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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Public Hearing

July 9, 2004
Jefferson City, Missouri
Volume 1

In the Matter of Proposed) Case No.
Amendments to Rule 4 CSR 240-13.055) GX-2004-0496

LEWIS MILLS, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE.

STEVE GAW, Chairman,
CONNIE MURRAY,
ROBERT M. CLAYTON,
JEFF DAVIS,
LINWARD "LIN" APPLING,
COMMISSIONERS.

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR, CCR
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1 P R O C E E D I N G S

2 JUDGE MILLS: We're on the record this
3 morning for a comment hearing in a rulemaking case. The
4 case number is GX-2004-0496, and it concerns proposed
5 amendments to the Commission's cold weather rule.

6 The general procedure we'll follow this
7 morning is, we're going to take comments from the Staff of
8 the Commission first as they're the party most likely to
9 be in favor of the rule as promulgated -- as proposed, I'm
10 sorry, followed by the parties that are generally in favor
11 of the rule as it's proposed, and then by those that are
12 generally not in favor of the rule as proposed.

13 And I understand that it's hard to be black
14 and white about whether you're in favor of it as proposed
15 or not because you may like portions of it and not like
16 portions of it, but that's generally the pattern we'll try
17 to follow. And I don't know how many of you-all here are
18 planning to testify and how many are just planning to
19 watch and listen, but we'll begin generally at the front
20 of the room and sort of work our way back as we can, and
21 I'll just -- at various points during the hearing, I'll
22 ask for a show of hands just to sort of get an idea of who
23 all is planning to testify and how many folks we have left
24 and that sort of thing.

25 So before we even begin, let me get a show

1 of hands. Everyone that's planning to actually testify
2 this morning, please raise your hand. Okay. Looks
3 like --

4 AUDIENCE MEMBER: Plus one more.

5 JUDGE MILLS: So we're roughly a dozen
6 people or so. Okay. That should be more workable than
7 50.

8 Let's go ahead and get started. We'll
9 begin taking comments from the Staff of the Commission.
10 Mr. Wood, you may step forward. And also, just so you all
11 know, we're going to have people -- Warren, Mr. Wood, the
12 podium, please. We're going to have you-all testify from
13 the podium because we are capturing this hearing on film
14 so that we'll have a record that's more easily accessible
15 than a transcript. We'll also have a transcript, too, but
16 we'll have a video image as well.

17 Would you raise your right hand, please.

18 (Witness sworn.)

19 JUDGE MILLS: You may go ahead.

20 WARREN WOOD testified as follows:

21 MR. WOOD: The Commission created the cold
22 weather rule 4 CSR 240-13.055 in 1977. The cold weather
23 rule was most recently modified on a permanent basis in
24 1993, and an emergency amendment to the rule, which has
25 expired, was implemented in November 2001 following the

1 extraordinary natural gas prices and cold weather endured
2 during the 2000-2001 heating season.

3 Given the persistent high prices of natural
4 gas and how significantly these increases have impacted
5 customers' bills, the increased number of customers
6 applying for assistance, and knowing that the cold weather
7 rule has not changed on a permanent basis for over a
8 decade, the Commission created a task force in Case
9 No. GW-2004-0452 on March 3rd, 2004.

10 Related to establishment of this cas was
11 the establishment of this rulemaking case,
12 No. GX-2004-0496. In its Order creating this task force,
13 the Commission stated, the Commission believes it is
14 imperative that the rule be closely examined again to
15 determine if it continues to adequately address consumer
16 needs.

17 The Commission appointed members to this
18 task force from a broad array of organizations, including
19 utilities, PSC Staff, Office of Public Counsel, community
20 action agencies, Department of Natural Resources, and
21 low-income advocates. Its members have informally
22 referred to this task force as the Cold Weather Rule and
23 Long-Term Energy Affordability Task Force.

24 The task force held its first working
25 meeting on March 25th, 2004. In that meeting it was

1 decided that three public meetings would be held. These
2 public meetings were held on April 20th in Kansas City, on
3 May 4th in Columbia and on May 11th in St. Louis.

4 During its first working meeting the
5 proposed amendment that has been filed by the Commission
6 with the Secretary of State was discussed in some detail.
7 Members of the task force generally agree that this
8 initial filing was acceptable as a place holder in the
9 rulemaking process but did not agree that the revisions in
10 the proposed amendment would be sufficient to address each
11 of their individual concerns.

12 The task force held working meetings on
13 March 25th, May 4th, May 19th, May 25th, May 26th,
14 June 3rd, June 10th and June 15th and June 30th to discuss
15 the application of the rule and the proposed changes that
16 the different members of the task force wish to have
17 incorporated into the rule.

18 The initial efforts of the task force
19 focused on proposed changes in the December 29th, 2003
20 letter from the Office of Public Counsel to the Commission
21 Staff. After addressing each of these 11 items identified
22 in OPC's letter, the task force discussed other items that
23 the members of the task force requested be addressed.

24 Staff actively participated in all of the
25 public and working meetings of this task force. These

1 meetings were open, and all interested parties were
2 welcome to attend, have input, discuss with the task force
3 members any issues that they thought should be addressed.
4 Staff found that these discussions often resulted in a
5 better understanding of what issues low-income customers
6 face in paying their bills and what issues utilities face
7 in their effort to collect amounts that are past due.

8 These discussions also resulted in
9 agreement among the parties in several changes to the cold
10 weather rule consistent with the needs of all parties.
11 The task force submitted proposed changes to the rule that
12 it supported unanimously. Staff participated in these
13 negotiations and fully supports incorporation of the
14 changes to the rule recommended by the task force.

15 The changes recommended by the task force
16 will provide the following benefits:

17 Better define registration requirements and
18 expand the rule's applicability on notice provisions to
19 elderly and disabled customers.

20 Specifically prohibit representations of
21 intent to terminate service for nonpayment by the utility
22 when terminations would not be permissible under the
23 rule's temperature moratorium.

24 Better describe and expand the rule's
25 provisions for customers who move from one residence to

1 another within the utility's service territory and are
2 under a cold weather rule payment agreement.

3 Better define how customers who default on
4 a rule payment agreement but have not yet had their
5 service disconnected may be permitted to stay under a
6 payment agreement.

7 Removes the "within the last three years"
8 language proposed in Sections (10)(C)1 and (10)(C)2 of the
9 proposed amendment since the utilities have not been
10 interpreting the rule as not being available to any
11 customers who have ever broken a cold weather rule payment
12 agreement.

13 Clarifies that utilities are not required
14 to confirm that customers have applied for financial
15 assistance since they do not have information to in fact
16 confirm that this has taken place.

17 And corrects a number of references to
18 agencies and programs that have changed names as well as
19 revise some terminology that is outdated.

20 All task force members agreed to
21 implementation of these changes in this rulemaking. These
22 changes were agreed to without any caveats regarding
23 special cost recovery mechanisms or the need for more
24 specific language additions to the rule regarding cost
25 recovery.

1 The task force members were not able to
2 reach consensus on rule changes to resolve all the issues
3 brought to the group by its members and other parties.
4 These issues were not resolved -- the issues that were not
5 resolved largely revolve around four areas: One, revision
6 of the temperature moratorium from 30 degrees Fahrenheit
7 to a higher temperature, broadening the disconnect
8 moratorium to cover low-income elderly and disabled
9 customers as well as households with young children,
10 specifying in the rule what percentage of the customer's
11 unpaid balance they must pay in order to receive service
12 if they've broken a past payment agreement, and mechanisms
13 for cost recovery of decreased revenues and/or increased
14 expenses as a result of these three additional proposed
15 changes to the cold weather rule.

16 The Staff has carefully considered each of
17 these issues that remains unresolved and will provide its
18 recommendations on how to address each of them. The
19 members of the task force and other interested parties
20 have provided extensive comments on these issues in this
21 rulemaking docket. Staff anticipates that extensive
22 discussion will take place today regarding each of these
23 issues as the different witnesses each provide their
24 differing opinions and justification as to why their
25 recommendations are appropriate.

1 Before addressing each of these remaining
2 issues, I will briefly tell you about the long-term energy
3 affordability aspect of this task force's efforts. The
4 task force has already discussed a number of long-term
5 energy affordability issues. Roger Colton, a national
6 expert on long-term energy affordability, spoke to the
7 task force for several hours on affordability programs.
8 The task force members agreed that the long-term
9 affordability aspect of this task force's effort is the
10 most important issue it will address.

11 In its order creating this task force, the
12 Commission stated that it will open an investigatory case
13 to examine possible programs for improving long-term
14 energy affordability for those in need of assistance. In
15 this order the Commission noted the following aspects of
16 long-term energy affordability programs should be
17 evaluated:

18 Measures and programs that could have a
19 long-term impact on the affordability of heat related
20 bills.

21 Energy efficient appliances and
22 weatherization of homes that are currently not energy
23 efficient.

24 Possible funding sources and mechanisms
25 that can be used effectively by those struggling with

1 energy bills.

2 Now, regarding the issues that were
3 unresolved; on the first issue, changing the temperature
4 moratorium from 30 degrees Fahrenheit to a higher
5 temperature, Staff notes that on average 61 percent of
6 heating season days will have a low at or below 30 degrees
7 Fahrenheit. If you change the temperature moratorium to
8 32 degrees, 35 degrees or 40 degrees, the percentage of no
9 cut days rises to 69 percent, 78 and 88 percent
10 respectively.

11 Staff notes that just because a percentage
12 of days are no cut days does not mean the utilities cut
13 off customers on the remaining percentage of days. The
14 cold weather rule includes several minimum notice
15 requirements that must be followed before a customer can
16 be discontinued or disconnected, and these provisions for
17 non-pay disconnections include examination of a 24-hour
18 forecast. The 24-hour forecast must remain above
19 30 degrees Fahrenheit.

20 By the time these disconnect notices have
21 been given, are still in effect, the warm weather occurs
22 on a weekday, the number of actual days available for
23 disconnection is much more limited.

24 Staff believes that changing the moratorium
25 to 40 degrees Fahrenheit would act basically as a winter

1 moratorium on disconnects. Although Staff could support a
2 change on the current moratorium to 32 degrees Fahrenheit,
3 it would note that it doesn't really provide much
4 additional temperature protection; it really just
5 diminishes the number of days available for utility
6 disconnection by about 13 percent.

7 Staff's assessment of this issue, however,
8 is that it is probably best resolved by the task force in
9 its upcoming work on long-term energy affordability and
10 not by additional changes to the cold weather rule.

11 On the second issue of expanding
12 restrictions on disconnects to include low-income
13 households with elderly or disabled individuals or young
14 children, Staff notes that the task force discussed this
15 issue at length. Missouri's Family Support Division and
16 utility representatives attending the task force meetings
17 both expressed significant concerns related to the
18 administration of such programs and the availability of
19 data to implement these additional protections.

20 With additional research and data, Staff
21 could possibly support expanding the disconnect moratorium
22 to low-income elderly or disabled individuals who are
23 living at or below 150 percent of the federal poverty
24 guideline and believes this could be accomplished at a
25 reasonable administrative cost. A number of other states

1 have implemented these additional protections.

2 Staff is not, however, immediately
3 supportive of this change since it could result in the
4 very customers it is designed to assist only getting
5 farther behind in the amount they owe before they are
6 disconnected and not providing the long-term assistance
7 that was the objective.

8 Staff's assessment of this issue is that it
9 is also probably best resolved by the task force in its
10 upcoming work on long-term energy affordability and not by
11 additional changes to the cold weather rule.

12 The third unresolved issue is what
13 percentage of a customer's unpaid balance they must pay in
14 order to receive service if they have broken a past
15 payment agreement. Staff supports adding a provision to
16 the rule that would provide a maximum amount for
17 reconnection of 80 percent of the balance owed or \$800,
18 whichever is less, if the customer agrees to a payment
19 agreement for the remaining balance.

20 Staff does not believe this represents an
21 undue hardship on utilities as it specifies a maximum
22 amount, and utilities often implement internal procedures
23 now that do not require a full payment to restore service.
24 Utilities would have the option to enforce less burdensome
25 percentages on customers if they choose.

1 Associated with this change and based on
2 discussions with parties over this last week and as early
3 as this morning, Staff supports adding language to the
4 rule that would permit a utility to file tariffs to, one,
5 incorporate means testing to check if customers have
6 income at or below 150 percent of the federal poverty
7 guideline to determine their eligibility to the financial
8 provisions of the cold weather rule and, 2, to address the
9 situation where a customer repeatedly receives service for
10 the \$800 payment, does not pay for the service they
11 receive after being reconnected and incurs more in
12 arrearages than their initial payment to receive service.

13 Finally, the fourth issue is cost recovery
14 of decreased revenues and/or increased expenses as a
15 result of the additional proposed changes to the cold
16 weather rule that were not agreed to by the task force
17 members. Staff agrees that the utilities should be
18 provided with a reasonable means to recover additional
19 administrative cost, increased expenses, decreased revenues
20 and/or increased bad debts that can be specifically
21 attributed to the three proposed changes to the cold
22 weather rule that were not agreed to by the task force.

23 Staff does not, however, believe that some
24 sort of a surcharge to all customers to cover the cost of
25 this rule is appropriate between rate cases. This is

1 single issue ratemaking, and just as rates are not
2 adjusted for incremental costs from changes in company
3 internal policies and procedures, employee numbers,
4 salaries and benefits, changes in debt/equity ratios, bank
5 loan rates and weather, rates should not be adjusted for
6 the magnitude of changes in the cold weather rule
7 contemplated here.

8 Accounting Authority Orders have been the
9 mechanisms to recognize expenses incurred outside a
10 utility's rate case, and in Staff's opinion an AAO is the
11 way to recognize these incremental expenses when they can
12 be justified.

13 Since the last working meeting of the task
14 force, a number of informal discussions between some of
15 the task force members have resulted in additional change
16 to the cold weather rule that the Staff recommends that
17 the Commission consider.

18 This additional change would be
19 incorporation of a provision into the rule that would
20 require the customers who have not defaulted on a cold
21 weather rule payment agreement in the past could be placed
22 on a payment agreement after an initial payment of
23 15 percent of their total amount due for calculation of
24 the levelized bill amount. This levelized bill includes
25 the 12-month projected bill plus any arrearages. The

1 monthly payment after this initial payment would be 1/12
2 of the total remaining balance.

3 That concludes my prepared testimony.

4 Thank you for your consideration of these remarks. In
5 addition to those remarks, I would note that the exhibit
6 that I understand will be entered by Laclede Gas Company
7 is consistent with the recommendations in my testimony.
8 Thank you.

9 JUDGE MILLS: Questions from the Bench.
10 Chairman Gaw?

11 CHAIRMAN GAW: I'm going to wait, Judge,
12 until we've kind of gone around through everyone else, and
13 then I do have questions.

14 JUDGE MILLS: Commissioner Murray?

15 COMMISSIONER MURRAY: I think I'll wait as
16 well. Thank you.

17 JUDGE MILLS: Commissioner Davis?

18 COMMISSIONER DAVIS: I think I'll wait.

19 JUDGE MILLS: Commissioner Appling?

20 COMMISSIONER APPLING: I think I'll follow
21 the lead.

22 JUDGE MILLS: Okay. Mr. Wood, you may step
23 down.

24 Is there anyone that's going to speak
25 specifically on behalf of the task force?

1 MR. WOOD: No.

2 JUDGE MILLS: I didn't think so. I just
3 wanted to check and be sure.

4 Other entities that are testifying
5 essentially in favor of the rule as proposed, would you
6 raise your hand, please.

7 MS. O'NEILL: We may be probably closest
8 going back down the line from where Staff is, Judge.

9 JUDGE MILLS: Okay. Then, Ms. O'Neill, why
10 don't you step forward and we'll take you next.

11 CHAIRMAN GAW: Judge, could I ask a
12 question?

13 JUDGE MILLS: Certainly.

14 CHAIRMAN GAW: Just for purposes of
15 clarification, and it probably -- well, it could be
16 addressed to Public Counsel or to Warren, Mr. Wood.

17 When we're doing this testimony that's sort
18 of for the proposed rule and against, my understanding,
19 the initial rule was filed sort of as a place holder, and
20 so I don't know if -- just for purposes of clarification,
21 where we are at the present time is probably in a
22 different place than that. We've got some language that's
23 sort of agreed to through the task force. Then we've got
24 other proposals in addition to that.

25 So as we're going down through this and

1 using that initial filing as a point of reference, I
2 suspect that no one is really here to fully support that
3 initial filing. I just -- and I wanted to verify that
4 that was the case.

5 JUDGE MILLS: And there really isn't any
6 advantage or disadvantage to the order in which you
7 testify. It's just one sort of way to organize the group
8 and try to get the comments progressing in one direction
9 rather than all over the board. So that's -- I think
10 that's a good clarification. Thank you.

11 Could you raise your right hand, please.

12 (Witness sworn.)

13 JUDGE MILLS: Thank you. You may proceed.

14 RUTH O'NEILL testified as follows:

15 MS. O'NEILL: Thank you. Good morning. My
16 name is Ruth O'Neill, and I am Senior Public Counsel with
17 the Office of the Public Counsel.

18 I also on behalf of John Coffman and my
19 office participated in the discussions of the cold weather
20 rule task force that Mr. Wood has described in some detail
21 and which you have also seen the written proposals of that
22 task force. We met on several occasions to discuss the
23 proposed amendments to the cold weather rule and other
24 possible amendments to the rule.

25 Public Counsel agrees with the consensus

1 recommendations filed by the task force on the issues that
2 are discussed in those comments, and we urge the
3 Commission to adopt those recommendations as far as they
4 go. Mr. Wood's done a very good job, I believe, in
5 describing those provisions. I'm not going to repeat his
6 statements here, other than I may touch on those issues a
7 little bit.

8 However, we do believe the task force,
9 because it was unable to reach consensus on several other
10 issues, their recommendations are not complete, and Public
11 Counsel recommends the Commission make changes in some
12 other areas of the cold weather rule as well. We have
13 previously filed some written comments. These comments
14 that I make here today may track those to some degree. I
15 will try to be somewhat succinct, although I may take a
16 little bit of time here.

17 The daily temperature moratorium in the
18 current version of the rule, as you know, prohibits
19 disconnection of service on days, only those days where
20 the temperature will fall below 30 degrees Fahrenheit, and
21 I know Mr. Wood talked about this in some detail. We
22 really believe that current temperature threshold is too
23 low to prevent vulnerable populations from health risks of
24 having their heat shut off during the winter months.

25 Public Counsel, therefore, made two

1 proposals in their written comments in the alternative for
2 revising the temperature moratorium that currently exists
3 under the cold weather rule. Our preferred proposal would
4 raise the moratorium threshold temperature to 35 degrees
5 Fahrenheit. Our alternative proposal would raise that no-
6 cut temperature only to 32 degrees, but also prohibitions
7 on cutting service to low-income elderly, disabled and
8 families with small children.

9 Mr. Wood in our discussions with the task
10 force did an excellent job of doing some research on the
11 annualized percentage of no cut days under various
12 temperature moratorium scenarios, and it's his research
13 that I think we're all relying on when we talk to you
14 about percentages of no cut days.

15 I want to look at those a little bit
16 differently than the way he proposed them to you, though.
17 Under the current version of the rule, utilities can
18 lawfully disconnect service to customers on 39 percent of
19 the days between November 1st and March 31st. This means
20 that cold weather rule protections currently in place
21 protect the vulnerable from losing their heating source
22 less than two-thirds in the winter.

23 In contrast, if no cut temperature
24 threshold is raised to 35 percent degrees, the annualized
25 percentage of days when service can be cut shrinks to

1 22 percent. While that's less than a total protection, it
2 does protect our poor and vulnerable citizens from losing
3 heating service more than three-quarters of the days in
4 the cold weather rule period.

5 Additionally, using only temperature as a
6 basis of determining when service can be cut doesn't
7 change from the practice that's mandated under the current
8 rule, and complying with this rule change is unlikely to
9 result in requiring any extensive reprogramming on the
10 part of the utilities.

11 We believe that any increase in that
12 temperature moratorium does have some benefits. Even
13 raising the temperature to 32 would help some, some
14 assistance to those vulnerable people. At 32 degrees,
15 regulated utilities could disconnect service 31 percent of
16 the time.

17 Because this change is slight compared to
18 the 35 degree moratorium that we recommend, we would
19 strongly urge the Commission to include a total moratorium
20 on disconnects for the most vulnerable segments of our
21 population in addition to raising the temperature if
22 you're only going to go to 32 degrees. These vulnerable
23 populations, as I said, are low-income persons who are
24 disabled, elderly or who are members of families with
25 children under the age of three.

1 This 32 degree plus other protections is an
2 approach taken by a number of other jurisdictions,
3 although the way they identify those populations eligible
4 for the moratorium vary widely from state to state.

5 Public Counsel believe the biggest drawback
6 to this approach is determining which customers should
7 benefit from that total moratorium and also how the
8 companies can verify that the persons who are seeking that
9 protection are eligible.

10 We think that concern's partly alleviated
11 by the task force's proposed revisions that allow the
12 companies to annually register elderly and disabled people
13 and specify the types of documentation which will suffice
14 to verify that they're eligible for those protections as
15 far as the notice requirements that are in the rule.

16 We believe that same documentation could be
17 used to identify customers who could not be disconnected
18 during temperature moratorium for at least those two
19 categories of elderly and disabled. Although we on the
20 task force, members were able to reach consensus about how
21 to identify some of those groups of people, there was a
22 lot of concern from some participants about their ability
23 to verify low income and child custody status regarding
24 small children.

25 As a practical matter, the Family Support

1 Division of the Department of Social Services is precluded
2 from providing confidential information about people who
3 may be receiving services except in certain limited
4 circumstances.

5 Some states, such as Wisconsin, have
6 resolved this issue by just allowing customers to self
7 certify, and if they self certify that they are a member
8 of a protected or vulnerable group, they are included in
9 the low-income protections of those cold weather rules.

10 Public Counsel believes that the 35 degrees
11 that we're proposing today as our preferred option is
12 actually a compromise. There are groups such as GRO who
13 are supporting a higher temperature moratorium of
14 40 degrees. We initially proposed that when we began this
15 discussion. We believe that we've tried to accommodate
16 conflicting interests by coming down to 35 degrees.

17 We believe that that temperature will
18 provide significant more protection for vulnerable
19 populations who are most likely to be affected by
20 hypothermia and other health concerns, and will not burden
21 the companies or state agencies or community action
22 agencies in trying to do verification processes if we have
23 a moratorium that targets specific populations.

24 However, we think that 32 is too low
25 without those special protections. We believe the public

1 interest would best be served by a 35 degree temperature
2 moratorium.

3 Another proposal that we have that's in
4 addition to the task force recommendations regards
5 reconnect policy changes. Public Counsel proposes that
6 disconnected customers should be allowed to reconnect
7 their service even after defaulting on a prior cold
8 weather rule agreement without being required to pay their
9 complete arrearages during the cold weather period.

10 The current rule only requires that
11 utilities allow customers to receive cold weather rule
12 protection as long as there's no default on a cold weather
13 rule payment agreement. In practice, however, the
14 utilities have policies for allowing customers to pay
15 their arrearages and receive another cold weather rule
16 payment on a regular basis.

17 The task force members agreed that a cold
18 weather customer who defaults may be reinstated upon
19 payment of the past due payments and other usage that's
20 become past due during the cold weather rule, and this is
21 generally consistent with current utility practice and
22 merely codifies it.

23 Public Counsel recommends that customers
24 who have been disconnected as a result of a default on
25 cold weather rule payment agreements be allowed to

1 reestablish service by paying 50 percent of their past due
2 bill or \$750, whichever is less, provided they're willing
3 to enter into a payment agreement for limiting the past
4 due balance.

5 I know that you just heard testimony
6 regarding a cap of \$800 or 80 percent. We would not
7 necessarily -- we believe that's also worth considering,
8 as long as it does not adversely affect the ability of
9 first-time participants to get financing under the current
10 cold weather rule at the current conditions that are in
11 place. We believe that a cap's important and it serves a
12 couple of purposes.

13 First, Public Counsel's proposal and any
14 cap, as a matter of fact, increases the likelihood that
15 some disconnected customers will be able to raise the
16 funds to allow them to reconnect partially on their own
17 and relying less on public assistance and various programs
18 that are out there.

19 Second, it allows the agencies that
20 administer LIHEAP and the other energy assistance programs
21 to serve a greater number of customers from these limited
22 LIHEAP and emergency funds that Missouri receives.
23 Public Counsel's recommendation allows companies to
24 receive a greater initial payment than the provisions
25 contained in the emergency amendment to the cold weather

1 rule of the winter of 2001-2002. The emergency rule
2 required utilities to restore a customer's service upon
3 payment of only 25 percent of the outstanding bill or
4 \$250, whichever was less.

5 While this provision was appropriate
6 measure to address an immediate and unforeseen situation,
7 Public Counsel believes that a higher percentage of the
8 bill and a higher cap, under our proposal three times the
9 cap under the emergency provisions, is a more realistic
10 option over the long-term, it's better for the utility and
11 for the non-defaulting customers and creates a better
12 situation for customers as a whole.

13 There's been some discussion, there was a
14 lot of discussion in the task force and I'm sure there
15 will be discussion here today in addition to what Mr. Wood
16 had to say regarding cost recovery mechanisms. The
17 proposed change in the cold weather rule recommended by
18 the task force did not create the kinds of extraordinary
19 expenses that would require any special recovery
20 mechanisms be created.

21 In the event the Commission adopts Public
22 Counsel's additional proposed changes and to extend those
23 changes would impose extraordinary costs on utility
24 companies, we believe that an AAO, Accounting Authority
25 Order mechanism is the appropriate vehicle for recovery of

1 those prudently incurred costs. AAO is appropriate for a
2 number of reasons. On the other hand, a surcharge based
3 on estimated costs or an additional component of the PGA
4 charge for gas companies or other proposals such as that
5 that you may hear today we do not believe are appropriate.

6 Public Counsel objects to proposals made by
7 various utilities companies in their comments to the cold
8 weather rule in the attachment contained to those
9 comments. While Public Counsel's willing to agree that
10 the Commission may address revenue shortfall receipts by
11 resort to an extraordinary remedy of an Accounting
12 Authority Order, Public Counsel believes that the proposed
13 tariff filing and the attachment to utility comments would
14 constitute unlawful single issue ratemaking and bad public
15 policy.

16 The reasons why it would be inappropriate
17 for the Commission to allow utility companies to impose a
18 surcharge for cold weather rule expenses that are
19 estimated are similar to the reasons relied on by the
20 Commission when it rejected Laclede Gas' proposal for a
21 catch-up/keep-up mechanism in Case No. GT-2003-0117.

22 Public Counsel believes that the Public
23 Service Commission has always recognized that it must act
24 within the bounds of its statutory jurisdiction, that the
25 Commission has a duty to set just and reasonable rates and

1 those rates must be fair to both the company and to its
2 customers. The way for the Commission to ensure that
3 rates are fair and reasonable is by setting rates in a
4 general rate case after considering all relevant factors.
5 In fact, the Commission does not have the authority to
6 engage in single issue ratemaking, nor the authority to
7 set rates retroactively.

8 However, the AAO is a mechanism which
9 allows the Commission to consider in the context of the
10 rate proceeding with all other relevant factors
11 extraordinary expenses that may be incurred by the company
12 in order to comply with changes to this rule.

13 We believe that an AAO mechanism can be
14 properly designed to ensure that the concerns that utility
15 companies may have about recovery of their proper and
16 prudently incurred expenses can be addressed and that an
17 AAO is extraordinary in nature and would be appropriate --
18 but would be appropriate to address those types of
19 additional expenses in connection with this issue.

20 We also believe that the utility companies'
21 concerns about so-called revenue neutrality are misplaced.
22 The discussion of revenue neutrality that the utility
23 companies rely on in citing the Alma Telephone case are
24 trying to read something into that case we believe that
25 isn't necessarily there. In Alma Telephone, the Western

1 District Court of Appeals did not make a finding that
2 revenue neutrality is required in the immediate aftermath
3 of a rule change.

4 Rather, the Court of Appeals merely
5 recognized the longstanding legal principle known as the
6 law of the case. Under the law of the case principle,
7 because the Commission had not appealed a prior decision
8 in that same case in which the Circuit Court determined
9 that a rule change there would have to be revenue neutral,
10 the Commission was instructed it could not then disregard
11 that revenue neutrality determination in that Alma
12 Telephone case.

13 We believe, Public Counsel, that the cold
14 weather rule can be improved and that any movement to
15 increase protections for the poor and vulnerable citizens
16 of Missouri should be encouraged. However, amending a
17 rule is a tedious process, and this rule was last amended
18 in 1993.

19 Jackie Hutchinson, who I believe is going
20 to testify today, was involved in that process as well,
21 and she's a lot more familiar with the ins and outs of the
22 cold weather rule than I am, and I've relied on her
23 expertise many times during the course of our task force
24 meetings. And she's actually got some recommendations
25 that go farther than Public Counsel would. Again, we

1 think we're trying to strike a balance between those low-
2 income advocate recommendations and other customers'
3 concerns and the recommendations that we're finally
4 bringing forth.

5 We do believe at Public Counsel that
6 whatever changes are made in this case are likely to be in
7 place for a long time, perhaps a decade or more again.
8 Therefore, we ask the Commission to take this opportunity
9 to make the best rule that it possibly can. Thank you.

10 JUDGE MILLS: Thank you. Before you step
11 down, let me see if there are Commissioner questions at
12 this point or are we going to continue to wait until we
13 hear from some more people testify?

14 CHAIRMAN GAW: That's my preference.

15 JUDGE MILLS: Go ahead. We'll take some
16 more testimony and then we'll ask questions at that
17 points.

18 Let me shift the frame of reference a
19 little bit as Chairman Gaw suggested, and let me see a
20 show of hands of those who are going to be testifying in
21 favor of the rule as it would be modified by the comments
22 of the task force.

23 Okay. As I said, we'll sort of proceed
24 from front to back, and we'll go with Mr. Pendergast next.

25 MR. PENDERGAST: Thank you, your Honor. If

1 it please the Commission. As you know, Laclede's joined
2 with a number of other utilities in endorsing the
3 recommendations of the Commission's cold weather rule task
4 force on the revisions that should be made to the
5 Commission's proposed amendment to the cold weather rule,
6 and for the reasons that we've stated in the comments we
7 previously filed, we believe and would urge the Commission
8 adopt those recommended changes.

9 We also want to commend the Commission for
10 establishing the task force as a means of reaching as much
11 consensus as possible on what changes to the proposed
12 amendment should be made.

13 Although we didn't obviously agree on
14 everything, the process was very helpful in a number of
15 ways. Specifically it enabled the parties to eliminate
16 misunderstandings, to refine proposals so that they would
17 really address the problems and concerns that they were
18 aimed at in an effective and workable manner, and to gain
19 a better understanding of where participants were coming
20 from even where we couldn't reach a consensus.

21 But differences do remain and I'd like to
22 address those for a moment. As you know, both the Office
23 of the Public Counsel and Jackie Hutchinson of the Human
24 Development Corporation of St. Louis have submitted
25 comments proposing to make changes that go beyond those

1 recommended by the task force. Specifically they have
2 proposed to increase from 30 to 35 degrees the temperature
3 threshold below which disconnections can't be made during
4 the winter period, and they've also proposed various
5 relaxations to the terms that a defaulting customer has to
6 comply with in order to go ahead and get back on service
7 where they've already broken a cold weather rule
8 agreement, reducing it to 600, 650 -- I think they vary
9 slightly in those proposals -- or 50 percent, whichever is
10 less.

11 There's also been some recommendations,
12 depending on whether you're talking about the 32 or the
13 35, about creating a special moratorium for various
14 customers, disabled, customers with young children and
15 elderly.

16 I'd like to just make a few observations
17 about these recommendations. First, I think there's an
18 issue of whether these are really the right solutions.
19 Certainly I don't think anyone here would dispute the fact
20 that there is a need for additional energy assistance to
21 help the state's most vulnerable customers maintain
22 utility service, and certainly Laclede has been very
23 active in attempting to pursue measures that would provide
24 that additional kind of assistance in a number of
25 different forums.

1 But raising the temperature threshold and
2 simply making it easier for customers who have already
3 defaulted isn't going to provide a single penny of
4 additional energy assistance. And, in fact, what it's
5 more likely to do than anything else is simply defer the
6 problem until the future and leave other parties to worry
7 about the financial consequences of it as we find new
8 arrearages piling up on top of old arrearages and the
9 problem just growing worse.

10 And those financial consequences aren't
11 insignificant. If I could approach the bench, I'd like to
12 go ahead and hand out an estimate of what we believe the
13 proposal's financial impacts on at least Laclede would be.

14 JUDGE MILLS: Sure. Do you have copies for
15 all present?

16 MR. PENDERGAST: Yeah.

17 JUDGE MILLS: Thank you.

18 MR. PENDERGAST: I don't know if we have
19 copies for all present, but we'll make them go as far as
20 we can.

21 (EXHIBIT NO. 1 WAS MARKED FOR
22 IDENTIFICATION BY THE REPORTER.)

23 MR. PENDERGAST: What you have before you,
24 and I believe it's being marked, if we could, your Honor,
25 as an exhibit.

1 JUDGE MILLS: Yes. We can mark this as
2 Exhibit 1.

3 MR. PENDERGAST: This is our effort to just
4 come up with an estimate for the major provisions of the
5 alternative recommendations that go beyond the task force.
6 We tried to break it down into two basic categories; what
7 would the impact be of going to 35 degrees, and that
8 number is reflected at the top in the right-hand column,
9 approximately one and a half million dollars.

10 We've also tried to go ahead and quantify
11 what the impact would be on receivables, the revenues we
12 receive by going to a 50 percent with a \$600 cap on the
13 amount that customers would have to go ahead and pay who
14 have already defaulted on a payment agreement. That's
15 \$1.569 million, for a grand total of approximately a
16 little over \$3 million.

17 Now, just because we wouldn't receive the
18 revenues doesn't mean that we would never go ahead and
19 receive them through collection practices and so forth and
20 so on. It would be our anticipation we would go ahead and
21 get some of those back. And what we've done is given you
22 two numbers under there that have two separate
23 assumptions. One is if we went ahead and took the
24 uncollectibles ultimately because our collection efforts
25 were not successful and we didn't get these reinstated,

1 54 percent, which is based on a historical average. That
2 means the ultimate impact would be right around \$1.668
3 million. And if we experienced a higher level of
4 uncollectibles as a result of the rule, as a result of
5 rising gas prices and other factors, it would approach --
6 well, it would actually slightly exceed \$2 million.

7 Those are obviously significant numbers.
8 They are not immaterial impacts on Laclede. And I'm sure
9 other utilities will be able to go ahead and provide you
10 some information on what the financial consequences of
11 those proposals would be to them as well.

12 There's been some discussion about what do
13 we do with those dollars and those lost revenues. And
14 there's been some comments by Public Counsel and less so
15 by Mr. Wood that they do not believe that they should be
16 subject to some kind of recovery mechanism at this time,
17 that perhaps an AAO should be used. And Public Counsel in
18 particular indicated that the revenue neutral concept
19 isn't necessarily something that the Commission needs to
20 be concerned about, and there was some mention that single
21 issue ratemaking prohibits a rate adjustment to go ahead
22 and do that.

23 I think if you really analyze what single
24 issue ratemaking is about, Staff and Public Counsel are
25 dead wrong on that particular issue, and, in fact, it's

1 necessary to go ahead and provide that adjustment not to
2 go ahead and violate the principles that underlie single
3 issue ratemaking.

4 As this Commission's aware, utilities have
5 come forward in the past and proposed to make rate
6 adjustments, Catch-Up/Keep-Up is an example. Another
7 within is, I think MoPub had a bad check charge once about
8 two or three years ago that would have generated maybe
9 \$30,000, \$40,000 in additional revenue. And I think the
10 Commission's approach on that was, well, it might make
11 sense to go ahead and do that, but that would put
12 additional revenue in your pocket in between rate cases,
13 and, because of single issue ratemaking concerns, we can't
14 do that.

15 Well, the flip side is, when you change
16 your rule it says, those lawfully determined revenues that
17 we said you were entitled to in your rate case, we're
18 going to take away the tolls that you had in your rate
19 case, that were recognized in your rate base and
20 establishing your bad debt level, we're going to diminish
21 them in some way, and you're not going to be able to go
22 ahead and have as great a chance to collect those revenues
23 as you could in the past.

24 Well, that's just the opposite effect, the
25 other side of the coin impact from going ahead and

1 increasing revenues between rate cases, and the Courts
2 have determined -- maybe it has gone to the Western
3 district Court of Appeals. But an independent judge over
4 at Cole County Circuit Court has determined on a number of
5 occasions you have to compensate utilities when you do
6 that. You have to make them revenue neutral, and if
7 you're not, you're effectively engaging in single issue
8 ratemaking. Call it single issue cost making, if you
9 will, and that's not appropriate.

10 So I think that that is something that the
11 Commission has a legal obligation to take into account
12 when it does this. And if you look at the proposal we've
13 made to go ahead and comply with that revenue neutral
14 requirement, it's pretty straightforward. Its attached to
15 our comments. Basically just says we get to file a tariff
16 to go ahead and adjust rates in order to go ahead and
17 reflect the decrease in revenues or increase in costs
18 associated with any changes to the rule.

19 We've also proposed to the parties other
20 mechanisms for trying accomplish that, mechanisms that
21 were specifically set up to make it clear that we would
22 only be able to collect something if we had an increase in
23 bad debts above the levels that were included in rates.
24 We proposed including the gas cost portion of bad debts in
25 the PGA to the extent they exceeded what was included in

1 rate base. And those proposals have been made to no
2 avail, and consequently I think where that leads us is the
3 Commission's really got three options in this proceeding
4 that it can take if it's going to go ahead, I think, adopt
5 something in a manner that's consistent with the law.

6 The first option is to go ahead and adopt
7 what the task force has proposed, and we are obviously in
8 favor of that. We think those are good workable changes,
9 and to defer consideration of any other issues to the
10 long-term affordability section of the task force work.

11 I think you could consider this to have
12 been a success if you were to do that, and, you know,
13 Laclede at least would certainly be an active participant
14 in that and see if we could do more in the context of the
15 long-term affordability program to help, further help
16 low-income customers.

17 I think the second option is to go ahead
18 and approve additional changes to the rule, if you're so
19 inclined, but to go ahead and prevent -- or provide cost
20 recovery as we've suggested, and that would simply entail
21 filing a tariff has an estimated impact as the courts have
22 said is an appropriate approach to take in other contexts
23 and allow rates to be adjusted.

24 And the third approach, and perhaps this is
25 the best approach for now, and that's to go ahead and

1 basically come up with revenue neutral changes to the
2 current rule. And that's what we tried to go ahead and
3 Lee reflect in the earlier piece of paper that we handed
4 out to you that Warren had gone ahead and addressed in his
5 particular comments.

6 This is a solution that does not require a
7 recovery mechanism, although the solution would have a
8 modest impact on Laclede, it's an impact we can go ahead
9 and live with. And it tries to go ahead and as best we
10 can address perhaps the need for additional questions,
11 particularly those who are defaulting and have larger
12 bills to be able to go ahead and get back on the system.

13 The way we do it is we generate some
14 additional revenue from existing customers who are coming
15 on to the cold weather rule for the first time, and the
16 way we do that is, right now when a customer comes on the
17 cold weather rule for the first time, they basically have
18 to pay one month's worth of a levelized annual bill that
19 includes both the customer's arrearages as well as the
20 customer's projected usage.

21 And what we would propose instead of that
22 one monthly payment, how about 15 percent? And we think
23 that's still a very doable amount for customers. Just to
24 give you an example, if I could use the board over here.

25 JUDGE MILLS: Please, go ahead.

1 MR. PENDERGAST: If you assume you have a
2 customer that's got \$1,200 worth of arrearages and
3 projected usage of \$1,200, \$100 a month, you've got an
4 annual levelized bill of 2,400. That's how you would go
5 ahead and determine it under the existing cold. Under the
6 existing cold weather rule, you basically take 1/12 of
7 that, which would be \$200, and that's what the customer
8 would have to pay in order to go ahead and get back on the
9 system. Under the 15 percent proposal you'd be talking
10 about the customer paying \$360 in order to go ahead and
11 get the advantage of the cold weather rule.

12 Now, that's \$360 of an arrearage that's at
13 \$1,200. We think that's a reasonable amount to require
14 customers to pay in order to go ahead and get the benefits
15 of the cold weather rule. It's still a relatively small
16 portion of the arrearages, but it's enough to go ahead and
17 generate revenue to do something for the customer on other
18 end of the equation.

19 Another benefit of that particular approach
20 is that, as I said, one thing we're running into is just
21 deferring the problem, allowing arrearages to get bigger
22 and bigger and bigger. By collecting a modestly
23 smaller -- or modestly greater amount now, that customer
24 is in a better position if something happens next year to
25 go ahead and cope with it because he's paid a little bit

1 more now. And so hopefully if we run into a situation
2 where the customer gets into some difficulty, that
3 difficulty would be somewhat smaller than what it would
4 have otherwise been because he's paid something, a little
5 bit more up front.

6 The second part of the equation is to go
7 ahead and establish an 80 percent cap or an 80 percent
8 payment obligation for customers that have defaulted or
9 \$800, whichever is less. That compares to the existing
10 situation where the customer has to pay all missed
11 installments up to 100 percent of them in order to go
12 ahead and receive service.

13 So it is an effort to go ahead and try and
14 help those customers with something that's going to be
15 more affordable than what would be included or required
16 under the cold weather rule as it stands right now.
17 And the two, as I said, for Laclede, if you do one and
18 then do the other, it works out to where it's just about
19 revenue neutral. It does have a modest detrimental
20 impact, one that we're willing to live with.

21 The other elements of the paper that you
22 have in front of us, and I think it's important, and I
23 think probably everybody in the room agrees, is that we
24 ought to at least take a look at means testing for the
25 cold weather rule. One way to go ahead and ruin any kind

1 of program is to make it available to anyone regardless of
2 whether there's a need for it, and I'm not absolutely
3 certain whether or not there's an easy or workable
4 procedure you can come up with to ultimately do that, but
5 we certainly provided an option in what you have before
6 you that would enable utilities to go ahead in
7 collaboration with the other parties explore coming up
8 with a potential procedure to do that.

9 The only other issue that needs to be
10 addressed is what do you do with a customer that got back
11 on the 80/800 provision and then defaults again? I think
12 our preference on that, absent an overall agreement, would
13 be to say you revert back to the original rule where you
14 will then owe all missed payments, but in the spirit of
15 compromise we've offered to go ahead and make that the
16 subject of a subsequent tariff filing, too, where you
17 would address whether and under what circumstances a
18 customer should be required to do that.

19 So on balance, I think that's probably the
20 alternative that is preferable from our standpoint. It
21 does try and do something additional for those customers
22 who are in most need. It maintains revenue neutrality as
23 the courts have indicated the Commission has an obligation
24 to do. It doesn't impose any other cost on any customers
25 outside of the cold weather rule, folks that are taking

1 advantage of that, and we think it's something that makes
2 a significant amount of sense and something that we would
3 urge the Commission to go ahead and adopt.

4 One final thing, the AAO. We've been down
5 this road before. We don't believe that's an adequate
6 mechanism. It's a mechanism that's also been relied upon
7 in litigation with respect to trying to convince a court
8 that that's a suitable mechanism. The courts have
9 determined that it's not. And the reason it's not is
10 because it is so indefinite that you never know what, if
11 anything, you're ultimately going to get from it.

12 It's essentially an IOU that says go out
13 and spend your money or do your work, and then at some
14 point in the future we'll go ahead and evaluate it. We'll
15 tell you how much we think it was worth. We'll tell you
16 whether or not we're going to go ahead and allow you to
17 recover it, and then we'll tell you over what period of
18 time we're going to let you recover it depending on what
19 we believe is appropriate at that time, may be with
20 interest, may be without interest.

21 I don't think that's an IOU that most of us
22 would be inclined to go ahead and take, nor should we be
23 required to take it. I really think that that is not a
24 suitable mechanism for any of the utilities for those very
25 reasons.

1 That's all I have. I would once again urge
2 you to adopt the additional changes that are reflected on
3 the piece of paper we handed out. Your Honor, I would
4 request that perhaps we mark that as an exhibit as well.

5 JUDGE MILLS: Have you provided copies of
6 that to all the parties present?

7 MR. PENDERGAST: Except for the court
8 reporter.

9 JUDGE MILLS: That would be important.
10 Give one to the court reporter. We'll mark that as
11 Exhibit 2.

12 (EXHIBIT NO. 2 WAS MARKED FOR
13 IDENTIFICATION BY THE REPORTER.)

14 JUDGE MILLS: Mr. Pendergast, don't step
15 down. We may have some questions from the Bench. I
16 understand that some of the Commissioners will probably
17 want to hold their questions, but at least some want to
18 ask questions now, so I'll go down the line. Chairman
19 Gaw?

20 CHAIRMAN GAW: I'm going to wait.

21 JUDGE MILLS: Commissioner Murray?

22 COMMISSIONER MURRAY: Thank you. I just
23 want to ask a couple of questions. It might be more
24 efficient to do it now.

25 Mr. Pendergast, with the document you gave

1 us regarding the cost of the increased uncollectibles.

2 MR. PENDERGAST: Yes.

3 COMMISSIONER MURRAY: Do you have any

4 translation of that into the cost to the ratepayers?

5 MR. PENDERGAST: Well, I think what you'd

6 be talking about is either the 1.7 million up to the

7 2. million -- or the 2 million that we've got reflected on

8 there. That's the sort of numbers that we'd be talking

9 about asking to put new rates into effect to recover.

10 COMMISSIONER MURRAY: But I mean do you

11 have any idea how that translates into rate increases?

12 MR. PENDERGAST: As far as impact on the

13 customer, it's going to be relatively insignificant. Off

14 the top of my head, I would guess it would be something

15 less than a quarter of 1 percent to an average customer.

16 Let me just verify that real quickly.

17 Apparently the person I'm going to verify

18 it with is busy with something else. As I recall, you're

19 probably talking about an average bill of \$800, \$900 on an

20 annual basis, perhaps a little bit more with annual gas

21 costs up to 1,000, and what you'd be talking here is, with

22 600,000 customers, let's just say go with the higher

23 number, \$2 million, that would be probably approximately

24 maybe three and a half dollars per customer per year. So

25 three and a half dollars compared to something in the

1 neighborhood of an 800, \$900 bill. Well below 1 percent.

2 COMMISSIONER MURRAY: Okay. And then my
3 other question is regarding the language that I guess was
4 given to us by Staff this morning for -- that you just
5 went through with the 15 percent up front and 80 percent
6 or 800, whichever is less.

7 In that payment language it says, unless
8 the utility and customer agree to a lesser amount. Why
9 wouldn't we include or a greater amount? I mean, we
10 wouldn't want to limit the customers if the customers were
11 able to pay more than that, would we?

12 MR. PENDERGAST: No. I think something
13 like that's entirely appropriate, and I don't have a copy
14 of the rule in front of me. I don't know if there's
15 anything in there that talks about elsewhere a customer
16 being able to pay more. But certainly if a customer
17 agrees to, I think that's appropriate.

18 COMMISSIONER MURRAY: If they can, they
19 would probably want to get it paid off more quickly.

20 MR. PENDERGAST: Sure. Sure. And you
21 don't want to discourage somebody from doing that.

22 COMMISSIONER MURRAY: Thank you. That's
23 all I have right now.

24 JUDGE MILLS: Thank you. Commissioner
25 Clayton? Commissioner Davis?

1 COMMISSIONER DAVIS: No questions.

2 JUDGE MILLS: Commissioner Appling?

3 COMMISSIONER APPLING: No questions.

4 JUDGE MILLS: Thank you. You can step
5 down.

6 Just going from the most recent show of
7 hands, we'll go with Ms. Hutchinson, then Mr. Byrne, and
8 then we'll proceed after that. Could you raise your right
9 hand, please.

10 (Witness sworn.)

11 JUDGE MILLS: Thank you. You may proceed,
12 and if you could please begin with your name and the
13 organization that you work for.

14 JACQUELINE HUTCHINSON testified as follows:

15 MS. HUTCHINSON: I am Jacqueline
16 Hutchinson, and I work for the Human Development
17 Corporation in St. Louis, Missouri. The Human Development
18 Corporation is the community action agency in St. Louis.
19 I am also a member of the Committee to Keep Missourians
20 Warm, although I'm not representing that committee here
21 today. And I am a member of the Governor's task force
22 on -- the Governor's Council on Energy, and I was also a
23 member of this task force.

24 I'd like to also say that I have been a
25 part of every cold weather rule proceeding since 1978, and

1 so I have some experience in these issues, and I consider
2 myself to be an expert in poverty issues.

3 Before I start with my testimony, I'd like
4 to just give some statistics that sort of set the case for
5 why we need to revise the cold weather rule. According to
6 a study done by the Economic Opportunity Council in
7 Washington, Dr. Meg Power released this study in May of
8 2004, and her findings were that even though the average
9 income for the poorest one-quarter of U.S. households has
10 grown since 1997, their energy bills have grown more.
11 Households with the lowest income spent on average
12 16.7 percent of their income last winter for their
13 utilities, and in 1997 it was 14.7 percent. Indeed, here
14 in Missouri we see much higher percentages than that, and
15 sometimes as high as 38 percent of the income going to
16 utility bills.

17 Residents of the colder regions experienced
18 the biggest increase in their bills. Low-income consumers
19 in the midwest, Atlantic and Rocky Mountain states had
20 their utility costs grow more in the past winter. The
21 projected energy bills for low-income households is
22 expected to reach \$1,335 in 2004, up from \$1,150 in 1997.

23 The National Energy Assistance Directors
24 Association released a study in 2004 that said 22 percent
25 of households, low-income households went without food in

1 order to pay their utility bills in 2003, 38 percent went
2 without medical care or dental care in order to pay their
3 utility bills, 30 percent went without taking their
4 medicine or reduced the amount of medication that they
5 took, 21 percent became sick because their homes were too
6 cold, and 78 percent reduced expenditures for household
7 necessities in order to pay their utility bills.
8 28 percent did not pay their mortgage in order to pay
9 their utility bills.

10 A study done by Roger Colton here in
11 Missouri released in June 2004 showed that 50 percent of
12 the households who responded to their survey were in
13 crisis, and 46 percent were vulnerable. So 96 percent of
14 the households in the state of Missouri who are low-income
15 it's estimated are in crisis or vulnerable because of
16 their utility bills.

17 46 percent of the respondents replied that
18 they skipped meals in order to pay their utility bills.
19 This statistic is from the Missouri study Paid But
20 Unaffordable. Nearly 80 percent of the households
21 reported avoiding medical appointments often to save money
22 to pay for their utility bills, and 50 percent of frequent
23 movers cited utility bills as the reason that they were
24 required to move.

25 In Missouri we have approximately 258,000

1 households or 12 percent of the households living below
2 100 percent of poverty, and another 332,000 between
3 125 percent of poverty and 200 percent of poverty. Those
4 persons living above the 125 percent of poverty index are
5 not eligible for the state LIHEAP assistance, and there
6 are limited other funds if they are in a crisis.

7 In FY '03, the total applications taken for
8 LIHEAP were 122,388, with 104,454 of those households
9 being eligible. And as you can see, that is quite a
10 difference from the number that I just gave in terms of
11 people who are in poverty. 49,000 approximately of those
12 households were either elderly or disabled. The average
13 household size was two. The average income was \$679 per
14 month, and the average LIHEAP payment was \$185. There was
15 approximately \$14 million in other assistance available
16 from private donation sources. However, that does not
17 fill the gap between what people owe and the bills that
18 they have to pay.

19 I'd like to just take a couple more minutes
20 to talk about some cases, people that we talked to within
21 the last week. And what we did was we went back through
22 our files and pulled out all of the cases of people who we
23 were unable to get their service restored last winter.
24 They met all of the eligibility criteria for assistance,
25 came in and applied for assistance; however, the amount

1 that they owed was so huge that all of the funds we had
2 available and the money that they were able to raise was
3 still not enough to get the services restored. And so I'd
4 like to just profile a few of those cases.

5 Mrs. S. worked for the City of St. Louis at
6 a job where she was paid \$11 an hour. She was forced to
7 retire early and was not yet eligible for her Social
8 Security benefits. So she was living on a retirement
9 pension of 200 -- she is currently living on a retirement
10 pension of \$230 per month. Her utility bill got behind.
11 For about a two-year period she was trying to maintain on
12 that \$230 a month, and she was living in a house she
13 inherited from her mother and trying to maintain that
14 house and did not want to lose it. And her utility bill
15 got to be \$3,900.

16 We attempted to get her service restored by
17 offering approximately \$1,400 in assistance. However,
18 with \$230 a month, she had -- she did not have the
19 additional monies which were being asked for to get the
20 services restored. Mrs. S. was -- her case was turned
21 over to a collection agency who harassed her and told her
22 that they were going to take her house away from her, and
23 so she signed an agreement to pay \$100 per month of her
24 \$230 income to this collection agency, which she did so
25 faithfully because she thought that her home would be

1 taken away from her.

2 In doing so, she did not purchase her
3 approximately \$53 a month in medication for her high blood
4 pressure and other conditions, and she also heated her
5 house with kerosene heaters until her doctor advised her
6 that it was not a good idea to do so. So she disconnected
7 a couple of the kerosene heaters and just kept one
8 kerosene heater going in one room and spent the winter
9 mainly in her bed under blankets. Her pipes froze last
10 winter, and she has since had to have the water cut off
11 because of water leaks.

12 She has recently become 62 and began to
13 collect her Social Security and has an additional \$500 per
14 month in income, is very fearful that the city will evict
15 her from her housing before she can get the water back on.
16 However, she is faithfully paying on the gas bill because
17 she thinks that the collection company will take her house
18 away from her and has paid that bill down to \$2,200 and is
19 living in the house without water at this point.

20 Mrs. N has three children. The Human
21 Development Corporation tried to pay a total of \$1,400 on
22 her bill in order to get the service on, and I don't have
23 exactly how much her bill was. But she has \$1,600 in
24 income and was laid off for a period of time, has not been
25 able to come up with the \$965 additional money that she

1 needed in order to cut her service on last winter, and
2 spent the winter using electric heaters, a crock pot to
3 heat water, a space heater, and she left her kids at her
4 mother's house on the coldest nights.

5 Ms. K, her bill got out of hand when her
6 husband was laid off from his job. He was later reduced
7 to 12 hours rather than a full-time position. They came
8 to HDC with a \$1,985 bill. Because they had an electric
9 bill problem also, we were only able to pledge \$700 on
10 their gas bill, and they needed another \$547 to get their
11 service restored. They were unable to come up with that
12 money and spent the winter in their home without heat,
13 with an electric heater for warmth.

14 Mr. B was a gentleman whose wife is
15 deceased, and he is a single father with three children.
16 He -- during the time his wife was ill, she accumulated a
17 bill of \$2,240, and they were unable to get the service
18 restored last winter because the grants that HDC offered
19 totaling \$900 would not be enough, and he would need to
20 come up with \$1,340 additional money. He works for
21 11 hours a week with a biweekly wage of \$360 and has not
22 been able to come up with the additional money.

23 I'll just stop right there because I've got
24 a dozen more of these that I could go through, but I'll
25 just leave those as some examples of who it is we're

1 talking about helping. When we talk about payment plans
2 and arrears, people who have balances year after year, we
3 are talking about people who can't pay, not necessarily
4 people who don't pay.

5 Now, I know that in the cold weather rule
6 there is protection for -- some blanket protections that
7 end up helping people that could pay but don't pay, but my
8 goal is to protect the health and safety of low-income
9 people who can't pay, who can't pay. They don't have the
10 money. They have \$600 on average a month income. Their
11 rent is \$350 a month. And since 2001, families have not
12 been able to gain their footing. Since the very cold
13 winter where they got arrears that are behind, they have
14 not been able to gain their footing.

15 And the cold weather rule as it's written
16 today does not offer protection for people who have
17 accumulated arrears that they can't pay, they absolutely
18 can't pay, and they are going through some horrific
19 circumstances in order to survive.

20 So I want to just move forward and talk a
21 little bit about the recommendations that I have
22 submitted. I recommended that the temperature be raised
23 to 35 degrees, and basically that was a compromise
24 position because I really was supporting the 40 degrees
25 that was originally offered by the Office of the Public

1 Counsel. My reason for the compromising at 35 degrees was
2 to recognize that the utilities do have some legitimate
3 points in terms of collection, and because the cold
4 weather rule is not at this point limited to those who
5 can't pay, then I thought it was fair to compromise.

6 However, I further recommended that for
7 low-income elderly and disabled households who register
8 with the utility company, that we have a complete
9 moratorium, that we've identified that the person's low
10 income. We can easily check their Social Security or
11 whatever their source of income is to determine that, and
12 that we don't further punish elderly and disabled people
13 by implementing policies that require that they not take
14 their medicine or not eat in order to pay their utility
15 bills, and that is what is happening right now all over
16 the state.

17 I think that a cut off moratorium for
18 elderly and disabled is indeed what most utilities have
19 right now. However, they don't want to put it in writing.
20 If we register people right now, most utility companies do
21 not cut those families during the coldest part of the
22 winter. I'd like to see it a part of the rule because as
23 the gas prices go up and the severe weather causes people
24 to have higher bills, even though the utility companies
25 voluntarily don't cut those households now, I don't want

1 to see a day when they do. So I'd like to see that
2 solidified as a part of the rule.

3 The payment arrangement amount that I
4 requested was 50 percent of the unpaid arrears, and often
5 we see families -- on average we see families with arrears
6 of \$1,200. That would be about the average amount that we
7 see. However, we have families that have arrears up to
8 3,000 and \$4,000 very easily, and it's not because they
9 don't pay. It's because they can't pay. They're
10 discouraged, as a matter of fact, from paying.

11 For instance, if a person enters into a
12 payment agreement that they know they cannot afford and
13 their budget billing payment is \$300 a month and they call
14 the utility and say, I have \$100 I'll bring you, is that
15 enough, will you keep my service on, they already know
16 that in a lot of instances that that personally is a
17 LIHEAP recipient or whatever, and they're told, yeah, you
18 can bring us the \$100 but that won't -- that won't stop
19 collection action. It won't prevent your services from
20 being cut off.

21 And so people don't pay because if you --
22 what's the point in taking in the hundred dollars that you
23 have when they've already told you that it's not enough to
24 prevent your disconnection? And so people have been
25 encouraged not to pay.

1 The 50 percent of the total of the bill not
2 to exceed \$600 would allow working poor people who are
3 having to save money to get their utilities back on who
4 may not qualify, it's a number that they would be able to
5 reach, a number that we would be able to reach with
6 utility assistance and private donation money if
7 necessary, and a number that many households can
8 contribute and pay part of that themselves.

9 The other recommendation that I have was a
10 notice requirement, and this is not part of the current
11 rule. However, in my opinion, it is -- it leaves a big
12 gap, and that is that people that the utility companies
13 cut off after April 1 and before November 1, they are not
14 required to send them any kind of notice that there is a
15 cold weather rule and that they could be restored for less
16 than the full amount of the bill.

17 And many households are cut off during that
18 time, particularly families who are new poor and haven't
19 experienced having to have their utilities cut off. They
20 don't know about the cold weather rule. There's currently
21 no requirement that the utilities notify those families
22 and let them know that there is a cold weather rule and
23 that they may be eligible for that. So I'd like to see
24 that adopted.

25 Last but not least, I'd like to say that I

1 support some kind of recovery mechanism. I know that that
2 is a necessary component. What the details of that should
3 be, I'm not sure and I'll leave that to the lawyers to
4 hash out, but I believe that it's a necessary component to
5 protecting low-income families.

6 I'd just like to comment on some of Mike's
7 comments if I might, his proposal. First, Exhibit 1, I
8 was a bit surprised to see that we have estimates of how
9 much it's going to cost, and I'd like to have some more
10 detail of that. As part of the task force, we asked
11 repeatedly for the utilities to tell us how much it cost
12 currently, how much default was due to the cold weather
13 rule, how much it cost to implement the current cold
14 weather rule, and did not get that information. And so
15 I'd like some -- some more information on the Exhibit 1 as
16 to, if I can ask a breakdown of how did you come up with
17 these figures, because I was under the impression that
18 they couldn't really figure it all out, or is it just a
19 guess, a guesstimate?

20 Exhibit 2, the problem that I have with
21 this proposal is in the 15 percent scenario that is on the
22 board. Moving from a payment of \$200 to get restored to a
23 point of \$360 for a family with \$600 a month or less in
24 income is significant, and it -- it almost doubles what
25 that family has to pay, and I don't think that it would be

1 fair to sacrifice the payment of a few -- of some
2 households in order to reduce the payment.

3 I am in favor of the cap at \$800. I would
4 be willing to move there from the \$600 that I originally
5 proposed. However, the issue of people who default on
6 payment agreements is one of their inability to pay. And
7 so we know going into the winter if we set people up on
8 payment arrangements and their payment is 50 percent of
9 their income, their monthly payment, that they're not
10 going to be able to do that. So we are going to have
11 people who default simply because they don't have the
12 income to do that.

13 I think since we proposed -- I'm in favor
14 of the means testing. Since we've proposed that, we means
15 test to determine that people are indeed low-income. If
16 you have identified that they are low-income, to treat
17 them as if they are, you know, they are just not paying
18 because they just don't want to pay, by saying that after
19 the first time they default, because we already know that
20 they will default because we're not -- we're not taking
21 into consideration their income or their ability to pay as
22 we set these arrangements. We're not taking that into
23 account. So we know that many of them will default.

24 And I think to take away the protection and
25 say that we will -- we will then after they default one

1 time treat them differently or not give them any
2 arrangements is -- is not a good thing.

3 I will end there, and I'd like to say that
4 I would -- I appreciate the opportunity to work as a
5 member of this task force, and I look forward to the
6 long-term affordability section of the work that we will
7 be doing.

8 20-some-odd years ago there are a couple of
9 us in the room that testified that we weren't going to
10 resolve this problem until we look at a person's ability
11 to pay and figure out who pays if people -- if low-income
12 people can't pay. And I think that we have failed
13 low-income people collectively because we haven't resolved
14 that.

15 Other states have figured it out. The State has,
16 you know, kicked in some money. The Commission has
17 ordered some programs. The social service agencies have
18 done some things there. They've come together and figured
19 out how to protect people who can't pay and have decided
20 that people -- that cutting off people who can't pay is
21 not
22 the -- not the answer.

23 And so I think that the challenge for us in
24 the affordability task force is that all of the parties,
25 you know, the utilities have to bend, the Commission has

1 to bend, the Staff has to bend. All of us have to come to
2 the table willing to figure out or take examples from
3 other states and figure out who pays so that low-income
4 people don't have the risk to health and safety during the
5 winter.

6 Thank you.

7 JUDGE MILLS: Thank you.

8 (Applause.)

9 JUDGE MILLS: That's a first for me. Thank
10 you. Haven't seen a witness be applauded before. You
11 must have done a wonderful job.

12 I think we're probably going to hold off on
13 questions for a while yet, and we'll move on to our next
14 witness, Mr. Byrne.

15 (Witness sworn.)

16 JUDGE MILLS: Thank you, you may proceed.

17 TOM BYRNE testified as follows:

18 MR. BYRNE: Thank you, your Honor. Good
19 morning. My name is Tom Byrne, and I'm an attorney for
20 AmerenUE. At the outset, I would like to thank the
21 Commission for giving AmerenUE the opportunity to
22 participate in the task team that worked on this proposed
23 rule.

24 This is the third rulemaking proceeding
25 that I have been involved in that has relied on the

1 cooperative efforts of the Staff and the Public Counsel
2 and the other interested parties in crafting a rule. The
3 other two rulemakings involved a PGA rule and a denial of
4 service rule, and in all cases, at least in Ameren's view,
5 the collaborative process was a success and the parties
6 were able to reach agreement on some meaningful
7 improvements to the proposed rule.

8 AmerenUE supports all of the revisions in
9 the cold weather rule that the task force was able to
10 agree on. We believe that these revisions will enhance
11 the existing rule and provide better protection to the
12 most vulnerable customers during the winter period.

13 We are also supportive of the proposal
14 submitted by Laclede as Exhibit 2 previously, which we
15 will -- we believe will provide more relief for customers
16 who default on a cold weather rule agreement and want to
17 be reconnected.

18 I think it's important to point out in
19 Mr. Pendergast's example where the customer's payment went
20 from \$200 to \$360, our understanding is that's only the
21 first month that they get back on, and for the other
22 months the payment would drop back down to 1/12 of the
23 bill. So even though that's a fairly significant
24 increase, it's only the first month.

25 Lori Carmen, who is Ameren's director of

1 credit and collection and who was Ameren's representative
2 on the task force, is also here today and she can answer
3 any technical questions you might have for her.

4 I'd like to briefly address the proposal of
5 the Office of Public Counsel, Ms. Hutchinson and some
6 other commenters who have suggested that the temperature
7 at which the moratorium applies should be raised from 30
8 degrees to either 32, 35 or 40 degrees. AmerenUE opposes
9 these proposals for several reasons.

10 First, we believe there has been no showing
11 of a compelling benefit that this would provide customers
12 who are unable to pay their bills. I guess, you know, our
13 view is moving the temperature doesn't provide any real
14 relief to customers. What it does is it defers the
15 problem, and ultimately the customers who don't get cut
16 off today because the temperature is a little bit higher
17 than it otherwise would be have their arrearages get
18 higher and higher and dig themselves into a hole that
19 ultimately is going to be even more difficult to get out
20 of in the end, and in the long run it doesn't provide any
21 real relief in the way some other programs do.

22 And I guess a related concern is that we
23 view that if you have a moratorium on disconnecting all
24 customers, that's going to pick up both customers who
25 genuinely cannot pay their bills, but it's also going to

1 pick up customers who choose not to pay their bills.

2 We believe there are methods of targeting
3 relief to customers who truly need the relief that are
4 better than a blanket increase in the temperature.
5 Specifically we're supportive of actively participating at
6 the state and federal level to get more funds that are
7 targeted to customers who are truly low income and truly
8 need the assistance.

9 We are supportive, AmerenUE has been
10 supportive and will continue to support programs such as
11 Dollar More, Dollar Help Laclede has and weatherization
12 programs where funds are targeted to the people who really
13 need them. And I guess we believe that programs such as
14 that are better than a blanket moratorium that applies to
15 anyone during a certain period of time.

16 It is also worth noting that only a
17 relatively small number of states have temperature-based
18 moratoriums. They do have other -- you know, other states
19 do have other plans to protect low-income customers, but
20 in a matrix of state-specific regulations that was used by
21 the task force, there were only 13 of the 50 states,
22 including Missouri, had a temperature-specific moratorium
23 that applied to -- well, some of them didn't even apply to
24 everyone, but only 13 of them had a temperature-specific
25 moratorium. Several states like Colorado and Nebraska had

1 no seasonal protection at all, which we're not in favor
2 of, but that's the -- that's the -- you know, in some
3 other states there's much less protection than Missouri
4 has today. And we believe Missouri's existing cold
5 weather rule, particularly with the changes that the task
6 force has agreed to, falls in the range of reasonableness
7 when you look at what other states are doing.

8 If in spite of these arguments the
9 Commission does decide to increase the temperature,
10 AmerenUE supports the position articulated by a number of
11 parties, including Ms. Hutchinson and Mr. Pendergast, that
12 the Commission needs to make provision so that the
13 utilities can recover their costs. We don't think it's
14 fair to the utilities to change the rules of the game in
15 between rate cases and then require them to bear what will
16 turn out to be fairly significant costs in between rate
17 cases.

18 Again, I would like to thank the Commission
19 for permitting AmerenUE to participate in this process,
20 and both Ms. Carmen and I are available to answer any
21 questions that you might have. Thank you.

22 JUDGE MILLS: Thank you.

23 CHAIRMAN GAW: Judge, one point of
24 clarification for Mr. Byrne.

25 JUDGE MILLS: Sure.

1 CHAIRMAN GAW: Mr. Byrne, your inference
2 was that there were only 13 states that have temperature
3 moratoriums, and you mentioned two other states that had
4 no seasonal moratorium provisions. Are there states that
5 have moratoriums that are not related to temperature but
6 that are related to season?

7 MR. BYRNE: Yes, there are. Most states
8 have moratoriums related to season, but I guess the point
9 I was making is they're not blanketly tied to a
10 temperature. They're more targeted to the customers who
11 might need those protections.

12 CHAIRMAN GAW: Does Ameren think we ought
13 to join those states that provide blanket protection for
14 the winter season?

15 MR. BYRNE: You mean a blanket moratorium?
16 A blanket moratorium for the whole winter season on
17 cutoffs?

18 CHAIRMAN GAW: Yes.

19 MR. BYRNE: No, your Honor.

20 CHAIRMAN GAW: I just wanted to check,
21 because I thought maybe that you were mentioning that we
22 were in the minority of states that had temperature
23 moratoriums, and maybe you were inferring that we should
24 move toward a blanket moratorium during winter.

25 MR. BYRNE: No, no. My point --

1 CHAIRMAN GAW: I thought maybe that's what
2 you were suggesting.

3 MR. BYRNE: No, no, no. I guess my point
4 is a temperature, setting it at a temperature doesn't
5 distinguish between customers who truly need protections
6 and those that don't, and I think a lot of the other
7 states use a little bit more sophisticated thing than just
8 a blanket temperature moratorium.

9 CHAIRMAN GAW: Okay. Thank you. We might
10 inquire about some of those later. Thanks.

11 JUDGE MILLS: Thank you.

12 MR. COOPER: Your Honor, I believe that
13 Ms. Kim Lambert from Missouri Gas Energy would like to
14 testify if that would be appropriate at this time.

15 JUDGE MILLS: Let me see a show of hands of
16 those who still wish to testify. Okay. Again, we'll move
17 from the front to the back. We'll go with Ms. Lambert
18 next, and then we will pick up the other five people, I
19 believe, who have raised their hands.

20 So if you could please come forward. Could
21 you raise your right hand.

22 (Witness sworn.)

23 JUDGE MILLS: Thank you. You may proceed.
24 Please begin by identifying yourself and the company you
25 work for.

1 KIM LAMBERT testified as follows:

2 MS. LAMBERT: My name is Kim Lambert, and
3 I'm with Missouri Gas Energy. My comments are going to be
4 extremely brief. I think you've heard most of this this
5 morning already.

6 MGE also would be opposed to a temperature
7 moratorium. We believe that in supporting Staff it would
8 be better served during the long-term affordability task
9 force. We can take that measure up at that point.

10 We also oppose the initial payments as set
11 forth by comments by Ms. Hutchinson. However, we would
12 support those made early this morning by Laclede Gas.

13 We also have some concern about the
14 low-income households as it relates to temperature
15 moratorium regarding administrative costs, regarding
16 administrative burden, and in particular trying to
17 determine what households include small children. We do
18 support, however, the work that was done in the task force
19 regarding registered customers, which would include the
20 disabled and elderly.

21 Finally, on the issue of revenue
22 neutrality, naturally we would like to see some sort of
23 adjustment done, you know, up front, and we would like to
24 see more conversation about that during the energy
25 affordability piece of the task force.

1 Thank you.

2 JUDGE MILLS: Thank you. Okay. We'll

3 begin -- I'm afraid that for the remainder of you I don't

4 know who you are, so I'm just going to sort of try to

5 point at you and call you forward. There was a woman in

6 the front row behind the bar who raised her hand. If

7 you'd like to come forward.

8 MS. HUSMAN: I do want to testify, but my

9 volunteer needs to go to work at 12:30, and I was hoping

10 he could maybe make his testimony first on behalf of our

11 organization.

12 JUDGE MILLS: Absolutely. That will be

13 fine.

14 MS. HUSMAN: We could testify at the same

15 time. Our remarks are fairly brief.

16 JUDGE MILLS: Raise your right hand,

17 please.

18 (Witness sworn.)

19 JUDGE MILLS: You may proceed, and if you

20 could begin by stating your name, the organization you

21 work for, and if you could also spell your name.

22 NATHAN STEPHENS testified as follows:

23 MR. STEPHENS: Yes. My name is Nathan

24 Stephens, N-a-t-h-a-n, Stephens, S-t-e-p-h-e-n-s, your

25 Honor. I want to say good morning to the Commissioner and

1 everyone present this morning.

2 I am a volunteer with GRO, Grass Roots
3 Organizing. And I've heard some of the comments from the
4 utility companies this morning and it concerned me
5 basically because the research is based upon individuals
6 of whom I'm sure they know not personally.

7 My testimony this morning is of a personal
8 nature. Some years ago I was approximately 11 years old
9 here in the state of Missouri, and our gas was cut off in
10 the middle of the winter. I was raised by a single
11 mother. We were in public housing in Columbia, Missouri.
12 We lived in our mother's bedroom. We lived with two
13 portable electric heaters. Our water was warmed with a
14 crock pot. That is how we also bathed. Our clothes
15 primarily was not washed. We just went to school.
16 Hopefully our clothes was not too dirty.

17 Eventually what I had to do was, at 11
18 years old, I went out and I shovelled snow all day. I had
19 severe frostbite and was almost hospitalized and missed
20 several days of school. The amount of money that I did
21 raise was a little bit over \$100. I took it to the
22 utility companies and they said it wasn't enough. So I
23 missed several days of school, I was ill, and it still
24 wasn't enough.

25 So my question to the utility companies

1 this morning is, how much is enough? What value -- you
2 put some estimates and some numbers on the board, but at
3 what price can you place on human health, human life and
4 human well-being? I understand that these services are
5 not free and that they come at a cost, and I believe that
6 services should be provided for because, again, they're at
7 an expense to the utility companies.

8 But I'm also concerned that -- to the point
9 that after I was able to overcome those obstacles, I got a
10 degree in social work. I'm now pursuing a master's at the
11 University of Missouri in planning policy and
12 administration. But I was listening to CNN the other
13 night and they were saying that the cost of gas prices was
14 increasing. So I immediately went back to my childhood
15 and I thought the young people that I'm working with now,
16 trying to get them summer employment to help sustain their
17 households to this current day.

18 I have a young man whose house was
19 condemned and they had to move because they wasn't able to
20 afford the upkeep. Well, when they move into their new
21 place, will they be able to afford the utilities with this
22 increase in gas prices?

23 And so no, it may not necessarily help that
24 when you raise the temperature, but at the same time I
25 believe it would be beneficial to the health and

1 well-being of someone to not know that I'm living in a
2 home with my gas cut off and it's below freezing with my
3 mother and my brother and my other siblings.

4 So I just ask the Commission to please take
5 that into consideration before you make your decision.

6 The question again is, how much do these numbers relate to
7 the health, the life possibly and the well-being of
8 individuals? Thank you.

9 JUDGE MILLS: Thank you.

10 MS. HUSMAN: My name is Mary Husman. I
11 work as an organizer for GRO, and I --

12 JUDGE MILLS: Before you begin, I'd like to
13 swear you in, please.

14 MS. HUSMAN: Oh, okay. I thought I did at
15 the same time. That's fine.

16 JUDGE MILLS: Well, we'll go ahead and do
17 it just so the record is clear.

18 (Witness sworn.)

19 JUDGE MILLS: Thank you.

20 MARY HUSMAN testified as follows:

21 MS. HUSMAN: My name is Mary Husman. I'm
22 an organizer for GRO, Grass Roots Organizing, and the
23 members that are standing are supporting this position
24 today. Some of the members that are standing here will
25 have their utilities shut off this year, as has happened

1 in the past.

2 I've also attached to my testimony an
3 endorsement for our position from Mr. Michael Cline, who
4 is the divisional government relations director for the
5 Salvation Army. He was unable to attend today.

6 We Missourians know that home energy is
7 unaffordable. 95 percent of our members are low-income
8 families. We daily struggle for gas and electric payments
9 that reach as high as 38 percent of our annual incomes.
10 This creates day after day physical, mental and emotional
11 stress. Energy payments are so high that even the highest
12 quality, Grade A, No. 1 budget class cannot come close to
13 addressing them. We have to rob Peter to pay Paul. This
14 ongoing dilemma of robbing from other areas of life to pay
15 high energy bills makes Paul happy, but it creates hunger,
16 bad housing, a constant search for better shelter,
17 increased health problems, employment uncertainties,
18 safety hazards and educational barriers for our children.

19 We know that in public housing you must
20 according to contract keep your utilities on or you can be
21 evicted. Here in Cole County they are very strict.
22 Division of Children Service directors have threatened
23 some families here with removal of the children by the end
24 of the day if the utilities are not put on or if
25 appropriate family members are not found to care for the

1 children. So this is serious business.

2 The money cannot meet our basic needs. We
3 are actually thrilled by the newly surfaced idea that
4 Missouri could come to its senses and actually create a
5 universal energy affordability plan for fair treatment for
6 all of our families. However, it has been said that our
7 great purpose in life is not to see what lies dimly at a
8 distance but to do what lies clearly at hand, and thanks
9 today to you clearly at hand is the consideration of
10 changes to the Missouri cold weather rule.

11 This rule helps our GRO families each year,
12 but changes to address its inadequacies are overdue. We
13 support your intention to have these changes go into
14 effect this winter. We also support requirements for
15 yearly written notification and the availability of
16 educational material that explain and tell about the
17 benefits of the Missouri cold weather rule.

18 The current law allows discontinuation of
19 services if the temperature is 30 degrees Fahrenheit. The
20 rule gives no shutoff protection for even the most
21 vulnerable among us, our low-income elderly, children,
22 disabled. The 30 degree temperature is dangerously low,
23 and as you know, that's only the beginning of the story.
24 Temperatures can drop lower and lower after the shutoff,
25 and it doesn't matter how low it goes, the shutoff remains

1 until a payment agreement is reached. Payment agreements
2 vary from company to company, and what we've seen is
3 sometimes from day to day.

4 So the rule is also deficient in that it
5 does not provide for any clear and consistent amount of
6 money that needs to be paid for reconnection. Our strong
7 recommendation is that the cold weather rule disconnection
8 temperature be increased to a more humane 40 degrees
9 Fahrenheit. We also recommend that reconnection amounts
10 be 25 percent of what's owed or \$100, whatever's lower.

11 Someone said the problem with opening up
12 the cold weather rule in July is it's so hot right now,
13 it's really hard to imagine how cold Missouri gets, but
14 that will happen. To truly experience the effect of what
15 it would feel like to have the energy shut off in the
16 cold, it would have been very beneficial this morning to
17 meet in a room with a temperature of that bone-chilling 30
18 degrees. Unfortunately, I doubt that we could talk the
19 State into being liable for the hypothermia that could
20 result and the fire hazard that could come from using
21 candles. There's not nothing really so romantic about
22 candlelight in a room where you need to read or not
23 stumble into people.

24 Maybe we should look at a few examples
25 today to help us get a better feel for that current 30

1 degree temperature problem. Here's Exhibit A. I was
2 buying plants the other day and found this in the pot.
3 The sign says hearty to 32 degrees Fahrenheit. No plant,
4 much less a person, is hearty at 30 degrees.

5 On the way here we went through Ashland
6 where there's a sign that advertises cold beer, 33
7 degrees. So that's a good temperature for beer, isn't it?
8 But it's barely survivable for people.

9 Boone County Health Department mandates all
10 food be kept at 41 degrees. That's a good safety standard
11 for food, but not for people. At the Missouri Rural
12 Crisis Center they told me they keep their unfrozen food
13 at 36 degrees. That's good.

14 You should not allow the Missouri utility
15 companies to take energy away at 30 degrees. 40 degrees
16 is also too cold. It's also too cold for safety and
17 health. But in light of those strong objections that the
18 task force received, and I went to many of those meetings,
19 we are willing to compromise to 40 degrees.

20 Meat, beer, it should be kept colder than
21 40 degrees, but in a civilized society, the elderly, the
22 disabled, our children, no one should be submitted to
23 turnoff lower than 40 degrees.

24 Thanks for your time. Thanks for your
25 efforts.

1 (Applause.)

2 JUDGE MILLS: Thank you. Mr. Eames is

3 coming forward to testify. Is there anyone else who's

4 going to testify still? Can I see a show of hands? Okay.

5 Before you begin, raise your right hand, please.

6 (Witness sworn.)

7 JUDGE MILLS: Thank you.

8 IVAN LEE EAMES testified as follows:

9 MR. EAMES: I have my testimony in writing.

10 I have enough copies for all the Commissioners. And I

11 also have a summary of a study done by Roger Colton called

12 Paid but Unaffordable. I have enough copies of that for

13 all the Commissioners. To whom do I give this to?

14 JUDGE MILLS: You can hand them to me and

15 I'll pass them out along the Bench.

16 MR. EAMES: The original's on top.

17 JUDGE MILLS: Let me ask you this: The

18 Paid but Unaffordable, is this -- Ms. Hutchinson, is this

19 the same document that you provided --

20 MS. HUTCHINSON: It is.

21 JUDGE MILLS: -- earlier with your written

22 comments?

23 MS. HUTCHINSON: It is.

24 JUDGE MILLS: Thank you.

25 MR. EAMES: Did you give them the full?

1 MS. HUTCHINSON: No. I gave them
2 summaries.

3 MR. EAMES: Okay. I just want to point out
4 about that. That is a summary. The full study goes into
5 much greater statistical detail, and I know the full
6 study's available from Public Counsel's office, and I
7 encourage the Commissioners to read the full study.

8 I'd like to begin my testimony with a quote
9 from that study. Quote, home energy is a crippling
10 financial burden for low-income Missouri households.
11 Missouri households with incomes of below 50 percent of
12 the federal poverty level pay 38 percent or more of their
13 annual income simply for their home energy bills, and more
14 than 115,000 Missouri households live with incomes below
15 50 percent of the federal poverty level.

16 Another -- an additional 70,000 households
17 live with incomes between 50 and 74 percent of poverty,
18 and 80,000 more Missouri households live with incomes
19 between 75 and 99 percent of the federal poverty level.
20 It is therefore not surprising that in Chapter 5, Home
21 Energy Insecurity in Missouri, Mr. Colton finds that
22 94 percent of households with children under six were
23 either vulnerable or in crisis, and likewise 94 percent of
24 households that receive wage income were vulnerable or in
25 crisis.

1 I've attended all but one of the Missouri
2 Public Service Commission's cold weather rule and
3 long-term energy affordability task force meetings, and I
4 want to commend the Commission for not only putting a time
5 limit on this so we can get these changes implemented
6 before the winter, but especially, which I and Jackie
7 Hutchinson -- she said there were two of us in this room
8 that have done this for a while -- have been advocating
9 for 20 years that this state address the long-term
10 affordability problems that a low-income household has in
11 maintaining their heat. So I really commend the
12 Commission for doing that.

13 For the last 25 years I have administered
14 the energy crisis intervention program for our agency.
15 The task force has proposed changes to improve the cold
16 weather rule that it unanimously supports, and I agree
17 with those recommendations.

18 Public Counsel has proposed changing the
19 disconnect moratorium from 30 to 40 degrees. I strongly
20 support Public Counsel's proposal, and the office points
21 out that hypothermia can occur at higher temperatures.
22 The purpose of the cold weather rule is to protect the
23 health and safety of Missouri consumers.

24 Given that purpose, the proposed changes do
25 not offer adequate protection of people who are most at

1 risk, the elderly, disabled and families with young
2 children. I hope the Commission will provide that
3 protection in the new rule that is ordered.

4 Also I want to encourage the Commission to
5 include a provision to the rule that would require
6 utilities to permit customers who owe an arrearage and
7 have broken a cold weather rule payment plan to be
8 reconnected and receive service if they can pay some
9 amount less than the total amount that is owed and a
10 notice by the utilities outlining this provision to
11 consumers prior to November 1st, perhaps 25 percent of
12 what's owed or \$40, whichever is lower.

13 While we did not reach consensus on all
14 issues, we reached agreement on more than I thought we
15 would at the beginning of our work sessions. And I would
16 like to recognize the strong and open leadership provided
17 to the task force by Mr. Warren Wood. We would not have
18 reached agreement on many matters we did without his
19 leadership.

20 On June 10th I arranged for Roger Colton, a
21 nationally recognized expert on low-income energy issues,
22 to address the task force. Everyone was impressed with
23 the depth of understanding, his depth of understanding of
24 these issues. Many of us have worked on the cold weather
25 rule before, but designing recommendations to the

1 Commission on an energy affordability plan for Missouri
2 has all of the task force swimming in unchartered waters,
3 and I would probably include the Commission in terms of
4 those unchartered waters.

5 I have e-mailed a budget for Mr. Colton for
6 him to come to the task force once a month between
7 September 2004 and March of 2005. His total cost, travel,
8 parking, everything, is \$36,536. I would strongly
9 recommend that the Commission pay this consultant for the
10 task force. We need his counsel. And Mr. Wood, I think,
11 will agree with that.

12 I appreciate this opportunity to address
13 the Commission, and I hope the Commission will address the
14 issues I've raised, especially concerning those vulnerable
15 populations which the present cold weather rule does not
16 address and the recommendations do not address to the task
17 force.

18 Thank you very much.

19 JUDGE MILLS: Could you raise your right
20 hand.

21 (Witness sworn.)

22 JUDGE MILLS: Thank you. If you could
23 begin by stating your name and who you work for.

24 BARBARA ROSS testified as follows:

25 MS. ROSS: I'm Barbara Ross, and I'm the

1 director of the social concerns office for the Catholic
2 Diocese of Jefferson City. Our diocese covers 38 counties
3 in central and northeastern Missouri.

4 While I've been listening to the testimony
5 today, I recognize that there were several good provisions
6 that were included in the proposed changes. In the
7 church, at the heart of our mission lies our concern to
8 act on behalf of the poor and those most marginalized in
9 society. So just a few thoughts that I have on this, and
10 I would like to say that we stand in solidarity with GRO,
11 Grass Roots Organizing, whom we help through our Catholic
12 Campaign for Human Development, which strives to work with
13 organized groups of low-income folks who advocate for
14 themselves and their own well-being.

15 However, because utilities constitute an
16 essential human need, they must be structured to serve the
17 common good with a specific, a special eye toward the most
18 vulnerable populations. Low-income assistance and
19 fundamental change to the cold weather rule serve to aid
20 not only the most vulnerable, but also serves the welfare
21 of the larger society by at minimum forestalling health-
22 related issues, homelessness, and reduced collection
23 expenses that other consumers would otherwise pay.

24 And a number of studies have been done that
25 show expanded direct assistance programs that include

1 efficiency, education, counseling and arrearage management
2 are economically cost effective, and I -- I pulled down a
3 very extensive study that's a little bit dated, but they
4 go through all of this in detail in this study, and I'd be
5 glad to leave it with the members of the Commission if you
6 would like to have it.

7 And then I would also say that in trying to
8 sort through all of this, the one thing that came most
9 clear to me was that payment for arrearages and even for
10 monthly payments for low-income, disabled, vulnerable
11 folks needs to be based on their ability to pay and,
12 therefore, a percentage of their income and not on the
13 amount they owe. Now, the details of that would, of
14 course, like all things need to be worked out, but people
15 can't pay money they simply don't have.

16 And yet it's a fundamental aspect of one's
17 human dignity to be able to be warm in the winter,
18 adequately cool in the summer, and as we see, it has many
19 other attached problems, like with health and what happens
20 to the larger society when those needs are not met.

21 So in thinking about this and reading about
22 it, I just wanted to say that that's my primary
23 contribution today is that payment for arrearages or even
24 for monthly payments should be based on one's --
25 percentage of one's income and not on the total amount

1 that one owes.

2 And then finally, I would say that, to that
3 end, in some marginal way at least we support this 40
4 degree notion, even though in some ways I think that's an
5 inadequate umbrella for this to all come under because
6 there's so many other issues, but at least minimally the
7 least we should do would be to say that people should not
8 suffer and languish needlessly when they cannot pay or for
9 some health reason they would be suffering unduly. So we
10 would support this 40 degree cutoff point.

11 Would you like for me to leave this?

12 JUDGE MILLS: If you don't have sufficient
13 copies for everyone to consider --

14 MS. ROSS: I don't. It's kind of long.

15 JUDGE MILLS: Perhaps you could just
16 describe it and we could take a look at it later.

17 MS. ROSS: Well, it's very lengthy, and
18 it's entitled Low-Income Consumer Utility Issues, a
19 National Perspective, and it was done by a Gerald
20 Oppenheimer and a Theo McGregor, who's a consultant for an
21 energy consulting firm. And it covers everything, and it
22 particularly is written with an eye toward all the low-
23 income issues that one can imagine. It's very
24 comprehensive, and it takes state by state those states
25 that have -- and describes the kinds of assistance

1 programs they've given and the effectiveness of them. So
2 it's very good.

3 JUDGE MILLS: Thank you very much. Is
4 there anyone else that wants to testify this morning, this
5 afternoon now?

6 Thank you. At this point we're going to
7 take a short recess for just a few minutes and I'll talk
8 with the Commissioners about how they want to proceed, and
9 then we'll go back on the record and I'll let you know how
10 we're going to proceed from this point forward. We're off
11 the record.

12 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

13 JUDGE MILLS: Let's go back on the record.
14 It appears as though there won't be a huge amount
15 of questioning from the Bench, and I know many of you are
16 here from out of town and it's Friday afternoon, so we're
17 going to go ahead and take the questions from the Bench
18 and wrap up without taking a break for lunch.

19 But we will -- just so people have a chance
20 to get organized, we're going to take a recess for another
21 five minutes until about 20 after 12, and then we will
22 continue through until we're done. So we're going to take
23 a recess for a further five minutes, and then we'll come
24 back and finish up. We're off the record.

25 (A BREAK WAS TAKEN.)

1 JUDGE MILLS: Before we begin, there's one
2 housekeeping matter. Mr. Pendergast, if I can get you to
3 come back forward. There's some question in my mind and
4 Mr. Pendergast's mind whether he was sworn in when he made
5 his prior remarks. So we'll go ahead and swear him in
6 now.

7 (Witness sworn.)

8 JUDGE MILLS: And if you were asked to give
9 your comments earlier that you gave under oath, would your
10 comments be the same?

11 MR. PENDERGAST: I'm relieved to be able to
12 inform you that they would be the same.

13 JUDGE MILLS: I'm relieved as well. Thank
14 you very much.

15 MR. PENDERGAST: Thank you.

16 JUDGE MILLS: We'll begin with questions
17 from the Bench, beginning with Chairman Gaw.

18 CHAIRMAN GAW: Thank you, Judge. First,
19 before I ask any questions, I want to say thank you to
20 those who are here who participated and have been
21 participating and continue, will continue to participate
22 in our task force. I'm very, very pleased with the amount
23 of time and effort that's gone into this. I'm very happy
24 to see that there are recommendations that have come forth
25 that you have reached consensus on. And it is a very

1 important, I think, statement about how collaboration can
2 work when we have these kinds of issues come before us,
3 and I just want to say thanks. You all have done a lot of
4 traveling, a lot of extra effort. You're doing it on your
5 own time and because many of you believe that it's
6 important to do it, and I just want to say thank you.

7 I want to ask a general question that is a
8 little bit outside the scope of what we're dealing with
9 this morning, but just sort of to gauge, because we're
10 dealing with a whole set of issues about energy
11 affordability and trying to do something on cold weather
12 revisions before this fall, just to get a little bit of
13 perspective, and I don't want to spend too much time on
14 it, but on what the -- what the funding looks like on
15 LIHEAP right now and whether or not there is a concerted
16 effort by the players that are here or will be a concerted
17 effort to try to ensure that we have sufficient LIHEAP and
18 emergency assistance monies from the -- from the federal
19 government this year.

20 I don't know who wants to tackle that
21 first. I'm looking at Jackie Hutchinson.

22 MS. HUTCHINSON: Yeah. I don't know
23 that --

24 JUDGE MILLS: Please be sure that you speak
25 into the microphone.

1 MS. HUTCHINSON: I don't know that I have
2 the answer about funding levels or if there -- if there is
3 an answer to that question for next year. There are
4 several proposals, including proposal that it be funded at
5 \$3.4 billion.

6 I want to defer to Jeanna, because she may
7 have -- Jeanna Mission from the state of Missouri. She
8 may have some later figures. It's not likely that it's
9 going to be funded at the 3.4. I think we would be lucky
10 if we hold the funding that we currently have, which is
11 right about \$2 billion, which would mean that Missouri
12 would get approximately 40-some million dollars. But I'm
13 going to defer to Jeanna because she probably has some
14 more current information.

15 CHAIRMAN GAW: Jeanna, I don't know that
16 you've been sworn in, and I don't know if it's necessary
17 or not, Judge, since I'm really on the fringe here, but
18 whatever you wish to do.

19 JUDGE MILLS: Why don't you come forward
20 and we'll swear you in just so that all the formalities
21 are covered.

22 (Witness sworn.)

23 JUDGE MILLS: And if you could please
24 identify yourself, spell your name and tell us who you
25 work for.

1 MS. MACHON: My name is Jeanna Machon,
2 J-e-a-n-n-a, M-a-c-h-o-n. I'm an assistant deputy
3 director for the Family Support Division, and I oversee
4 the LIHEAP program.

5 I'm kind of like Jackie, there is no
6 definite answer to what the '05 situation looks like for
7 the appropriation for the LIHEAP program. I know there
8 has been conversation with your staff and our staff and
9 with the Governor's Office and with Washington. There is
10 a recommendation of the 3.4 billion. We have supported
11 that increase.

12 And the situation now would be, is if they
13 kept it level, the increase that the president has put in
14 his is only increasing in the emergency funding. It's a
15 steady level for the regular base award. There is an
16 increase in the emergency funding.

17 What that will mean, figures this year
18 were -- we stayed current to where we were last year.
19 We did see an increase in the average amount that we were
20 paying in bills, which means -- it's not meaning that we
21 saw more people. We actually saw less people, but we saw
22 more people who were under the 125 percent. We saw lower,
23 the lower, meaning between the zero and the 100 percent
24 income level. So that is a concern to us, and we will not
25 have those figures until probably another month because we

1 just ended the program.

2 So if we got the higher increase and we got
3 the more money, because currently Missouri is getting
4 \$40.1 million of this, we would have more money to be able
5 to do energy crisis, we would be able to have more money
6 to do regular, and again, depending upon what that
7 increase is and the price gases and so forth, there may be
8 some things for other programs.

9 CHAIRMAN GAW: Okay. Thank you. And I
10 might ask the utility companies who are present if they
11 have any different information. Thank you, Jeanna.

12 MR. PENDERGAST: Your Honor, the
13 \$3.4 billion proposal sounds familiar to me. I believe
14 that's an amount that the American Gas Association is
15 actively pursuing in order to try and expand the amount
16 that would be available.

17 And the only other comment I would make is
18 that, in addition to what's available from the federal
19 level, we've had a number of discussions about trying to
20 be more aggressive in pursuing state appropriations as
21 well. As you may recall, a few years ago they had, I
22 think, 5 million appropriated for Utilicare at the state
23 level.

24 CHAIRMAN GAW: Yes, sir.

25 MR. PENDERGAST: Not all of it got spent.

1 But we think it makes sense to go ahead and join together
2 and really see, particularly as the budget situation may
3 be improving, and find out if some of that appropriations
4 might be available to help us out in that particular area,
5 and perhaps also look at local sources of revenue.

6 As you know, most of us pay gross receipts
7 taxes. Those gross receipts taxes tend to go ahead -- or
8 revenues at least go up as bills go up because of higher
9 gas prices, as bills go up because of increased usage, and
10 they're now at levels that are significantly above where
11 they've been in the past, and perhaps it would make sense
12 at some point to develop some sort of proposal that would
13 allow a portion of that excess amount at least to be used
14 for a program of this nature.

15 So those are all things that we're taking a
16 look at and seeing if there's some way to move forward
17 with them.

18 MS. HUTCHINSON: Commissioner Gaw, I'd like
19 to respond to the second part of your question, which was
20 are we actively working toward that end, and I'd like to
21 say that the community action agencies are actively -- are
22 always actively working by -- through our national office
23 we are feeding them information on cases and things that
24 we're seeing on the local level so that our national
25 lobbyist is able to have accurate information.

1 We also through the Committee to Keep
2 Missourians Warm make sure that we send letters out in
3 support of LIHEAP. So it's an ongoing process that we go
4 to to make sure that the national folk, the National Fuel
5 Funds Network and the National Community Action
6 Association have information from community action
7 agencies around the country on what the status of things
8 are in their local communities so that they will have that
9 information as they work for us on the national level.

10 CHAIRMAN GAW: Okay. And just refresh my
11 memory here. I think it was said earlier. The
12 appropriation amount for last year compared to the amount
13 that's being advocated for this year, can you give me
14 those two figures?

15 MS. HUTCHINSON: It was approximately
16 2 billion last year, and we're asking for 3.4 billion,
17 which is the amount that was asked for last year. I don't
18 expect that it will be funded at the 3.4 billion, although
19 I would love to see that happen. It would allow the State
20 to increase the income guideline from the poorest of the
21 poor and serve families at 150 percent of poverty
22 possibly, or it would provide more assistance as utility
23 bills rise to those families who are struggling right now
24 and will soon not be able to afford their utilities, those
25 are sort of on the margin.

1 CHAIRMAN GAW: Is it accurate to say that
2 the funding levels for LIHEAP over the last three or four
3 years have been fairly level?

4 MS. HUTCHINSON: Yeah, I would say over the
5 last three or four years it's been level, except last year
6 there was no emergency funding, and the lack of that
7 emergency funding means that -- meant that there was about
8 a \$300 million cut. It's not a huge cut, but it did
9 result in some reduction of availability of funds.

10 CHAIRMAN GAW: And I might ask Mr. Wood, in
11 that three or four year span when we've had sort of level
12 funding in LIHEAP, what the price of natural gas has done.

13 MR. WOOD: The price of natural gas started
14 in the range of between 2 and \$3 per thousand cubic foot,
15 and over that time frame we've seen the price of natural
16 gas go up to an average of over \$6 per thousand cubic
17 feet. And it's not just winter/summer where we have the
18 higher price in the winter.

19 We're also seeing higher prices in the
20 summer now, which are impacting more expensive gas into
21 storage, which then kind of becomes a double whammy in the
22 winter. You no longer have some of that cheaper gas that
23 was put in in the summer to get to in the winter. You
24 have a year-round more expensive natural gas problem.

25 CHAIRMAN GAW: Mr. Coffman?

1 MR. COFFMAN: I wanted to make a quick
2 comment. Perhaps I should be sworn in.

3 (Witness sworn.)

4 JUDGE MILLS: Thank you. Please proceed.

5 JOHN COFFMAN testified as follows:

6 MR. COFFMAN: John Coffman, Public Counsel.
7 I just wanted to note that over the years we have worked
8 an awful lot in advocating for adequate LIHEAP funding as
9 well as some additional supplemental state funding. We've
10 worked with Jackie Hutchinson and a variety of parties
11 that work with the Committee to Keep Missourians Warm and
12 the utilities, and particularly I must mention Laclede Gas
13 Company who's done a lot of work, and I certainly am
14 intrigued with Mr. Pendergast's idea about the gross
15 receipts tax.

16 The reason is that the difficulty in
17 finding some state funding mechanism that's appropriate is
18 that we're a balanced budget state and we can't predict
19 what the need's going to be next winter. We can't predict
20 what the weather's going to be and we can't predict what
21 the gas prices are going to be with much certainty.

22 And so in the one year that I can remember
23 recently where we got significant appropriations -- and
24 for many years we've been advocating \$5 million additional
25 state funding. We actually got that in the 2001 year, and

1 it wound up not being for the most part used and lapsed
2 back to the State because of what happened after that.

3 And it's -- we don't have a mechanism that
4 has been acceptable to the Legislature to allow the
5 Governor to release emergency funding, and I think that's
6 really the deficiency, because in most years LIHEAP money
7 doesn't stretch far enough, the program has to close
8 before the end of the winter, and we really ought to be
9 finding some way to address the unanticipated cold weather
10 or high gas price in the winter.

11 And I know we're kind of getting into the
12 second half of the tax force's mission, but that's really
13 the challenge. It's really hard to predict whether or not
14 what's available will be adequate.

15 CHAIRMAN GAW: Mr. Eames?

16 MR. EAMES: Very briefly, Chairman Gaw.
17 The reason no one knows what is going on is they --
18 Republican leadership in the Senate do not have the 60
19 votes to pass the President's budget. I don't expect the
20 budget to be passed until after the election and those
21 results are known.

22 CHAIRMAN GAW: Thank you. Thank you for
23 that.

24 Let me go to the issue of -- do we have in
25 front of us the range of what -- I know the task force has

1 looked at this -- the range of what other states do? Is
2 that -- do we have that here?

3 MS. HUTCHINSON: I have that document, but
4 I only have one copy.

5 JUDGE MILLS: I believe Mr. Wood has
6 copies.

7 CHAIRMAN GAW: Have you already provided
8 that to us or not? Could that be provided?

9 JUDGE MILLS: Yes.

10 MR. WOOD: May I approach?

11 JUDGE MILLS: Yes, you may.

12 CHAIRMAN GAW: And I wonder, Mr. Wood, if
13 you could try -- I mean, fairly briefly, if you could give
14 me just a synopsis of the range of different things states
15 do from nothing to states that probably have the most --
16 most protections.

17 MR. WOOD: There are states such as
18 Colorado, California where there are no special seasonal
19 protections. There's no identified groups of customers at
20 greatest risk. And on the other end of that range you
21 would have, I think, like Illinois you can look at,
22 32 degrees in total ban. When below 32 utilities must
23 offer payment plans.

24 And then you'll notice throughout the -- on
25 the right-hand column under seasonal policy you'll see

1 quite a few states that identify FPG or federal poverty
2 guidelines, and those states have different -- some of
3 them have USF-type programs for energy utilities. Some of
4 them have meter charges. Some of them have utility
5 implemented surcharges or something that's considered in
6 their rates to create funds. And some of them have our
7 current regulatory structure but have some recognition of
8 those federal poverty guidelines on connection or
9 disconnection of customers under certain temperatures and
10 times of the year.

11 CHAIRMAN GAW: The Missouri -- current
12 Missouri rule on shutoffs, does it have any tie other than
13 to temperature in regard to ability to pay or special
14 category?

15 MR. WOOD: In terms of cutoff moratorium?

16 CHAIRMAN GAW: Yes.

17 MR. WOOD: It's tied to the 30 degrees
18 Fahrenheit. There are some add-- there's not additional
19 federal poverty guideline recognitions. There are
20 recognitions in terms of additional notice protections
21 before a customer can be disconnected if they're elderly
22 or disabled, but there's not a poverty guideline or
23 provision that those customers not be disconnected during
24 the winter.

25 CHAIRMAN GAW: And the other states that

1 have either temperature guidelines or just outright
2 moratoriums from certain time periods to certain time
3 periods, do they generally have some additional criteria
4 for income levels or special category or receipt of
5 assistance? Are they tied together in those other
6 states?

7 MR. WOOD: Let me see if I understand the
8 question. Jackie, maybe you're --

9 MS. HUTCHINSON: I'm waiving my hand. I
10 want to answer that.

11 MR. WOOD: I haven't done a study to say
12 28 of the states do this, because really frankly when we
13 started trying to do that, the states are really all over
14 the board. But you do see some con-- you know, there's a
15 fair number of states that identify federal poverty
16 guidelines and use those as a mechanism, and many of the
17 states that have that you can look at, as you've heard,
18 some indications, 13 states having temperatures of. I
19 would say there's a lot more states that have references
20 to federal poverty guidelines than those that reference
21 temperatures.

22 MS. HUTCHINSON: There are 22 states -- I
23 believe that is an accurate number -- that have some
24 reference to inability to pay built into the cold weather
25 rule, and there are various different ways of determining

1 inability to pay from people who receive TANIF, SSI,
2 Social Security, people who receive LIHEAP, people who
3 receive weatherization. It varies from that to varying
4 different percentages of income, 125, 130 percent, 150, I
5 think in one case even higher than that.

6 I think that the 22 states who have tackled
7 the issue of inability to pay have had it right, and those
8 of us who opted for temperature moratoriums, it was
9 because we deemed it too difficult to figure out who the
10 people who actually need protecting are. In many of the
11 states, they simply have people self declare themselves to
12 be indigent and do some kind of sampling, and I think that
13 is the most cost-effective way to do it is to have an
14 income chart.

15 In Wisconsin the poverty index is built
16 into their rule, and so when a person calls the utility,
17 they ask them what is your monthly income, and that person
18 would give them a figure, and they look at the chart and
19 say, okay, you're eligible based on your income.

20 I think that -- I recognize that it can be
21 very complicated. It can go from there to very
22 complicated. However, the other option if it gets too
23 complicated and too costly is to simply protect everybody,
24 have some kind of blanket-type protection so that we make
25 sure. I'd rather protect some extra people who don't need

1 it than not to protect the people who do need it.

2 CHAIRMAN GAW: In the states that utilize
3 eligibility for LIHEAP or they've either applied or
4 they're receiving LIHEAP funding, I saw Indiana, maybe
5 North Carolina. North Carolina has elderly, disabled,
6 customers who are eligible for energy crisis assistance.
7 Are those things -- are those things difficult to
8 determine, using those categories?

9 MS. HUTCHINSON: I think basing it on
10 LIHEAP eligibility or receipt of LIHEAP in states where
11 LIHEAP is a bigger pot of money and also there's some
12 state moneys in LIHEAP, so LIHEAP is a big pool of money
13 which covers quite a number of the low-income people, and
14 so that is -- it's entirely appropriate.

15 But in a state like Missouri where only
16 approximately 30 percent of the households are going to
17 receive LIHEAP, then basing it on receipt of LIHEAP or
18 even LIHEAP eligibility would mean that somebody's got to
19 determine eligibility on people that can't be served.

20 CHAIRMAN GAW: And that's not happening
21 right now?

22 MS. HUTCHINSON: It's not happening, and as
23 a matter of fact, it probably can't happen. It's
24 something that is impossible to happen. So I think that
25 there are different circumstances in some of the states

1 where there are a lot more dollars included in the LIHEAP
2 pool and they're able to protect -- they're able to
3 protect a larger number of people.

4 I would think that a -- I would not like to
5 see it based on people who receive LIHEAP or people who
6 are qualified for LIHEAP. I would prefer to see some type
7 of declaration of poverty and it be based on a percentage
8 of the poverty index.

9 CHAIRMAN GAW: How do you establish that, I
10 mean administratively? What difficulties would that
11 entail?

12 MS. HUTCHINSON: Well, I think that it's
13 only as complicated as you like to make it. For instance,
14 you could -- if we start with the premise that people are
15 going to be relatively honest, then like some other
16 programs, you know, when people come in to our office
17 looking for food, we have them self declare their income.
18 I mean, we don't tell them to go away and get their check
19 stubs and come back the next day.

20 So it's only as difficult -- however, if
21 you're applying for other state or federal programs, you
22 would -- you would be able to -- for instance, if you said
23 TANIF eligible households, well, that's an easy thing to
24 look at. People have a letter says they get it, or
25 households that get SSI, they have a letter. It's all

1 written there how much they get every month. So those are
2 easy things to base it on.

3 But when we start, you know, looking at
4 sitting down, you know, determining the eligibility, it
5 can be complicated if we decide that we think people are
6 going to cheat. I think some kind of percentage test will
7 tell us, you know, verify a certain amount of those, and
8 that can be done in conjunction with the State and the
9 community agencies. We can verify a certain percentage of
10 them. And I think my recommendation would be some self
11 declaration letter that people sign that says, you know,
12 my income is X number of dollars.

13 CHAIRMAN GAW: Do any of the utilities have
14 any idea how many individuals that may be qualified under
15 the current cold weather rule on the temperature basis
16 that would not meet certain income levels if we set them?
17 I know that's too broad a question to give a specific
18 answer to. Is there a category of individuals who have
19 the ability to pay but just don't?

20 MR. BYRNE: Your Honor, I mean, we don't
21 keep track of that because it's not relevant under the
22 existing cold weather rule, but we suspect there are, you
23 know. And I think -- I mean, the problem is, I'd like to
24 believe everybody would tell the truth, but I'm just
25 afraid if it was self certification, you might have a lot

1 of people who, you know, don't tell the truth. I don't
2 know, but --

3 CHAIRMAN GAW: If they're not -- I mean,
4 there is no requirement now under the current rule.

5 MR. BYRNE: That's true.

6 CHAIRMAN GAW: So I guess to the extent
7 that there's a narrowing of the pool of eligible people,
8 I'm just trying to see whether or not that makes any sense
9 without getting into a lot of administrative burden that
10 really is more costly because of having to go through it.
11 Mr. Coffman?

12 MR. COFFMAN: Yes. To address that, I
13 think if you then further took the step of allowing some
14 sampling to occur, you would then deter those folks who
15 might be inclined to not tell the truth, to know that they
16 might be the subject of an audit or sampling. And this is
17 an approach that we've talked about at the Missouri
18 Universal Service Board as an appropriate technique to
19 determine eligibility for low-income telephone service,
20 self certification with sampling type auditing.

21 We just don't think the Commission would
22 need to go into it with the assumption that very many
23 people would be cheating.

24 CHAIRMAN GAW: Mr. Pendergast?

25 MR. PENDERGAST: Yes, Chairman. One

1 statistic we do have is that approximately 66 percent of
2 the cold weather agreements that we enter into with
3 customers are with non-heating-assistance customers. Now,
4 that doesn't really tell you where their income levels are
5 because that just may be because there weren't sufficient
6 funds available to serve more that would have otherwise
7 qualified or it could be due to other factors. But we
8 have a substantial number of customers that don't have at
9 least that certification of having gone through and trying
10 to receive some sort of energy assistance.

11 I think you've hit on it, and it is a
12 tradeoff between how administratively burdensome something
13 would be and whatever particular savings you would bring
14 to the program both for other customers as well as the
15 utility by eliminating those customers who really don't
16 need to go ahead and use it but do because it's there and
17 it's one way to go ahead and defer payments.

18 That's one of the things we hope to explore
19 with the suggestion we have on the one recommended set of
20 changes to the rules you have before us is to explore it
21 and see if there is something practical that we can come
22 up with that would work.

23 CHAIRMAN GAW: Is it accurate -- I can't
24 remember who said it earlier -- that the utilities
25 currently have internal policies about cutting off seniors

1 and perhaps some that are disabled?

2 MR. PENDERGAST: Your Honor, we make every
3 effort to go ahead and avoid disconnection of people who
4 have registered as disabled, registered as elderly. I
5 wouldn't go so far as to say it's a written policy or
6 anything of that nature. I guess our concern about, well,
7 if you're already doing something like that, why not go
8 ahead and put it in the rule, and I think the primary
9 concern there is that it might encourage other folks,
10 particularly if the rule is broadly written where anybody
11 that has somebody that's 60 years or older in their
12 household or anybody that has a child that's under three
13 years of age, to where we'd just be exacerbating the
14 availability of these mechanisms to people who really
15 don't need it and cost would go up significantly.

16 CHAIRMAN GAW: And I understand that
17 concept. I guess what I'm looking for here is if part of
18 the problem is the wording of the language and the breadth
19 of households covered, are there suggestions that you-all
20 have tossed around about language that could be, I don't
21 want to say acceptable, but more palatable in that regard,
22 in regard to seniors and disabled?

23 MS. HUTCHINSON: I clearly wrote into my
24 recommendation low-income elderly and seniors, and that's
25 not -- you know, people who are disabled or elderly, it's

1 not very hard to document that they are low income. They
2 will have usually one source of income, Social Security,
3 or maybe two, Social Security and SSI. It's not hard to
4 document that they are low income, the elderly and
5 disabled. We can clearly identify them. I don't -- I
6 don't think it's a difficult task.

7 Children under five is a different -- a
8 little bit more challenging to identify those and a
9 little -- a few more issues. And for that reason, I
10 limited it to elderly and disabled until we can further
11 discuss.

12 I think that the long-term affordability
13 will be the place that we can iron out some of those
14 things around children, although I think it's just as
15 important to protect them. I think that there are issues
16 that will make it a little more complicated to do so.

17 MR. BYRNE: Your Honor, to answer your
18 question, from Ameren's standpoint, we are conscious of
19 who's registered as elderly and disabled. I can't go so
20 far as to say we've never cut someone off in that
21 position, but I think we make special efforts on their
22 behalf.

23 CHAIRMAN GAW: And I'm looking to try to
24 see whether or not you-all have some form of narrowly
25 crafted language that might -- that you might have tossed

1 back and forth. Did you ever get to that point in the
2 task force or did everybody just lock down on their spots
3 on this particular issue?

4 MS. O'NEILL: Commissioner, we did talk
5 about trying to outline these criteria quite a bit, and
6 about the closest we were able to get in the context of
7 getting ready for something for presentation on this rule
8 because of our time limitations was the language that the
9 task force agreed to on the additional notification
10 requirements for disabled and elderly. I think we all
11 recognize that those types of award letters that are
12 discussed in that language would be helpful.

13 We've also had some discussions, not as
14 detailed, and also in line with presentation we had from
15 Roger Colton, and we've all had a chance to start wading
16 through his study. We haven't had a chance since
17 everybody's had a chance to read it to really sit down and
18 discuss that. But, you know, talking about levels of --
19 what level of percentage of federal poverty guidelines
20 would be appropriate, discussion about 100 percent really
21 being too low, 125 being what LIHEAP eligibility generally
22 is in Missouri, that a group of people between 125 percent
23 and 150 percent of poverty guidelines with raising energy
24 costs probably at risk, but haven't really decided what to
25 do about that, and also recognizing that energy burden

1 diminishes the higher the income level is, whatever that
2 is.

3 But I do think that we have some
4 commitments from most of the people who participated in
5 those task force meetings to look at that in long-term
6 energy affordability. One of the things that bogged us
7 down, my recollection, is that once you get into
8 verification, especially with small children and families,
9 is who's going to do those verifications and who's got the
10 funding to do those verifications, and privacy concerns
11 with, like, Social Services and that sort of thing.

12 CHAIRMAN GAW: Mr. Wood?

13 MR. WOOD: And where the salary information
14 is, who has it, who's -- and who's allowed to have it, and
15 there's some administrative concerns between family
16 support and the utilities as you might imagine. There was
17 a lot of discussion on procedures to go about sharing that
18 information, and where we ended up with was the expanded
19 registration for disabled and elderly customers.

20 Like Ruth was indicating, what we ended up,
21 just one point in time in that language we had sketched in
22 ideas of TANIF and some of the ways to identify low-income
23 customers that Jackie had mentioned, but that was taken
24 out as something we could agree to in terms of expanding
25 the registration. But it was not then taken over the

1 fence to actually create a moratorium.

2 CHAIRMAN GAW: Is there -- is there any
3 possibility that as -- I see some of this as an
4 incremental process from what you are describing. Is
5 there any possibility at this stage to see some common
6 denominator on what the current utility policy is in
7 regard to seniors and disabled groups that could be at
8 this point in time as a part of this rulemaking by all the
9 parties without causing a huge controversy? I know that's
10 difficult to answer, but --

11 MS. HUTCHINSON: I thought at one point we
12 were very close to agreeing to a moratorium for elderly
13 and disabled in our negotiations. However, it was sort of
14 tied to some other things that the utilities wanted
15 that -- and I think it may have been the funding mechanism
16 or something that we could not agree on, and so it was
17 taken off of the table for discussion, not because
18 everybody at the table did not agree that it was a good
19 thing, but because there were other things that, you know,
20 that we weren't able to give.

21 CHAIRMAN GAW: I'm trying to see, I mean,
22 if the policy of the companies is currently not to shut
23 off certain categories of individuals and you're not
24 really increasing the pool that's there, why that's really
25 a cost item.

1 MR. BYRNE: Because I think more people
2 would register if in the rule --

3 CHAIRMAN GAW: If they knew about it?

4 MR. BYRNE: Yes.

5 CHAIRMAN GAW: Okay. Well, let's assume
6 that -- let's just make the assumption that more people
7 sign up, would sign up. Is that a reason not to do it?

8 MR. PENDERGAST: I think in and of itself,
9 Commissioner, or Chairman, it's not a reason not to do it,
10 but I do think that there are other issues involved with
11 it, and one of them is, quite frankly, the cost recovery
12 one. I mean, in the figures that we gave you earlier we
13 didn't even try to quantify what the impact would be of
14 having what is in effect a moratorium throughout the
15 entire winter and no opportunity to go ahead and really
16 collect through the normal means for various people that
17 qualify under various scenarios, and I honestly don't know
18 how many people might do that.

19 But if there was to be some sort of press
20 notification that said if you have somebody who's 60 years
21 old in your home now, you've got a moratorium throughout
22 the entire winter, if you have somebody who's five or
23 three in your home, you've got a moratorium throughout the
24 entire winter, my suspicion would be that some folks would
25 take advantage of that. My suspicion would be that not

1 all of those people would be ones that truly need it.

2 But whether they are or not, we don't have
3 a mechanism for recognizing the financial consequences of
4 that. I do think it's something that we ought to take a
5 look at particularly in the context of this means testing
6 and the long-range affordability. I think those were some
7 of the concerns that stopped us from reaching an agreement
8 on that.

9 MR. BYRNE: And I do think, too, there's
10 not necessarily -- in terms of providing additional
11 notification, I think there's a clear connection in our
12 mind between elderly people benefiting from better notice
13 and maybe disabled people benefiting from better notice.
14 Particularly in the context of the elderly people, though,
15 they might fall into any income category. You know, that
16 doesn't tell you whether they're in need of assistance or
17 not.

18 CHAIRMAN GAW: Mr. Coffman?

19 MR. COFFMAN: Thank you. Just wanted to
20 briefly respond to the comments about cost recovery on
21 this. First just let me say that this morning is the
22 first time that we have seen the estimates that Laclede
23 Gas Company's presented you in Exhibit 1, and I'm glad
24 that Laclede has, I guess, put some estimates down on
25 paper. There was several requests for information during

1 the task force since May about what these costs are, and I
2 certainly understand how difficult it is to come up with
3 assumptions and estimate what the impact is.

4 But I wanted to make sure that the
5 Commission was -- understood that these numbers have not
6 been verified by us or, as far as I know, any other party.
7 They haven't been reviewed to understand the work that
8 goes into these numbers and what the particular
9 assumptions are. And it is possible, and sometimes
10 occurs, that there are differences of opinion about what
11 other offsetting factors may occur that go into what the
12 bottom line impact might be.

13 I do disagree directly with Mr. Pendergast
14 that there is no mechanism that is available to allow the
15 utility to recover costs of the rule change. I believe
16 the accounting authority mechanism is appropriate, and as
17 we stated before, we do not object to that extraordinary
18 mechanism being used to allow recovery in a subsequent
19 rate case of costs related to changes in the rule that
20 adversely impact costs to the utility, and that, as you
21 know, allows more than a 12-month period of expense to be
22 recognized in the normal rate case process.

23 Of course, it does not allow Laclede Gas
24 Company or a utility to immediately put their estimate of
25 what the cost is or add some surcharge to the bill, but I

1 believe it does protect them from the cost making, does
2 protect them if indeed overall the cost is greater to them
3 as a result of some rate change.

4 And we continue to say we would support an
5 accounting authority mechanism and believe that together
6 with this account that they could collect the information
7 about what that cost to change is with respect to the
8 rule, and the rule's current provision that ensures that
9 the utility will be allowed to recover costs related to
10 the cold weather rule, it's already in the rule, I think
11 that that is clearly sufficient to ensure that the utility
12 does not suffer adverse impacts.

13 I certainly -- I am sympathetic to the
14 understanding about changing the rules. We may have at
15 least one utility here that is under a rate moratorium,
16 and certainly no one -- I've heard no one here suggest
17 that shareholders or utilities actually out of their
18 pockets fund any low-income protections as a result of
19 this rule.

20 The accounting order should allow them to
21 collect expenses that might be incurred on balance as a
22 result of the changes, and we don't know whether -- what
23 direction all the different factors may change yet and
24 allow those to be collected and that included in the next
25 rate case at an extraordinary manner, or in an

1 extraordinary manner.

2 So just had to make sure that that was
3 clear and make you -- that we believe that we have
4 conceded on behalf of all ratepayers that this is a
5 concession that recognizes that there may be some
6 additional contribution from other ratepayers, to
7 recognize these costs in an extraordinary way, but that we
8 do directly disagree with the utilities' suggestion of
9 some sort of tracking mechanism or surcharge in the
10 meantime and do disagree with the Judge Brown decision
11 that was referenced about revenue neutrality applying to
12 this type of a rulemaking.

13 CHAIRMAN GAW: Mr. Eames?

14 MR. EAMES: Mr. Chairman, I brought this up
15 to the task force, but I think I should bring it up to you
16 early. I don't see how we can possibly evaluate the
17 impact, good or bad, of any energy affordability plan that
18 we would recommend to you without us knowing presently,
19 not by company, but totally in the state what is the
20 uncollectibles, what is the total amount of
21 uncollectibles. Because if it's \$5 million, that's one
22 thing. If it's \$75 million, that's an entirely different
23 story.

24 And as this Commission is aware, the rest
25 of our ratepayers are paying some of that now. Okay. So

1 it's a little disingenuous to say, well, we don't want our
2 ratepayers to pay for low-income people. Well, they're
3 already doing that. The only difference is, is they get
4 shut off anyway. Thank you, sir.

5 MR. PENDERGAST: If I can briefly respond,
6 I don't want to go back and forth here, but it's been
7 mentioned a few times, so I probably should go ahead and
8 respond, about these estimates being provided.

9 We spent a great deal of time and made a
10 huge effort during the task force meetings to try and come
11 to an agreement to a recovery mechanism period regardless
12 of what the cost amounts would be, and some of those
13 recovery mechanisms were one, for example, putting gas
14 cost portion of uncollectibles in the PGA and looking at
15 what your base level in rates was and then increasing that
16 above and below so that you didn't double recover in rates
17 that didn't really require a quantification.

18 And when it became obvious that those
19 weren't going to go anywhere and that nobody was going to
20 go ahead and agree to that, then we came up with the best
21 estimates that we possibly could, and we'd be happy to go
22 ahead and share it with everybody, what the background for
23 those estimates are and what the papers are.

24 And under our proposal we're talking about
25 filing a tariff that would go ahead and propose what kind

1 of increase we think would be appropriate, and that would
2 be subject to review, and, of course, those estimates
3 would be subject to review at that particular time.

4 And, you know, as far as whether or not the
5 AAO is something that we can go ahead and depend upon,
6 when you constantly look at various kinds of recovery
7 mechanisms and you're constantly told that this won't work
8 and that won't work and this won't work, your enthusiasm
9 and confidence that you're going to ultimately be able to
10 recover something tends to go down a bit.

11 And then when you look at how the AAO
12 process has worked in reality where on many items,
13 particularly items like mandated safety costs and that
14 sort of thing, which are of course the kind of caliber of
15 item that we're talking about here, because of various
16 things that have been done as far as recovery periods are
17 concerned and offsets for various items, you maybe wind up
18 collecting 30 cents on the dollar when all is said and
19 done under those circumstances.

20 And as John says, he wants to go ahead and
21 he wants to look at our estimates and see whether he
22 agrees with them. Well, what that means is you keep track
23 of it and somewhere up the line, two or three years down
24 the line, we'll take a look at it and we'll see whether or
25 not we think you should go ahead and get anything. We're

1 not going to agree to it up front. We're not going to
2 establish any standards for how you measure it up front.
3 But somewhere down the road three or four years we'll take
4 a look at it, and maybe in the context of a rate case
5 where you're trying to recover other costs, perhaps we'll
6 go ahead and add a portion of that in there.

7 That's just not a very good mechanism.
8 Like I said, it's like a very inadequate IOU. It tells
9 you, you know, you go buy something or pay for something
10 or do something. Somewhere up the road I may give you
11 some recognition for it or I may not, and if I do, I may
12 pay it back to you over some period of time as yet to be
13 determined.

14 So, you know, if we had a high confidence
15 level that that sort of thing would work, then we'd
16 probably have a different feel for it and a different
17 approach to it, but we just don't.

18 CHAIRMAN GAW: Mr. Fischer?

19 MR. FISCHER: Yes, your Honor. I haven't
20 really spoken up, but I did want to chime in on the
21 accounting authority order problems.

22 JUDGE MILLS: Before you do, Mr. Fischer, I
23 just want to swear you in.

24 (Witness sworn.)

25 JUDGE MILLS: And if you could please

1 identify yourself for the record before you begin.

2 JIM FISCHER testified as follows:

3 MR. FISCHER: My name is Jim Fischer, and
4 I'm here representing Atmos Energy and Kansas City Power &
5 Light Company today. We haven't had any statements,
6 although both companies have endorsed the utilities'
7 comments in written form.

8 On the accounting authority order,
9 obviously seems that that might be a reasonable approach
10 when you first look at it, but then you get down and look
11 at the details and you find out that often accounting
12 authority orders have a provision that you have to file a
13 rate case within a year or 18 months.

14 Atmos had one, for example, where they were
15 going to -- they were mandated to clean up a manufactured
16 gas plant, and they got an accounting authority order to
17 cover these government mandated costs. The only problem
18 was there was also a provision that was put in there that
19 they had to file a rate case within, I believe it was 18
20 months. Whenever they hadn't filed a rate case within 18
21 months, the AAO went away and they didn't get any
22 recovery.

23 Those kind of provisions in AAOs are a
24 problem, and for companies that don't have a rate case
25 pending shortly or may be under a moratorium or in an

1 industry where rate cases aren't coming very frequently,
2 that can be a real problem.

3 CHAIRMAN GAW: Just to specifically address
4 that issue, is the AAO proposal from Staff or Public
5 Counsel one that has -- that's intended to have time
6 limits on it or not?

7 MR. COFFMAN: No, your Honor, not in my --

8 CHAIRMAN GAW: I don't know. I'm just
9 trying to --

10 MR. WOOD: No, your Honor.

11 MR. COFFMAN: The concept, my understanding
12 would be that it would continue to collect the cost until
13 the next subsequent rate case, general rate proceeding.

14 CHAIRMAN GAW: Mr. Fischer, does that help?

15 MR. FISCHER: That would have helped in
16 Atmos' case, but whenever there was this provision there,
17 they didn't file it, and as a result they had to eat those
18 costs. That's just the kind of thing of thing which I
19 think we can negotiate or we can talk about, but in the
20 past it has proven not to be a very acceptable alternative
21 for the companies.

22 MR. BYRNE: And then, your Honor, a lot of
23 times with AAOs your recovery, you know, in other words,
24 even if you get to recover it in a rate case, they will
25 amortize the recovery over 10, 15 years without interest,

1 and, you know, that's another way a big chunk of the money
2 gets taken away from you. I don't know if that would be
3 envisioned in this case or not.

4 CHAIRMAN GAW: Is there an answer to that?

5 MR. COFFMAN: We would certainly be willing
6 to consider some up-front understanding and a shorter time
7 frame than ten years, certainly.

8 CHAIRMAN GAW: Has Staff talked about that
9 internally?

10 MR. WOOD: Yes, your Honor.

11 CHAIRMAN GAW: Give me a response to that.

12 MR. WOOD: One concept --

13 JUDGE MILLS: Can you speak into the
14 microphone, please?

15 MR. WOOD: Certainly. One concept that was
16 discussed was a shorter amortization period, maybe five
17 years or so. And what you would do in that case is take
18 20 percent of the amount in their next rate case, put that
19 into expenses that would be recognized on an annual basis
20 in their rates set from that point forward. We've talked
21 about ideas of the remaining 80 percent being in rate
22 case, having a return associated with it. That approach
23 specifically is to provide some recognition of the time
24 value of money.

25 CHAIRMAN GAW: Mr. Byrne, is that helpful?

1 I'm not trying to get you-all to agree.

2 MR. BYRNE: No, no. That's very helpful.

3 Those are the kinds of things that are much better than

4 the traditional treatment of AAOs.

5 CHAIRMAN GAW: Part of this is an

6 educational process for me to understand how these

7 things -- where the differences are between the parties

8 when you talk about AAOs.

9 Mr. Pendergast, you want to say anything

10 more?

11 MR. PENDERGAST: I think all those kind of

12 things provide some marginal improvement, but the big

13 unknown is, in a typical rate case you go in, you present

14 your estimates, you know, you make the best stab at it you

15 can and you set it and you go forward and you don't look

16 back. And there are some items that are capable of, I

17 mean, putting plant in the ground and you know what its

18 cost is, you can pretty well keep track of it and you're

19 not going to go ahead and be in a situation where there's

20 a lot of dispute as to what it was.

21 But when you're looking at something like

22 this where, okay, what impact did rising gas prices have

23 as opposed to the fact the customer didn't have to do X or

24 do Y, what impact did the weather have, are those factors

25 that are included or not included, you know, it really

1 gives you a situation where you don't agree on the
2 standard and the measurement ahead of time. You've got
3 really no expectation that you're going to go ahead and
4 reach agreement later and you may not get anything for it.

5 And the second issue is, these costs are
6 being incurred today, and what you're talking about is
7 let's defer them, let's accumulate them, and then at some
8 point in the future when you have other costs you have to
9 recover, then we'll go ahead and see if you get to recover
10 some of these costs, too.

11 And, you know, I've been involved in the
12 regulatory process long enough to realize that when you're
13 trying to recover a whole mass of costs, okay, and this is
14 just a portion of it, well, do you ever get to really
15 recover it or is that something that, you know, didn't get
16 built in at the bottom or it got taken away with some
17 other issue.

18 I mean, it's very difficult under those
19 circumstances to ultimately say did I get my money back,
20 and I think that's another concern.

21 CHAIRMAN GAW: Aren't we going to be
22 dealing with that just in the opposite way if you-all are
23 collecting from estimates up front and we're trying to
24 determine whether or not those estimates were accurate
25 after the fact? I mean, isn't this issue going to be

1 there in that scenario also, it's just a matter of who has
2 the money?

3 MR. PENDERGAST: Well, I think my
4 preference would be, your Honor, Chairman, would be to go
5 ahead and be in a situation where when we filed a tariff
6 we'd sit down, we'd provide our estimates, we'd go ahead
7 and provide the assumption for the estimate, we'd go ahead
8 and say why we think this is a reasonable amount and that
9 we would go ahead and, just like we do in a rate case
10 proceeding where we establish these kinds of estimates all
11 the time for all kinds of expense items, we'd all be
12 ultimately able to go ahead and say sign off, yeah, that's
13 a reasonable quantification of what we expect the impact
14 of the rule to be. You'd make a rate adjustment and then
15 you'd be done with it.

16 CHAIRMAN GAW: Couldn't we do the same
17 thing with an AAO process where those determinations were
18 made in advance or not on what the time frame for the AAO
19 was, what the criteria would be from measurement of how
20 much of the costs were attributable to the change in the
21 rule? Don't misunderstand me. I'm not saying that's
22 easy.

23 MR. COFFMAN: Yes, your Honor, we're
24 certainly interested in doing that. It's my opinion that
25 these costs should be given extraordinary treatment, as I

1 said, and I think that we would be more than willing to
2 try to come to terms on some of the details that might
3 provide greater assurance. And unlike many other
4 situations that involve acts of God or other deferred
5 items, we here have a rule that says they shall be allowed
6 to recover the costs of the rule, and I just would -- just
7 am surprised that on this particular item there is as much
8 opposition. I trust that they have their sincere reasons
9 why they are distrustful of an accounting authority order.

10 All I can say is from a consumer
11 perspective there's a lot of distrust of surcharges, and
12 the reason that you hear us so often talk about the
13 prohibition against single-issue ratemaking is that it is
14 so important in our mind that consumers only be charged
15 for the reasonable cost of service on an overall basis.

16 And in so many situations we see that
17 proposals for single-issue adjustments or surcharges are
18 proposed that do not take into account considerable
19 offsetting impacts on revenues and other expenses, and it
20 is why we think that it is only fair that rates be changed
21 in the general rate case where everything is on the table.
22 That's just our overriding concern.

23 CHAIRMAN GAW: Okay. Let me move on. Go
24 ahead if you have something else.

25 MR. COFFMAN: That's fine.

1 CHAIRMAN GAW: Is there -- do any of the
2 states have any requirement during the periods of
3 moratorium, whatever they are, that there at least be some
4 minimum payment being made on the monthly bills?

5 MS. HUTCHINSON: Most of the states that
6 have long-term affordability plans in place, and there are
7 many, I don't know the exact number of ones that do, they
8 have required payments. And one of the figures that Roger
9 Colton gave was that 85 percent of the people -- I believe
10 he's talking about New Jersey -- make those payments every
11 month.

12 So the utilities indeed collect more money
13 when people have payments that reflect their ability to
14 pay, and their collection costs and all of that do indeed
15 go down.

16 CHAIRMAN GAW: And I understand what
17 you're -- I think what you're saying. I guess what I'm
18 asking, currently there is no requirement of any payment
19 under our cold weather rule in order to be eligible for
20 the moratorium on cutoffs, on the temperature cutoffs,
21 right?

22 MS. HUTCHINSON: Right.

23 CHAIRMAN GAW: Is there any -- has anyone
24 discussed the possibility of some minimum amount, that
25 there has to be some minimum amount that you have been

1 paying toward your bill, or is that -- I don't know
2 whether that's --

3 MS. HUTCHINSON: We actually discussed
4 that, what, several years ago in the Committee to Keep
5 Missourians Warm. We discussed our revision to the cold
6 weather rule, and I believe that we came up with a figure
7 of \$40. And if I can remember correctly, that was based
8 on an estimate based on 6 percent of the income and the
9 average income for the households in the state of Missouri
10 at that time, and 6 percent of that, so we came up with
11 some figure that I think was 35 or \$40. I can't remember.

12 But it was based on the average income of
13 low-income households that are receiving LIHEAP, which was
14 at \$600, and then -- I think it was 600 a month. I think
15 it was a payment of \$40 would be an average affordable
16 payment to most low-income households.

17 CHAIRMAN GAW: Did you support that at the
18 time or do you recall?

19 MS. HUTCHINSON: I don't think we got
20 anywhere with it. I certainly did support it, but I don't
21 think we got any consensus, I don't think, in our
22 Committee to Keep Missourians Warm. So it kind of lost
23 its steam with the utility members.

24 CHAIRMAN GAW: Anyone else want to comment
25 on that?

1 MR. WOOD: I would note that Roger Colton
2 in his presentation to the task force in St. Louis several
3 weeks ago talked at length about affordability programs
4 and how much customers would pay, but it wasn't really
5 connected to a disconnect type provision. It was just a
6 matter of affordable programs, the funding, the different
7 methods of collection and distribution of funds and
8 eligibility. But it didn't have that tie you're noting
9 there, although that's an interesting thing to think
10 about.

11 CHAIRMAN GAW: Anyone else want to --
12 that's heard that discussed or has any -- I'm not really
13 looking at it as a major contribution toward the bill
14 reduction as I am as an acknowledgement that that bill is
15 actually there.

16 MS. HUTCHINSON: I would just like to make
17 one other comment. When we talk about cold weather rule,
18 I see it as a method to protect the health and safety. So
19 if you talk about health and safety issues, once you begin
20 to impose payment limits, you take away that protection
21 for some innocent people. For instance, if the mother
22 didn't pay the \$40 a month, then the three children get
23 frostbite, you know.

24 And so it is a concern. While I think that
25 I'd like to see some element of responsibility, knowing

1 that when April 1 gets there your utilities, you know,
2 will be cut off if you don't make any payment, coupled
3 with trying to get an affordable payment to me, you know,
4 is the answer. If we get an affordability plan, then more
5 people just stay on all year round and less people need
6 the protection of the cold weather rule.

7 So I would rather us work on that through
8 the affordability plan so that we're actually getting
9 people accustomed, back accustomed to paying their bills
10 and giving them an affordable amount to pay and not do
11 that in the context of emergency protection for the
12 elderly and for children and that kind of thing.

13 CHAIRMAN GAW: All right. Thank you,
14 Jackie.

15 Is there -- have the utilities currently,
16 can you give me a gauge of whether or not the disconnects
17 that you currently have, those who are not hooked up
18 currently but who normally would be customer residences,
19 are we on the high side of normal, low side, average?
20 Does anyone know where we are currently? If you don't,
21 that's fine.

22 MR. PENDERGAST: I've got our fellow that's
23 in charge of credit and collections here, and I think he's
24 going to be in the best position to answer that. Paul.

25 JUDGE MILLS: If you come on up to the

1 podium I can swear you in and you can identify yourself.

2 (Witness sworn.)

3 PAUL WILDEISEN testified as follows:

4 MR. WILDEISEN: They're running about

5 normal, not above average. We typically do about 30,000

6 disconnects a year. We're on pace to do so this year.

7 CHAIRMAN GAW: Anybody else have any --

8 JUDGE MILLS: Before you leave the podium,

9 could you state your name and spell it, please.

10 MR. WILDEISEN: Paul Wildeisen,

11 W-i-l-d-e-i-s-e-n.

12 JUDGE MILLS: Thank you.

13 CHAIRMAN GAW: Mr. Wood?

14 MR. WOOD: I was wondering if it might be

15 helpful for the record to have the total number of dollars

16 in the state in arrears for electric and natural gas

17 utilities and the total number of electric and natural gas

18 disconnections.

19 CHAIRMAN GAW: I think that would be

20 helpful to me.

21 MR. WOOD: From an NRRI survey on

22 residential arrearages and terminations, this provides

23 some data through March 31st of this year. Question 3 on

24 that survey was, what is the total dollar amount of

25 electric residential accounts in arrears as of March 31,

1 2004? The amount is \$40,335,454. And what is the total
2 number of electric residential terminations/disconnections
3 for the period April 1st, 2003 through March 31st, 2004?
4 It's 117,052.

5 And then on the natural gas side, what is
6 the total dollar amount of natural gas residential
7 accounts in arrears as of March 31st, 2004? It's
8 \$37,307,810. And then what is the total number of natural
9 gas residential terminations/disconnections for the period
10 March -- no, April 1st, 2003 through March 31 2004? It's
11 61,135 customers.

12 CHAIRMAN GAW: Do you have figures for past
13 years?

14 MR. WOOD: No, I do not. What I have is
15 just for that time frame from this survey.

16 CHAIRMAN GAW: Ms. Hutchinson, do you have
17 any information on my question?

18 MS. HUTCHINSON: I'd just like to comment
19 that I don't know what average is, but last winter, going
20 into the winter in the city of St. Louis, we had
21 approximately 7,000 households with service off in
22 November. That is up from prior to 2001 where we had
23 approximately -- we would have approximately 3 to 4,000
24 households. The winter right after 2001, there were over
25 10,000 households with service disconnected. So that

1 number in the past winter was down some. But we haven't
2 gotten any figures.

3 I would -- I would estimate that there are
4 probably going to be 7,000 households in the St. Louis
5 area that have no utilities, and that is not what I would
6 consider to be average. Maybe cutoffs as a whole are
7 running average, but cutoffs for low-income people are
8 certainly up, and we are seeing those households.

9 CHAIRMAN GAW: Thank you, Jackie. In
10 regard to the issue of how much should be required to be
11 paid before there is a reconnection, Mr. Pendergast, can
12 you give me -- I know you hit on this, but I'm interested
13 in knowing, again, what your flexibility on this based
14 upon whether or not there's funding for the cost of it.
15 Can you revisit that for me? I don't want to spend a lot
16 of time on it.

17 MR. PENDERGAST: Sure. I think the simple
18 answer is, if there's a funding mechanism, flexibility
19 springs eternal at least. I shouldn't be flip about it.
20 We are concerned about the impact of our other customers
21 regardless who's paying for it, and I think you do owe
22 them a responsibility to make sure that their bad debts
23 don't go up. And if you look at it from the standpoint of
24 what the cost is for moving it down to the 50 percent and
25 the \$600, I think we pretty well captured that. And I

1 think you also have some flexibility if you would like to
2 do a revenue neutral basically rate design. We came up
3 with the 15 percent for the initial payment and then
4 \$880.

5 That's not necessarily cast in stone. If
6 you went ahead and collected a little bit more, like 20
7 percent up front for somebody that's coming in on the
8 first time, that would make additional money available to
9 lowering that 80 and \$800 by some. We thought that
10 struck a pretty good balance where we were, but that
11 doesn't mean that it couldn't be adjusted, and we can
12 certainly give you some numbers to do that if that would
13 be helpful.

14 CHAIRMAN GAW: Anyone else? Mr. Byrne?

15 MR. BYRNE: Yes, your Honor. We've taken a
16 look at the proposal that Laclede's come up with, and we
17 think it's the same for us. That would work for us. That
18 would be close to revenue neutral or close enough to
19 revenue neutral that we're supportive of it if it's
20 something the Commission wants to do.

21 CHAIRMAN GAW: Okay. Ms. Hutchinson, tell
22 me again what your response is to that.

23 MS. HUTCHINSON: That the people who are
24 first-time recipients or asking for cold weather rule for
25 the first time they're off are usually people who are

1 unemployed, they've had a drastic drop in income. Some of
2 them may not qualify for assistance, and getting their
3 service on in that scenario for \$200 is affordable to
4 them. Some of them don't want to apply for assistance.
5 They just need to be able to come up with a couple hundred
6 bucks, get their service on, and have the ability to pay
7 their bills themselves until they get caught up.

8 If we double what they need to pay to get
9 back on, then that is going to in a lot of instances put
10 them in the situation where they will need to apply for
11 assistance, thereby lowering the amount of assistance,
12 because the energy assistance is a static pot. There's
13 not more money coming because there are more people
14 coming.

15 And so if those who could have come up with
16 \$200 on their own are now asked to come up with \$400, I've
17 got to get that \$200 from somewhere and it's going to come
18 from people who have bills that are \$3,000 or \$2,000 or
19 whatever, and it's going to force people who are having a
20 short-term emergency to have to seek assistance that they
21 otherwise may not have to seek.

22 CHAIRMAN GAW: Okay. Public Counsel?
23 There's a hand up in the back, too, Judge, I saw.

24 MR. COFFMAN: Chairman Gaw, I think that we
25 would echo the concerns that Ms. Hutchinson has voiced

1 here. I think our proposal in our written comments and
2 what I -- what we talked about this morning was a \$750
3 cap, and we would be willing to go to an \$800 cap. We'd
4 also be willing to consider some kind of means testing for
5 the financing arrangements part of the rule, although we
6 are concerned about health and safety issues as well when
7 we're talking about temperature moratoriums.

8 Some of the language that Laclede proposed
9 in their Exhibit 2 in that last paragraph, the part that
10 goes down to the means testing, 150 percent of federal
11 poverty level, we've had some discussions with them, and I
12 don't know that we have a problem with that.

13 The last clause on that sentence there we
14 really haven't had a chance to look at. I mean, we're
15 certainly willing to talk about that sort of thing for
16 repeat defaulters who won't pay. But we also share the
17 concerns that Ms. Hutchinson voiced earlier about people
18 that -- you know, once you means test people and you know
19 they don't have the ability to pay, what do we do?

20 And I think that's really better, and this
21 is just me speaking because I haven't checked with John
22 yet, but I think long-term energy affordability is the
23 answer there. If we can come up with a way to make energy
24 affordable for people, it's going to help out a lot. I
25 think it's going to help the utilities' bottom line in the

1 long run, too.

2 JUDGE MILLS: If you'd like to come
3 forward, we can swear you in and take your comments.

4 MS. SHERROD: Forgive me. I didn't want to
5 comment because I sound like a reject from the TB ward.
6 My name is Robin Sherrod.

7 (Witness sworn.)

8 ROBIN SHERROD testified as follows:

9 MS. SHERROD: Would you like me to spell my
10 name?

11 JUDGE MILLS: Yes.

12 MS. SHERROD: R-o-b-i-n S-h-e-r-r-o-d. I
13 just wanted consideration to be brought to the table about
14 getting reconnected as far as moneys to come up with. A
15 lot of people that have lost their job, had become
16 disabled and you're in a crisis situation, you're in
17 shelters and you're coming out, you're in a low income,
18 your credit's bad or whatever, you're coming up with first
19 and last month's rent.

20 Another thing you have to come to grips is
21 trying to get back on footing, you go to these payday
22 loans to get monies and so on and so on, and then
23 therefore you're paying -- you've got to pay them. And a
24 lot of people because of the escalated cost of energy has
25 went to payday loans. They're popping up everywhere

1 because it's a lucrative business now. So you borrow
2 money from a payday loan person or business, and then you
3 don't pay your utilities the next couple of months because
4 you're doing this over here. Again, just like the lady
5 that came before, you're robbing Peter to pay Paul.

6 But when you're coming from a shelter, you
7 have escalated costs everywhere. You're moving in.
8 You've got deposits. And because your credit and
9 everything is bad, you have first and last month plus
10 deposit. So to get a break on energy, to get to be turned
11 on at the lowest possible means is wonderful.

12 Because there's a lot of us, including me,
13 I became disabled because of a respiratory disorder. I
14 couldn't pay anything for four months, nor could I go out
15 and get a job. So I had arrears that was unreal, and of
16 course when I got, you know, everything situated, I had
17 four months take into consideration, but in the meantime I
18 was in a crisis situation, very much.

19 That's how I became aware of community
20 action agencies, which I had no clue to, because my life
21 had changed and what have you, and I had no idea as to
22 where to go. And there's a lot of us like me that we were
23 in that predicament where we paid our bills. You know, we
24 just went to work and we took in consideration we can do
25 that forever. But when you become disabled, society does

1 not prepare you for if something devastating like health
2 problems that hinder you from working and taking care of
3 yourself.

4 We're not prepared for that yet, and
5 there's a lot of us out there like me. I just want you to
6 realize that. Thank you.

7 MR. PENDERGAST: Chairman, if I can just
8 briefly respond. I am sensitive to what Jackie is talking
9 about as far as the impact on customers, but I think you
10 really have to take a look at the fact that we're all, I
11 think, inclined at this point to go ahead and say that 80
12 percent and \$800 is a sufficient measure of affordability
13 that we can go ahead and agree with doing that for a
14 defaulting customer.

15 And if that's a standard of affordability,
16 then certainly something that talks about 15 percent and,
17 you know, the example we had over here, you know, talks
18 about \$360 as opposed to \$800 meets or exceeds that
19 standard of affordability.

20 I think the question has to be asked if a
21 customer's not capable of paying less than a third of what
22 his or her arrearage is at the time they want to get back
23 on at the start of the month, and in many instances that's
24 going to be maybe equal to and could be even less than a
25 normal winter bill, you know, that's not a very good sign

1 that the customer's going to be in any position to go
2 ahead and pay the bills as they continue to accumulate
3 over the winter period.

4 And I do think it's important that, you
5 know, in addition to relaxing certain elements of it, that
6 you do go ahead and have some measure out there so that
7 you encourage customers to go ahead and pay a bit more
8 when they can, and over time hopefully that will go ahead
9 and make less bad debt and arrearage for them to go ahead
10 and pay later on, and this is an effort to do it. And it
11 is revenue neutral, except we have a small negative impact
12 on Laclede.

13 And any impact it has on the social service
14 agencies, because somebody may come in and they may say, I
15 need a little bit more money now in order to go ahead and
16 get on, is going to be saved on the other side of the
17 equation where we're saying we don't need quite as much
18 from the agency in order to go ahead and help a defaulting
19 customer because we put the limitations in there.

20 And we designed it that way so that it
21 wouldn't have that adverse impact, and we think it's
22 appropriate for that reason.

23 MS. HUTCHINSON: I really don't think
24 that -- I'm sorry. I really don't think you can make that
25 statement. The number of people who come in and apply for

1 LIHEAP during any given winter, there were 104,000 --
2 let's look at the statewide number -- 104,000 people who
3 applied for LIHEAP, and the average grant was \$185. At
4 the \$200, many of those families didn't need to come in to
5 our office to apply for additional money in order to get
6 their service on. They were able to come up with 25, 30
7 more dollars in addition to their grant, and they got
8 themselves back on.

9 You don't know how many of those families
10 there are, and so it's not possible that we can say today
11 that we're going to save that much on the other side with
12 the cost of gas going up, that we're going to save that
13 much on the other side by going to \$800. I don't think
14 the numbers have been run to enter that as a fact.

15 I think -- I didn't enter into these
16 negotiations to lose ground for some families in order to
17 gain ground for others. It's not -- it's not that kind of
18 tradeoff for me. And so if we have the 1/12 in the rule
19 as it is, I don't think that we should trade off to get
20 the \$800. I would gladly go from the \$600 mark that's in
21 my testimony to the \$800 mark as a compromise, but not to
22 sacrifice the families who can now restore their services
23 for 1/12 of the bill by doubling the payment that they
24 have to make and saying that it's revenue neutral. For
25 the family that has to come up with twice as much money,

1 it is not revenue neutral. It's twice as much money.

2 CHAIRMAN GAW: Mr. Eames, and then I think

3 I'm finished.

4 MR. EAMES: I just want to make a brief

5 comment about these people who because they can't pay and

6 their arrearage builds up throughout the winter, and I

7 think Mr. Pendergast said, in the long-term the debt gets

8 worse and worse, but they are not cut off throughout that

9 winter. And after all, as the famous economist John

10 Mainerd Keene said, in the long run we're all dead.

11 CHAIRMAN GAW: Let me say again to you, I

12 appreciate the discussion and the information from

13 everybody on this, and thank you all very, very much for

14 all the work that you put in on it, and I do hope that you

15 have some additional successes in dealing with the

16 long-term energy affordability portion of this, which I

17 have always considered a very, very important part of this

18 task force.

19 Thank you, Judge.

20 JUDGE MILLS: Thank you. Commissioner

21 Clayton?

22 COMMISSIONER CLAYTON: I don't have any

23 questions. I also want to thank all the participants that

24 have been here. Obviously there's been a lot of work, a

25 lot of effort that's gone into this very important

1 subject. So I appreciate everyone being here and sticking
2 with this meeting, yet another meeting here today. So
3 thank you for being here.

4 JUDGE MILLS: Commissioner Appling?

5 COMMISSIONER APPLING: I don't have any
6 specific questions, but I would just like to say I echo my
7 colleagues' compliments to you-all. This is a difficult
8 subject. We live in the greatest country in the world.
9 There's no doubt in my mind about that. And this is an
10 issue that we just need to stay at the table until we can
11 all agree on it. You really can't cut the lights on and
12 not pay for the electric. You can't pay for the electric
13 if you don't have the money to pay for it. So it's a
14 Catch 22. The lights don't come on if you don't pay for
15 it. We all know that the utility company has to make a
16 profit. We also know that people need to stay warm in the
17 wintertime.

18 So again, I thank you for coming here. I
19 appreciate the fact that you're working on a difficult
20 subject. I only ask you to stay to the task until we come
21 up with something that we all can accept and appreciate.
22 Thank you.

23 JUDGE MILLS: Thank you. If there's
24 nothing further, we'll be adjourned. Mr. Pendergast?

25 MR. PENDERGAST: Is there any need to offer

1 into evidence those two exhibits or is that just a part of
2 the record?

3 JUDGE MILLS: I'm glad you mentioned that.
4 I don't know that we have marked the table of all the
5 states. We'll mark that one as Exhibit 3 and we'll make
6 all three exhibits part of the record of this comment
7 hearing this morning.

8 (EXHIBIT NO. 3 WAS MARKED FOR
9 IDENTIFICATION BY THE REPORTER.)

10 (EXHIBIT NOS. 1, 2 AND 3 WERE RECEIVED INTO
11 EVIDENCE.)

12 JUDGE MILLS: We're off the record.

13 WHEREUPON, the public hearing was
14 concluded.

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