000, a little over 1,000.

23 Q. And when you say there's about 3,000 customers
24 you estimate that would have that level of average
25 arrearage, how did you determine that?

1 A. Again, that's looking at how many we cut off.
2 MR. PENDERGAST: Okay. Thank you. I have no
3 further questions.
4 JUDGE RUTH: Public Counsel, are you ready for
5 cross-examination?
6 MR. MICHEEL: Certainly, your Honor.
7 CROSS-EXAMINATION BY MR. MICHEEL:
8 Q. Mr. Fallert, is it correct that currently the
9 customers of Laclede Gas Company, I'm talking about the
10 residential customers, all non-transportation customers
11 receive 100 percent of the benefit of any transportation
12 discounts that the company receives?
13 A. I'd probably ask you to defer that question
14 for Mr. Cline.
15 Q. Okay. Are you aware of how transportation
16 discounts are treated?
17 A. It's my understanding they're flowed through
18 the PGA.
19 Q. Okay. Are you aware of whether or not Laclede
20 Gas Company gets to keep any percentage of the
21 transportation discounts?
22 A. My understanding is at present 100 percent are
23 flowed through.
24 Q. Okay. And is it your understanding in this
25 proceeding that your company is requesting that 30 percent

1 of those transportation discounts be put into a walled-off
2 fund that the company has called the Keep-Up/Catch-Up fund
3 or the CU/KU funds?

4 A. I believe it's Catch-Up/Keep-Up.

5 Q. And you're going to put 30 percent of those
6 funds in; is that correct?

7 A. I think subject to a maximum of \$6 million a
8 year is my understanding. I think there's been some
9 discussion about some other funding levels so -- earlier in
10 this proceeding.

11 Q. And is that 6 million number based on a
12 30 percent number of your current -- when I say yours, I
13 mean Laclede Gas Company's current pipeline discounts?

14 A. I'm -- I probably couldn't answer that
15 question.

16 Q. But you are aware that your company is asking
17 for 30 percent of the pipeline discounts. Right?

18 A. To a maximum of \$6 million is my
19 understanding.

20 Q. So if I can extrap-- 30 percent of 20 million
21 is 6 million; is that right?

22 A. That's math, yeah.

23 Q. Is my arithmetic right?

24 Would you agree with me all other things being
25 equal that if the Commission is to approve this program,

1 that customers would be paying more, in other words, higher
2 PGA rates than they otherwise would absent this program?

3 A. Yeah. I think that's -- that's my
4 understanding.

5 Q. Now, it's my understanding that the company
6 believes that there are going to be some offsetting benefits
7 to these higher rates to customers; is that correct?

8 A. Yes.

9 Q. And I guess some of the benefits that the
10 company has touted are reduced collection costs; is that
11 correct?

12 A. That's one of the benefits, yes.

13 Q. And you talk on page 5 of your Direct
14 Testimony that your company currently incurs an annual cost
15 of about \$2.9 million for the collection function; is that
16 correct?

17 A. That's correct.

18 Q. And then you say an additional \$900,000 to
19 reconnect customers; is that correct?

20 A. Yes.

21 Q. And would you agree with me that those numbers
22 are currently built into your base rates?

23 A. Well, an amount similar to those numbers. I
24 don't know if -- I couldn't agree to those exact numbers,
25 but --

1 Q. But you will agree with me that there is
2 indeed some number built into your current rates that
3 reflect the company's collection efforts and the company's
4 reconnection efforts; isn't that correct?

5 A. Certainly.

6 Q. Okay. Let's assume for me, if you will, that
7 the company's supposition is correct and that as a response
8 to the Catch-Up/Keep-Up plan being implemented -- would you
9 assume for me that the Catch-Up/Keep-Up plan is implemented?

10 A. Okay.

11 Q. Would you agree -- and now I want you to
12 assume that as a result of the Catch-Up/Keep-Up plan being
13 implemented, that the company's collection costs and
14 reconnection costs are reduced because we've got these
15 customers now who are paying their bills. Can you make that
16 assumption?

17 A. Sure. I can make that assumption.

18 Q. And indeed that's one of the basis of your
19 plan -- I mean one of the alleged benefits of this proposal;
20 isn't that correct?

21 A. Yes.

22 Q. Okay. If that's true, isn't it correct that
23 until rates are set, the company would reap the benefit of
24 those lower collection costs and reconnection costs because
25 they would be lower than built into rates?

1 A. I think if you view that one item in
2 isolation, sure. We're not going to change our base rates
3 until our next rate case.

4 Q. So as part of regulatory lag, if the company
5 is correct, all right, the company is going to be seeing a
6 financial benefit, if you will, if the company is correct in
7 its assumption that reconnection fees and collection fees
8 are going to be reduced; isn't that correct?

9 A. We should see a benefit. And that would be a
10 good thing because that means we've got some -- a lot of
11 customers that we're helping along the way.

12 Q. So when you testified that there's no --
13 nothing in it for Laclede in terms of being able to take
14 something to the bottom line, that would be something based
15 on regulatory lag that would inure to Laclede's bottom line;
16 isn't that correct?

17 A. I don't recall testifying to what -- the
18 statement that you just made.

19 Q. Well, I believe you testified in response
20 to -- on rebuttal in response to something that
21 Mr. Pendergast asked you was that the only impact that this
22 proposal would have would be to reduce bad debt; is that
23 correct? Is that what you testified to?

24 A. Well, if I said that, that's not what I meant.

25 Q. Okay. Why don't you explain to me what you

1 meant?

2 A. Why don't you restate the question you think I

3 was asked?

4 Q. Well, you were asked, I believe by

5 Mr. Pendergast, whether or not -- and this was in response

6 to Mr. Cassidy, Mr. Rackers and Mr. Imhoff's testimony --

7 whether or not there was going to be any financial benefit

8 to Laclede Gas Company as a result of this program. Do you

9 recall those questions?

10 A. Yes.

11 Q. And I believe -- and the transcript will bear

12 this out -- but I believe that your answer was the only

13 impact that Laclede Gas Company will see is a reduction in

14 its bad debts. And then you went on and said that reduction

15 in its bad debts will benefit all customers.

16 MR. PENDERGAST: I'm just going to object to

17 that. The record will speak for itself when we have it, but

18 I don't recall Mr. Fallert saying that would be the only

19 impact, but -- so I think it mischaracterizes the record.

20 JUDGE RUTH: Do you have a response?

21 BY MR. MICHEEL:

22 Q. Did you say that, Mr. Fallert?

23 A. Why don't you ask the question you want me to

24 answer and I'll answer it?

25 JUDGE RUTH: No.

1 THE WITNESS: Am I allowed to do that?

2 MR. MICHEEL: I'm trying to do that, your

3 Honor.

4 JUDGE RUTH: You may proceed.

5 BY MR. MICHEEL:

6 Q. Is it correct, Mr. Fallert, that Laclede Gas

7 Company will receive a financial benefit -- assuming all the

8 underlying assumptions, that the Catch-Up/Keep-Up plan will

9 reduce the company's collection functions and the company's

10 reconnection functions, isn't it correct that the company

11 will receive a financial benefit?

12 A. Yes. If we can reduce -- or if we can get

13 customers to participate in this plan and pay down their

14 arrearages, we'll see a reduction in bad debts and a

15 reduction in our collection expense, everything else being

16 equal.

17 Q. And you will reap -- when I say you, Laclede

18 Gas Company will receive the benefit of that reduced

19 collection expense until rates are set anew in a new rate

20 case; isn't that correct?

21 A. In the short run, Laclede Gas Company receives

22 a benefit. In the long run, all of our ratepayers receive a

23 benefit.

24 Q. Will the customers who are going to be

25 eligible for the Keep-Up/Catch-Up proposal still be paying

1 the same residential customer charge that all customers are
2 paying?

3 A. I'd ask you to defer rate design questions for
4 Mr. Cline.

5 Q. Well, let me ask you this. Do you know what
6 your company's residential customer charge is?

7 A. I think it's \$12.

8 Q. And does this proposal --

9 A. We're not changing any of our rates.

10 Q. So all of the company's rates the -- the
11 distribution rates you're not changing; is that correct?
12 The non-gas rates you're not changing; is that correct?

13 A. That's correct.

14 JUDGE RUTH: Mr. Fallert, could you move your
15 microphone such that it picks up more what you're saying?

16 THE WITNESS: Sure.

17 JUDGE RUTH: You may need to speak up a bit
18 also.

19 BY MR. MICHEEL:

20 Q. Let me just start over. The non-gas rates are
21 not changing as a result of this proposal, isn't that
22 correct, Mr. Fallert?

23 A. That's right.

24 Q. You would agree with me that the PGA rates as
25 a result of this proposal, if it's implemented, would

1 increase for all customers; isn't that correct?

2 A. Now, the funding mechanism for this plan is
3 working through those rates.

4 Q. And currently the customers receive
5 100 percent -- I think we established this earlier --
6 100 percent of the pipeline discounts; isn't that correct?

7 A. Well, that's my understanding.

8 Q. And if this program is implemented, they would
9 only receive 70 percent of those discounts; isn't that
10 correct?

11 A. Well, subject to the 6 million cap or whatever
12 other funding levels have been discussed here earlier.

13 Q. So all things remaining the same, the PGA rate
14 for customers -- all customers, including low-income
15 customers that the company's seeking to help, are going to
16 be increased by at least -- or at maximum the \$6 million;
17 isn't that correct?

18 A. The maximum, yeah.

19 Q. Okay. So the non-gas rates are staying the
20 same under this proposal and the PGA rate is increasing by a
21 maximum of \$6 million; isn't that correct?

22 A. Could you restate that question?

23 Q. Sure. The non-gas rates are remaining the
24 same, the \$12 customer charge and whatever your current
25 energy charge is, and the PGA rates are increasing to at

1 least a maximum of \$6 million; isn't that correct?

2 A. In the -- in the short run, yeah, that's
3 what's happening.

4 Q. Okay. And then the company is expecting there
5 to be some offsetting benefits from the program, isn't that
6 correct, to maybe offset that \$6 million rate increase in
7 the PGA/ACA proceeding?

8 A. Yes.

9 Q. Okay. And in your testimony you indicate on
10 page 3 that there's no way to calculate the impact of that
11 offsetting benefit; is that correct?

12 A. Right.

13 Q. And you say that's because there's so many
14 unknown variables. Correct?

15 A. Yes.

16 Q. And what unknown variables are you referring
17 to there?

18 A. Well, what we don't know and the big unknown
19 variable is how many customers who participate in this plan
20 would have come up with some amount of money to pay off a
21 portion of arrearages in order to maintain service.

22 We can't really make an assumption that all of
23 the money that might flow through this plan would flow
24 through to the customers who need it would have gone to
25 reduce their bad debts. And additionally we don't know of

1 the customers who participate what kind of success rate
2 we'll have and those customers will have as far as staying
3 in the plan.

4 Q. Let me unpack those two unknown variables.
5 You would agree with me, would you not, and I think you've
6 testified to this in your testimony -- your pre-filed
7 testimony, that some customers indeed -- some of these
8 low-income customers indeed -- and I'll use your term --
9 scrape together enough money to get on the system and pay
10 their arrears; is that correct?

11 A. Yes.

12 Q. So this program wouldn't be helping those
13 customers, because they would, by hook or crook, have the
14 ability to get that money and get back on the system; isn't
15 that correct?

16 A. Well, I would disagree with that
17 characterization. I think a customer who doesn't go buy
18 shoes for his kid or gives -- or doesn't buy groceries this
19 week or can't afford to pay one of his other essential bills
20 who's helped by this -- the customer is still helped,
21 whether he had to give up another essential item he needs to
22 pay the bill or not.

23 Q. Let me ask you this. These customers who have
24 gotten all these arrears, they're in arrears because they
25 can't pay the bill; isn't that correct?

1 A. They're in arrears because they didn't pay
2 some past bills.

3 Q. Okay. And those past bills included the \$12
4 customer charge and the energy charge and the PGA charge,
5 didn't they?

6 A. Yes.

7 Q. And your rates have not decreased in the last
8 year, have they?

9 A. Well, they've decreased substantially from the
10 2000/2001 period, which is when a lot of these arrears were
11 run up.

12 Q. Let me ask you this. Your non-gas rates
13 certainly have increased from the 2000/2001 winter period;
14 isn't that correct?

15 A. That's correct. Although I heard a number of
16 \$31 million floating around. I don't think that's a correct
17 number.

18 Q. That's combined with your last two rate cases,
19 isn't it, Mr. Fallert?

20 A. Yes.

21 Q. So during the last two years your company's
22 non-gas rates have increased \$31 million; isn't that
23 correct?

24 A. No, no. They haven't.

25 Q. No?

1 A. Base rates have gone up by \$26 million. We
2 also had additional \$3 million which was a service
3 initiation fee --
4 Q. Okay.
5 A. -- which wouldn't be paid by every customers.
6 It's only paid by the customers who incur that expense.
7 Q. Okay. So do the disconnected customers, the
8 people who are unable to pay their bills, do they incur the
9 service initiation fee?
10 A. Yeah. Any customer who moves would incur that
11 fee.
12 Q. So these customers that are in need, the
13 customers we're talking about, are probably the likely ones
14 or some of the ones who also incurred that 3 million we're
15 talking about; isn't that correct?
16 A. That's possible, sure.
17 Q. So rates have increased at least \$26 million;
18 is that correct?
19 A. Yes.
20 Q. And you would agree with me, would you not,
21 Mr. Fallert, that this proposal does absolutely nothing,
22 nothing to reduce the non-gas cost rates that this company
23 requires its customers to pay?
24 MR. PENDERGAST: I'm going to object on the
25 grounds that that's a vague question. When he says "rates,"

1 it's not clear to me whether he's talking about all charges
2 of the company or he's simply talking about base charges,
3 because certainly one of the charges are charges for past
4 due amounts. And if he's suggesting that it doesn't reduce
5 the charges for past due amounts, that's not correct.

6 MR. MICHEEL: I'll rephrase the question. If
7 Mr. Pendergast thinks it's confusing, I'll make it very
8 specific.

9 BY MR. MICHEEL:

10 Q. Isn't it correct that the customers are still
11 going to be paying the same customer charge rate and the
12 same energy charge rate?

13 A. In the short run, that's true. I think as we
14 look out in the future, eventually the benefits of the
15 program will flow through to customers in a future rate case
16 and we would expect to see a positive effect on the customer
17 bills.

18 Q. And has the company undertaken any studies to
19 indicate that there's going to be a positive effect on
20 customer bills?

21 A. No, we haven't.

22 Q. Okay. And you would agree with me, would you
23 not, Mr. Fallert, that there's not a linear one-to-one
24 relationship? In other words, your testimony indicates that
25 you're going to be doing \$600,000 for customer outreach and

1 billing and conservation and those items and then there's
2 another 5.4 million that you're going to be using I guess
3 for the meat of the program, the uncollectible -- or the
4 reduction in arrears; is that correct?

5 A. Yes.

6 Q. And your testimony is that we're not going to
7 see a \$5.4 million reduction in uncollectible expense; isn't
8 that correct?

9 A. I wouldn't expect that, no.

10 Q. Okay. Well, let me ask you this. How would
11 we measure the -- I mean, how is Laclede Gas Company going
12 to measure the benefit of this program to the general body
13 of ratepayers?

14 A. I don't think it's necessary to -- to do a
15 specific measurement of it. The benefits will flow through
16 to future rate-making.

17 Q. Okay. So I think Mr. Moten -- were you here
18 in the room for Mr. Moten's testimony?

19 A. Yes.

20 Q. And did you hear Mr. Moten testify that all
21 things being equal, that customers would see approximately
22 \$10 a year increase in their rates because of this program?

23 A. Yes.

24 Q. Let me just give you -- if all customers only
25 benefit \$1 from this program, do you think it's cost

1 effective that customers are paying \$10 for the program?

2 A. Well, given the "if" you just put in there,

3 no.

4 Q. Okay. I mean, do you agree with the -- do you

5 disagree with the \$10 cost of the program number?

6 A. Well --

7 Q. Mr. Moten agreed to that and if you disagree,

8 let me know.

9 A. What you have to understand, the program's

10 designed also to help low-income customers. I mean, that's

11 the focus of this program. It also has the corollary

12 benefits of helping all the other customers to the extent we

13 can reduce some costs as a result of the program.

14 I don't think it's -- I don't think you can

15 draw a conclusion on whether this program is successful just

16 by looking at some kind of -- the relationship you just

17 described.

18 Q. Well, let me ask you this. Does Laclede Gas

19 Company believe it's appropriate for other customers to

20 subsidize low-income customers?

21 A. I couldn't really answer that.

22 Q. Okay. Are you familiar at all with the

23 Missouri Gas Energy ELIER program?

24 A. Not particularly, no.

25 Q. Who would be familiar with that? Would that

1 be Mr. Cline?

2 A. Mr. Cline or Mr. Moten.

3 Q. Okay. So as you sit there today, you don't

4 know what level of pay-back for this program would be

5 appropriate. Is that what you're testifying?

6 A. When you say "level of pay-back," who are you

7 referring to?

8 Q. Well, for all customers. I mean, I think

9 we've established -- or at least Mr. Moten admitted that

10 it's going to cost all customers \$10, this program. If you

11 take \$600,000 customers, \$6 million, that's \$10 a year,

12 something like that?

13 A. Well, if you're talking the average customer,

14 for residential customers, it would be something less than

15 \$10.

16 Q. Okay. What number do you want to use?

17 A. I don't have a number.

18 Q. Okay. Comfortable with the \$10 number?

19 A. \$10 on average.

20 Q. Okay. \$10 on average. I guess what I'm

21 trying to understand is, there should be a benefit -- and

22 what I understand from your testimony that there is a

23 benefit to the general body of ratepayers if this program is

24 implemented; is that correct?

25 A. Yes.

1 Q. And what I'm trying to isolate -- and I was
2 told that you're the numbers guy, or at least that's what
3 Mr. Moten indicated, that you're the numbers fellow and that
4 I should ask you about the numbers.

5 A. Uh-huh.

6 Q. And I'm trying to understand what level of
7 pay-back would be appropriate. We know -- or I guess you're
8 accepting that customers are paying -- the average customer,
9 roughly \$10. And I guess if the average customer only gets
10 \$5 back, is that a beneficial program to that customer?

11 A. You know, I don't think you're ever going to
12 be able to calculate the numbers you're talking about to
13 that level of specificity, but the benefit -- but there are
14 likely to be benefits but the main benefit of this program
15 is for the low-income customers we're helping deal with
16 their arrears, deal with their gas bills that they can't
17 afford to pay and helping them develop the good payment
18 habits they need to maintain the service going forward.

19 Q. So the benefits to the general body of
20 ratepayers, if there are any, because you're not -- I don't
21 think you're willing to say there are any quantifiable
22 benefits, are merely incidental to this program; is that
23 correct?

24 A. Well, it's an additional benefit of this
25 program. It is a win/win/win program.

1 Q. Well --

2 A. And to the extent that we could actually get

3 customers who now aren't paying their bills, get those

4 people in a payment habit where they're paying their bills,

5 it can benefit everybody because all the other customers are

6 paying the cost of those customers' bad debts and paying the

7 cost of trying to collect from those customers. To the

8 extent we can get those people in a good payment habit, it's

9 a plus for everybody involved.

10 Q. Let me unpack that, because I'm having a hard

11 time understanding how it can be a win for the average

12 customer who pays their bill.

13 Let's assume again that it costs the average

14 customer \$10 a year. All right? And they're only seeing a

15 \$5 a year benefit. Okay? If we just let these customers do

16 the normal practice and it costs the customers \$7 a year,

17 are those customers winners?

18 A. Well, you just assumed a scenario where

19 they're not.

20 Q. And is that scenario possible?

21 A. You know, I couldn't really speculate on that.

22 Q. Okay. Well, is that something that we should

23 be trying to figure out with this experimental program?

24 A. I think, again, you need to focus on the fact

25 that this program is focused at helping some low-income

1 customers who need help. You're focusing on the impact on
2 all the other customers. I mean, one of the benefits is
3 there can be some positive effects on our other customers,
4 but the real benefit of this program is for the low-income
5 customers who need help.

6 Q. Well, let me ask you this. I take it from
7 your answer that you feel it's very important that
8 low-income customers get some benefit; is that correct?

9 A. That's the target for this program.

10 Q. Okay. Then how come Laclede's shareholders
11 haven't kicked in penny one for this program?

12 A. You're suggesting that -- that -- I don't
13 think I understand the mechanism where we'd want to do that.

14 Q. Well, I mean, it's very easy for Laclede Gas
15 Company to say, We are willing to take up to \$6 million of
16 money that would be refunded to all ratepayers and we want
17 to redirect that money to a separate group of ratepayers.
18 Okay? But from my point of view, the other ratepayers have
19 to say, Hold on, what am I getting for that? Do you
20 understand what I'm saying?

21 A. Yes.

22 Q. And I guess my question is, Laclede Gas
23 Company's shareholders, although you're up there expressing
24 tremendous concern for the low-income customers, and I
25 personally share that concern and I think our office does,

1 the Laclede Gas Company shareholders haven't kicked in penny
2 one to the program. And what I'm asking you is, do you
3 think it would be appropriate for the shareholders to pony
4 up some money for the program?

5 A. The company makes significant efforts on the
6 part of its low-income customers. We spend a lot of
7 administrative time and effort making sure they get access
8 to the -- to the LIHEAP and other benefit funds that are
9 available out there.

10 We've had a lot of outreach programs,
11 particularly over the last two years where we had the
12 2000/2001 winter which caused a lot of people problems
13 paying their bills. We had a previous catch-up program
14 where we went out and tried to put people into the Cold
15 Weather Rule, put it into effect early to help people get
16 into that. We willingly participated in the Emergency Cold
17 Weather Rule to help people get back on service.

18 And so the company's done a lot of things to
19 help these people. And I don't think it's fair to
20 characterize us as just looking at this program as a -- as
21 some means of helping the bottom line. That's not what this
22 program is about. It's a continuation of many efforts we've
23 had to help these customers.

24 Q. Well, let's unpack that. Isn't it correct
25 that the company, with respect to the Emergency Cold Weather

1 Rule, is recovering those costs and indeed the Commission
2 rule explicitly provided that the company should recover all
3 of those costs?

4 A. That's correct.

5 Q. Okay. And with respect to the outreach and
6 whatnot that you're doing, can you give me a dollar figure
7 of how much those administrative costs are --

8 A. No.

9 Q. -- costing?

10 Are you familiar with the last GSIP
11 proceeding?

12 A. Not in great detail.

13 Q. Well, would you be shocked to learn that I
14 cross-examined Mr. Moten in that proceeding and he indicated
15 that the company spends about \$60,000 to 80,000 a year for
16 administration of the Dollar-Help program?

17 A. No. I wouldn't be shocked.

18 Q. Okay. I mean, how does that compare to the
19 \$6 million that you're requesting the ratepayers kick in for
20 this Catch-Up/Keep-Up program?

21 A. It's less than \$6 million.

22 Q. Okay. Is it considerably less?

23 A. Yes.

24 Q. Okay. Do you think that the administrative
25 costs that the company incurs to do all this outreach, I

1 mean, don't you think those costs are built into rates at
2 some time?

3 A. Presumably, yes.

4 Q. So, in other words, the customers are paying
5 for those too, aren't they?

6 A. Through the rate-making process. And the
7 rate-making process also is designed to provide a reasonable
8 return to the company, which takes all of those things into
9 account.

10 What you're suggesting is that the company
11 should say that the return that the Commission has
12 determined is appropriate for the company to earn and then
13 should reduce that through this plan. I don't understand
14 why you would feel that that was a reasonable position.

15 Q. That wasn't my question, but --

16 A. Well --

17 Q. -- thanks for the answer.

18 A. -- I think it was.

19 Q. Okay. Are you aware of AmerenUE's current
20 low-income program?

21 A. No, I'm not really very familiar with that.

22 Q. Okay. So you wouldn't know, if I told you,
23 that the Ameren shareholders are also contributing to that
24 program?

25 A. Well, what I do know about that program I

1 believe I understand is that that was instituted in the
2 context of a settled case. And that was at least the way
3 that those expenses were presented in the -- that
4 settlement.

5 Q. And what's the difference between -- I mean,
6 what's the significance of it being a settled case?

7 A. Well, in the settled case there's a lot of --
8 a lot of uncertainty as to what expenses are covered and
9 what weren't. You know, you end up with a number and
10 perhaps not a lot of detail in covering what's behind that
11 number.

12 Q. Are you aware that the Missouri Gas Energy
13 ELIER program was a result of a settled case?

14 A. I'm not familiar with that program.

15 Q. Okay. At page 5 of your Direct Testimony you
16 state, To the extent participating customers respond
17 positively to the program's mix of financial incentives and
18 affordable rates and keep current on their utility bills,
19 the program should also enable the company to reduce some of
20 its expenses associated with these disconnection,
21 reconnection and collection activities; is that correct?

22 A. Yes. That's what I said.

23 Q. And I guess my question is when you talk about
24 affordable rates, the company's not changing their current
25 non-gas customer charge and energy charge rate; is that

1 correct?

2 A. That's right.

3 Q. And that's the rate that customer's were

4 unable to pay in the first instance and they went into

5 arrears; isn't that correct?

6 A. Well, during the 2000/2001 winter, yes, that's

7 the rate that was considerably higher than it is now.

8 Q. So you didn't have any customers during last

9 winter that built up arrears and were unable to pay?

10 A. Well, I'm sure there were. And I'm also sure

11 there's a lot of them that still haven't been able to clear

12 the arrears that they incurred in 2000/2001 winter.

13 Q. And so for some of your customers, at least,

14 Laclede's current non-gas rates aren't affordable; isn't

15 that correct?

16 A. Certainly given the whole range of income

17 levels out there, that certainly has to be true.

18 Q. You also state at page 6 of your testimony

19 that the program will also provide the company with the

20 incentive to obtain most favorable level of discounts

21 possible from out-of-state pipeline suppliers; is that

22 correct?

23 A. Could you give me the line number you're

24 looking at?

25 Q. Yes, sir. It starts halfway through line 5,

1 it goes down to the bottom of line 8 on page 6, Exhibit 2.

2 A. Yes. That's what it says.

3 Q. Are you aware of the level of discounts that

4 your company has achieved in the last 10 years -- pipeline

5 discounts?

6 A. I wouldn't know a 10-year number, no.

7 Q. Would you know a 5-year number?

8 A. I'm not familiar with a 5-year number either.

9 Q. What year number are you familiar with?

10 A. I think it's been in excess of \$20 million in

11 recent years.

12 Q. Three years at least?

13 A. Probably in that range, yeah.

14 Q. Okay. So the company's always been able to

15 achieve that level of discounts; isn't that correct?

16 A. Well, over the last few years at least.

17 Q. Has the company this year been able to

18 negotiate any lower level of discounts on their pipeline

19 transportation?

20 A. I'm really not familiar with that.

21 Q. Okay. But you are familiar enough to know

22 that that's going to give your company some incentive to

23 lower those further; is that correct?

24 A. Well, to the extent that it benefits this

25 program, yes.

1 Q. Okay. Let me unpack that a little bit. It's
2 correct that the program has a \$6 million cap; is that
3 correct?

4 A. As currently proposed, yes.

5 Q. And that's your proposal in your list of
6 issues that the company would agree to that \$6 million cap;
7 is that correct?

8 MR. PENDERGAST: I'm going to -- it's not
9 quite fair to say it's an objection, but just by way of
10 clarification, I believe that was in the tariff as opposed
11 to the list of issues, so I think it's a mischaracterization
12 of the record.

13 MR. MICHEEL: I'm sorry. I don't want to
14 mischaracterize the record.

15 BY MR. MICHEEL:

16 Q. Is it correct in your tariff the cap is
17 \$6 million?

18 A. Yes.

19 Q. And so to the extent that your company's
20 already getting the \$20 million of discounts needed to get
21 the \$6 million, you're at the cap. I mean, I don't
22 understand how you can be incented to go higher than the cap
23 when you're already at the cap.

24 A. Well, I think you're presuming that the
25 \$20 million is an automatic. That's something we have to go

1 out, as I understand it, it has to be achieved every year.

2 Q. So it's your testimony that currently your
3 company's transportation rates are renegotiated yearly?

4 A. Not -- well, you're really getting into an
5 area that I'm not totally familiar with, but it's my
6 understanding that achieving \$20 million of annual
7 reductions in transportation rates is not something that
8 happens automatically. It's something that takes a
9 continuing effort on the part of the company.

10 Q. Do you know what transportation contracts the
11 company has in place and what term those transportation
12 contracts are?

13 A. No. I really couldn't tell you that.

14 Q. Who would be able to tell me that that's
15 testifying today?

16 A. You'd probably want to talk to Mr. Cline about
17 that.

18 Q. Okay. You said in response to one of my
19 questions earlier about the company's ability to reap some
20 benefit from the reduced collection costs and the reduced
21 reconnection costs, that that would be in -- that the
22 company would reap that benefit in the short run. Do you
23 recall that?

24 A. Yes.

25 Q. Isn't it correct that there's a rate

1 moratorium in place for Laclede Gas Company?

2 A. Yes.

3 Q. And isn't it correct that the earliest rates
4 can go into effect would be 2005?

5 A. Well, the moratorium allows us to file no
6 sooner than March 1, 2004. So depends on the results of any
7 proceeding filed on that date.

8 Q. And the operation of law in Missouri is
9 11 months; is that correct?

10 A. Yes.

11 Q. And so Laclede could at least reap those
12 benefits until 2005. Correct?

13 A. Yeah. If a case filed on March 1, 2004 ran
14 the full 11 months, it would be February 1, 2005.

15 Q. Okay. Do you think that -- and this is an
16 experimental program; is that correct?

17 A. I believe it's been characterized that way,
18 yes.

19 Q. Okay. Do you know the level of funding for
20 the Missouri Gas Energy ELIER program?

21 A. No. I'm not familiar with that.

22 Q. Okay. Do you know if anyone at Laclede would
23 be familiar with that that's testifying?

24 A. You might want to talk to Mr. Moten or
25 Mr. Cline.

1 Q. Okay. Do you think that it's important for
2 this Commission to evaluate this experimental program to
3 determine whether or not all ratepayers are benefited from
4 it?

5 A. I think the real importance here is are we
6 benefiting the target low-income customers we're trying to
7 help.

8 Q. Okay. So, in your mind, it's all right if
9 other customers are paying more so long as the low-income
10 customers are being helped; is that correct?

11 A. I think that the Commission needs to look at
12 the totality of the program.

13 Q. And in looking at that totality of the
14 program, should the Commission take into account its effects
15 on other customers?

16 A. Well, certainly I think they should look at
17 all the relevant factors.

18 Q. And is the increased cost to other customers a
19 relevant factor the Commission should consider?

20 A. I would think so, but I would leave that to
21 the Commission to decide.

22 Q. Were you familiar with the low-income program
23 that the Office of the Public Counsel recommended in 1992?

24 A. No.

25 Q. Okay. Do you know if anyone at Laclede is

1 familiar with that?

2 A. I would imagine so.

3 Q. On page 6 of your testimony, your Direct
4 Testimony, you indicate that the level of bad debts is
5 \$11.3 million for the year-end September 30, 2002; is that
6 correct?

7 A. That's right.

8 Q. Now, when you refer to bad debts, are you
9 referring to bad debt expense as recorded in FERC Account
10 904? Is that what you're referring to as bad debt expense?

11 A. I'm referring to the amount written off, not
12 the amount recorded in Account 904.

13 Q. And what amount did Laclede record in Account
14 904?

15 A. I don't have that number here with me.

16 Q. Okay. So you determined the 11.3 million how?

17 A. It's the actual amount of customer accounts
18 which were written off during the period from October 1,
19 2001 through September 30, 2002.

20 Q. After Laclede Gas Company writes off an
21 account, do they still conduct collection efforts?

22 A. Yes, we do.

23 Q. And is the company successful in recovering
24 some of that money written off?

25 A. Yes, we are.

1 Q. So this is not a net number, but a gross
2 number that appears here?

3 A. No. This is a net number. This is net of any
4 collections that we were able to make for past amounts that
5 were written off. The gross number would be something
6 higher than the \$11.3 million.

7 Q. Okay. So it's your testimony that this 11.3
8 is the net number based on also the collections you've done
9 after the accounts have been written off?

10 A. That's correct.

11 Q. Okay. Let me ask you this. Could you just
12 briefly describe Laclede Gas Company's write-off policy for
13 me? Give me a time frame of when the company writes off
14 their bad debts and what they do.

15 A. Basically, we write off an account 126 days
16 after it's filed if we haven't received payment at that
17 point. Six months basically.

18 Q. And for a customer who has been written off,
19 if they subsequently want to return to the system, does
20 Laclede require them to make amends for that bad debt?

21 A. Right. We'd still hold them responsible for
22 that obligation.

23 Q. And under the Catch-Up/Keep-Up program would
24 Laclede still hold those customers responsible for that
25 obligation?

1 A. Yes. Those are amounts which would be subject
2 to the arrearage forgiveness in the program.

3 Q. In your Rebuttal Testimony you talked about
4 you had about 3,000 customers who were disconnected for
5 non-payment; is that correct?

6 A. Yes.

7 Q. And you indicated that the average customer
8 disconnect for non-payment had \$1,000 in arrears; is that
9 correct?

10 A. Yes.

11 Q. And I guess my question to you, is that the
12 entire universe of customers or was that just residential
13 customers?

14 A. That's just residential heat grant customers
15 who had a Cold Weather Rule agreement who were disconnected
16 for non-payment.

17 Q. So if I understood your testimony, there were
18 at least 3,000 of those customers who owe at least \$1,000;
19 is that correct?

20 A. Well, 3,000 is a reasonable estimate. What I
21 know is that we cut off about 3,500 of those customers over
22 the last year. And it's reasonable -- in fact, very
23 reasonable to expect that most of those customers still owe
24 us those dollars.

25 Q. Okay. And it was your testimony that what you

1 gave Ms. Meisenheimer in response to Public Counsel data
2 requests were just active customers who were in arrears; is
3 that correct?

4 A. That's right.

5 Q. Okay. Did that data request seek only active
6 customers or did it seek all customers?

7 A. My understanding was it sought active
8 customers. We don't have the arrears for the final
9 customers to that level of detail.

10 MR. MICHEEL: May I approach the witness?

11 JUDGE RUTH: Yes. Would you please describe
12 what you are showing him?

13 MR. MICHEEL: Yes. I'm handing Mr. Fallert
14 Public Counsel Data Request No. 11.

15 BY MR. MICHEEL:

16 Q. And I guess it's a two-page data request. And
17 on the second page at the top it asks for active and final
18 residential customers. And is it correct that the column
19 there says active and final residential past due arrearages?

20 A. That's what it says.

21 Q. And wouldn't that lead one to believe that
22 that was both the active customers and the customers who had
23 been finalized?

24 A. Well, it would. But my understanding of
25 Ms. Meisenheimer's calculation was that these aren't the

1 numbers that she used to develop the \$200 arrearage number,
2 so I don't think this data request is relevant to the
3 calculation she made.

4 Q. Let me ask you this. The numbers that
5 Ms. Meisenheimer utilized to do that calculation were
6 provided per a subsequent verbal request with respect to
7 that data request; is that correct?

8 A. I think the data request you want to look at
9 is the next one, No. 12. And if you look at the top of that
10 one, it specifies those are active customers.

11 Q. Just so you can confirm that that is indeed
12 what it says. That indicates active customers?

13 A. Active heat grant customers, right. And
14 subsequently we did provide the dollar balances that went
15 with those customers.

16 Q. One more question -- a couple more questions
17 about your testimony. On page 4 of your Direct Testimony
18 you indicate that the program should serve to reduce
19 uncollectible expenses in amount of 2 to 3 million dollars;
20 is that correct?

21 A. Yes.

22 Q. And I guess I'm interested in how you arrived
23 at that number.

24 A. We looked at the total program funding, which
25 is about \$5.4 million. We had an expectation that all of

1 those arrearage forgivenesses would not go to reduce bad
2 debts because we expected that some of the customers that
3 would take advantage of this program would have, in fact,
4 come up with a portion of the money they needed to at least
5 clear the portion of their arrearages they needed to
6 maintain service.

7 So we knew the 5.4 million was too high. The
8 2 to 3 million was really just taking a midpoint of the
9 funding requirement.

10 Q. So there's really no magic to that number?

11 A. Not -- I don't have a detailed calculation I
12 could show you to come up with that number, no.

13 Q. Just one moment.

14 MR. MICHEEL: Thank you for your time,
15 Mr. Fallert.

16 THE WITNESS: You're welcome.

17 JUDGE RUTH: Mr. Molteni?

18 MR. MOLTENI: Thank you, your Honor.

19 CROSS-EXAMINATION BY MR. MOLTENI:

20 Q. Good afternoon, Mr. Fallert.

21 A. Good afternoon.

22 Q. I want to pick up on the line of questioning
23 Mr. Micheel was just asking you about. Laclede proposes a
24 \$6 million figure for the program. Correct?

25 A. That's what's in the tariff at this point.

1 Q. Okay. And \$2 million divided by \$6 million is
2 33 cents. Right?

3 A. Well, \$2 million divided by \$6 million is
4 one-third. Dividing dollars by dollars, the dollars
5 disappear and --

6 Q. That's close enough. Thank you. Let's do an
7 easier one. \$3 million divided by \$6 million is 50 cents.
8 Correct?

9 A. Well, it's one-half. When you're dividing
10 dollars by dollars, the dollars, cents cancel out and all
11 you've got left is a half. That's the way the math works.

12 Q. Okay. Let's put it this way. For every
13 dollar that's spent on the program, using your \$2 million
14 and your \$3 million estimates on the reduction of
15 uncollectible expenses, that would render a return of
16 somewhere between 33 cents and 50 cents on the dollar.
17 Correct?

18 A. Well, I guess I'm not sure exactly what you're
19 trying to measure.

20 Q. I'm trying to measure 2 million divided by
21 6 million and I'm trying to measure 3 million divided by
22 6 million, but you don't want to seem to agree with me.

23 A. It's a third or a half.

24 Q. What I'm asking you is on your estimates, your
25 estimate that the program -- if you want to look at your

1 testimony, it's on page 3, it's lines 19 and 20 -- I'm
2 sorry -- page 4, lines 4 and 5.

3 Don't you state, And I believe an amount of
4 2 million to 3 million dollars represents a reasonable
5 estimate of this potential impact, that being the
6 uncollectible expense reduced; is that right?

7 A. That was an estimate of the impact of the
8 program fully utilized on bad debts.

9 Q. Okay. So if that estimate is 2 million to
10 3 million dollars and the program costs \$6 million --
11 Mr. Fallert, follow me, please -- that means that for every
12 dollar spent on the program, you expect a reduction of
13 uncollectible expense of 33 to 50 cents; is that right?

14 A. That's what this would imply, yes.

15 Q. That's what this would imply. That's what
16 your testimony is, isn't it?

17 A. Yes. Right.

18 Q. You've got degrees in business administration;
19 is that correct?

20 A. Yes.

21 Q. If a program saves a \$1.62 for every dollar
22 that it invests -- that is invested in that program, that
23 makes more business sense than a program that just saves
24 50 cents for every dollar invested. Correct?

25 A. I think you're misinterpreting what this

1 2 to 3 million dollars is. This is an estimate of the
2 impact of this program fully utilized by these low-income
3 customers on uncollectible accounts expensed to the company.
4 The full \$6 million is going to benefit customers, every
5 penny of it. This is just the portion that's flowing
6 through.

7 Q. Mr. Fallert, that's not the question that I'm
8 asking you.

9 A. Well --

10 Q. I asked you a simple question. That is --

11 A. Your question has an incorrect premise because
12 you are presuming that this 2 to 3 million dollars number
13 means that the program -- a \$6 million program is only
14 producing a benefit of 2 to 3 million dollars. That's the
15 implication in your question and that's not true.

16 Q. Mr. Fallert, my question is whether -- sort of
17 a mathematical question. And that is, \$1.62 is better than
18 50 cents from a business perspective, is it not?

19 A. \$1.62 is more than 50 cents. I'll stipulate
20 to that.

21 Q. All right. And how about \$1.51? Is that
22 better than 50 cents?

23 A. \$1.51 is more than 50 cents.

24 MR. MOLTENI: All right. Thank you. I have
25 no further questions.

1 JUDGE RUTH: Okay. Staff.
2 CROSS-EXAMINATION BY MR. MEYER:
3 Q. Good afternoon.
4 A. Good afternoon.
5 Q. Mr. Fallert -- Mr. Fallert, could you explain
6 to us what your role was in the development of the
7 Catch-Up/Keep-Up plan?
8 A. I didn't have a significant role in the
9 development of the plan.
10 Q. And perhaps you can help me see this. I know
11 earlier it was discussed that a customer that goes under the
12 Catch-Up/Keep-Up plan would be theoretically in that for
13 four quarters and then would be out of the plan. Is that
14 correct as you understand it?
15 A. Well, you know, I'm going on what I heard
16 earlier in the day here, that that's the way it would work.
17 Q. Okay. And my question after that was, do you
18 know where in any of the materials in this case that premise
19 was set forth?
20 A. I couldn't help you with that.
21 Q. Okay. I don't know either.
22 Now, if a customer has an arrearage of \$375
23 and they sign up for the Catch-Up/Keep-Up plan and they pay
24 their budgeted bill for 12 months, will the entire \$375 be
25 forgiven? Do I understand that correctly?

1 A. That's my understanding, yes.

2 Q. But now at page 4, line 13 of your testimony

3 you acknowledge that Laclede expects that some customers

4 won't meet those obligations; is that true?

5 A. Excuse me. Which line are you looking at?

6 Q. I believe it was page 4, line 13.

7 A. Yes. I see what you're referring to.

8 Q. And so in that case isn't it possible that

9 customers might go through the program and in the end have a

10 greater debt owed to Laclede than they had before they

11 entered the program?

12 A. I think that's theoretically possible because

13 you've got a customer who's taking service who otherwise may

14 not have been able to get service if he couldn't get on in

15 the absence of the program. So to the extent he took

16 service and ran up some additional bills, he may owe some

17 more money.

18 Q. And if they're unable to complete the

19 three-month cycle and there are no extenuating

20 circumstances, that customer would then owe the entire

21 amount they owed previously plus any additional charges they

22 accrued; is that correct?

23 A. They -- they should owe, you know, whatever

24 they've used to that point.

25 Q. Okay. On page 4 at line 4 to 5 you said that

1 you expected uncollectible or bad debt expense would go down
2 by 2 to 3 million. Have you performed a study or do you
3 have any work papers or support for that statement?

4 A. No. I really don't. As we discussed a little
5 earlier, it's really looking at a midpoint in the funding --
6 or the total funding request.

7 Q. And do you know -- or were you the person who
8 came up with that number or do you know who did, if not?

9 A. Well, there were discussions among various
10 people in the company. It's a number that I was comfortable
11 with.

12 Q. Okay. Also on that page you said that up to
13 \$600,000 is earmarked for weatherization, counseling,
14 customer outreach, etc. Is it not accurate that the tariff
15 does not require any weatherization, counseling or any of
16 those other --

17 A. I really couldn't speak to that.

18 Q. Okay. And Mr. Pendergast said earlier in the
19 opening statement, I think, that he believed that this
20 \$600,000 amount would supplement your existing programs. Is
21 that your understanding as well?

22 A. I'd have to agree with what Mr. Pendergast
23 said.

24 Q. Okay. You may not be the person to ask this,
25 but if the tariff is not approved, then do you know what

1 amount would be spent on -- I should say if the tariff
2 that's pending in this case is not approved, do you know
3 what amount would be spent on the weatherization in other
4 programs?

5 A. No. I'm not sure of that number.

6 Q. Okay. And I'll ask you this as well. Do you
7 know of any work the company has performed to date to get
8 any of the customer outreach programs in place so they could
9 be running when the Catch-Up/Keep-Up program begins, if it
10 does begin?

11 A. I'm not really the person to answer that
12 question.

13 Q. Okay. Would that be Mr. Cline or Mr. Moten?

14 A. Mr. Moten probably.

15 Q. Okay. On page 5 at lines 20 and 21 you stated
16 that the company annually spends 2.9 million on the
17 collection function and .9 million on reconnections. And I
18 know that was discussed earlier.

19 A. Yes.

20 Q. Do you have any estimates of any type of the
21 savings the company expects to realize in the areas of
22 collections and reconnections?

23 A. No. I really don't at this point.

24 Q. And on page 5 you also discussed fostering
25 good payment habits that would lead to a reduction in

1 uncollectibles. Are there any estimates of any kind of the
2 savings the company expects to realize in the areas of
3 uncollectibles as a result of this program?

4 A. As far as the impact of the good payment
5 habits, no, we haven't really quantified that. The benefit
6 would be that in the long run, all of our bad debts are cost
7 of service. It's paid by -- all of the other customers who
8 do pay their bills pay for the ones that don't. To the
9 extent that we can get some of the poor pay customers in the
10 habit of paying their bills, it's beneficial to all of the
11 other customers who end up paying for them otherwise.

12 Q. Okay. But aside from sort of a logical type
13 analysis, there's no --

14 A. I haven't tried to quantify that effect, no.

15 Q. After a customer has been written off and then
16 applies for and gets into the Catch-Up/Keep-Up program and
17 comes back on line, could you explain to me exactly what
18 would happen with the amount that was written off, which
19 presumably then is getting paid off through the
20 Catch-Up/Keep-Up program? Where does that come back on the
21 company's books?

22 A. The customer who's already been written off?

23 Q. Right. And then theoretically, as I
24 understand it, there's an amount that gets credited to their
25 account that comes out of this Catch-Up/Keep-Up amount, the

1 escrow fund, I guess. How do you foresee that actually
2 happening?

3 A. A customer who's been written off who came
4 back and obtained service under the program, he's still
5 responsible for the arrears amount that he's got. We set
6 that arrears amount aside.

7 And to the extent that he stays current on his
8 current bills, every quarter he'd get a credit coming out of
9 the Catch-Up/Keep-Up escrow account which would reduce a
10 portion of his arrears. So if he made it through an entire
11 year of staying current on his current bills, his arrears
12 amount would eventually be reduced to where he'd -- the
13 Catch-Up/Keep-Up program had paid it off for him.

14 Q. So that's from the customer's perspective.
15 And maybe there's no difference, but is there a difference
16 from the company's overall perspective, from the company's
17 financial perspective? Presumably that means that the
18 amount that had been written off and is on Laclede's books
19 would theoretically be decreasing on a dollar relationship.
20 Is that something that you would expect would also happen?

21 A. No. The amount which had previously been
22 written off we would reinstate and put it back in our
23 accounts receivables. And then as payments came in to
24 pay off that amount, we'd reduce accounts receivable by the
25 amount of the payment.

1 Q. Okay. And would that be done on a monthly
2 basis or just --

3 A. I believe the way it's set up, it's quarterly.

4 Q. Quarterly. Okay. You mentioned on page 6 at
5 line 17 of your testimony that there's a bad debt level of
6 11.3 million, and I know that's been discussed. And I think
7 I know the answer, but I'll ask you this. Is that the
8 amount that Laclede will actually show as written off for
9 2002?

10 A. Those are the actual write-offs we experienced
11 in 2002.

12 Q. Okay. Now, as people come back on the system
13 and funds start flowing again through the Catch-Up/Keep-Up
14 or for whatever purpose they pay off their previous debts,
15 will that 11.3 million go down before -- or at some point?

16 A. The 11.3 million is what we wrote off. That's
17 a historical number.

18 Q. That's, so to speak, set in stone now?

19 A. Right.

20 Q. Now, when a customer comes back on line,
21 presumably there's funds that are coming in also related to
22 LIHEAP; is that correct?

23 A. Presuming it's a --

24 Q. If it's a customer --

25 A. -- LIHEAP customer, that's typical.

1 Q. Certainly. How, if you know, would the LIHEAP
2 money interact with the Catch-Up/Keep-Up program to offset
3 the net write-offs or offset the arrearages? How do you
4 expect the LIHEAP money will interact with this program?

5 A. My understanding, based on what I heard this
6 morning, was that the LIHEAP money would go to reduce the
7 customer's current bill so that his current bill would be
8 more affordable --

9 Q. Okay.

10 A. -- and help give that customer the opportunity
11 to maintain the good paying habits that we're trying to
12 develop here.

13 Q. I don't think this is something that's been
14 previously discussed anywhere that I've seen. I know that
15 you and in other discussion in this case has indicated that
16 the \$6 million amount is not expected to be reached through
17 payouts.

18 If the \$6 million amount is reached and
19 exceeded, is there any thought on how that would operate?
20 Would it be the first people who apply get the amount that's
21 available and then if there's more towards the end of the
22 season or however it might work, they're out of luck or
23 would it be more on a proportionate basis?

24 A. I'm not really sure. My understanding is that
25 social service agencies will make those determinations as to

1 who should be eligible.

2 Q. Okay. And Laclede would abide by that?

3 A. I think that's where the decision should be

4 made is with the social service agencies.

5 Q. Is there anything that actually documents that

6 decision-making process between Laclede and the social

7 service agencies?

8 A. I'm not familiar with that.

9 Q. Do you have a sense of how long it took for

10 customers to accumulate the arrearages that would be

11 forgiven under the plan?

12 A. My sense would be that for a number of these

13 customers, they've been accumulating over some time. In

14 particular, the winter of 2000/2001 was the event that

15 caused a lot of these customers to accumulate arrearages,

16 which they still haven't been able to clear.

17 Q. Do you believe they also continued to go up

18 last year even during the warm weather winter?

19 A. I think for some customers they may have. The

20 total arrearages would be down, but --

21 Q. Mr. Fallert, would a contribution to

22 Dollar-Help be tax deductible per the IRS code?

23 A. Yes. My understanding is Dollar-Help is a tax

24 deductible organization.

25 Q. Whereas, customer contributions through the

1 PGA discount funding mechanism proposed by Laclede in this
2 case, those are not deductible under the IRS code. Would
3 you agree with that as well?

4 A. I don't know if I'd characterize them as
5 customer contributions, but no, gas bills aren't deductible.

6 Q. The amount that the customers effectively are
7 out, the \$10 that we've been discussing earlier, those
8 customers cannot put down that \$10 that they otherwise might
9 have gotten through the discount process?

10 A. No. Gas bill's not tax deductible, certainly.

11 Q. I know this was discussed a little earlier.
12 Do you know in any numeric sense how much the overlap in
13 arrearages is between the Emergency Cold Weather Rule
14 amounts and Catch-Up/Keep-Up amounts?

15 A. No. I don't have a good sense for that, but
16 my expectation would be that there would be considerable
17 overlap. I think it's the same type of customers we're
18 trying to help with both programs.

19 Q. But as far as you know, there hasn't been any
20 analysis of that --

21 A. No.

22 Q. -- from a numeric perspective?

23 A. No.

24 Q. To the extent the company in-- I'm sorry.
25 To the extent company experiences a cost

1 increase, it can file a rate case to recover its costs or
2 seek an AAO to defer those costs. Is that not a true
3 statement?

4 A. That's true.

5 Q. Okay. To clarify something that you said in
6 response to an OPC question, the \$11 million that was
7 written off during the calendar year ending September 30th,
8 2002 -- I think it was 11.3, I'm sorry.

9 A. Yes.

10 Q. That amount is subject to continuing
11 collection efforts or have collection efforts on that amount
12 ceased?

13 A. No. We continue collection effort as long as
14 people owe us money. We never give up on those dollars.

15 Q. Okay. And I know there's been some discussion
16 of theories about what caused the current level of
17 arrearages. Do you or the company actually know the real
18 cause of these arrearages that we're dealing with here?

19 A. Well, as I've said before, we have a strong
20 belief the 2000/2001 winter, the high gas prices that were
21 associated with that heating season contributed strongly to
22 the arrearages that we're seeing even yet today.

23 Q. I think this may be a slightly different
24 question than what I'd asked previously. If you reinstate
25 an account previously written off, will the company increase

1 the balance in both the accounts receivable and the reserve
2 for bad debts?

3 A. If we reinstate an account which had
4 previously been written off?

5 Q. Right. Which would presumably happen through
6 this process.

7 A. The -- the accounts receivable would be
8 increased by that amount when we put it back on the books as
9 a receivable from the customer. The reserve for bad debts
10 would be adjusted only to the extent that our expectation
11 was that customer would actually pay those amounts.

12 MR. MEYER: I believe that's all I have.

13 JUDGE RUTH: Okay. We'll go ahead and start
14 with questions from the Bench. I doubt if we're able to
15 finish. I need to probably shut the hearing down five till
16 so the computer people can help we with the VTEL system.

17 Commissioner Murray, if you'd like to begin.

18 COMMISSIONER MURRAY: Thank you.

19 QUESTIONS BY COMMISSIONER MURRAY:

20 Q. I don't have very many questions for you. And
21 you may not be the appropriate witness for even the
22 questions that I have, but if you're not, just tell me.

23 A. Sure.

24 Q. If this proposal is not approved, how do you
25 think the actual bad debt costs -- the actual bad debt costs

1 will compare to the amount that is currently allowed in rate
2 base?

3 A. Our actual bad debts going forward?

4 Q. Yes. And I'm saying if this is not approved.

5 A. Uh-huh. I would expect we'd probably be
6 somewhere in the range of what we're getting in our rates.

7 Q. Okay. And if it is approved, how do you think
8 the actual bad debt costs will compare to what is in the
9 rate base?

10 A. I think in that instance the actual bad debts
11 would likely be less than the amount that's in rates at this
12 point, although to some extent there would be an offset --
13 this offsetting impact to the Emergency Cold Weather Rule in
14 that to the extent that bad debts are being reduced through
15 Catch-Up/Keep-Up, the future recoveries through the
16 Emergency Cold Weather Rule are likely to be reduced as
17 well.

18 Q. And the flow-throughs of any reduction would
19 not occur until the end of the moratorium on the rate base?

20 A. Right. We'd see that in our next general rate
21 case.

22 Q. And do you know if the Commission has the
23 authority to disallow transportation and storage rates that
24 fall within the maximum rate approved by the FERC for any
25 particular pipeline?

1 A. That's getting a little beyond my knowledge
2 level in that particular question.

3 Q. Do you know if the Commission can order a
4 company to forgive bad debts and implement an AAO recovery
5 mechanism?

6 A. I'm not really sure legally whether that's
7 legal or not.

8 Q. I believe it was Mr. Micheel was asking you
9 about the fact that non-gas rates will not change, but the
10 PGA rates will increase for all customers under this
11 program. Do you recall that?

12 A. Yes.

13 Q. Is it true that the PGA rates would increase
14 for all customers, or is there one class of customers that's
15 protected from that? Is it all customers?

16 A. Well, it would probably be better for
17 Mr. Cline to get into specifics of who's impacted there.

18 COMMISSIONER MURRAY: I believe that's all I
19 have for you. Thank you.

20 THE WITNESS: Thank you.

21 JUDGE RUTH: Commissioner Lumpe?

22 QUESTIONS BY COMMISSIONER LUMPE:

23 Q. Mr. Fallert, did you read the statement of
24 positions by Laclede?

25 A. Yes.

1 Q. You did. I notice that it says in there that
2 it's anticipated that LIHEAP funding will be \$9 million
3 less. Would you tell me the source for that?
4 A. I'm not familiar with the source for that.
5 Q. Okay. So --
6 A. Mr. Moten could probably answer that
7 question --
8 Q. Better?
9 A. -- better than I.
10 Q. Okay. I think I'm also supposed to ask you --
11 there was a question asked by the Judge earlier and was told
12 that you might be the one that could do that.
13 There's certain issues in the statement of
14 position I think is where they occurred that Public Counsel
15 put forth and you or the company said they would agree to
16 and others they would not agree to. Would you go through
17 those where you disagree and tell me what is the reason for
18 the disagreement?
19 A. I think I'd probably defer to Mr. Moten on
20 that question as well.
21 Q. I thought he was the one that said I should
22 talk to you about it.
23 JUDGE RUTH: That's my understanding. I asked
24 that question of Mr. Moten.
25 COMMISSIONER LUMPE: Should I ask Mr. Cline

1 then?

2 JUDGE RUTH: I also warned counsel for Laclede
3 that this question could come up. And so I hope that at
4 some point Mr. Pendergast will share which witness needs to
5 be asked.

6 MR. PENDERGAST: Yeah. Your Honor, I
7 apologize. I thought we had kind of clarified things with
8 Mr. Moten towards the end.

9 And I think the only one that was going to be
10 deferred to Mr. Fallert, because it was beyond Mr. Moten's
11 really expertise, was the one where we indicated that we did
12 not agree with the AAO funding mechanism. And I think that
13 Mr. Fallert's prepared to go ahead and address that
14 thoroughly.

15 COMMISSIONER LUMPE: I don't think Public
16 Counsel recommended an AAO. And I'm simply talking about
17 the issues of Public Counsel where there was disagreement.
18 So I'm really not interested in the AAO issue.

19 MR. PENDERGAST: Okay. And in that case, I
20 believe with Mr. Moten we had clarified that we were
21 accepting basically all of Public Counsel's, with the
22 exception of the level of funding, which I think Mr. Fallert
23 can go ahead and address. And I think Mr. Moten addressed
24 this 175 versus 150 and then I think --

25 COMMISSIONER LUMPE: And you were in agreement

1 with that, the 150 or the 175?

2 MR. PENDERGAST: I think we were in agreement,
3 Commissioner, to go ahead and reduce it for the first year
4 to 150, but then our proposal was to take it back up to 175
5 for the second and third years.

6 COMMISSIONER LUMPE: Are you in agreement on
7 the number of years? It seems to me that Public Counsel had
8 a different number of years than you did.

9 MR. PENDERGAST: You're absolutely right. And
10 I think Mr. Moten addressed the fact that we wanted a longer
11 period than Public Counsel did, although we were willing to
12 agree to a definitive termination date.

13 COMMISSIONER LUMPE: So when I read the
14 transcript by Mr. Moten, I will be able to read those
15 things; is that correct?

16 MR. PENDERGAST: It should be there.

17 COMMISSIONER LUMPE: And all of the
18 record-keeping that was proposed, you were in agreement on
19 that?

20 MR. PENDERGAST: Yes. We were. I think the
21 only thing Mr. Moten had said about that was it depended to
22 some degree on being able to get the agencies to provide us
23 with the information, but outside of that, we were in
24 agreement with Public Counsel's record-keeping
25 recommendations.

1 COMMISSIONER LUMPE: And the 375? Seems to
2 me there was a difference there. Can you tell me why you
3 would disagree with that?

4 MR. PENDERGAST: My recollection on that was
5 that we were perfectly okay with Public Counsel's 375 or
6 one-fourth, whichever is lower, as measured at the date that
7 the customer enters the program.

8 COMMISSIONER LUMPE: All right. Okay. Thank
9 you. I'll then go back to talking to Mr. Fallert.

10 MR. PENDERGAST: Thank you.

11 BY COMMISSIONER LUMPE:

12 Q. Mr. Fallert, on page 3 of your testimony I've
13 heard a number of numbers of who is in arrears, etc. And on
14 line 2 you mention 110,000 were in arrears by a total of
15 \$18.5 million. And then you say a total of 21,000 of these
16 are finaled and that number is about 10 million; is that
17 correct?

18 A. Yes.

19 Q. Okay. Then out of the 21 million is there
20 another subset that you've talked about, the 3,000? I'm not
21 sure where the 3,000 are. Are they within the 21 million?

22 A. The 3,000 would be a subset of the 21,000,
23 yes.

24 Q. So the 21,000 includes those 3,000 that owe --
25 3,000 that owe \$1,000?

1 A. Right.

2 Q. All right. Okay. I was just a little
3 confused there about all these numbers and where they all
4 fell out.

5 Now, you talked somewhat about the 20 million
6 discount. Is that an average number? Have you averaged
7 that over a number of years or was that last year's or where
8 did you come up with that number?

9 A. Well, Mr. Cline's more familiar with the
10 details on that number, but my understanding is it's been in
11 excess of 20 million at least for the last couple of years.

12 Q. All right. But you're still using that as a
13 number to get to the 6 million cap; is that right? So if
14 you had a -- if it were larger, as you're suggesting, it
15 still would not go over a \$6 million cap?

16 A. Right. It would still be capped at 6 million.

17 Q. All right. You talked about a customer --
18 during a one-year period that this customer -- the money
19 after a quarter, then another quarter and a quarter. And
20 then would you cut them off? Is that the suggestion? That
21 by that time they would have paid all their arrearages using
22 that \$375 or whatever and they would now be current? Is
23 that the expectation?

24 A. That's the expectation, that for a customer --
25 at least one who doesn't owe more than \$1,500 after one year

1 in the program, if they'd stayed current on their bills,
2 their entire arrearage would have been forgiven.

3 Q. And it is the other customers that would be
4 kicking in, so to speak, the 375 or whatever the lesser
5 amount would be for that person; is that correct?

6 A. Well, it would be coming from the
7 transportation discounts.

8 Q. From the discounts?

9 A. The savings the company was able to achieve in
10 those transportation discounts.

11 Q. All right. But that would be coming from the
12 other customers and these customers also? Wouldn't they all
13 be paying?

14 A. Yes. It's amounts that currently are flowing
15 through to all customers.

16 Q. Okay. Mr. Fallert, can you tell me on the
17 money that you're earmarking for customer outreach,
18 counseling, conservation and weatherization, have you
19 segmented that in some sense? In other words, how much
20 would go to weatherization, how much to outreach, how much
21 to counseling, how much to conservation? Have you any idea
22 about those numbers?

23 A. I don't really have that segmentation. Again,
24 Mr. Moten might be able to give a better idea on that.

25 Q. And did the Public Counsel agree to that

1 amount of money being used for administration on all of
2 these other counseling and things like that, outreach?

3 A. My understanding was they had a different
4 suggestion in their testimony.

5 Q. Okay. All right. Let's see. Let me ask you
6 this. Is it possible that if all these benefits occur to
7 both the company and to the ratepayers, is it possible that
8 these benefits would be sufficient to suggest a decrease in
9 the next rate case when it comes?

10 A. Well, I think if we view this program and the
11 impact of this program by itself, our hope and expectation
12 is that it should help reduce our expenses. Of course,
13 there will be a hundred different other items we'll be
14 looking at in the next rate case which could go up or down,
15 but viewed by itself, this program should have a beneficial
16 effect on our cost structure.

17 COMMISSIONER LUMPE: Okay. Thank you. I
18 think that's all I have.

19 JUDGE RUTH: Okay. It is about 7 minutes
20 until 5:00, so we are going to conclude the hearing for
21 today. We will start back up tomorrow at 8:30.

22 I don't have any housekeeping matters that I
23 think we need to take up, just that we will start at 8:30.
24 Anything that the parties housekeeping-wise feel need to be
25 addressed at this time?

1 I know we talked about looking at procedure
2 and how fast we were moving, but it seems clear to me that
3 we're not moving very quickly, so at this point I'll expect
4 we probably will need part of Wednesday, if not more.

5 Those days have been -- Wednesday and Thursday
6 have been marked on the calendar, the hearing room is
7 available. We'll have to work out details later. Anything
8 else from the parties?

9 You may step down.

10 We are off the record for today.

11 WHEREUPON, the hearing was adjourned until
12 December 2, 2002 at 8:30 a.m.

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