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1                               STATE OF MISSOURI  
2                               PUBLIC SERVICE COMMISSION  
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6                               TRANSCRIPT OF PROCEEDINGS

7                               Hearing  
8                               December 6, 2005  
                             Jefferson City, Missouri  
9                               Volume 1

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12   In the Matter of Proposed                               )  
13   Emergency Amendment to Commission   ) Case No. GX-2006-0181  
14   Rule 4 CSR 240-13.055                               )

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15                               COLLEEN M. DALE, Presiding,  
16                               CHIEF REGULATORY LAW JUDGE.

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

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22   REPORTED BY:  
23   KELLENE K. FEDDERSEN, CSR, RPR, CCR  
24   MIDWEST LITIGATION SERVICES

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

2 JUDGE DALE: Good afternoon. This is a  
3 rulemaking hearing for Case No. GX-2006-0181, in the  
4 matter of the emergency amendments to the Commission's  
5 Rule 4 CSR 240-13.055, the Cold Weather Rule. Today's  
6 date is December 6th, 2005. We are in the Governor's  
7 Office Building in Jefferson City, Missouri.

8 My name is Colleen M. Dale. I'll be the  
9 Regulatory Law Judge presiding in this matter, and we will  
10 begin by taking entries of appearance from Staff and  
11 Public Counsel and others present who wish to provide  
12 testimony or make comments.

13 This is not a contested case. Therefore,  
14 there will be no cross-examination. However, there will  
15 likely be many questions from the Bench. Because of that,  
16 I would ask counsel to please make statements as brief as  
17 possible, attempting as much as possible not to reiterate  
18 any statements previously made in prefiled pleadings with  
19 the Commission.

20 Sworn testimony will be taken from the  
21 Staff of the Commission and the Office of the Public  
22 Counsel. We already have an order of cross, so we're  
23 going to go with generally supporting and generally  
24 opposing. Once we finish with Mr. Pendergast, then I will  
25 just ask if there are any more who wish to participate and

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1 those people may do so. Are there any outstanding motions  
2 that need to be addressed before we begin?

3 And for those of you who don't have your  
4 Blackberries and cell phones turned off, please do that  
5 now.

6 MS. TATRO: My name is Wendy Tatro, and I  
7 filed a motion to be admitted pro hoc vice.

8 JUDGE DALE: Yes. Thank you. And that  
9 motion is granted. Is there anything else before we  
10 begin?

11 (No response.)

12 JUDGE DALE: And we will begin with Public  
13 Counsel.

14 MR. MARTIN: Your Honor, Eric Martin for  
15 the Office of the Public Counsel. Our witness will be  
16 Russ Trippensee.

17 JUDGE DALE: And --

18 MR. MARTIN: I'm sorry. I need --

19 JUDGE DALE: Well, will he be -- he will be  
20 filing testimony, so...

21 MR. MARTIN: He will not be filing  
22 testimony, but he will be making a statement.

23 JUDGE DALE: Okay. And, Mr. Trippensee,  
24 would you like to do that from the witness stand or from  
25 the podium or from the chair you're sitting in?

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1                   MR. TRIPPENSEE: I'd prefer the witness  
2 stand. I'm used to it.

3                   JUDGE DALE: Okay. Then if you'd approach  
4 the witness stand and please raise your right hand.

5                   (Witness sworn.)

6                   JUDGE DALE: Thank you. You may be seated.  
7 If you will please restate your name and spell it for the  
8 court reporter.

9                   MR. TRIPPENSEE: Russell Trippensee,  
10 R-u-s-s-e-l-l, Trippensee, T-r-i-p-p-e-n-s-e-e.

11                   JUDGE DALE: And please go ahead and make  
12 your statement.

13 RUSSELL TRIPPENSEE testified as follows:

14                   MR. TRIPPENSEE: My name is Russ  
15 Trippensee. I'm the chief utility accountant for the  
16 Office of Public Counsel, and I'm here to offer Public  
17 Counsel's explanation of why we believe the proposed  
18 emergency rule as revised, I believe, on filing on Friday  
19 is appropriate for this Commission to utilize to help the  
20 citizens of this state deal with unprecedented gas prices  
21 on a -- at this point in time.

22                   As everyone who came in to work today is  
23 aware, it's -- cold weather is now upon us. That,  
24 coupled with the already filed record high fuel adjustment  
25 clauses -- excuse me, wrong meeting -- purchased gas

1 adjustment clauses that all the utilities have presented  
2 are going to result in bills, beginning later this month  
3 and on into January and February, with bills that  
4 customers have not ever seen before.

5               This state has several programs in place to  
6 deal with low income. Public -- whether those are fully  
7 adequate or not, it was not Public Counsel's intent to  
8 significantly change that. The funding for those items  
9 are often legislative or local issues, charitable issues.

10              I would point out that it appears there's a  
11 recent agreement in St. Louis that Laclede has worked very  
12 hard on to get St. Louis County local government to deal  
13 with some additional monies from gross receipts tax. I  
14 know the AARP has sent the Commission, and I believe it  
15 was filed in EFIS, a letter in support of additional  
16 measures.

17              I think from our initial proposal back in  
18 November, there's been numerous discussions with the  
19 utilities affected and also with the Staff of the  
20 Commission. There's been significant movement from the  
21 initially filed positions by all parties. The Public  
22 Counsel, based on those discussions, filed a revised rule  
23 on Friday, and I think the Missouri -- I believe they  
24 said -- Gas Utilities Group filed a response, also on  
25 Friday, that presented a rule that is very similar to the

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1 Public Counsel's rule that was presented on Friday.

2 I would note that AmerenUE did not sign the  
3 utility proposal, and I'll let them -- to the extent they  
4 speak for themselves. I would note that Ameren initially  
5 in their initial filing took a little stronger view that  
6 an emergency was going to exist on -- for gas customers in  
7 the future.

8 What I would like to do is go through the  
9 utility response to the Order Directing Filing that was  
10 filed and note the similarities between that proposed rule  
11 and where Public Counsel's proposed rule are. I think a  
12 reasonable reading of the two will find that there's  
13 agreement on virtually everything with some small  
14 differences, with the exception of cost recovery. And I  
15 will also address that after the initial -- going through  
16 the similarities.

17 Paragraph 14, the general paragraph of the  
18 MGU, Missouri Gas Utilities alternative proposal, the  
19 initial general paragraph is virtually word for word as to  
20 the Public Counsel's proposal. Subparagraph A of 14 has  
21 the same percentages basically as the Public Counsel's  
22 proposal. However, it does not limit the time frame of  
23 customers taking advantage of this rule. Public Counsel  
24 was looking strictly at the January through March time  
25 frame.



1                   Subparagraph B of paragraph 14, the only  
2 prime -- the only difference between the two, although  
3 there is some wording difference in the first sentence, in  
4 the second sentence beginning with, any existing arrearage  
5 at the time of enrollment, Public Counsel -- the only  
6 difference there is Public Counsel's language also  
7 anticipated any current bill or arrearage. A bill when  
8 it's rendered can have an arrearage, but also part of it  
9 is current, and it was our position that the entire bill  
10 should be taken into effect.

11                   The first sentence in Public Counsel's  
12 beginning with, any customers whether disconnected or in  
13 receipt and continuing for about four lines, is the same  
14 language as -- same principle as Public Counsel's, and  
15 paragraph C of the utility alternative proposal is the  
16 same with the exception of we utilize the term emergency  
17 before the word rule in the first line of that paragraph.  
18 Again, the similarities were very -- are exactly the same.  
19 And that's because of the extensive discussions I believe  
20 that occurred where each side got a better feel for what  
21 we felt they were -- we were trying to accomplish.

22                   Paragraph D, which I would like to discuss  
23 a little bit later in reasoning, but deals with clean --  
24 what we call the clean slate provision. The utility  
25 proposal limits the clean slate to forgiveness or lack of

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1 recognition of only the immediate prior default with  
2 regard to a payment plan under a normal Cold Weather Rule.  
3 Our proposal is a blanket forgiveness of prior actions on  
4 a moving-forward basis, and I will explain -- well, I can  
5 go ahead and just discuss it right now.

6                   The reason we do that is we think this  
7 is -- not only is this an emergency, but we also look at  
8 it as kind of a fundamental shift on a going-forward  
9 basis. We don't believe that we're going to go back to \$2  
10 gas prices, and we're trying -- as part of this proposal,  
11 we felt it was important to send some message to the  
12 customer that you need to prepare on a going-forward  
13 basis. You have a current emergency because of this  
14 fundamental shift, but we're not going to simply -- it's  
15 not going to be a spike that's going to go up and then  
16 it's coming back down.

17                   I mean, there hopefully will be some  
18 retreat in the price of natural gas, but I don't think  
19 anybody's expecting it to go back to where it used to be.  
20 Therefore, we wanted to give the customers some incentive  
21 to pay their bill, to get current and to move forward.

22                   JUDGE DALE: If I could interrupt and ask a  
23 question, then, when you use the word forgiveness, you  
24 don't mean forgiveness of the debt?

25                   MR. TRIPPENSEE: No. What I mean is the

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1 Cold Weather Rule has multiple ways of calculating how  
2 much you have to pay if you go into arrears. If you bring  
3 your account totally current during the 12-month period  
4 that a payment plan under this emergency rule would allow,  
5 that from that point forward your billing record will show  
6 that you did not have a previous violation of the Cold  
7 Weather Rule payment plan, because if you do have -- if  
8 you don't have a violation, you're allowed to have lower  
9 initial payments to get into a payment plan or to take  
10 care of a one-time arrearage in the future.

11                   Whereas, I think it's like 12.5 percent  
12 versus a 50 percent or an 80 percent payment or  
13 100 percent for certain customers. So we're saying  
14 simply, customer, get your account brought up to date.  
15 We'll clean up your payment history as far as to  
16 violations.

17                   JUDGE DALE: Okay. Thank you.

18                   MR. TRIPPENSEE: As I said, I think part of  
19 our goal is if we can get customers cleaned up and get  
20 them paid up, they're situated to meet next winter and the  
21 following winters. There's also a benefit to the utility.  
22 They get their money. There are significant amounts of  
23 money involved in this for some customers, which is also a  
24 significant amount of money for the utilities.

25                   We think it's appropriate that they're

1 going to have to -- you know, that they receive their  
2 funds from monies they expected. And the customer needs  
3 to understand that there is a fundamental shift, the  
4 emergency is created by the fact that it's such a major  
5 shift in gas prices.

6                   Moving back to the utility proposal,  
7 paragraph sub E, the utility proposal actually goes  
8 farther than Public Counsel's proposal. Our rule  
9 discussed contacts regarding disconnect notices. The  
10 utility proposal does not reference only disconnect  
11 notices, and we'd be more than happy to have them  
12 communicate with their customers at all times. Hopefully  
13 that was an oversight on our part from some previous  
14 documents.

15                   The only other difference before gas cost  
16 recovery or recovery of costs that may occur under this  
17 emergency rule is the last paragraph that is not on the  
18 utility proposal but it is on ours, and that's simply the  
19 effective date of the rule. It's more of a technical  
20 item, but I did want to point it out to the Commission.

21                   Regarding the -- those changes are not  
22 significant, in our view. I think if the Commission would  
23 accept our explanation, I believe it would give the  
24 utilities the tools to assist their customers in moving  
25 forward in this situation and addressing the higher costs

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1 that the customers are going to incur.

2                   The primary difference deals with cost  
3 recovery. Public Counsel's proposal addresses two methods  
4 to recover the cost; the utilities' proposal proposes one.

5                   Public Counsel, first let me state, still  
6 believes that the Accounting Authority Order is an  
7 adequate method of addressing these costs and would urge  
8 the Commission to utilize that. However, Public Counsel's  
9 also aware that an emergency Cold Weather Rule occurred  
10 before in 2001 that contained an Accounting Authority  
11 Order. That rule was not allowed to be put into place on  
12 a timely manner, and because of the fact that we do  
13 believe that this needs to be put into place on a timely  
14 matter, we have proposed an alternative funding mechanism.

15                   The primary difference between our  
16 alternative mechanism and the companies', the utilities'  
17 proposal, they both deal with bad debts, which is the  
18 primary and majority of costs which would arise out of  
19 this rule. And when I say majority, there would probably  
20 be some incidental costs, but materiality of them I do not  
21 believe is worth tracking those costs.

22                   And then tracking is the term that I think  
23 is the primary difference. The utility proposal is just a  
24 blanket cost recovery of bad debt expense associated with  
25 residential class over a two-year period. Whereas, Public

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1 Counsel's rule proposes to look at the specific customers  
2 who utilize this rule and track their costs that may arise  
3 out of it, and also the benefits that may arise out of it.  
4 And I'm not saying the utility proposal does not track  
5 benefits, but -- that could arise as a result of this, but  
6 the problem is it looks at the entire residential class  
7 and it looks at their service over a 24-month period.

8                   Our -- Public Counsel's proposal looks at  
9 the service over a 12-month period, which coincides with  
10 the 12-month payment plans that would arise out of this  
11 rule, and then allows an additional six months to allow  
12 the company's accounting to catch up to the recognition of  
13 that service and the revenues and do they actually collect  
14 those revenues.

15                   It's called bad debt writeoffs, which are  
16 different than bad debt expense, but it's how the  
17 regulatory process tracks -- estimates the bad debt  
18 expense in any regulatory proceeding, through the actual  
19 writeoff account, because that's where the collection and  
20 the recognition of failure to collect occurs.

21                   In conclusion, I believe -- I hope I've  
22 sufficiently gone through all my notes -- it's Public  
23 Counsel's position that the emergency is created by the  
24 high gas prices that are unprecedented, three -- estimates  
25 as high as 70 percent increase for some customers, albeit

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1 in Missouri it is more on the order of 35 to 50 percent,  
2 or 26 to 50 percent, depending on the utility you're  
3 dealing with.

4 We do not think that there will be a  
5 complete retreat back from this on a going forward, and we  
6 needed to develop a plan that would not only address the  
7 short-term impact but also help customers prepare for the  
8 long-term effect.

9 I'd be happy to take any questions from the  
10 Commission and appreciate the fact I don't have to be  
11 cross-examined by some of esteemed counsel here.

12 JUDGE DALE: Thank you. Chairman Davis, do  
13 you have any questions?

14 CHAIRMAN DAVIS: Yes.

15 QUESTIONS BY CHAIRMAN DAVIS:

16 Q. Mr. Trippensee, has Public Counsel done any  
17 type of studies? Can you estimate how many people are  
18 affected?

19 A. We've spent a great deal of time not only  
20 internally but also talking with the utilities. Quite  
21 frankly, as far as specific studies, no. I think I can  
22 fairly state that there was general consensus that a whole  
23 new group of customers are going to be impacted by this  
24 scenario that is evolving and coming into play with the  
25 higher prices, and then obviously the higher usage that

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1 occurs in the winter.

2 But no party in the discussions really  
3 voiced a way of estimating that, because I think only  
4 maybe one of our utilities keeps income data in  
5 particular, and you would be talking about looking at  
6 income data for each of the utilities or for Missourians  
7 in general.

8 And I hate to use the term, but I think the  
9 term working poor was utilized by several parties as that  
10 group of people who are able to -- that have jobs but are  
11 living paycheck to paycheck and that, you know, 20, 30,  
12 40 percent increases in a major component of their cost of  
13 living is not something that they can easily adjust to.

14 Q. So if Social Services had provided me data  
15 that said roughly that there were 200 -- roughly more than  
16 220,000 people that were in the St. Louis area that were  
17 at or below 125 percent of the federal poverty level,  
18 you'd have no reason to dispute that, would you?

19 A. No, I would not have any reason.

20 Q. And then if there were another  
21 approximately 130, 140,000 that were within 15 percent of  
22 the federal poverty level, you'd have no reason to doubt  
23 those estimates?

24 A. No, I would not.

25 Q. And have you done any -- if we assume that



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1 for those households, the median household income was say  
2 approximately \$15,000, could you estimate, you know, say  
3 their monthly revenue was probably, what, \$1,250 a month,  
4 roughly?

5 A. Sounds like your math is correct.

6 Q. And then have you done any estimating on  
7 what you think winter heating bills will be this winter?

8 A. The average winter heating bill was  
9 discussed. Numbers ranging from 800 to \$1,200 is what my  
10 memory -- I don't work with those type numbers on a daily  
11 basis. Maybe some of the Staff witnesses here would be  
12 able to get a better --

13 Q. Would that cover the five-month period  
14 between November 1st and March 31st?

15 A. Yes. That was my understanding.

16 Q. So on the low side, conservatively, you  
17 could say that if we assume that \$800 figure were to be  
18 true, then we could assume that roughly \$160 a month  
19 for -- I can't figure what fraction of \$1,250 that would  
20 be, but it would be more than 10 percent --

21 A. Uh-huh.

22 Q. -- of that person's household income?

23 And on the high side, if we estimated, say,  
24 1,200, that would be 240. That would probably be close to  
25 20 percent of --

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1           A.       On top of their --

2           Q.       -- of the customers' gross, not -- you  
3 know, gross.

4           A.       At that income level, hopefully it's pretty  
5 much gross because they're not going to be paying a lot of  
6 income taxes, but that would be on top of their rent and,  
7 of course, they would be paying Social Security for earned  
8 income, but that would be on top of their rent, their  
9 food, medical, school supplies for children.

10          Q.       So there's -- there's no doubt in your mind  
11 that there's a need for this emergency rule, correct?

12          A.       There's no doubt in my mind. My problem is  
13 quantification of how many people are going to be  
14 affected. But with these type of increases, let's say the  
15 \$800 number, if they get -- from last year, they're  
16 looking at another \$240 minimum that has to come out over  
17 that five-month period. So they're looking at a 3 to  
18 6 percent increase in their cost of living taken out of  
19 that gross number that you were talking about, if I'm  
20 doing the mental gymnastics quickly off the top of my  
21 head, you know. So that's significant when you're talking  
22 about people at that income level or even slightly higher.

23          Q.       Right.

24          A.       Because if they have slightly higher  
25 income, they may have a larger apartment, a larger small

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1     home, these costs go up.

2             Q.       Right.

3             A.       And they don't have -- often do not even  
4     have the capital to make the investment to winterize and,  
5     therefore, have that type of effect.  You know, a Mercedes  
6     may run for a million miles and you don't have  
7     maintenance, but unless you can afford the Mercedes  
8     initial cost, you're in trouble.

9             Q.       Is it fair to say that the conventional  
10    wisdom is that low-income housing for low-income  
11    individuals is often the least insulated, or in many  
12    cases?

13            A.       I think that would be conventional wisdom.  
14    I'm not a contractor.

15            Q.       I'm not asking you to opine on any  
16    scientific data.  I understand what your qualifications  
17    are.  But that's sort of always been the conventional  
18    wisdom?

19            A.       I believe that's the conventional wisdom.  
20    And often the utility, the weatherization-type programs  
21    for utilities have focused on that class of -- that income  
22    level of customer.

23            Q.       Okay.  Now, I don't want to go -- I think  
24    you've articulated the position that the Office of Public  
25    Counsel set forth in its amended pleading.  Could you

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1 refresh for my recollection again and just briefly  
2 describe what in your mind are the differences between the  
3 Office of Public Counsel's position and the Missouri Gas  
4 Utilities' position?

5 A. I believe the primary difference is in the  
6 cost recovery mechanism. I believe the other differences  
7 are minor, and in fact, I don't know that there's really  
8 any difference, if the parties were given 10 or 15 minutes  
9 to discuss it, on the other paragraphs. The primary  
10 difference is the cost recovery provision where the  
11 utility proposal looks at bad debts. In exchange for  
12 implementing the rule, they would be allowed to get a bad  
13 debt recovery clause that addresses the bad debts of all  
14 residential customers over a two-year period.

15 Public Counsel's proposal is that they are  
16 allowed the alternative proposal, alternative to an  
17 Accounting Authority Order, is that they are allowed to  
18 recover the bad debt expense associated with the specific  
19 customers that are impacted by this rule.

20 Q. Okay. Now, let me ask you this: In OPC's  
21 proposal, would the company be able to follow the debt out  
22 to its conclusion in terms of, for instance, there's an  
23 18-month repayment plan of equal payments, correct?

24 A. I think under ours, I believe it's 12, but  
25 --

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1           Q.       Okay. That was the original, I guess. The  
2 amended plan is 12?

3           A.       The amended plan is we put people on a  
4 level pay plan, which traditionally is a 12-month plan.

5           Q.       Okay. So their arrearages and their new  
6 bills would all be rolled into one and they would have --

7           A.       12 months to bring the arrearages plus  
8 their current bill plus their next 11 months bills to the  
9 point that they are -- would be considered a current  
10 customer under this plan and on the system.

11          Q.       Okay. And so would your request for an AAO  
12 encompass that entire time period?

13          A.       The only difference between the AAO and the  
14 alternative proposal is that the AAO would defer any  
15 recognition of either recovery or if there's benefits to a  
16 rate case, whereas under the alternative we would --  
17 Public Counsel would allow that the Commission could make  
18 a change in the rate element so that recovery or  
19 recognition would occur quicker, or start quicker.

20          Q.       But that's under the utilities' proposal,  
21 correct?

22          A.       The utilities' proposal has the rate  
23 element occurring. It also has it under Public Counsel's  
24 alternative. The main difference is how that cost -- how  
25 that recovery amount or refund amount is calculated.

1 Public Counsel's recovery and cost is calculated on a  
2 customer-specific basis, the customer affected by the  
3 bill.

4 The utilities' proposal is that the cost is  
5 the cost of all bad debts, albeit only the gas portion of  
6 bad debt for all residential customers, regardless of  
7 whether they were under this -- under a Cold Weather Rule  
8 payment plan under this bill, under this rule or not.  
9 It's just a blanket bad debt cost recovery provision. And  
10 by blanket, I mean the entire class.

11 Q. Right.

12 A. And I'm not sure --

13 Q. And are you -- you're concerned about that  
14 proposal because utilities wouldn't really have any  
15 incentive to collect their bad debts, would they?

16 A. Well, I'm concerned about that proposal for  
17 several reasons. We have a lot of concerns with the --  
18 with the cost recovery provision. As I said, an  
19 Accounting Authority Order to recover the cost is our  
20 preferred method.

21 Q. Right.

22 A. That being said, we also believe we  
23 can't -- the customers who are going to be impacted cannot  
24 afford to have this rule not put into place by a  
25 subsequent ruling of a court, which occurred in 2001. In

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1 order to try and bridge that gap, we are willing to look  
2 at a cost recovery provision that allows the costs to be  
3 recovered in a manner as soon as those costs are  
4 recognized, not waiting for a subsequent rate case.

5 Q. Okay. Would you care to elaborate on some  
6 of the problems you viewed with the utilities' proposed  
7 cost recovery mechanism?

8 A. I would be happy to. The cost of  
9 implementing this rule, the majority of the costs,  
10 potential costs, would relate to bringing people on the  
11 system or allowing people to defer payments under a level  
12 pay plan in the manner that they get out of the winter and  
13 they leave the company with a bad debt. The company  
14 writes that off and, therefore, incurred a real cost.

15 We would measure those, have the company  
16 track the customers that take advantage of this rule. If,  
17 in fact, they do become a bad debt during this period of  
18 time, specified period of time, that is associated with  
19 service provided in the current heating season, they would  
20 recover those costs.

21 Q. Right.

22 A. In contrast, the utility proposal simply  
23 says, I'm going to take all the bad debts associated with  
24 the residential class of customers, bad debts that could  
25 apply to pre-winter periods, apply to periods in 2007, and

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1 recover those costs under a charge to the customers on a  
2 going-forward basis, not through an Accounting Authority  
3 Order. It would actually be a rate element change that is  
4 put into the tariff sheets.

5 Both proposals change that rate element.  
6 The question is, how do you calculate the amount that's  
7 used to change that rate element? We think the amount  
8 should be tied to the cost of implementing the bill. The  
9 regular bad debts of the company are going to occur  
10 regardless of this bill. They should not be recovered  
11 through a --

12 Q. Right.

13 A. -- cost recovery mechanism.

14 Q. Now, we -- in rate cases, we commonly  
15 estimate bad debts and those are figured into the mix,  
16 aren't they?

17 A. Yes, they are.

18 Q. And did you -- did you work on the most  
19 recent case, the Laclede Gas rate case --

20 A. No.

21 Q. -- did you do any work? Okay.

22 What about Missouri Gas Energy, did you do  
23 any work on that?

24 A. It's been a couple years since I've worked  
25 on a gas case. I've been on electric and/or legislation.



1 Senate Bill 179's been -- and also a power plant and  
2 Kansas City Power & Light.

3 Q. Okay. So --

4 A. But I don't think the -- I've reviewed  
5 documents from the case, and there's not been any change  
6 in how bad debts have been treated, which is --

7 Q. Right. But there is -- but there is some  
8 accounting for that, correct?

9 A. That is correct.

10 Q. Now, have the utilities come to you at all  
11 and said, because of these -- and when I say utilities, I  
12 mean the gas utilities. Have the gas utilities come to  
13 you at all and said, you know, because of these record  
14 high prices, there is going to be more bad debt to the  
15 extent that it's, you know, such a change in circumstances  
16 that we'd like to request an AAO to track this, or  
17 something of -- anything of that nature?

18 A. I guess the nature I would characterize it  
19 as, I think there is a concern that they are going to  
20 experience higher bad debts on a general class basis  
21 because of the increase in prices. If you just would  
22 assume that a certain percentage of customers are just  
23 going to be bad debts, if those customers take service  
24 under higher prices, almost by definition the company's  
25 bad debt is going to be higher. And I think that is

1    what -- it's my own opinion that that's what the utilities  
2    are seeking to insulate themselves by -- from is that  
3    effect.

4                   In a rate case, when bad debts are  
5    reviewed, the normal process is to look at three to five  
6    years of history because any one year cannot necessarily  
7    be indicative of what will be incurred going forward, so  
8    you look at three-to-five-year history. So to the extent  
9    bad debts will go up, they will ultimately be addressed in  
10   a rate proceeding or taken into effect in the analysis for  
11   determining rates.

12           Q.       We had that 2001 when we had that really  
13   cold winter combined with high natural gas prices?

14           A.       I believe it was the winter of 2000-2001,  
15   and then the Commission addressed it before going into the  
16   winter of 2001-2002.

17           Q.       Okay. So now let me ask you this: When  
18   the utilities approached you or, you know, about this, I  
19   mean, do they basically say, you know, we want this I  
20   guess what they characterized as a bad debt tracker in  
21   exchange for granting some leniency on the Cold Weather  
22   Rule? I mean, did they just express it more as a quid pro  
23   quo; is that fair to say?

24           A.       It was part of the discussions where there  
25   was give and take on both parties, and that was one of the

1 things they wanted in regard to if there was a rule, that  
2 was one thing they wanted to have in the rule. I'm a  
3 little hesitant simply because of the nature of the  
4 discussions on this document --

5 Q. Okay.

6 A. -- or discussions in this case --

7 Q. Okay.

8 A. -- as far as negotiations and, you know,  
9 the confidentiality of negotiations between the parties  
10 and how those are referenced in the Commission.

11 Q. Mr. Trippensee, is there anything you'd  
12 like to add to the record?

13 A. I'm sure five minutes out of this chair  
14 I'll come up with something, but at this point in time, I  
15 would say no. But I'd be happy to answer any other  
16 Commissioners' or general -- or the Judge's questions.

17 CHAIRMAN DAVIS: All right. Thank you for  
18 your testimony.

19 JUDGE DALE: Commissioner Murray, do you  
20 have questions?

21 COMMISSIONER MURRAY: A few. Thank you,  
22 Judge.

23 QUESTIONS BY COMMISSIONER MURRAY:

24 Q. Good afternoon, Mr. Trippensee.

25 A. Good afternoon, Commissioner.

1           Q.       When you were speaking earlier, you  
2 indicated the Missouri Gas Utilities' proposal, you were  
3 comparing that with the OPC proposal; is that correct?

4           A.       Yes, I was.

5           Q.       Isn't it accurate that the Missouri Gas  
6 Utilities don't believe that there is a necessity to --  
7 for the amendments to the Cold Weather Rule?

8           A.       I believe a reading of the document signed  
9 by several of the utilities would infer that at this point  
10 in time. I don't know that that is the view of all  
11 Missouri utilities. I believe Ameren in their initial  
12 filing in this case alluded to the -- an emergency  
13 situation being created.

14          Q.       But the group of utilities that filed a  
15 response to the Order Directing Filing dated December 2nd,  
16 2005, I read their wherefore clause, as Missouri Gas  
17 Utilities respectfully requests in the alternative that  
18 the Commission either, one, decline to find that a  
19 necessity exists to pursue the amendments to the Cold  
20 Weather Rule sought by Public Counsel on an emergency  
21 expedited basis or to adopt the alternative proposal  
22 submitted by Missouri Gas Utilities.

23                   Is it not your understanding that they are  
24 submitting an alternative proposal as their second choice?

25          A.       It is listed No. 2 out of two choices. I

1 would point that in their introduction under paragraph 2,  
2 they say they have reservations as expressed in their  
3 initial filing. I don't believe that is a complete  
4 disagreement that an emergency is a potential -- or is in  
5 existence.

6 Q. You don't think it's just sort of a  
7 compromise to try to please -- try to come up with a  
8 solution to a problem that they don't believe exists?

9 A. You mean their alternative proposal or  
10 their -- no, I don't believe they believe that the problem  
11 does not completely exist.

12 Q. You indicated that OPC's position is that  
13 this is an emergency because of the unprecedented  
14 increases, 25 to 50 percent; is that correct?

15 A. That is correct.

16 Q. Is it your position that if prices -- if  
17 there would be a similar increase in a year, that there  
18 would be another emergency?

19 A. If there's similar increases next year to  
20 what we have this year, you're going to have a whole other  
21 set of customers that are in trouble. Absent -- so long  
22 as the utility needs to recover their cost of gas,  
23 increases of that proportion, I'm not sure how they would  
24 be dealt with.

25 Yes, it would be an emergency, to answer

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1 your question. How it would be dealt with, in addition to  
2 these type of measures, would be a challenge for  
3 government and people at all levels.

4 Q. And these increases affect everybody at  
5 every income level, do they not?

6 A. I guess -- I don't want to quibble with  
7 you, Commissioner, on the term affect, but the effect on  
8 someone who is in the income strata, lower income strata,  
9 the effect of a \$250 increase in five months' worth of  
10 bills is significantly different to someone who is making,  
11 you know, high five figure or six, seven figure income.

12 Q. And the recovery of any costs that would  
13 result from these emergency amendments would be from the  
14 other ratepayers eventually, would it not?

15 A. The recov-- the costs will be placed into  
16 the rate elements that all customers pay, just as the cost  
17 of bad debts is put into the rate element that -- the  
18 rates that all other customers pay is done today.

19 Q. Is it likely that the bad debts will  
20 increase as a result of these amendments?

21 A. That is, I believe, the fear of the  
22 utilities. Part of what we put in this plan was the clean  
23 slate proposal, which was intended to try and incent --  
24 give an incentive to the customers to bring their past  
25 arrearages up to date. So that will be a benefit or a

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1 cost reduction to this proposal.

2 Q. Do they not have an incentive that is  
3 better than that with the current Cold Weather Rule?

4 A. I'm not sure what that incentive is, what  
5 you're referring to. Right now I hear continued stories  
6 of people going on and off these plans. Granted, it's  
7 anecdotal from the utilities, but what we -- the clean  
8 slate is intended to do is break that cycle.

9 Q. Explain that clean slate again to me,  
10 please.

11 A. I would be happy to. What we are saying  
12 under that proposal is that any customer who enters into  
13 an agreement under this proposed rule or what would be  
14 enacted as this adopted rule, if they enter into a payment  
15 plan and then remain on the system, follow the terms of  
16 that payment plan, which would be designed to recover past  
17 arrearages for that type of customer, and if those  
18 customers are current on the system at June -- I believe  
19 it's June 30th, 2007, that their failure to follow prior  
20 Cold Weather Rule payments would no longer be used against  
21 them in any future billing disputes with the company where  
22 that failure to pay results in that customer having to pay  
23 a higher percentage of a future arrearage.

24 I would point out that by going through  
25 June of '07, they will go through another heating season

1 and have to have a current bill after a second heating  
2 season. It's trying to change their gas use payment  
3 practices from the past.

4 Q. And I appreciate the Office of Public  
5 Counsel taking that into consideration in terms of trying  
6 to provide incentive for people to catch up, because one  
7 of the things that I fear with these so-called emergencies  
8 where we end up passing extended measures for people to  
9 run up higher debts is that we just create more problems  
10 for people. We extend their hardship by making it so that  
11 they become more heavily indebted, and we don't know -- we  
12 can't predict the future. We don't know what next winter  
13 will be.

14 I think we can probably pretty accurately  
15 predict that we're not going to have very low natural gas  
16 prices in the future. But we run the risk in my opinion  
17 of making things worse for people by trying to rush into  
18 and be the protector whenever anything unusual occurs.

19 A. Well, if I could respond, because that was  
20 a concern that we shared, that's why the clean slate  
21 provision was inserted, was to try and change those  
22 billing habits or those payment habits for a group of  
23 customers.

24 But the other thing I think if you look --  
25 if you look at the timing that's going to occur with this



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1 rule, the majority of people who take advantage of the  
2 Cold Weather Rule are going to already be on the system by  
3 January 1.

4 I mean, it's cold out there. Tonight it's  
5 8 degrees. People need gas. They're going to hopefully  
6 find a way to get on. This rule does not provide  
7 additional funding. It makes no attempt to do that. The  
8 focus, primary focus is on those customers who are for the  
9 first time experiencing stress with paying this bill. I  
10 mean, not that, you know, if you're making \$16,000 and  
11 you've got to pay \$200 to your gas company, that's not  
12 stress, but now they are going to have to pay 300.

13 Well, that \$100 is stress for that person.  
14 They may need 12 months to change their life and lifestyle  
15 purchasing to be able to address that significant amount  
16 of money to them. It's not that they don't want to pay.  
17 It's just they can't change in this relatively short time  
18 frame.

19 Q. And then suppose in 12 months they haven't  
20 been able to change enough to afford what comes along next  
21 year. What do we do then?

22 A. Assuming that they have higher prices at  
23 that point in time, that's -- as I tried to indicate  
24 earlier, that becomes a bigger problem. I don't think --  
25 none of the projections that I have seen anticipate

1 significantly higher prices next year. They don't -- but  
2 they also don't anticipate the return to the lower prices  
3 that we experienced even last year.

4 Q. Well, let me ask you this: Do you think  
5 this time next year there will be people who won't be able  
6 to forward to pay their utility bills?

7 A. As a general statement?

8 Q. Whether or not we pass this emergency rule.

9 A. As a general statement, that would be  
10 correct, yes.

11 Q. So what do we do? Do we have to -- do we  
12 have to find a way for all of these people to be able to  
13 pay their bills?

14 A. What we're attempting to do in this is to  
15 allow a group of people to have time to respond to changed  
16 circumstances. And it was such a major change that Public  
17 Counsel believes it creates an emergency because of the  
18 magnitude of the change. If you have a similar change  
19 next year, you'll have another group that will have a  
20 problem.

21 But the problem of paying for natural gas,  
22 as I think I hopefully said in my comments maybe just  
23 slightly prior to your coming in, is a question that has  
24 to be addressed by someone other than this Commission at a  
25 legislative level, a local level.

1                   I pointed out I think it was initially that  
2   Laclede has reached an agreement in principal with St.  
3   Louis County with regard to gross receipts taxes, that the  
4   counties are going to receive significantly more monies  
5   because of the price of natural gas. Those are the type  
6   of issues that are going to address those unfortunate  
7   members of our society who cannot pay their bill for lack  
8   of funds, and we are not attempting to try and address  
9   that here.

10           Q.       Would you agree with me that we cannot  
11   indefinitely or repeatedly go back to the remainder of the  
12   ratepayers who are also experiencing increases of their  
13   own?

14                   I mean, every -- every level of income,  
15   although as you point out it's more difficult for lower  
16   levels of income than it is for higher levels, but every  
17   ratepayer is experiencing increases, and would you agree  
18   that it would not be equitable to go back repeatedly to  
19   all of the other ratepayers and say, not only are the  
20   increases that you're experiencing because of these high  
21   prices of natural gas going to come your way, but you're  
22   also going to pay more for the people who have lower  
23   incomes so that they can pay their bills?

24                   Do you see some bit of inequity there in  
25   forcing the other ratepayers to continually accept not

1     only their natural increases but the other increases as  
2     well?

3             A.       Quite -- I believe, Commissioner, you're  
4     getting into an area that borders on morals and  
5     philosophies, and I'm not sure I would say it's  
6     inequitable because I believe people have an obligation to  
7     society, and every member of society has value.

8             Q.       And I ask you these questions because  
9     Office of Public Counsel represents all of the ratepayers.

10            A.       And I would say as -- it's my own personal  
11    belief that as a society we have an obligation to the  
12    society, and where that bright line is is extremely  
13    difficult. That's, quite frankly, why we have a Public  
14    Service Commission that can delve into these specific  
15    areas with regard to this industry. We have other  
16    commissions that do it in other parts of state government,  
17    and ultimately at the Legislature.

18                    I'm -- do I think this step at this point  
19    in time is the right thing to do? Yes, I do. If we have  
20    changed circumstances next year, we may have to all get  
21    together and join in hand and hand and go to the  
22    Legislature. A lot of that is already occurring at the  
23    national level with LIHEAP funding. I know NASUCA,  
24    National Association of State Utility Consumer Advocates,  
25    has filed some documents. I haven't seen what NARUC has

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1 done. I'm not on their mailing list.

2 But that type of activity may be necessary  
3 in the future. But as far as equitable this year, I  
4 believe this proposal is equitable.

5 COMMISSIONER MURRAY: I think I have no  
6 more questions. Thank you.

7 THE WITNESS: Thank you.

8 JUDGE DALE: Commissioner Gaw, do you have  
9 questions?

10 QUESTIONS BY COMMISSIONER GAW:

11 Q. Mr. Trippensee, please explain to me the  
12 difference in your initial position and your current  
13 position, or if you have a document that compares how you  
14 have changed your position, that would be sufficient.

15 A. If you'd give me a couple seconds. I did  
16 not make that exact comparison simply for lack of time.

17 Q. Sure.

18 A. The -- probably one of the primary  
19 differences is the recognition of trying to get this rule  
20 into place and having a collection mechanism other than  
21 the Accounting Authority Order. That was not contained in  
22 the initial filing.

23 Q. So in the initial filing, it provided for  
24 an AAO?

25 A. That is correct.

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1           Q.       This one provides for an AAO or this  
2 alternative cost recovery mechanism?

3           A.       Well, simply a change in a rate element at  
4 the time the costs are determined, and that rate element  
5 would be in place.

6           Q.       This would be a change in a rate element  
7 that would result in a difference in rates?

8           A.       Yes.

9           Q.       And that would be done outside of a rate  
10 case?

11          A.       That is what the -- would be the effect,  
12 that is correct.

13          Q.       And what statutory authority do you point  
14 to for that, please?

15          A.       This is one time I'm going to claim I'm not  
16 a lawyer and be happy to be doing so.

17          Q.       So you can't tell me what it is yourself?

18          A.       It's based on advice of counsel who have  
19 revised this proposal, and we have presented it to the  
20 Commission.

21          Q.       Well, do you -- is there some reason why  
22 Public Counsel believes that there is some -- is there  
23 some change in the law that's occurred regarding single  
24 issue ratemaking that would provide for this option or do  
25 you just not know?

1           A.       I believe it's -- again, this is -- I am  
2 not the lawyer for the Office of Public Counsel.

3           Q.       I understand. If you don't know, you can  
4 just say you don't know.

5           A.       It's my understanding, though, it's based  
6 on the concept that this Commission will be issuing a rule  
7 that would cause the company to incur additional cost.

8           Q.       But you can't point to me yourself  
9 something that says --

10          A.       Not a legal cite.

11          Q.       -- this is a statutory provision?

12          A.       No.

13          Q.       Okay. What else is different between your  
14 first proposal and this current one?

15          A.       We dealt with the time frames a little and  
16 extended the time frame for recognition to address some of  
17 the concerns expressed by the utilities regarding their  
18 accounting practices with regard -- with respect to bad  
19 debts.

20          Q.       Explain, please. Be more specific about  
21 the change.

22          A.       Some of the utilities -- I'm trying to --  
23 some utilities take longer to write off their bad debts  
24 than others, up to six months. I believe in our initial  
25 rule we had considered a three-month time frame. We took

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1 the six-month time frame into consideration in setting the  
2 dates in the revised rule.

3 Q. So your latest proposal provides for  
4 six months, the early one for three?

5 A. I believe so.

6 Q. On writeoff of bad debts?

7 A. Which is the measurement of the cost of  
8 compliance with the rule or when that measurement can  
9 occur.

10 Q. Okay. So you're allowing the company to  
11 take into account -- companies to take into account more  
12 bad debt to be written off under your current proposal  
13 than your initial one?

14 A. Not so much more bad debt.

15 Q. It's less bad debt?

16 A. No, it's --

17 Q. Same bad debt?

18 A. It's the same bad debt. It's just the  
19 recognition and the bad debt reserve. Some companies in  
20 the state that recognition occurs at three months.

21 Q. For ratemaking purposes, are you allowing  
22 them to have more bad debt, the same or less under your  
23 current provision than you did under your initial one?

24 A. As a practical matter, it probably would be  
25 more because not -- more than what the ser-- related to



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1 the service. It's simply when that bad debt is  
2 recognized.

3 Q. It allows more for the purposes of  
4 ratemaking treatment, doesn't it?

5 A. I'm not sure I can even say that, because  
6 also during that additional three months they may have  
7 additional collections. It's simply a recognition. It's  
8 not -- we are limiting the bad debt associated with  
9 service to a 12-month period ending March 31st, 2006.  
10 When that bad debt is recognized on the books and when I  
11 can measure it, we move that from three months to six  
12 months.

13 Q. So you had to fight the companies to make  
14 this change?

15 A. I'm not saying we had to fight them. They  
16 wanted to be able to recognize --

17 Q. Let me ask you this: Let me go to the next  
18 question. What's next in the changes that you made?  
19 Because I don't want to --

20 A. There was a change in the initial payment  
21 for restoration of service. The percentage moved from  
22 25 to 50 percent under the emergency rule.

23 Q. 25 to 50 percent. And you forgot  
24 something, didn't you?

25 A. I believe it eliminated a maximum amount.

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1 Q. How much?

2 A. Of \$250.

3 Q. So you have eliminated the \$250 maximum  
4 from your initial proposal and moved from 25 to 50 percent  
5 as the amount that had to be paid?

6 A. That is correct.

7 Q. All right.

8 A. And again, the focus was more on dealing  
9 with the people who have not traditionally fallen under  
10 the Cold Weather Rule. The 25 and the 50 percent are --  
11 deal more with the people who traditionally are under Cold  
12 Weather Rule payments.

13 Q. So --

14 A. We did not want to place the rest of the  
15 customers at a greater risk -- significantly greater risk  
16 as a result of this because people under the Cold Weather  
17 Rule have been dealing with this, and we don't have a  
18 funding source to help them pay their bill.

19 Q. In 2001, the emergency Cold Weather Rule  
20 provided for the provisions on this payment \$250 or  
21 25 percent, whichever was less, correct?

22 A. That is correct.

23 Q. That was your initial proposal for this  
24 emergency Cold Weather Rule, correct?

25 A. Yes.

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1           Q.       And in this case now, you have moved from  
2   that position to a position which makes it more difficult  
3   for a consumer to get reconnected?

4           A.       That is correct. I would point out --

5           Q.       You may have time to answer these questions  
6   in a minute. I'll come back to you if you want to.

7                    This issue in regard to how much is being  
8   paid, did the Public Counsel's office support or not  
9   support the \$250 and 25 percent in the 2001 emergency Cold  
10   Weather Rule, do you know?

11          A.       I did not participate in that case.

12          Q.       Were you there at Public Counsel's office?

13          A.       Yes, I was there.

14          Q.       But you didn't participate?

15          A.       I did not participate.

16          Q.       Who was the Public Counsel's witness in  
17   2001?

18          A.       My guess would be possibly Barb  
19   Meisenheimer, or possibly Jim Busch.

20          Q.       They're not here today to offer comments,  
21   correct?

22          A.       One's snowed in. One works for the Staff  
23   now.

24          Q.       One's snowed in, in some other state or  
25   something?

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1 A. No, northern Missouri.

2 Q. Really?

3 A. Yeah, the emergency's kind of on us. It's  
4 coming with regard to the weather.

5 Q. So this issue in regard to this change, are  
6 you coming in to the Commission today saying that you and  
7 the companies and Staff have all worked out a deal on all  
8 the language in the Cold Weather Rule?

9 A. No.

10 Q. And yet you have changed your position and  
11 weakened it from what it was when you first filed for this  
12 case --

13 A. There is --

14 Q. -- in regard to a customer trying to get  
15 signed up?

16 A. That is correct, and the reason --

17 Q. And you have not gotten a deal, correct?  
18 There's no deal coming in here where you say everybody's  
19 signed off on this rule, correct?

20 A. That is correct. The --

21 COMMISSIONER GAW: I don't have any further  
22 questions right now. Thanks.

23 JUDGE DALE: Commissioner Clayton?

24 QUESTIONS BY COMMISSIONER CLAYTON:

25 Q. Mr. Trippensee, is there -- are there any

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1 changes from the existing Cold Weather Rule regarding the  
2 level of income that one would become eligible --

3 A. No.

4 Q. -- for access?

5 What are the current -- I guess the current  
6 and they would remain the income levels of a family to be  
7 eligible for treatment under the Cold Weather Rule, are  
8 you aware?

9 A. Without going through the Cold Weather Rule  
10 specifically, my memory says around 150 percent of federal  
11 poverty, but I would have to verify that.

12 Q. Did OPC evaluate whether or not that amount  
13 should be increased or whether the impact of the rule  
14 should be broadened or even reduced, either way?

15 A. We evaluated the rule when initially filed.  
16 As I indicated, our focus was more on the next income tier  
17 of customers who haven't been addressed by cold weather  
18 before. There was some concern --

19 Q. What do you mean by that, the next income  
20 tier?

21 A. People who have not had -- who have maybe  
22 had to be fully aware of what their gas bill was but paid  
23 it each and every month. There's people now who are going  
24 to be getting increases who -- they just simply are  
25 going -- they've never seen gas prices and, therefore, a

1 gas bill at these levels. And despite the publicity  
2 around it, a lot of people don't fully appreciate until  
3 they get that postcard or that envelope that says you owe  
4 50 percent more than you've ever owed before.

5 Q. You said a different income tier, so I'm --  
6 and I asked if you were increasing the number of people  
7 that would be eligible for this, and you said no. So I'm  
8 confused when you say going into a different income tier.

9 A. We were trying to provide a plan -- the  
10 basic focus was to provide a plan to help these people who  
11 have been good paying customers and, granted, they may be  
12 very close to 150 --

13 Q. Now, these people are still eligible under  
14 the regular -- under the existing Cold Weather Rule?

15 A. To the extent the Cold Weather Rule is tied  
16 to poverty level, there was no -- no, they would not be  
17 necessarily eligible to get the LIHEAP-type funding.

18 As far as the regular Cold Weather Rule, it  
19 deals with disconnects, reconnects. There's been a  
20 significant dispute in the conversation regarding, I get a  
21 bill and it's 50 percent higher and I cannot pay it, do I  
22 have to wait all the way until I get disconnected and get  
23 into that scenario before I can address it?

24 We wanted to ensure that those customers  
25 had an option to go forward. That's one of the major

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1 focuses of this bill or this rule. Excuse me.

2 Q. But there's no change in the income level  
3 for a household --

4 A. No.

5 Q. -- between the existing Cold Weather Rule  
6 and the emergency rule?

7 A. And part of the reason for not doing that  
8 was, given the timing of when this rule would practically  
9 be put into place, most people who are eligible for those  
10 type of programs under the income level hopefully -- and I  
11 say that strictly as an individual -- would already be on  
12 the system using the existing resources and the existing  
13 system.

14 Q. Did --

15 A. This is supplemental in nature.

16 Q. Did the -- do you know in dollars what  
17 150 percent of the poverty level would be for a family of  
18 two, a family of four, a family of six?

19 A. No. I would have to look at it.

20 Q. Was that included in the analysis in  
21 drafting your original version of the emergency Cold  
22 Weather Rule?

23 A. Quite honestly, the original version was an  
24 extension of the 2001-2002 rule.

25 Q. Is that a yes or a no?

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1           A.       Those were not taken into effect.

2           Q.       Okay.  You mentioned earlier about  
3   different income tiers being affected.  I guess what I'm  
4   trying to get an idea is when Office of Public Counsel was  
5   reviewing this problem, whether they saw there being an  
6   emergency just within 100 percent of poverty or 125  
7   percent of poverty, 150 percent of poverty, or because you  
8   have rates that are in some places doubling from the  
9   previous winter, whether even higher income levels would  
10  be affected?

11          A.       We definitely felt that there are going to  
12  be a significant group of customers, possibly even, you  
13  know, above -- significantly above the, quote, poverty  
14  line, that would be impacted by this, because keeping in  
15  mind that last year was a relatively mild winter, if you  
16  go back to even a normal year, not to mention a good cold  
17  winter, and you stack on high prices, you had a  
18  significant potential for people to be completely shocked  
19  and unable to respond to their natural gas bill.

20                 And what we were attempting to do was to  
21  get something in place that -- in a timely manner that  
22  could help these people with -- when these bills arrive.  
23  As far as doing extensive studies to refine it to certain  
24  percentage levels, no, we did not do that.

25          Q.       Was timing a problem in getting the rule



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1     drafted, why that wasn't done?

2             A.       Well, timing was a problem, and then  
3     there's also a little issue in our office called  
4     resources.  Quite frankly, I'm supposed to be in another  
5     room right now at another Commission proceeding.  We have  
6     another person in our office who -- we just simply have  
7     extremely limited resources.  We've had almost a  
8     40 percent budget cut in people in the last two years.

9             Q.       If you would have had more people or more  
10    time to get this done, would you have written the rule  
11    differently?

12            A.       I think -- I don't believe it would be  
13    significantly different because our focus was more on  
14    changing customers' payment habits and allowing a  
15    certain -- a next tier of customers, however you wish to  
16    define that, in fact, quite frankly, let them define it by  
17    saying, okay, I can take this proactive approach to change  
18    my payment needs to the company and remain a current  
19    customer.  Whether that's at a 200 percent or 300 percent  
20    or 175, we left that choice to the customers and tried to  
21    give them an incentive to change and remain a customer and  
22    pay their bill.

23            Q.       So even if you would have had more  
24    resources, more people working on this issue, the proposal  
25    wouldn't have been any different?

1           A.       I don't think it would have been  
2   significant, but that is an estimation. I mean, you can  
3   always try and refine it a little bit better.

4           Q.       Are there other concepts that this  
5   Commission should be considering in looking at cold  
6   weather issues, cold weather and heating issues? There's  
7   funding available from LIHEAP. There are some programs  
8   regarding weatherization, and I'm asking this question  
9   kind of in a more long-term scenario, if you look forward  
10   beyond just the proposals that are included in this. If  
11   OPC had the resources to think about other things, are  
12   there other concepts that have been thrown around in  
13   dealing with these issues?

14          A.       I believe the Commission has a task group  
15   and a case number for looking at cold weather right now.  
16   I know there have been multiple things that have been  
17   proposed to be included in that report.

18          Q.       I'm asking about OPC. I'm asking about you  
19   and your capacity working with the Office of Public  
20   Counsel, ideas that you have, not ideas that the  
21   Commission has already generated. Are there fresh ideas  
22   that more time and more resources would have allowed to  
23   come forward? The answer may be no.

24          A.       I would say the answer is yes, because to  
25   be able to go out and look at either other ideas that

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1 other states have tried or to develop new ones, yes,  
2 that's a resource issue.

3 Q. So if you would have had more resources,  
4 then more ideas possibly would have come out?

5 A. On long-term solutions?

6 Q. Yes.

7 A. For long-term solutions, yes.

8 Q. Okay. When your motion was filed to open  
9 this case, there was an allegation or statement in there  
10 that said there was an immediate danger to the public  
11 health, safety and welfare requiring emergency action. Do  
12 you recall that statement being included in the motion?

13 A. I believe that would be in there.

14 Q. Do you -- does the Office of Public Counsel  
15 still believe that there is an immediate danger to the  
16 public health, safety and welfare today?

17 A. Yes.

18 Q. And that's?

19 A. Even more so than at that point in time  
20 because the probability of cold weather, as evidenced by  
21 tonight.

22 Q. Well, it's been a relatively mild fall.

23 A. And it's 8 degrees for tonight.

24 Q. I understand. I understand that. Gas  
25 prices have come down. Do you still believe there's a

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1 danger to the public?

2 A. Gas prices may have come down in the  
3 market. They have not been reflected in the fuel  
4 adjustment which the customers will be paying.

5 COMMISSIONER CLAYTON: Okay. I don't have  
6 any other questions. Thank you.

7 JUDGE DALE: Thank you. Do any other  
8 Commissioners have any follow-up questions?

9 (No response.)

10 JUDGE DALE: Thank you.

11 CHAIRMAN DAVIS: Let me just ask one  
12 question.

13 QUESTIONS BY CHAIRMAN DAVIS:

14 Q. Mr. Trippensee, correct me if I'm wrong,  
15 but the reason why, even though there is not a, quote,  
16 agreement between the parties concerning this issue, you  
17 know, the amended pleading offered by the Office of Public  
18 Counsel was in essence your last best offer; is that  
19 correct?

20 A. I think it represents a rule that we  
21 believe there could be consensus on and will get this rule  
22 implemented without subsequent actions that would cause it  
23 not to be implemented. A last best offer, I kind of come  
24 back to the negotiations. I think there was extensive  
25 discussions, and whether it is word for word of the last

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1 discussed item, I'd have to go back and look to be  
2 perfectly accurate.

3 CHAIRMAN DAVIS: All right. Thank you.

4 JUDGE DALE: Thank you, Mr. Trippensee.

5 MR. TRIPPENSEE: Thank you.

6 JUDGE DALE: Staff?

7 MR. SCHWARZ: May it please the Commission?  
8 I'd like to speak from the seat, if I may, if you will  
9 indulge me on that.

10 JUDGE DALE: That will be perfectly fine.

11 MR. SCHWARZ: Staff has made two filings in  
12 this case, and the second filing indicated the Staff  
13 pretty much continued the position of its initial filing.

14 Staff believes that the conditions facing  
15 the state right now are significantly different than they  
16 were in 2001 when the Commission last made an emergency  
17 amendment to the Cold Weather Rule. At that stage the  
18 Commission was faced with an unusually large number of  
19 customers who had been disconnected at the end of the  
20 2000-2001 heating season because of tremendous spikes in  
21 the price of natural gas and the inability of the  
22 customers to get service restored.

23 The present situation, the Commission, the  
24 citizens of the state, the gas consumers are facing  
25 unprecedented natural gas prices, prices which, in fact,

1   since the OPC filed this I believe have increased.  
2   They're down from the midst of Rita and Katrina, but the  
3   spot prices of gas in the mid continent have risen from  
4   the 6.50 to \$7 range in October to the 10, \$11 range now,  
5   and the January futures contract is back up over \$11.

6                   Nevertheless, Staff wants to dispel any  
7   impression there may be that this Commission has not taken  
8   steps to address the increasing prices and costs of  
9   natural gas. When the first price spike hit in 19 -- in  
10  the 1996-1997 or 19 -- yes, 1996, the Commission initiated  
11  revisions to the PGA/ACA process to reduce the number of  
12  PGA/ACA filings to spread the effect of fluctuations in  
13  the price of natural gas over a longer period of time.  
14  After the 2000-2001 price spike, it initiated a natural  
15  gas task force to study the situation.

16                   One of the results of that task for was the  
17  initiation of the Commission's hedging rule, which is  
18  currently under study in Case GW-2006-0110. And, of  
19  course, the Commission also formed and has received a  
20  report from an energy affordability task force. One of  
21  the outcomes of that task force was the major revisions to  
22  the Cold Weather Rule that were initiated and took effect  
23  last year. So this Commission has, in fact, taken steps  
24  within its clear authority to address the increasing price  
25  of natural gas.

1                   If I might, I do have -- the Chairman had  
2 alluded earlier to household situations in the state. The  
3 figures on this page are either census figures, I believe  
4 it's Department of Labor on the low-income figures, but  
5 certainly sourced from the Federal Register and other  
6 sources that the Affordability Task Force used. The  
7 annual energy bill includes both gas and electric.

8                   It's been suggested that perhaps 6 percent  
9 of a utility -- that utility costs be 6 percent of a  
10 budget as a measure of affordability. If you divide that  
11 number by 6 percent, you get the figures directly below  
12 it. In the case of Cape Girardeau, \$32,000. If you  
13 divide that by 52 weeks per year and 40 hours per week,  
14 you get the hourly figure. I think the other figures are  
15 probably self explanatory.

16                  You can't directly tie, for instance, the  
17 number of households that are in poverty directly to the  
18 tables because, of course, these figures don't indicate  
19 how many persons there are in each of the households, but  
20 it should give you a general feel for the kind of  
21 situations that you're feeling. Certainly there are  
22 85,673 in these four standard metropolitan statistical  
23 areas because you won't have a household size less than  
24 one.

25                  But I think that from Staff's perspective

1 the eligible assistance from the federal government and  
2 the state through the Low Income Home Energy Assistance  
3 Program, LIHEAP, and the related crisis program are all  
4 directed to households at 125 percent or less of the  
5 federal poverty guidelines.

6               The Staff's belief is that this winter will  
7 be particularly trying for those households which are  
8 above that threshold and, consequently, aren't eligible  
9 for any direct aid. They never have availed themselves of  
10 that aid and they won't be able to do so this winter. Of  
11 course, not all of the eligible households in Missouri  
12 actually apply for and receive LIHEAP assistance.

13              That being said, I think that Staff has  
14 indicated that it is generally in favor of the proposed  
15 emergency amendments to the Cold Weather Rule. It  
16 believes that the local distribution companies, the LDCs  
17 should recover the reasonable cost of implementing that  
18 rule. By the same token, the Staff does not believe that  
19 the utilities should recover more than the costs that are  
20 directly attributed to that rule.

21              In that regard, Staff recommends to the  
22 Commission the use of a matrix that will be attached to  
23 our initial pleading. That matrix was actually used by  
24 Laclede Gas in implementing the 2001 emergency amendment,  
25 albeit it was used as a tracking mechanism. At that time



1   Laclede was in a general rate case. There was \$750,000  
2   provided to Laclede in that rate case in rates, which then  
3   was measured for permanent recovery by means of that  
4   matrix.

5                   Staff also believes that an Accounting  
6   Authority Order is an adequate means of deferring and  
7   preserving for ultimate recovery those costs. Staff  
8   further believes that the proposed recovery mechanism  
9   submitted on Friday by a number of LDCs over-recovers what  
10   can reasonably be anticipated to be the cost of those.

11                   For instance, a customer who is new to the  
12   system in September of 2006 incurs bad debt and is written  
13   off sometime in early 2007, has absolutely no connection  
14   to an emergency amendment, which assuming it's put in  
15   place January 1 of 2006, must expire no later than June  
16   29, 2006. Clearly that is not related to the cost of the  
17   rule.

18                   A customer who manages to get through the  
19   winter, this heating season paying his bills, never avails  
20   himself of the provisions of the rule, but finally in  
21   December of 2006 or January of 2007 is unable to pay, is  
22   disconnected and his charges are written off. Again, not  
23   necessarily a cost of this rule.

24                   Finally, Staff doesn't believe that  
25   measuring a level of bad debt in the last -- utility's

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1 last rate case is either material or relevant to measuring  
2 the cost of the rule. That is -- well, Laclede has the  
3 most recent rate case, which I guess we finally finished  
4 up in September, but MGE, Aquila, Ameren, it's been a  
5 number of years since those rate cases have occurred.

6                   It's in our view likely that the current  
7 level of bad debts is -- certainly well may be higher than  
8 they were in the rate case setting simply because the  
9 price of natural gas has escalated since then. So we  
10 don't think that's an appropriate measure. We think that  
11 the matrix that the Staff suggested is the appropriate  
12 measure for cost recovery.

13                   I would be happy to answer any questions  
14 the Commissioners might have.

15                   JUDGE DALE: Chairman Davis?

16                   CHAIRMAN DAVIS: I'm sorry, Mr. Schwarz.  
17 My train of thought has been broken here. Have you had  
18 any contact with our consumer services office to find out  
19 how many calls we're getting from people on a daily basis  
20 who are concerned about being disconnected?

21                   MR. SCHWARZ: I haven't spoken with them  
22 specifically on that issue. I know that we have -- in the  
23 last two weeks that Ms. Fred has been talking with the  
24 utilities and with the Department of Social Services as to  
25 the implementation of the LIHEAP program this year. We

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1 have -- we have not been apprised that, for instance, as  
2 in 2001, there are an unusually large number of customers  
3 disconnected.

4 Ms. -- yep, Ms. Fred is available and can  
5 speak more directly to that if you would like. She hasn't  
6 communicated to me any particular problems along those  
7 lines.

8 CHAIRMAN DAVIS: Okay. Are you concerned  
9 at all about the effect that bad debt will have on these  
10 utilities?

11 MR. SCHWARZ: Yes. I think that it's -- I  
12 think that it will be significant. I mean, my  
13 recollection is that the net earnings of Laclede Gas  
14 Company -- and they can correct me if I'm wrong -- but  
15 they're typically in the range of 35 to \$30 million per  
16 year. Their natural gas costs, the elimination that Staff  
17 made in the test year, the 2001 test year for the rate  
18 case was \$450 million or thereabouts. The estimate for  
19 their gas costs that they used for their current PGA  
20 filing is \$825 million.

21 So yes, I think that if they aren't  
22 concerned, they certainly should be about the possibility  
23 that bad debt specifically attributed to the high cost of  
24 gas could have a significant effect on them.

25 CHAIRMAN DAVIS: All right. Thank you,

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1 Mr. Schwarz. And thank you. I think you did a very good  
2 job in laying out, you know, the -- giving us some  
3 examples as to how this might work. I see you want to add  
4 something, so go ahead and add it.

5 MR. SCHWARZ: I would. In its initial  
6 filing, Staff indicated that, you know, the next level of  
7 customers, the customers who have always paid, they may  
8 have had to struggle. These are the people that may go  
9 without a meal or two meals a week, may not take medicines  
10 that they otherwise need in order to make ends meet in  
11 paying their utility bills. Those are the folks that will  
12 be affected. It is -- if they're above 125 percent of the  
13 federal poverty level, there's no assistance readily  
14 available for them.

15 Staff is hoping that by extending payments  
16 for these folks, that that might be enough to get them by.  
17 We -- I would note for the Commission that the MEDA  
18 proposals, which are significant, are directed at those  
19 who are LIHEAP eligible, who have actually applied for  
20 LIHEAP. They don't have to have gotten it. So that's a  
21 considerable band of people, but again below the  
22 125 percent poverty level.

23 I know for a fact the Governor's Office is  
24 looking to fund the State Utilicare program. That's an  
25 ongoing effort in the Governor's Office. I don't know

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1    what the prospects for success are, but it's something  
2    they're looking at, and they might be able to structure  
3    that to help a different group.

4                   The Wall Street Journal recorded last week  
5   that more than half of the United States senators are  
6   supporting a \$1.18 billion increase in LIHEAP for this  
7   year. So there may be other sources of revenue still  
8   coming down the line.

9                   It would be most helpful if, like Rapunzel,  
10 we could spin straw to gold, but that is beyond the  
11 purview and abilities of either this agency or its Staff,  
12 I think.

13 CHAIRMAN DAVIS: Thank you, Mr. Schwarz.  
14 And thank you, I think you did some good research on this  
15 issue.

16 JUDGE DALE: Commissioner Murray, any  
17 questions?

18 COMMISSIONER MURRAY: I don't believe so.  
19 Thank you.

20 JUDGE DALE: Commissioner Gaw?

21 COMMISSIONER GAW: Mr. Schwarz, have you  
22 been in contact with the community action agencies?

23 MR. SCHWARZ: Not directly, no. I know  
24 that Ms. Fred has.

25 COMMISSIONER GAW: All right. So you're

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1 not familiar with the applications for assistance, LIHEAP  
2 assistance then for this year in comparison to previous  
3 years?

4 MR. SCHWARZ: I spoke to Jean Lashon this  
5 morning who's the director of the program for Social  
6 Service. She indicated that the urban areas would likely  
7 be out of crisis money by the end of this month and other  
8 areas certainly by the middle of January. The EA money,  
9 the regular energy assistance program, they think may  
10 stretch to the first part of March, but again, that  
11 program does not reach -- does not assist all of those who  
12 are eligible.

13 COMMISSIONER GAW: I understand. I'm  
14 asking you about that program right now. Are you familiar  
15 with the number of applications for assistance in the  
16 community action agencies through the state of Missouri as  
17 of now in comparison with previous years?

18 MR. SCHWARZ: No.

19 COMMISSIONER GAW: Okay. And --

20 JUDGE DALE: Excuse me, Commissioner Gaw.  
21 I believe Ms. Fred may have that information.

22 COMMISSIONER GAW: Sure, if she wants.

23 MR. SCHWARZ: As of last Friday at close of  
24 business, Social Services reports they have received  
25 88,924 applications and processed 68,016.

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1                   COMMISSIONER GAW: How does that compare  
2 with previous years?

3                   MR. SCHWARZ: It's a 15 percent increase  
4 over last year.

5                   COMMISSIONER GAW: Is that statewide?

6                   MR. SCHWARZ: Yes.

7                   COMMISSIONER GAW: Is it possible, are you  
8 familiar with the application rate in St. Louis City?

9                   MR. SCHWARZ: I am not, but that's --

10                  COMMISSIONER GAW: You don't have that  
11 information?

12                  MS. FRED: Yes, we have that information.

13                  JUDGE DALE: Should I swear Ms. Fred?

14                  MR. SCHWARZ: Yes, she should be a witness  
15 on her own accord.

16                  JUDGE DALE: Ms. Fred, if you'll step to  
17 the podium with your whole stack.

18                  (Witness sworn.)

19                  JUDGE DALE: And could you please state  
20 your name and spell it for the court reporter?

21                  MS. FRED: Carol Fred. C-a-r-o-l, Fred,  
22 F-r-e-d. My title is the consumer services manager for  
23 the Missouri Public Service Commission Staff.

24                  JUDGE DALE: Now either of you.

25                  COMMISSIONER GAW: Ms. Fred, are you

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1 familiar with the current status in regard to St. Louis  
2 City of applications?

3 MS. FRED: Yes. Just a moment. Let me  
4 pull it out. Currently in the St. Louis County area,  
5 there's approximately 3,500 applications has been  
6 received. For the St. Louis City area 3,900 applications  
7 received. And as of last Friday, approximately 23 percent  
8 of those are still pending in process.

9 COMMISSIONER GAW: Okay. Compare that to  
10 last year if you have those figures, same time.

11 MS. FRED: I don't have those figures for  
12 the same time from last year.

13 COMMISSIONER GAW: Do you know if anyone is  
14 here today from St. Louis City Community Action Agency?

15 MS. FRED: No, they're not here.

16 JUDGE DALE: It's my understanding that  
17 Ms. Hutchison is going to be filing written comments in  
18 this matter but was unable to be here today.

19 COMMISSIONER GAW: Do we know when we're  
20 going to get them.

21 JUDGE DALE: I just asked her to file them  
22 as quickly as possible.

23 COMMISSIONER GAW: Okay. Thank you.  
24 That's all I have right now. Thanks.

25 Wait. One more thing. The current status



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1 of the LIHEAP funding is what, Ms. Fred?

2 MS. FRED: I believe Mr. Schwarz mentioned  
3 that the current pending status is -- for crisis money is  
4 anticipated to be completely depleted in the St. Louis  
5 City area by the end of December.

6 COMMISSIONER GAW: I got that. I'm looking  
7 for what the status of funding is in Congress.

8 MS. FRED: Oh, in dollars? Same as last  
9 year. 1.8 million.

10 COMMISSIONER GAW: 1.8 million. Is that  
11 for total monies?

12 MS. FRED: In Missouri.

13 COMMISSIONER GAW: For Missouri. Including  
14 crisis funds?

15 MS. FRED: Crisis, energy assistance,  
16 that's total.

17 COMMISSIONER GAW: So about the same  
18 amount. Do you know what the total national money is  
19 currently in the appropriation request?

20 MS. FRED: Right now it's the same as last  
21 year with no money put into emergency crisis.

22 COMMISSIONER GAW: So at this point in  
23 time, the actual total amount is less than last year or at  
24 least no greater?

25 MS. FRED: Less than last year. There's no

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1 emergency contingency money appropriated in the budget.

2 COMMISSIONER GAW: And I think we've  
3 already had some information on what the energy prices  
4 have done since last year. Can you tell me what the -- if  
5 you are familiar with the change in LIHEAP funding since  
6 its inception in the early '80s?

7 MS. FRED: I can't tell you that. I'm  
8 sorry. Before my time.

9 COMMISSIONER GAW: Never seen that? That's  
10 interesting. I've seen that. Okay. Thanks.

11 JUDGE DALE: Thank you.

12 CHAIRMAN DAVIS: Judge, do you want to keep  
13 her up here, just in case?

14 JUDGE DALE: Sure.

15 COMMISSIONER GAW: Public Counsel has a new  
16 appearance over there, I'm assuming that's now available  
17 for inquire if someone wants to; is that correct?

18 MS. MEISENHEIMER: Sure.

19 COMMISSIONER GAW: I'm just checking.  
20 Thanks.

21 JUDGE DALE: Commissioner Clayton, do you  
22 have any questions?

23 COMMISSIONER CLAYTON: I don't have any  
24 questions at this time.

25 JUDGE DALE: Thank you. Commissioner

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1     Appling?

2                   COMMISSIONER APPLING:  None at this time.

3                   JUDGE DALE:  Are there any other questions  
4     for the Staff?

5                   CHAIRMAN DAVIS:  Ms. Fred, I forgot, would  
6     it surprise you to learn that funding for LIHEAP on the  
7     federal level has been fairly flat for an extended period  
8     of time, years now?

9                   MS. FRED:  No, it would not surprise me.

10                  CHAIRMAN DAVIS:  20 years.  So that doesn't  
11     surprise you that the funding has been flat for a long,  
12     long time?

13                  MS. FRED:  Right, it does not surprise me.

14                  CHAIRMAN DAVIS:  Is there anything you wish  
15     to add in general?

16                  MS. FRED:  No.

17                  CHAIRMAN DAVIS:  All right.  Thank you,  
18     Ms. Fred.

19                  JUDGE DALE:  I have one question for you,  
20     Mr. Schwarz.  Can you tell me what the present wholesale  
21     price of gas is, natural gas, an average in Missouri?

22                  A.        I can -- I can tell you that the January  
23     future is back up into the mid \$13 range, and as far as  
24     the price of gas, probably the best source is the  
25     Commission's PGA filings of which you can take official

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1 notice, but my recollection is that the -- oh.

2 CHAIRMAN DAVIS: Thank you, Jim Busch.

3 MR. SCHWARZ: The print is small enough,  
4 and now I have to try to think what units this is in.  
5 It's a dollar point -- it's 1.1414 dollars per therm,  
6 which translates roughly into \$11.41 an MCF, but that's  
7 delivered.

8 JUDGE DALE: And how does that price relate  
9 to the average prices for last year?

10 MR. SCHWARZ: That was .7915, if I'm  
11 reading Mr. Busch's number correctly.

12 JUDGE DALE: And could I get you to submit  
13 both that chart from which you are reading and the chart  
14 you distributed earlier into the record?

15 MR. SCHWARZ: I would be pleased to do so.  
16 I'll have to make copies of this.

17 JUDGE DALE: Yes, you can either offer them  
18 now and we can put them in or you can file them.

19 MR. SCHWARZ: I would offer both of them  
20 into the record at this stage, if you would mark them for  
21 identification purposes. I don't have enough copies at  
22 present.

23 JUDGE DALE: I will just take what you have  
24 and mark them as Exhibit 1, which is the -- it's entitled  
25 Case No. GX-2006-0181, Emergency Cold Weather Rule

1 Projected Energy Bills.

2 MR. SCHWARZ: Should I give it to the court  
3 reporter or you? If you give me the promised break, I can  
4 return anon with sufficient copies. This -- we've got  
5 copies. That's one?

6 JUDGE DALE: This is one.

7 MR. SCHWARZ: This will be two?

8 JUDGE DALE: And that document that you  
9 just handed the court reporter entitled Missouri Public  
10 Service Commission Energy Department Winter Gas Bill  
11 Analysis for Jurisdictional Gas Companies will be  
12 Exhibit 2. Thank you.

13 (EXHIBIT NOS. 1 AND 2 WERE MARKED FOR  
14 IDENTIFICATION.)

15 JUDGE DALE: Anything else for Staff? In  
16 that case, we will take a break until 3 o'clock. Promptly  
17 we will resume at 3 o'clock. We're off the record.

18 (A BREAK WAS TAKEN.)

19 JUDGE DALE: We are back on the record in  
20 Case No. GX-2006-0181, and we are ready for Mr. Hack to  
21 make his presentation.

22 MR. HACK: Yes. My question procedurally  
23 is I didn't know if the AG's Office was going to offer  
24 comments in support of the rule, and if so, I thought it  
25 would be appropriate they did so now.

1 JUDGE DALE: Mr. Micheel?

2 MR. MICHEEL: We are going to comment on  
3 the rule. If this is the appropriate time, I would do  
4 that. If you want to wait --

5 JUDGE DALE: If you're in support of the  
6 rule, it does make sense for you to go now, since we've  
7 heard two parties in support of it, presuming the rest are  
8 going to be opposed.

9 MR. MICHEEL. Okay. There are parts of the  
10 rule that we support and parts of the rule that we don't.  
11 I will speak to that. First of all, let me enter my  
12 appearance. Douglas E. Micheel appearing on behalf  
13 of the State of Missouri, Assistant Attorney General, P.O.  
14 Box 899, Jefferson City, Missouri 65102.

15 The State generally supports the Office of  
16 Public Counsel's proposed amended rule. We also believe,  
17 consistent with our filing that we made in response to the  
18 Commission notice of October 25th, that there indeed is an  
19 emergency that necessitates the filing of this, the  
20 promulgation of an emergency rule. And I won't go into  
21 that. You can look at our filing for that. I think a lot  
22 of folks have talked about that.

23 The one aspect of the Public Counsel's rule  
24 that we do not support is the single issue ratemaking  
25 portion of the cost recovery. We would support an AAO.

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1 And so those are basically my comments. I'd be happy to  
2 answer any questions.

3 JUDGE DALE: Thank you. Chairman Davis?

4 CHAIRMAN DAVIS: Mr. Micheel, can you  
5 refresh for my recollection, their preference first is for  
6 the AAO, correct, but --

7 MR. MICHEEL: That's my understanding,  
8 Mr. Chairman. Yes, sir.

9 CHAIRMAN DAVIS: And so you're supportive  
10 of all the other parts of the rule?

11 MR. MICHEEL: I think so, yes, sir.

12 CHAIRMAN DAVIS: In your legal opinion,  
13 going past the AAO could constitute single issue  
14 ratemaking and, therefore, would probably run afoul of the  
15 law; is that correct?

16 MR. MICHEEL: That is correct,  
17 Mr. Chairman. And I guess with respect to -- I would just  
18 add, with respect to the company's proposal, as I  
19 understand it, they are wanting to recover the waterfront  
20 of residential bad debt, and I think that is well beyond  
21 what they should be entitled to recover.

22 I think the costs that are related to the  
23 emergency, if the Commission decides to promulgate an  
24 emergency rule, those would be appropriate for recovery,  
25 but not the waterfront of bad residential debt. And my

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1 reading of the company's proposal indicates that's what  
2 they want to do, and we would be opposed to that.

3 CHAIRMAN DAVIS: Now, let me ask you this:  
4 If the -- if the companies did think that that bad debt  
5 was in a crisis situation, then they would be -- they  
6 would have the ability to come here and request an AAO and  
7 we could adjudicate that issue as well, couldn't we?

8 MR. MICHEEL: You could, Commissioner, and  
9 I believe at least one utility in the past has at least  
10 attempted to do that. I think that was Aquila Networks  
11 had done that, as I recall, in 2000, give or take.

12 CHAIRMAN DAVIS: All right. Thank you,  
13 Mr. Micheel.

14 JUDGE DALE: Commissioner Appling, do you  
15 have any questions?

16 COMMISSIONER APPLING: I'm sorry. No  
17 questions.

18 JUDGE DALE: I do have one question.

19 With respect to the company's proposal,  
20 does your concern about single issue ratemaking also  
21 relate to their proposal?

22 MR. MICHEEL: Yes, it does.

23 JUDGE DALE: Thank you. We are now on to  
24 Mr. Hack, who's coming up to the podium.

25 MR. HACK: Thank you. Thank you. Good



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1     afternoon. May it please the Commission? Rob Hack  
2     appearing for MGE.

3                     My comments will be directed first at the  
4     filing made by the Staff last Friday, briefly addressing  
5     three problems with the suggestions they've made in that  
6     filing. Next I'll compare and contrast the OPC and  
7     industry proposals focusing on the two primary  
8     differences, the clean slate and cost recovery, which is  
9     really the bulk of my comments.

10                    Of Staff's budget billing proposal, Item G  
11     is unworkable from at least MGE's perspective from an  
12     administrative perspective because this approach, which is  
13     to pay one-half of actual usage amount during winter with  
14     a balance deferred to be paid off during the summer  
15     months, is available presently only on an isolated  
16     exception basis. That means we don't have a program. We  
17     do it manually. It's labor intensive. We're not prepared  
18     to sign up 15 or 20,000 customers and administer that.

19                    Next item, Item H, the Staff has  
20     misconstrued the OPC's late payment charge proposal. OPC  
21     has not proposed a general waiver of late payment charges,  
22     as the Staff seems to suggest. Instead, as OPC has made  
23     clear in its filing, the proposal is that late payment  
24     charges that are deferred not be subject to late payment  
25     charges unless payments are not timely made in accordance

1 with the agreements.

2                   This Staff proposal would cause significant  
3 additional revenue and earnings losses for utilities, in  
4 addition to perhaps requiring billing system programming  
5 changes that then may be difficult or impossible to  
6 complete in light of our time constraints.

7                   The Staff's comments endorsing -- this is  
8 my third point on the Staff filing -- endorsing an AAO  
9 approach to cost recovery ignore the history of four years  
10 ago when the Cole County Circuit Court ruled that the AAO  
11 approach adopted by the Commission at that time did not  
12 provide gas utilities with adequate assurance that the  
13 emergency Cold Weather Rule would not impair existing  
14 revenues, income and achieve returns.

15                   Turning to the OPC filing, 14A, we're  
16 basically the same. OPC has specified the term to end  
17 March 31st. Point B, again basically the same between the  
18 industry and OPC, but OPC has made it clear that the term  
19 for that proposal is January through May. C, the OPC and  
20 the utilities are basically the same.

21                   D, which is clean slate, the OPC proposal  
22 is broader. As Mr. Trippensee expressed, it would wipe  
23 the slate clean for all prior Cold Weather Rule defaults  
24 for a customer, and our belief is that that's too broad,  
25 that that clean slate wipes the slate clean for issues

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1 that have no relation at all to what OPC has alleged to be  
2 the current emergency, and as a consequence, that violates  
3 536.0251, sub 4.

4 Item E, the OPC and the utilities are  
5 basically the same. I think our language tracks the  
6 existing rule a little more closely. Item F, cost  
7 recovery, that's why we're here. What MGE has told the  
8 parties during the negotiations, we told the Commission  
9 four years ago, we need appropriate cost recovery. We're  
10 not inflexible, but if we can't get appropriate cost  
11 recovery, we have a problem.

12 The OPC and company proposals are  
13 significantly different. I'll start really with the guts  
14 of OPC's cost recovery proposal set out in Item D, one  
15 little I, two little I, three little I, four little I. At  
16 a high level, OPC's cost recovery proposal and mechanism  
17 is both unreliable, inadequate compensation, and  
18 administratively burdensome.

19 Item two little I, limits recoveries to bad  
20 debt writeoffs -- and this is critical here -- associated  
21 with charges to ECWR, emergency cold weather rule  
22 customers for the 12-month period following the customer  
23 getting on an emergency Cold Weather Rule agreement.  
24 Okay. So it would be bad debts related to that 12 --  
25 service during that 12-month period alone.

1                   Why is that a problem? It's a problem from  
2   an administrative perspective because people can get on  
3   the rule as early as January 3rd or as late as May 31st.  
4   We have a wide time requirement, varying time requirement  
5   to look at each individual account under the rule.

6                   My guess is that we're going to have 15,  
7   20,000 customers sign up under these provisions, and OPC's  
8   proposal would require us to go in and examine each and  
9   every single one of those accounts. The resources  
10  required for the companies to do that work and the Staff  
11  to audit our work product is staggering. We think the  
12  resources can be frankly devoted to better purposes.

13                  OPC's proposal, again, to limit the bad  
14  debt recoveries to service during that 12-month period  
15  ignores the fact that the magnitude of the writeoffs is  
16  going to relate to service prior to that period. Why is  
17  that? A customer with \$1,000 arrearage signs up under the  
18  emergency provisions, pays \$500 as an initial payment.  
19  Under the current rule, that entire \$500 relates to  
20  service prior to signing up on the rule.

21                  Under the current provisions we would  
22  charge 80 percent, \$800. There's a \$300 difference in  
23  arrearage amounts that that customer is carrying forward  
24  into the emergency Cold Weather Rule that's directly  
25  attributed to the rule itself that OPC's proposal would

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1 not count as a cost of the rule if it doesn't get paid.

2 That's \$300. Doesn't count under the OPC's proposal.

3                   OPC's proposal also requires the utility to  
4 make speculative and administratively burdensome  
5 estimates. For example, if the customer calls, the  
6 customer hasn't been disconnected, they are calling  
7 because they have a high bill, they have a balance they're  
8 worried about, say we want to get on the ECWR provisions  
9 during the middle of a billing cycle by paying 50 percent  
10 of their outstanding balance. When does the 12-month  
11 period -- measurement period under OPC's rule begin? Does  
12 it begin the beginning of that billing cycle, in the  
13 middle of that billing cycle, at the end of that billing  
14 cycle? I can't tell you by reading the rule.

15                   If an ECWR customer makes payments, we hope  
16 they do, but they make some but not all of the payments  
17 under the rule, how do those payments get applied? Do  
18 they apply to balances that pre-existed the service under  
19 the ECWR agreement or not? We can't tell by reading the  
20 rule.

21                   In any event, it will require for us to go  
22 back and open up each and every single account to compile  
23 the cost estimates. My understanding is that in the  
24 '01-'02 period Laclede had 24,000 customers under the ECWR  
25 in effect at that time. Assuming a similar number for

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1    them, assuming a number of 15 to 20,000 for MGE, there's  
2    40 to 45,000 individual accounts to look at on our part,  
3    to review here in Jeff City.

4                   The June 30, '07 deadline under OPC's  
5    proposal is too short to permit writeoff of bad debt of  
6    these customers. Let me give you an example. Customers  
7    may take advantage of the provisions under OPC and the  
8    utilities' rule as late as May 31, 2006. The measurement  
9    period for that customer under OPC's proposal ends May 31,  
10   2007. We can only write a customer off -- and remember  
11   OPC's proposal only tracks costs if they're written off by  
12   June 30 of 2007.

13                   For MGE, which is one of the speedier  
14   writeoff -- has one of the speedier writeoff practices, it  
15   takes 35 days from the date a customer is disconnected to  
16   get to being written off. Other companies take 60 to  
17   90 days. In effect, by curtailing the measurement period  
18   early, OPC has artificially reduced costs associated with  
19   compliance with the rule.

20                   Item 3 little I, the amount calculated in  
21   2, 2 little I is to be reduced by reversals of bad debt  
22   writeoffs of customers taking advantage of the rule and  
23   who are current on the bills as of June 30, 2007. Why is  
24   this a problem? Remember in 2 little I, that the bad debt  
25   costs that could be considered under OPC's approach were

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1   limited to those related to that 12-month service period  
2   after a customer gets on under the arrangement. There's  
3   no such limitation under 3 little I. There's a lack of  
4   symmetry.

5                   What's a bad debt writeoff reversal? When  
6   a customer comes back on after being disconnected, let's  
7   use the same customer with \$1,000 arrearage, gets hooked  
8   up, we reverse \$1,000 of bad debt writeoffs. If that  
9   customer is current on their bill by June 30, 2007, OPC  
10   would take the entirety of that \$1,000, all of which  
11   relates to service prior to getting onto the system under  
12   the emergency Cold Weather Rule period, and use it to  
13   reduce bad debts for the period -- that 12-month  
14   measurement period. It's an apples and oranges approach  
15   that leads to frankly unreliable cost estimates.

16                   Item iv, little iv, again we're referring  
17   to Item 2 little I as being reduced. This time it's to be  
18   reduced by reconnect fees that are paid by customers  
19   connected under the emergency provisions whose accounts  
20   are written off as bad debt by June 30 of '07. Reconnect  
21   fees are set based on the cost to perform the work. If a  
22   customer reconnects because of the rule, we incur a cost  
23   that covers the compensating revenue. There should be no  
24   reduction to those revenues. There are no incremental  
25   revenues for us. We do not have employees sitting around

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1 our offices simply waiting for customers to be  
2 reconnected. Again, what this does is an artificial  
3 reduction to the costs of the ECWR rule.

4 Item E and F, the AAO provisions, from my  
5 company's perspective, allowing that as an alternative so  
6 long as there is a meaningful and compensatory cost  
7 recovery proposal to choose otherwise, we don't object to  
8 that.

9 The utilities' cost proposal, which would  
10 allow for the actual gas cost portion of residential bad  
11 debts, not all bad debts, only the gas cost portion of bad  
12 debts, whatever actually is experienced by a gas utility  
13 for each of two years following implementation of the  
14 emergency Cold Weather Rule, would be compared to the rate  
15 case allowance, again, the gas cost portion of bad debts,  
16 and adjusted for each of those two years. The proposal  
17 does not suffer from the flaws I described just now for  
18 OPC, the OPC proposal.

19 First, the baseline amount can be readily  
20 identified and has already been determined to represent a  
21 reasonable and normal level of residential gas cost bad  
22 debt expense. For MGE, we just go to our last rate case  
23 that concluded a little over a year ago, break out the  
24 residential gas cost portion of bad debts included in  
25 rates. For companies without recent rate cases, a



1 three-year average would serve as the baseline.

2                   Second, the delta or change above or below  
3 that baseline amount of residential gas cost bad debts can  
4 also be readily identified. There will be no need to make  
5 any assumptions, estimates, guesses or judgments and  
6 quantification process. There will be no need to review  
7 tens of thousands of individual accounts. In addition to  
8 being less contentious than the OPC mechanism, the  
9 utilities' proposal is significantly less labor intensive  
10 to both us and the regulator.

11                   Third, because the adjustment mechanism we  
12 have proposed covers only the gas cost portion of  
13 residential bad debts and leaves the utilities at risk for  
14 the margin revenues, 25 to 30 percent of the bill,  
15 utilities continue to have an incentive to pursue  
16 collection efforts vigorously within the rules. You can  
17 be assured that if you adopt our cost recovery proposal,  
18 we won't be sluggish in our collection efforts.

19                   Finally, because our proposal is  
20 symmetrical, it ensures that neither customers nor  
21 shareholders are advantaged or disadvantaged as a result  
22 of bad debt costs driven by factors, gas costs, weather  
23 driven consumption that are beyond the control of both  
24 groups. That is, the gas cost portion of the residential  
25 bad debts turns out to be lower than the baseline amount,

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1 then that difference would be returned to customers. If  
2 higher, then the difference would be returned to  
3 shareholders.

4 The two-year term for our proposal is  
5 really designed with two factors in mind. One, to compare  
6 a rate case allowance to actual, you have to have a 12  
7 month -- at least a 12-month period. Two, I think as  
8 Public Counsel's proposal recognizes, it takes more than a  
9 one-year period for bad debts to wash through the system.

10 Happy to answer questions. And I think the  
11 proposal you've seen today reflect a lot of efforts to  
12 narrow the gaps, but clearly cost recovery is an issue.

13 JUDGE DALE: Thank you. Chairman Davis, do  
14 you have questions?

15 CHAIRMAN DAVIS: Yes, Judge, I do. I'm  
16 just not sure where to begin.

17 Mr. Hack, I listened to your statement, and  
18 quite frankly, I somehow just got lost in the minutia of  
19 it all. OPC filed this request in late October and, you  
20 know, in essence you're here, you know, bogging us down  
21 with a whole lot of minutia, and from what I can tell, not  
22 much substance.

23 Do you really think your administrative  
24 costs outweigh the fact that people are freezing and their  
25 health is at risk?

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1 MR. HACK: What I can tell you is --

2 CHAIRMAN DAVIS: That's a yes or no  
3 question, Mr. Hack.

4 MR. HACK: No.

5 CHAIRMAN DAVIS: Have you put your last  
6 best offer on the table?

7 MR. HACK: Mr. Pendergast has some comments  
8 he'd like to share with you.

9 CHAIRMAN DAVIS: So the answer to that  
10 question is no. At what point were you planning to put  
11 your last best offer on the table, Mr. Hack?

12 MR. HACK: Today. I will tell you also  
13 that that proposal has already been put on the table. So  
14 we haven't held it back until today.

15 CHAIRMAN DAVIS: I think this witness has  
16 me so astonished I can't think of any other questions to  
17 ask right now, but I will gladly yield to my colleagues,  
18 who I'm sure would like to probe Mr. Hack's position  
19 further.

20 JUDGE DALE: Commissioner Gaw?

21 COMMISSIONER GAW: I'll pass for the time  
22 being.

23 JUDGE DALE: Commissioner Clayton?

24 COMMISSIONER CLAYTON: I don't have any  
25 questions.

1 JUDGE DALE: Commissioner Appling?

2 COMMISSIONER APPLING: I'm going to hold  
3 back on my questions because I have a request for all of  
4 the utilities at the end of this today that I will ask for  
5 you to consider. And I've prepared a statement and I  
6 would like to read that at the end, which would  
7 encapsulate everything that I'm going to say here today,  
8 but only thing I'm asking is that we all in this room step  
9 up to the bat and let's do what we can do on this issue.  
10 But I will make my statement at the closing, if you will  
11 allow me to do that. Thank you.

12 JUDGE DALE: Thank you, Mr. Hack.

13 MR. HACK: Thank you.

14 JUDGE DALE: Mr. Fischer?

15 MR. FISCHER: Thank you, Judge. My name is  
16 Jim Fischer, and I represent a couple local distribution  
17 companies in this proceeding. Those are Atmos Energy  
18 Corporation, Fidelity Natural Gas, Inc., and Southern  
19 Missouri Gas Company, LP, doing business now as Southern  
20 Missouri Natural Gas.

21 Pursuant to the Commission's order  
22 requiring supplemental filing, which was issued yesterday,  
23 I'd like before I get into the substance of my remarks to  
24 provide for the record the information that was requested  
25 by the Commission for these companies, and that was the

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1 number of customers whose service was disconnected for  
2 nonpayment between November 1st and December 1 for the  
3 years 2005, 2004 and 2003. If it be appropriate, I'd like  
4 to just read into the record that information.

5 JUDGE DALE: Yes. Thank you.

6 MR. FISCHER: For Fidelity Natural Gas, for  
7 the year 2005, the current year, zero has been  
8 disconnected for that month. For the year 2004, two  
9 customers. For the year 2003, zero customers.

10 For Southern Missouri Gas for the month of  
11 November through December 1st for the year 2005,  
12 13 customers were disconnected. In 2004, 4 customers were  
13 disconnected, and for the year 2003, 8 customers were  
14 disconnected.

15 For Atmos Energy Corporation, the number of  
16 disconnected in that month for the year 2005 was 76, in  
17 2004, 147, and for 2003, 162.

18 I also have information for Kansas City  
19 Power & Light company, which I'd like to read into the  
20 record for the years 2005 and 2004. The information for  
21 2003 was not yet readily available, but KCPL can provide  
22 that at a future time, if the Commission still desires  
23 that information. But for the year 2005 for the month of  
24 November through December 1st, KCPL had 191 customers  
25 disconnected for non-pay. In the year 2004, the number

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1 was 161.

2                   The main substance of my remarks today  
3 would be to give the Commission some information on how  
4 some of our neighboring states are dealing with the impact  
5 of rising natural gas prices and their impact on bad debt  
6 recovery. Kansas, Tennessee, Texas and Virginia, all of  
7 which Atmos serves in their states, have adopted  
8 approaches to recovery of the gas portion only of bad  
9 debts in ways that are very similar to the proposal that  
10 is on the table from the LDCs in this case.

11                   On June 24th of 2005, the Kansas  
12 Corporation Commission issued an Order Approving Joint  
13 Application in Docket 05-ATNG-643-GIG. I don't know how  
14 they come up with those numbers. But in that order, the  
15 KCC changed its traditional practice of recovering bad  
16 debts through base rates and instead began recovering the  
17 portion of bad debts related to gas costs only through the  
18 PGA mechanism.

19                   In the Order it notes, the KCC Staff views  
20 the current practice of embedding the bad debt expense,  
21 including that portion of the cost of gas, as being  
22 sub-optimal for the LDCs and their customers. According  
23 to the KCC staff, the Order says, the question is not  
24 whether the expense is recoverable, but rather how the  
25 expense is recovered. In this order, the KCC agreed with

1 its staff and the LDCs that collection of the gas cost  
2 portion of bad debts through the PGA mechanism was, quote,  
3 reasonable, in the public interest and should be approved.

4 The KCC explained its decision in this way:  
5 Collection through the PGA will ensure a more timely  
6 recovery of the utility's costs, while avoiding a costly  
7 rate increase proceeding. Further, it will eliminate the  
8 over or undercollection of gas costs attributable to  
9 uncollectibles associated with existing practice.

10 Your Honor, I'd like to -- I've got copies  
11 of that KCC order, and for completeness of the record, I'd  
12 ask that it be admitted for your review.

13 JUDGE DALE: Yes, and it should be marked  
14 Exhibit 3.

15 (EXHIBIT NO. 3 WAS MARKED FOR  
16 IDENTIFICATION BY THE REPORTER.)

17 MR. FISCHER: On September 2nd, 2005, the  
18 Tennessee Regulatory Authority issued an Order in Docket  
19 No. 03-00209 which directed the LDCs to file a detailed  
20 procedure for recovering the gas portion of bad debts  
21 through the Tennessee PGA/ACA process. I would  
22 respectfully request that the Commission allow me to add  
23 to the record the Tennessee Order Extending Experimental  
24 Period for Docket No. 03-00209 before the Tennessee  
25 Regulatory Authority. That's dated September 2nd, 2005.

1 JUDGE DALE: That will be included in the  
2 record as Exhibit 4.

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

5 CHAIRMAN DAVIS: Judge, could you ask  
6 Mr. Fisher to clarify for the record, how many gas LDCs  
7 does Tennessee have? It's my understanding they don't  
8 have a large gas presence, but I could be mistaken.

9 MR. FISCHER: Your Honor, I wish I knew the  
10 answer to that. I know Atmos Corporation operates in  
11 Tennessee, and I can get you that information, but I don't  
12 know offhand how many LDCs there are.

13 CHAIRMAN DAVIS: Thank you.

14 MR. FISCHER: Perhaps you know the Chairman  
15 of the Tennessee Commission, Deborah Tate. She explained  
16 the basis for her decision more eloquently than I could  
17 indicate in my arguments here today. I'd like to read a  
18 portion of her remarks from the transcript, just to save a  
19 little bit of time.

20 In the real world in which businesses must  
21 operate, it's clear that by not allowing the recovery of  
22 uncollectible expenses, this can often have detrimental  
23 impacts -- or excuse me -- effects on the companies and  
24 their shareholders, and in the long run could likely  
25 affect negatively the services that consumers, their



1 customers, are enjoying. This is especially true because  
2 there is a correlation between weather and uncollectible  
3 percentages, such that colder weather may result in higher  
4 uncollectibles.

5                   Therefore, I believe there is a need to  
6 balance the long-term interest of consumers and the  
7 interest of the companies. Modification of the PGA rules  
8 to allow continuous recovery of the gas costs will allow  
9 the companies to avoid filing rate cases within short time  
10 intervals and will likely result in rate changes that are  
11 more manageable for both the companies and the customers.

12                   As you all remember, in 2001 the Tennessee  
13 Regulatory Authority faced the very similar set of  
14 circumstances that we do today, when the companies then  
15 requested or allowed to approve the deferral of the bad  
16 debt portion of gas costs. The list of extraordinary  
17 circumstances of that harsh winter included the dramatic  
18 increases in wholesale cost of gas. Actually it was  
19 significantly higher than the previous ten seasons.  
20 Colder than normal weather, companies experiencing  
21 unprecedented increases in the level of bad debt expenses  
22 in Tennessee.

23                   The magnitude of the uncollectible accounts  
24 was far in excess of the amounts allowed for uncollectible  
25 account expenses in the tariffs at that time. And also at

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1 the TRA's request, the companies have taken measures to  
2 alleviate some of the burdens that that year, including  
3 extended payment periods, delayed disconnections, the  
4 opportunity to enter into averaging payment plans so as to  
5 even out customer bills over a 12-month period.

6 Remarkably, all of these circumstances are  
7 many of the reasons and sound exactly like what I, at  
8 least as one director, began talking about publicly last  
9 August as we developed our gas symposium and heard from  
10 both national and local experts about the potential  
11 national crisis which seemed to be imminent. I'm just  
12 about done. I apologize for the length.

13 The TRA allowed this recoverability to  
14 occur. I doubt at that time if either the companies or  
15 the TRA envisioned that the same difficulties that year  
16 might actually become the norm, and they might have  
17 requested this action earlier. I think they explained a  
18 lot of the reasons why the gas companies are here today  
19 asking that we look at both sides of the ledger, not just  
20 look at one half of the loaf. We need to look at both how  
21 to keep consumers on the system but also how to take into  
22 account what the Staff was saying, is that the current  
23 level of bad debts are going to be a significant problem  
24 for the utilities.

25 And to the extent, as Russ Trippensee

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1 pointed out, the emergency, if there is one, is related to  
2 high natural gas prices. We aren't seeing evidence that  
3 there's a lot of customers that are off the system right  
4 now. We are anticipating high natural gas prices, and one  
5 of the impacts of that is going to be that there's going  
6 to be bad debts at a -- significantly above levels that  
7 are included in the current rates.

8 I've also got hard copies of that  
9 transcript available, if anybody would like to have that  
10 introduced as well, but it's fairly lengthy, so -- I also  
11 have a final order of the Texas Commission in an Atmos  
12 rate case, Docket No. 95-339 dated March, 2005, which  
13 allowed the gas portion of the uncollectible expenses to  
14 be recovered through the purchased gas adjustment clause,  
15 and -- for Atmos in this case, and I'd ask that it be  
16 entered into the record.

17 JUDGE DALE: And that will be included as  
18 Exhibit 5.

19 (EXHIBIT NO. 5 WAS MARKED FOR  
20 IDENTIFICATION BY THE REPORTER.)

21 MR. FISCHER: In Virginia this issue has  
22 also been dealt with through a PGA tariff filing. I've  
23 got a copy. I don't have an Order, but apparently they  
24 did it through a PGA tariff, and I have a copy of the  
25 Atmos PGA tariff which shows the specifics of the recovery

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1 of the gas portion of uncollectible accounts through the  
2 ACA or PGA/ACA process. I would ask that that be entered  
3 into the record.

4 JUDGE DALE: That will be included in the  
5 record as Exhibit 6.

6 (EXHIBIT NO. 6 WAS MARKED FOR  
7 IDENTIFICATION BY THE REPORTER.)

8 MR. FISCHER: Your Honor, in closing, I  
9 would just urge that the Commission seriously consider the  
10 cost recovery mechanism that's being suggested by the  
11 Missouri LDCs in this proceeding. It's very similar to  
12 the approach that's been adopted by these other four  
13 jurisdictions where Atmos operates, and I think these  
14 other jurisdictions have found that it is meritorious to  
15 look at recovering the gas portion of bad debt expense  
16 through the PGA process.

17 The proposal we have on the table today is  
18 very similar to that, and I would urge you to give it  
19 serious consideration. Certainly the PGA has been found  
20 to be lawful here in Missouri. If it's a gas cost that's  
21 paid, it's certainly passed through. There's no reason if  
22 it's unpaid it shouldn't be passed through.

23 I appreciate your attention. Be glad to  
24 answer your questions.

25 JUDGE DALE: Thank you, Mr. Fischer.

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1 Chairman Davis?

2 CHAIRMAN DAVIS: Mr. Fischer, if bad debt  
3 across the board is such a problem, then why has really  
4 the last week or so been the first I've heard about it  
5 from the gas utilities? And why is it that, you know, it  
6 only has come up in the context of this emergency  
7 rulemaking for the Cold Weather Rule?

8 MR. FISCHER: Your Honor --

9 CHAIRMAN DAVIS: I mean, if we -- if this  
10 Commission were doing nothing on the Cold Weather Rule, I  
11 mean, would the gas utilities be coming to us and saying,  
12 we have a problem with bad debt?

13 MR. FISCHER: Your Honor, in 2000-2001,  
14 that did occur. The utilities did come before the  
15 Commission and ask for some bad debt recovery.

16 CHAIRMAN DAVIS: Well, I'm not concerned  
17 about 2000-2001. I'm concerned about right now.

18 MR. FISCHER: And I would suggest to you  
19 that no one in this room anticipated \$14 gas. We are  
20 anticipating what the impact's going to be on bad debt  
21 levels, and to the extent that we are looking to try to  
22 deal with the impacts of those high natural gas prices  
23 both on the consumer side, we should also be considering  
24 the likely impact and the probable impact on the bad debts  
25 of the utility.

1                   It's a question -- the utilities are more  
2   able to be flexible with their customers if it's not  
3   coming directly out of their shareholders' pockets, and  
4   this is a mechanism where we can share the burden of these  
5   high natural gas prices.

6                   CHAIRMAN DAVIS: Mr. Fischer, I can see  
7   that some of these documents have been in your possession  
8   for some time. Why are you waiting until, you know, now,  
9   the 11th hour, to drop these documents on us for us to  
10  read all of them?

11                  MR. FISCHER: Your Honor, we shared those  
12  with all the parties to the proceedings throughout these  
13  discussions the same day we received those, several weeks  
14  ago. I recognize as a former person that sat on that  
15  Bench that sometimes you feel like you're the last one to  
16  get information, but we've been dealing with the parties  
17  in this, and today was our first opportunity to introduce  
18  these into the record, so we're doing that.

19                  I apologize if we should have provided this  
20  to you earlier as a part of the overall picture, but this  
21  is our first opportunity to introduce things before the  
22  Commissioners as I have had in the record. Certainly I  
23  guess I would have to say we're seeing a widespread trend  
24  in the Atmos company states that the PGA is the proper  
25  mechanism to recover these gas portion of gas bad debts.

1 It makes -- excuse me.

2 CHAIRMAN DAVIS: I don't know. You know,  
3 I -- Mr. Fischer, can you understand why it's hard for me  
4 to feel sympathy for some of your clients when, in my  
5 opinion, some of them or at least my impression based on  
6 what evidence has been presented to me so far up to this  
7 present moment is that some of them didn't do a very good  
8 job hedging their gas prices this winter?

9 MR. FISCHER: Your Honor, I look forward to  
10 a day when we can address those issues. I would point out  
11 that several of the smallest gas companies have the lowest  
12 PGAs in the state, and they're all below the statewide  
13 average on the total bills, and I would suggest to you  
14 that at the end of the year, those folks that have heavily  
15 hedged may have higher PGAs than those that didn't. But  
16 we'll see.

17 CHAIRMAN DAVIS: Let's just be sure that  
18 some of those companies, small companies that filed small  
19 PGAs and didn't hedge don't come back here in a few months  
20 saying, we need more money.

21 MR. FISCHER: Well, we'll have to wait and  
22 see, I guess. And I look forward to having a whole  
23 picture on that. We're working very hard on that  
24 investigation into the hedging issues, and that rule, but  
25 for today, I believe we're talking about the bad debt

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1 recovery that's going to fall from the high gas prices,  
2 and if our prices are lowered because people hedged or  
3 because they happened to be getting the benefit of the  
4 wide divergence between the futures market and the cash  
5 market, maybe those bad debts won't be as high as we  
6 anticipate.

7                   For now, I just want to relate that many of  
8 the jurisdictions are tying the gas portion of bad debt  
9 recovery through the PGA and they see these issues as  
10 being very connected, and I'd urge you to do the same.

11                   CHAIRMAN DAVIS: No further questions,  
12 Mr. Fischer.

13                   JUDGE DALE: Thank you, Chairman.  
14 Commissioner Gaw?

15                   COMMISSIONER GAW: Not right now, thank  
16 you.

17                   JUDGE DALE: Commissioner Appling?

18                   COMMISSIONER APPLING: No.

19                   MR. FISCHER: Thank you very much.

20                   JUDGE DALE: Thank you, Mr. Fischer.

21                   Before we move on to Mr. Pendergast,  
22 Mr. Hack, you were going to provide a document to the  
23 record.

24                   MR. HACK: I apologize. I've been asked to  
25 offer a two-page letter dated October 18, 2005 by --



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1     authored by Chuck Caisley to Chairman Davis from the MEDA  
2     commitments to the Governor. I would offer this as  
3     Exhibit 7.

4                     JUDGE DALE: 7. Thank you. We'll include  
5     it in the record.

6                     (EXHIBIT NO. 7 WAS MARKED FOR  
7     IDENTIFICATION BY THE REPORTER.)

8                     MR. PENDERGAST: Is it my turn?

9                     JUDGE DALE: Uh-huh.

10                    COMMISSIONER GAW: Judge, may I ask a quick  
11     question? I understand that you went to the AG's Office  
12     earlier, and I had a couple of questions, so when we have  
13     a chance.

14                    JUDGE DALE: This would be a very good  
15     time.

16                    COMMISSIONER GAW: Mr. Micheel, for my  
17     benefit, would you mind again stating what the AG's  
18     position is?

19                    MR. MICHEEL: Yes. I indicated,  
20     Commissioner, the State had filed pursuant to the  
21     Commission's notice our filing in support of the emergency  
22     commission -- or the emergency rulemaking, noting that we  
23     believe that there is an emergency and there is an  
24     emergency situation due to the increased costs and various  
25     things like that. I indicated that generally we're

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1 supportive of the Office of the Public Counsel's proposed  
2 alternative, but our issue of divergence there is with  
3 respect to the funding mechanisms.

4 We certainly support the Accounting  
5 Authority Order method, but we had some concerns with the  
6 single issue nature of the tracker, and I also indicated  
7 that with respect to the companies' proposal for recovery  
8 of the gas cost portion of the uncollectibles, that that  
9 same single issue ratemaking issues was a concern.

10 And I also indicated that the costs that  
11 the company should have an opportunity to recover are the  
12 costs that stem from the emergency Cold Weather Rule, not  
13 the blanket uncollectible gas costs, as I understand the  
14 company's rules.

15 COMMISSIONER GAW: Okay. There is one  
16 issue that I am particularly concerned about, Mr. Micheel,  
17 and I don't -- and you didn't mention it in your remarks.  
18 I am trying to understand how some individuals out there  
19 are able to cope with the current provisions of the Cold  
20 Weather Rule that require 50 percent payment for -- I  
21 think for reconnect and qualification. Are you familiar  
22 with that provision and do you know whether the Attorney  
23 General's Office has a position?

24 The earlier -- the earlier position from  
25 the Office of Public Counsel would have reduced that

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1 amount and would have tracked at least in their initial  
2 proposal an amount that was similar to what was done in  
3 the earlier emergency Cold Weather Rule. And they have  
4 evidently abandoned that, and I'm -- I'm interested in  
5 knowing whether or not the Attorney General's Office has a  
6 position on it or has some input on it that they could  
7 offer.

8 MR. MICHEEL: At this point in time,  
9 Commissioner, we do not have a position on that. I would  
10 indicate that the 50 percent provision is obviously better  
11 than the current Cold Weather Rule, and so...

12 COMMISSIONER GAW: Okay. Tell me what the  
13 difference is.

14 MR. MICHEEL: I think if my understanding's  
15 correct, under the current Cold Weather Rule, you have to  
16 do all of your arrearages prior to -- 80 percent -- excuse  
17 me -- 80 percent of your arrearages prior to getting on.  
18 So this gives them a --

19 MR. MARTIN: Commissioner, Eric Martin.

20 COMMISSIONER GAW: Go ahead, Mr. Martin.

21 MR. MARTIN: Under the current rule, I  
22 think if you haven't violated a previous Cold  
23 Weather Rule agreement, you can have a provision where you  
24 pay 12 percent of a certain amount, but if you violated a  
25 Cold Weather Rule agreement, you have to pay 80 percent.

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1 COMMISSIONER GAW: Yes?

2 MR. MARTIN: And our proposal, our original  
3 proposal made it so that you only had to pay 25 percent.  
4 Now our current proposal makes it so you pay 50 percent if  
5 you have violated a previous Cold Weather Rule agreement.

6 COMMISSIONER GAW: Okay. What did you get  
7 in exchange for that concession? No. You don't have to  
8 answer that. I know you didn't get anything.

9 So, Mr. Micheel, this is an issue that I  
10 know you have some previous history of some sort involving  
11 this matter.

12 MR. MICHEEL: Yes, at a previous employer.

13 COMMISSIONER GAW: I'm looking -- yes, at a  
14 previous employer. And I'm trying to recall, because  
15 Jackie Hutchison isn't here and I don't have anybody at  
16 this point in time that -- to discuss this issue with. I  
17 know this is a significant issue for some people trying to  
18 come up with their initial qualification under the Cold  
19 Weather Rule. Do you have any recollection about  
20 discussions about this issue from previous experience that  
21 might shed some light on that?

22 MR. MICHEEL: I cannot -- I cannot quote  
23 you chapter and verse what those statistics were, but my  
24 recollection is similar to yours, that it was a problem  
25 for low-income customers coming up with the initial amount

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1 of money, whether it's through money given from a CAP  
2 agency or LIHEAP or ESIP to get that. As it relates to  
3 the percentage or numbers, I don't know.

4 COMMISSIONER GAW: Okay. Perhaps I'll get  
5 some direction from the filing from Jackie Hutchison.  
6 That's all I have. I would ask Mr. Micheel if the  
7 Attorney General's Office ends up with a position on this,  
8 if that might be disclosed to us.

9 MR. MICHEEL: Yes. I will have to take it  
10 back to my bosses and run that through.

11 COMMISSIONER GAW: I understand. Thank  
12 you. Thank you for the interruption. I apologize for  
13 that.

14 JUDGE DALE: Mr. Pendergast, I think we're  
15 ready for you, and your document has been included in the  
16 record as Exhibit 8, I believe.

17 (EXHIBIT NO. 8 WAS MARKED FOR  
18 IDENTIFICATION BY THE REPORTER.)

19 MR. PENDERGAST: Thank you, your Honor. I  
20 appreciate that. Appreciate the opportunity to come here  
21 today and address you on this important subject.

22 I'd like to make a few preliminary comments  
23 before I get to the document that I handed out today. I  
24 would like to note that I think all the parties have  
25 worked very hard throughout this process over the last

1 month or two since Public Counsel initiated this docket to  
2 try and come up with as close a consensus as possible, and  
3 I believe that we were negotiating right up until Thursday  
4 night and even waiting to hear back Friday as to whether  
5 or not we had been successful.

6                   Ultimately we were not completely  
7 successful. That's one of the reasons why the proposals  
8 that we presented have come in at this juncture, rather  
9 than coming in earlier. I don't think anybody was quite  
10 sure at the time everybody filed at three o'clock on  
11 Friday what everybody else was going to be filing. So  
12 there was, I think, a desire to go ahead and wait and see  
13 what those were and go with what we had originally  
14 proposed.

15                   Since that, we've had an opportunity to go  
16 ahead and evaluate what was filed and see where it fit  
17 into the previous discussions we had and come up with one  
18 additional alternative, which I have passed out to you.  
19 And I would indicate this is an alternative position.

20                   I think it's important to recognize that --  
21 that these discussions did bear a lot of fruit. There are  
22 very little in the way of differences, as Russ Trippensee  
23 indicated, over the substance of the rule itself, and I  
24 think to get to Commissioner Gaw's question, everybody in  
25 this room, Public Counsel, the Staff, and I think the

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1 other parties have two concerns.

2                   One concern is to help customers retain  
3 utility service during the price environment that we're  
4 coping with right now to go and get reconnected, and at  
5 the same time be respectful of the impact that  
6 uncollectible expense and other costs can have on other  
7 customers. And in looking at that, I think we've tried to  
8 structure a proposal that addresses both those principles  
9 in a fair and balanced way.

10                   As Commissioner Gaw indicated, I believe in  
11 2001 there was a 25 percent or \$250 requirement. At that  
12 point I think the primary focus of that emergency rule was  
13 we had just been through a winter where prices had been  
14 extremely high, and there was more of an emphasis on  
15 getting customers reconnected, as opposed to this winter  
16 dealing with a price environment that is going to be  
17 significantly higher than it was in the past.

18                   And in talking those issues through, I  
19 think there was a recognition that while you wanted to do  
20 something more than what the Cold Weather Rule required  
21 that we have, by reducing it to 50 percent, that it wasn't  
22 really necessary to go all the way back down to 25 percent  
23 or 250, and that was sort of a balance that was struck, I  
24 think, during the negotiations, and we think that that was  
25 a reasonable result to propose to the Commission. And I

1 hope that gives you a little bit of helpful background on  
2 how that particular consensus was reached.

3                   That said, obviously we still have a  
4 difference of opinion on the funding issue. We have  
5 proposed as the primary proposal the gas cost portion of  
6 bad debt recovery mechanism. Obviously it's an approach  
7 that other jurisdictions, independent of anybody making  
8 any rule change to make it easier for customers to stay  
9 connected or come back on, have determined to be a  
10 reasonable approach.

11                   It is an approach that still places  
12 utilities at significant risk of underrecovery because it  
13 does only cover the gas cost portion. And I think it's  
14 important to keep in mind that from the very beginning,  
15 all of our proposals have been structured to only recover  
16 a portion of our costs, not recover all of those costs,  
17 and certainly not overrecover any cost, because we've  
18 always used a baseline, what was allowed in the rate case,  
19 and only asked for a portion of the increase that's  
20 related to gas cost portion over what's in rates.

21                   Quite frankly, independent of any rule, I  
22 think there's a compelling legal case to be made that  
23 having a PGA mechanism that's designed -- or a tracker  
24 mechanism designed to recover gas costs does not become  
25 unlawful simply because it does a better job of recovering



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1 gas costs, mainly those that you've incurred, billed out  
2 but not been paid for. Simply because they have not been  
3 paid for does not make them a non-gas cost. They still  
4 remain a gas cost.

5               That being said, while we think that is an  
6 appropriate approach, what you have before you is an  
7 alternative, and what we have tried to do is take what  
8 Public Counsel filed on Friday, we've tried to make as few  
9 adjustments to it as possible to satisfy what we believe  
10 is a reasonable funding mechanism. And I'd like to run  
11 through it very quickly for you if I could.

12              This is their language that they had in  
13 their proposal on Friday. The red lines, the underlines  
14 are the changes that we have proposed. Obviously the  
15 strikeouts are what we are proposing be deleted. And I'll  
16 just start with FC very quickly. That says, as general  
17 principle, that no gas utility should be permitted to  
18 recover costs that would have been incurred in the absence  
19 of the emergency rule. We don't really have a problem  
20 with that particular principle, but we've also gone to  
21 lengths, as has Public Counsel, to define what recoverable  
22 costs are. And we think that as long as it's done in  
23 compliance with the standards and criteria set forth in D,  
24 that that should be deemed to be a cost of the rule so  
25 that we don't continue to go ahead and argue about that in

1 the future.

2                   If we go down to 1, Mr. Hack talked about  
3 why the time period that Public Counsel had proposed was  
4 not a sufficient time period. I think that's undeniably  
5 true. A bad debt that a customer incurs is not a one-time  
6 or limited event. If you have an arrearage and you don't  
7 pay it now, then it's something that continues to accrue,  
8 it's something that continues to roll, and it can go ahead  
9 and have an impact on your ultimate bill, not just for one  
10 winter, but for several winters.

11                   As you've all heard, Laclede had a tracking  
12 mechanism. I believe in that tracking mechanism we  
13 tracked for about two years. We're not suggesting an  
14 entire two years here, but we are suggesting that we go  
15 about 21 months, and that will give us a good picture of  
16 what's actually happened to that customer over that period  
17 of time. If there has been something carried over from  
18 one winter to another, it will go ahead and recognize  
19 that. And I think it's consistent with what the  
20 Commission has done before.

21                   Small 2 I, basically what we're trying to  
22 do here, as Mr. Hack indicated at Public Counsel's  
23 proposal, they simply look at the charges for service once  
24 a customer goes on to the rule. What that doesn't give  
25 recognition to is that when a customer goes on to the

1 rule, the emergency rule, we're going to be requiring less  
2 up front of that customer than we otherwise would.  
3 Instead of 80 percent of what the customer owes, it will  
4 be 50 percent.

5                   To Laclede which has a means test in its  
6 tariff, it would be for any customer over 150, the  
7 difference between 100 percent of what the customer owes  
8 and 50 percent that's provided under the rule. For a  
9 customer that wants to go on budget billing, it would be  
10 the difference under our tariffs and under our budget  
11 billing program to have to pay 100 percent of their  
12 arrearage to go on budget bill. We would go ahead and do  
13 that, make that 50 percent.

14                   So given the fact that you're giving up  
15 some of that up-front money, we believe it's appropriate  
16 to go ahead and include a portion of those arrearages in  
17 the measurement of what your bad debt experience was. And  
18 that's what this language does, but it doesn't include all  
19 of it. We are trying to give some recognition to the fact  
20 that some of those arrearages probably would have occurred  
21 regardless of the rule. So what we're saying is that when  
22 it comes time to determine what level of bad debt the  
23 customer left you with, the utility should be allowed to  
24 recovery approximately 90 percent of those, not  
25 100 percent, still provide the utility with the incentive,

1 pursue disconnection activity where disconnection activity  
2 is appropriate. Not provide complete recovery but  
3 certainly provide what we believe is a reasonable level.

4               We have basically agreed with Public  
5 Counsel's offset language number on reinstatement. If it  
6 does come back on and stays on, it's going to be used as a  
7 credit that that reinstatement be as a result of the rule.  
8 But with that, we are fine with giving customers credit  
9 for those who have a positive impact on uncollectibles by  
10 coming back on, staying current, and reversing the bad  
11 debt that they had before they came back on. Symmetry  
12 suggests that we should also pick up a portion of those  
13 bad debts that the customers had or those arrearages when  
14 they came back on under 2 I and -- two little i.

15               On 4, Mr. Hack said that counting against  
16 reconnection fees for those customers that ultimately  
17 leave us with a bad debt isn't appropriate because there's  
18 also a cost of going out and reconnecting a customer. We  
19 have left the concept in, but we have said to the extent  
20 there are costs associated with going out and reconnecting  
21 the customers, that both the fees and the costs should be  
22 taken into account and put into the calculation. We think  
23 that's just a reasonable thing to do, and it provides to  
24 go ahead and do that.

25               Five is just to add a little bit of

1   certainty to when we come in and we file a report that  
2   says, here's what our experience was, now we want to go  
3   ahead and adjust rates, that there will be some reasonable  
4   time limit or timeline on how long it will take to go  
5   ahead and review that, and ultimately have an adjustment  
6   in place. It would be our hope that we could make that  
7   adjustment at about the same time or the same time we make  
8   a PGA filing so that we don't have different adjustments  
9   going on the customer's bill at different times.

10                   I can't offer any guarantees as to how many  
11   customers will take advantage of this or what the ultimate  
12   dollar impact would be, but just knowing what  
13   uncollectible expense has been in the past, what it was  
14   under our tracking mechanism, you're going to be talking  
15   probably something roughly one-half of 1 percent rate  
16   impacts, maybe 3/4 of 1 percent rate impact as a result of  
17   this tracking mechanism, and it may be less than that.  
18   I'd be very surprised if it ever reached 1 percent. But  
19   still, at 1 percent may be relatively small as far as the  
20   individual customer is concerned, but when you compare the  
21   total dollars to the net incomes of utilities, it becomes  
22   much more significant.

23                   Six is basically simply a way of trying to  
24   bring some consistency to how we'll measure the level of  
25   bad debts. I think as Mr. Hack indicated, some utilities

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1 write off immediately after the customer is disconnected  
2 within 30 days, some do it within 60 days. Laclede  
3 happens to do it within six months, and that's for a  
4 variety of different reasons.

5 But we don't think costs should be excluded  
6 from recovery or included in recovery because of  
7 differences in writeoff policies. So what we've tried to  
8 do is say that when we do measure what the uncollectible  
9 level is for a specific account as of the September 30th,  
10 2007 date, that we will look at what has been owed for a  
11 customer who has been finaled, had a final bill issued.

12 And for Laclede, that means -- and I think  
13 most other utilities -- that you had service discontinued,  
14 you've been rendered a final bill, and you have gone ahead  
15 and failed to pay that bill by the delinquent date. Or if  
16 you have a situation where you have not been able to get  
17 access to the customer's premises because they have an  
18 inside meter and you can't issue a final bill under those  
19 limited circumstances if that customer also has an  
20 arrearage, you would be able to go ahead and include in  
21 the calculation as well. We don't believe those customers  
22 should be artificially excluded because we haven't been  
23 able to get into their home and get a final meter reading.

24 Those are really the significant changes,  
25 and we have worked very hard to try and limit those

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1 changes to what we thought were absolutely necessary. We  
2 believe that this is a reasonable tracking mechanism.  
3 While we still continue to support the gas cost tracker  
4 for the reasons that were addressed by Mr. Hack, we are  
5 willing to go ahead, and if for whatever reason the  
6 Commission believes that this customer specific tracking  
7 alternative is more appropriate to implement that, and all  
8 we would ask is that this particular mechanism with these  
9 particular changes be approved by the Commission as part  
10 of that process.

11                   And I guess on a final note, I think there  
12 was some discussion about the County of St. Louis and the  
13 agreement to fund an additional million dollars. I think  
14 that there was also some discussion about the effort at  
15 the state level by the Governor to fund additional  
16 Utilicare funding. All of those are born out of  
17 recognition that with higher gas prices come higher tax  
18 revenues, whether it be sales tax at the state level,  
19 whether it be gross receipts tax at the local level, and  
20 those costs are not insignificant.

21                   There will also be that kind of tax revenue  
22 at the federal level as a result of some of the profits  
23 that we've seen some of the oil companies make. We hope  
24 that we can continue to go ahead and get other  
25 jurisdictions to find it within their means to provide

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1     that kind of additional support for low-income customers.

2                     And of course, to the extent that we do  
3     have this kind of tracking mechanism in place, not only  
4     will those individual customers get the benefit of that  
5     additional assistance, but so will all the rest of our  
6     customers in the form of a lower amount that will  
7     otherwise be tracked through this. So it's an opportunity  
8     that gives everybody a chance to win, and personally, I'd  
9     like to see us move forward and start doing that and get  
10    this issue resolved if at all possible so we can turn our  
11    attention to it.

12                    Thank you very much.

13                    JUDGE DALE: Questions from the Bench from  
14    Chairman Davis?

15                    CHAIRMAN DAVIS: Okay. Mr. Pendergast, I  
16    don't want to put words in anyone else's mouth, but okay,  
17    so what's the Office of Public Counsel and Staff and  
18    Mr. Micheel going to say about this proposal? Because  
19    it's my understanding they have already seen it. Have  
20    they or have they not?

21                    MR. PENDERGAST: They have either seen it  
22    or it has been orally described to them. The only thing  
23    the Staff may not have been aware of was the 90 percent,  
24    the reduction from 100 percent to 90 percent was a last  
25    day thing that I had proposed to Public Counsel. I'm sure



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1 they were aware of it. I don't know to what extent Staff  
2 was aware of it.

3 CHAIRMAN DAVIS: Okay. No further  
4 questions at this time.

5 JUDGE DALE: Thank you. Commissioner Gaw?

6 COMMISSIONER GAW: Thank you.

7 Mr. Pendergast, the 25 percent, \$250, whichever is less  
8 provision in the '01 emergency Cold Weather Rule, can  
9 you -- do you have any recollection of how those payments  
10 looked as far as the amounts concerned? Was the \$250  
11 generally the minimum? Do you have any recollection or  
12 was it 25 percent less on most of them?

13 MR. PENDERGAST: That's a good question for  
14 which I don't have an answer. Mr. Fallert here may. Let  
15 me confer with him for just a second.

16 Extraordinarily, Mr. Fallert is as puzzled  
17 by that question as I am.

18 COMMISSIONER GAW: Because I didn't ask it  
19 well, or you just don't have that information?

20 MR. PENDERGAST: Because we just don't have  
21 the answer.

22 COMMISSIONER GAW: I'm trying to understand  
23 if on any percentage about what that would mean to the  
24 average person qualifying under the Cold Weather Rule  
25 provisions, how much money that might mean or some range,

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1    whether it's 50 percent or whatever it is.  Is there any  
2    information on that?

3                   MR. PENDERGAST:  I can tell you,  
4    Commissioner, and Mr. Fallert can raise his hand or tap  
5    the microphone if I'm completely off, but I believe that  
6    for LIHEAP-eligible customers, we had an average balance  
7    of I believe \$1,000, so you would be talking about the  
8    difference between 250 or \$500.

9                   Now, what I will say is that by the time  
10   this rule became effective, those customers, many of those  
11   customers would be already on, not all of them.  And I  
12   guess to put it in perspective, at least for Laclede, when  
13   the last emergency rule was implemented, we had something  
14   called the five case rule that we kind of utilized, which  
15   was kind of 50 percent up to a certain level and then the  
16   customer had to pay over that certain level, then we went  
17   down to 25 percent.

18                   Here we're going to 80 percent down to  
19   50 percent.  So in essence we're kind of going down by the  
20   same amount compared to where we started as we did that  
21   last time.  And I'm not sure precisely where gas costs  
22   stand last winter compared to where they were the winter  
23   before that.  My impression is that they were about the  
24   same or a little bit lower last winter, and I think that  
25   that's one of the considerations that also played into

0115

1     would it be acceptable to go with a 50 percent instead of  
2     a 25/250.

3                     COMMISSIONER GAW:   In between the  
4     expiration of the emergency Cold Weather Rule that was  
5     initiated in '01 and the last advocacy of the Cold  
6     Weather Rule, what was Laclede's policy in regard to what  
7     was necessary to qualify for the Cold Weather Rule  
8     provisions as far as a payment was concerned on back-owed  
9     payments?

10                    MR. PENDERGAST:   Sure.   What we did was  
11     last -- beginning last winter we implemented the new  
12     provisions of the Cold Weather Rule that had been  
13     negotiated as a result of the Commission's task force,  
14     which meant that for a customer who had broken a previous  
15     payment agreement, we required 80 percent.

16                    COMMISSIONER GAW:   What was it before that,  
17     immediately before that?

18                    MR. PENDERGAST:   Before that, I'm trying to  
19     go ahead and I think what we had done was we had come up  
20     with a way of basically -- under the approach before it  
21     had to be all missed payments, and these were customers  
22     who were coming back in November, so if they had been off  
23     for six or seven months, they would have six or seven  
24     months of missed payments.   What we tried to do was  
25     develop a general percentage that would go ahead and

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1 capture what a customer with that kind of experience would  
2 have had to pay.

3 I'm not sure if it was completely  
4 80 percent, maybe it was a little bit lower than that, but  
5 it was probably -- no. Wait a minute. I think it was  
6 maybe slightly higher than that, maybe 85 percent or so.  
7 And then, of course, when we had the new provisions of the  
8 Cold Weather Rule, we reduced that slightly to 80 percent.

9 COMMISSIONER GAW: I'm having difficulty  
10 tracking that, because I have some recollection that that  
11 80 percent figure actually moved the amount upward, and  
12 you don't think that was the case?

13 MR. PENDERGAST: I think that -- my  
14 recollection was that it moved it a little bit downward,  
15 because I remember we also at the same time moved up the  
16 amount that a customer who would pay -- would pay who had  
17 not broken a prior agreement. That used to be like 1/12  
18 or  
19 8 percent. We moved that up to 12 percent, and the reason  
20 we did that in part was to go ahead and help pay a little  
21 bit for the fact that we were moving the other one down  
22 just a little bit. But there were some other things going  
23 on, so I'm not sure if there might not have been some  
24 other factors that came into play there.

25 COMMISSIONER GAW: Okay. And that

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1 8 percent, the 1/12 that's in the current Cold Weather  
2 Rule, is that -- that has to do with individuals who you  
3 say previously were not under the Cold Weather Rule?

4 MR. PENDERGAST: Someone who has not  
5 previously broken a Cold Weather Rule.

6 COMMISSIONER GAW: So there was additional  
7 amount owed by those individuals to get reconnected?

8 MR. PENDERGAST: Yeah. Basically, when you  
9 come in, you pay 12 percent and you get a levelized bill  
10 that combines your arrearage and your -- now, I do have to  
11 say that Laclede is part of that process. Every utility  
12 was allowed to mean test its Cold Weather Rule, and that  
13 means that if you were 150 percent or more above the  
14 federal poverty level, those kind of special payment  
15 arrangements did not have to be offered. You could go  
16 ahead and say, look, I'll put you on budget billing.  
17 You've got to make yourself whole here. You've got to pay  
18 all your arrearages to go ahead and get that.

19 We have held off on implementing that this  
20 winter, and we've done it primarily to see how this  
21 process turned out. We know that we were looking at  
22 coming up with something that would be an alternative to  
23 that, and so we've been awaiting the results of this.

24 COMMISSIONER GAW: And perhaps if someone  
25 else has anything to add on this that hasn't spoken on it,

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1     maybe they'll volunteer later.

2                     Mr. Pendergast, is it -- do you know  
3     whether or not there has been an issue in St. Louis  
4     regarding Laclede disconnecting individuals who were in  
5     the pipeline and were qualifying for LIHEAP assistance in  
6     the last few weeks?

7                     MR. PENDERGAST: I haven't heard an issue  
8     put that way, but what I have heard is that -- and I think  
9     this is partially a function that for the first time this  
10    year we were going to all-electronic transmission of  
11    information. You know, it used to be people would courier  
12    things down to our office from the social service  
13    agencies. We would look at it and go ahead and send  
14    something back to them. And we were trying to do it  
15    electronically now.

16                    There have been a few snafus on that, and I  
17    know our people met with the county agency last Thursday,  
18    had a very productive meeting, and those folks -- we had  
19    two of our service people go out there and actually spend  
20    four hours there to make sure we had the electronic stuff  
21    and standards working properly. I got a memo back from  
22    them saying they thought it was very productive, here's  
23    what we need to do to make sure we have everything on  
24    track. And we think we are caught up and we are trying to  
25    do that.

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1                   Same thing within the city, and, in fact,  
2   one of the things I was going to talk today about was  
3   whether or not it might make sense, and I'd like to talk  
4   to Jack about it, too, of having just a Laclede person or  
5   two down at their offices full-time, so that we've got  
6   somebody on both ends and we can make sure that if there  
7   is any problem with files and making sure that we've got  
8   the right ones going in right places and analyzed in the  
9   right way, that we can go ahead and get that problem  
10  addressed right away on the spot.

11                  COMMISSIONER GAW:  Do you know whether or  
12  not there have been issues this year with a significant  
13  number of new applicants in St. Louis City for assistance?

14                  MR. PENDERGAST:  You know, I probably  
15  should have gotten that information before I came down  
16  here, but I didn't.  I can certainly try and find that  
17  out.  I don't know whether sort of the timeline for  
18  getting these things processed had more to do with the  
19  fact that we're doing it a different way or because there  
20  have been more people, but --

21                  COMMISSIONER GAW:  Well, is there a way --  
22  in the past Laclede has had some methods of checking  
23  before they did a disconnection to see whether or not  
24  someone was in the pipeline to get assistance.  Hasn't the  
25  company had that mechanism and policy in place?

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1                   MR. PENDERGAST: I think that's right,  
2   yeah. I think that's correct, yes.

3                   COMMISSIONER GAW: Is it possible that  
4   there's something that you think the electronic -- the  
5   change with the electronic transfer of information may  
6   potentially be hampering what has been past policy that  
7   way?

8                   MR. PENDERGAST: Just a moment,  
9   Commissioner. We haven't heard that, but we'll certainly  
10   look into it and see if that --

11                  COMMISSIONER GAW: I mean, I can tell you  
12   I've had a conversation that raised a concern there. I'm  
13   not going to make the statement.

14                  MR. PENDERGAST: Okay. I appreciate that.  
15   It certainly bears taking a quick hard look at it to make  
16   sure that we don't have a problem there.

17                  COMMISSIONER GAW: And that's all I have  
18   right now. Thank you.

19                  JUDGE DALE: Seeing no other questions from  
20   the Bench, thank you very much.

21                  MR. PENDERGAST: Thank you very much.

22                  JUDGE DALE: We have exhausted the list  
23   that we set at the beginning of this proceeding. Are  
24   there any other parties that wish to give testimony or  
25   make comments?



1 MS. TATRO: Good afternoon. My name is  
2 Wendy Tatro, T-a-t-r-o, and I represent AmerenUE. As OPC  
3 pointed out when this hearing began, AmerenUE is not a  
4 signatory to the Missouri Gas Utilities -- the two filings  
5 that they've made thus far, and I wanted to make clear to  
6 the Commission the reason why, and also to make clear that  
7 it doesn't mean we disagree with quite a bit of what's in  
8 their filing.

9 The reason that AmerenUE was not willing --  
10 didn't file the -- didn't sign those filings is that we  
11 weren't willing to make the statement that there's not an  
12 emergency. We're concerned with the winter gas costs. I  
13 think the PGA filings that the Commission has seen  
14 recently reflect that. We know in the past customers have  
15 had trouble paying winter bills, and I think the logical  
16 conclusion from that is that there may be more customers  
17 that have trouble paying their bills, and we would be  
18 supportive of finding some kind of mechanism that would  
19 assist those customers, not force them off of the system  
20 in the middle of a cold winter.

21 However, we do agree with the Missouri Gas  
22 Utilities in that a mechanism which would allow recovery  
23 of these costs that might be incurred by the utility would  
24 be appropriate. And we believe that the Missouri Gas  
25 Utilities proposal, which was reached after much

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1 discussion among all the parties, is one mechanism that  
2 would do that.

3 Then finally, because I think I'm the last  
4 person and so you probably would appreciate me keeping my  
5 remarks short, we note that we were unable to file the  
6 disconnect numbers that had been requested in yesterday's  
7 order by noon today. I do have totals, but they're not  
8 broken down by gas and electric. So we are working on  
9 getting that information put together right now, and it  
10 will be filed as soon as practical.

11 JUDGE DALE: Thank you very much. Chairman  
12 Davis, do you have questions?

13 CHAIRMAN DAVIS: No questions, but I may  
14 want to ask broad questions of the entire group here after  
15 Ms. Tatro is finished.

16 JUDGE DALE: Okay. Thank you.  
17 Commissioner Gaw?

18 COMMISSIONER GAW: No, I don't think I have  
19 any questions. I might make a comment, but I think I'll  
20 keep it to myself. Thank you.

21 JUDGE DALE: Commissioner Appling?

22 COMMISSIONER APPLING: I have no questions  
23 of this witness here, but I would like to enter my request  
24 from all of the gas companies before we close out here  
25 today. Thank you.

0123

1 MS. TATRO: Thank you.

2 JUDGE DALE: Are there any other parties  
3 that wish to make comments in this matter?

4 MR. MARTIN: Your Honor, earlier  
5 Commissioner Gaw indicated he might want to hear from  
6 Ms. Meisenheimer on this issue. Ms. Meisenheimer is  
7 available.

8 JUDGE DALE: Are there any questions for  
9 Ms. Meisenheimer, Commissioner Gaw?

10 COMMISSIONER GAW: Yeah. If you want to  
11 swear her in, I might have a couple of questions. They  
12 shouldn't take very long.

13 JUDGE DALE: If you'll stand and raise your  
14 hand. You can stay where you are if you like.

15 (Witness sworn.)

16 JUDGE DALE: Thank you. You may be seated.

17 BARBARA MEISENHEIMER testified as follows:

18 QUESTIONS BY COMMISSIONER GAW:

19 Q. Ms. Meisenheimer, do you have any  
20 recollection about the amount of arrearages that the  
21 average customers were dealing with when they were trying  
22 to get reconnected back after the -- after the '01  
23 emergency Cold Weather Rule?

24 A. I don't recall.

25 Q. Do you have any current information in that

1    regard about what, if we were talking about some  
2    percentage of the amount that was owed, what that would  
3    translate into as far as dollars are concerned for the  
4    average individual that was qualifying under the Cold  
5    Weather Rule provisions?

6           A.       I don't have the numbers.

7           Q.       I'm not saying that you should. I'm just  
8    asking if you know, because I don't have anybody here, I  
9    don't believe, that has the information, and it's relevant  
10   to me in deciding where that percentage ought to be or if  
11   there should be a specific amount, such as there was in  
12   the '01 rule.

13          A.       We would be happy to work cooperatively  
14   with other parties to produce that information, if it's  
15   available, to submit for you. In addition, I do think  
16   that there is an additional consideration with respect to  
17   what the dollar amount was then or what it is now that I  
18   would like to share with you, if I might.

19          Q.       Which portion are you talking about now?

20          A.       Why 25 percent or 50 percent.

21          Q.       Oh, well, give me why you changed your  
22   position from your initial position to the one that you're  
23   taking now.

24          A.       Yes.

25          Q.       Okay. Go ahead. I'll allow you that.

1           A.       Okay. Originally we looked at the old rule  
2   as a model of something to work from. It was something  
3   that had been accepted by a Commission in the past and in  
4   discussions with parties, and they were not just  
5   concessions to the companies. We were engaged in  
6   negotiations with the Staff as well as the companies.  
7   There was -- there was a great deal of discussion about  
8   that particular number, what it should be and why, and how  
9   were things different now than they were back in 2001. In  
10  2001, there were already a lot of people off the system.

11           Q.       I understand.

12           A.       And the experience of the jump in gas  
13  prices at that time could be viewed more as perhaps an  
14  isolated incident.

15           Q.       Yes.

16           A.       You know, today we have had more experience  
17  and the issue of -- for a customer currently -- we had  
18  some discussions, and I don't remember the numbers, but it  
19  is my recollection that in the discussions there were not  
20  the number of customers off the system and facing the  
21  hurdle of getting back on as there were at that time, and  
22  so -- and considering that moving forward, I don't know  
23  that it's as reasonable to assume that the gas prices are  
24  going to fall.

25           Q.       I understand.

1           A.       To anticipate that.

2           Q.       I understand that point.

3           A.       So there's an issue of not only what's  
4 going to get you on, what's the threshold to get you on,  
5 but also what is going to be your ability to pay and to  
6 not end up in a bad situation at the beginning of the next  
7 winter? And I mean, there was a lot of discussion on this  
8 issue, and we did alter our recommendation in this new  
9 round from 25 to 50 percent for those who had broken a  
10 Cold Weather Rule agreement in the past. It doesn't --  
11 that doesn't affect those who haven't. But I just wanted  
12 to share with you what were some of the considerations,  
13 not just concessions, but considerations in arriving at a  
14 willingness to move from 25 percent to 50 percent.

15          Q.       I understand. I understand in a  
16 negotiation you may move, Ms. Meisenheimer, in a  
17 negotiation to a settlement position, and I understand  
18 that concept. There's no settlement here, correct?

19          A.       That is true. There is no settlement.  
20 However --

21          Q.       Let me ask you this --

22          A.       However, this is not just --

23          Q.       Let me ask you this.

24          A.       It's not a --

25          Q.       Is there a -- based on your analysis of

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1 where the number ought to be, where is the data that tells  
2 us what that 50 percent produces for the average customer?  
3 Because I heard you say earlier you don't know, and I  
4 don't know how to look at and analyze what this does to  
5 somebody who's struggling to try to make a payment without  
6 having that information. And I don't know how to analyze  
7 whether or not that 50 percent or 25 percent or whatever  
8 that figure is or some flat amount in the alternative, I  
9 don't know how to analyze where that should be without  
10 that information.

11 A. Well, I understand that that would be a  
12 piece of information that would be helpful to you, it  
13 sounds like, in making your determination, and I've  
14 expressed a willingness to help along with other parties  
15 to get that for you if it's available.

16 Q. Right.

17 A. That the issue of what gets people back on  
18 the system, in our view, this issue of the emergency is  
19 the potential for people to not be able to retain service  
20 this winter with the bills that they might face.

21 Q. That's the more important issue, is that  
22 what you're saying?

23 A. And with the issue of that, would some  
24 reduction in the initial threshold necessary to get on the  
25 system be helpful to customers, yes. Is 30 percent a

1 significant reduction? We feel so, and --

2 Q. But it was a more significant reduction in  
3 your earlier proposal. Not only did you have 25 percent,  
4 but you also had the lesser of 25 percent or \$250. So in  
5 moving, you have -- in moving from your initial position  
6 to this position, it seems to be a concession without a  
7 settlement. So in analyzing where you are today, I'm  
8 looking for the justification for where the -- of what --  
9 outside of negotiations where that amount ought to be from  
10 a policy standpoint, and that's why it would be helpful to  
11 have that information.

12 It would be helpful to know that the  
13 parties have examined it and that they independently  
14 believe, well, in balancing all things is the right place.  
15 And right now I don't feel like anybody has done that  
16 analysis because they don't have this information.  
17 So I'm looking for that.

18 A. And we'll be happy to help get that for you  
19 if ultimately -- I mean, this is -- we're asking the  
20 Commission to adopt a rule. If you want -- if you want to  
21 go farther than we have, well, we'll be behind you.

22 Q. Well, I'm trying to decide whether to go as  
23 far -- I'm trying to decide whether to go as far as you  
24 did initially or whether that's somehow not a good idea.

25 A. Well, I'm just saying that --



1           Q.       Does Public Counsel believe their initial  
2 position was flawed?

3           A.       I think that there was a range of what --

4           Q.       Okay.

5           A.       -- would be acceptable. That's -- I'm an  
6 analyst.

7           Q.       Well, you're not against your initial  
8 position then?

9           A.       No.

10          Q.       Okay. That helps me. I'm trying to --  
11 that helps me understand.

12          A.       I think, you know, it would be reasonable  
13 after benefiting from the input of numerous parties in the  
14 discussion, and I should say the benefit of numerous  
15 people that participated in the discussions, then, you  
16 know, we did get to a point where we felt that on a going  
17 forward long term, are we going to help people stay on the  
18 system, and what is, you know, what is the cost of this to  
19 other customers?

20          Q.       Right.

21          A.       We could get to 50 percent and we did.

22          Q.       But you got to 25 percent at one point in  
23 time, too. Now, let me ask you this: The other provision  
24 dealing with those who did not file a Cold Weather Rule  
25 provision that's in the Cold Weather Rule that's

0130

1 now -- that's moved the old rule from 8 percent to a 12th  
2 or something -- I can't remember exactly. Is it  
3 12 percent instead of a 12th?

4 A. Yeah.

5 Q. Is that being proposed to be changed in  
6 this emergency Cold Weather Rule?

7 A. No.

8 Q. Is that something that we ought to be  
9 examining?

10 A. I think that there are a number of things  
11 that the Commission could be looking at on a going-forward  
12 basis, and --

13 Q. Is that one of them?

14 A. Certainly that could be one of them, as  
15 well as issues dealing with low-income customers. You  
16 know, we've done kind of a patch approach --

17 Q. Yes.

18 A. -- across the state, and as companies come  
19 in for rate cases, Public Counsel has been very active in  
20 either proposing some type of low-income program or  
21 working with other parties that have proposed a low-income  
22 program, efficiency programs. It just may be that we need  
23 to take a broader look at all of those types of issues now  
24 that we have the experience of not just one leap upward in  
25 prices, but something that looks like it might be more

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1 continuous-type problem for people to deal with.

2 Q. So perhaps Public Counsel -- would Public  
3 Counsel take any position in regard to whether or not this  
4 emergency Cold Weather Rule should be followed with  
5 perhaps some additional proposal for a revision in the  
6 permanent rule?

7 A. I mean, we would certainly be in favor of  
8 reviewing the Cold Weather Rule, but -- and there may be  
9 some additional areas not addressed specifically in the  
10 Cold Weather Rule that you may choose to take a look at,  
11 given our new experiences, and Public Counsel will  
12 participate to the greatest extent we're able in those.

13 Q. Considering the fact that your budget's  
14 been cut and those sorts of things, is that what you're  
15 referring to?

16 A. Our budget has been cut, but we have still  
17 been very active in working to --

18 Q. Someone made a reference to that earlier.  
19 I'm not bringing that up out of the clear blue sky.

20 A. I was here to hear it, and it is true that  
21 our budget has been substantially cut. However, you know,  
22 we have a very dedicated staff that puts in a lot of extra  
23 hours to make sure that we get done as much as we possibly  
24 can.

25 COMMISSIONER GAW: I understand. And

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1     that's all I have, Judge. Thank you.

2                     CHAIRMAN DAVIS: Can I ask Ms. Meisenheimer  
3     one question?

4     QUESTIONS BY CHAIRMAN DAVIS:

5             Q.     You don't view those extra hours as an  
6     administrative burden like Mr. Hack does, do you?

7             A.     No. I -- you know, it would certainly --  
8     no, I don't view them as an administrative burden. I'm  
9     paid on a salary, as are many of the experts with -- on  
10    Public Counsel's Staff, and our attorneys, and that means  
11    we -- for that money, we do the work, whatever it may be.  
12    We're not looking for an incremental adder at this time.

13                    CHAIRMAN DAVIS: Thank you,  
14    Ms. Meisenheimer.

15                    JUDGE DALE: Commissioner Appling, did you  
16    have any questions for Ms. Meisenheimer?

17                    COMMISSIONER APPLING: No questions.

18                    JUDGE DALE: I just have a couple  
19    questions.

20    QUESTIONS BY JUDGE DALE:

21             Q.     Are you saying that you believe that both  
22    the 50 percent and the 25 percent amounts are reasonable?

23             A.     I believe that either would be reasonable,  
24    depending on what factors you believe are the most  
25    important to you. If you are -- if your primary concern

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1 is getting people on the system and hoping that gas --  
2 maybe you believe that gas prices are going to fall, that  
3 they have been artificially high, then the lower  
4 25 percent amount is in the realm of reasonableness. On  
5 the other hand, if you are concerned that higher gas  
6 prices are going to be the way of the future, then it may  
7 be that you would feel more comfortable with getting  
8 customers in a position where they owe less on an ongoing  
9 basis and don't carry over more into the following winter.

10 So I think, yes, the range of 25 to  
11 50 percent depending on what the Commissioners' belief is  
12 about the future, either of those numbers would be  
13 reasonable or somewhere in the middle.

14 Q. Based on your experience and expertise,  
15 what number do you believe is the most appropriate?

16 A. I'm not comfortable with picking a number.  
17 As I stated, there's a range. I'm an analyst, and I'm a  
18 what-if kind of person. So I would be comfortable  
19 anywhere. Just like in the cost of capital, they give you  
20 a range. You don't nail them down to one number. I'm  
21 saying I could accept a range 25 to 50 percent, and I hope  
22 that's sufficient as an answer.

23 Q. What do you believe will happen to natural  
24 gas prices? Do you have an opinion?

25 A. I think that your staff, on your staff you

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1 have people with more expertise in following natural gas  
2 prices than I have, sitting here before you. I have some  
3 understanding. A lot of it has been developed through  
4 talking with your staff, and so I would encourage you to  
5 bring some of your gas price experts up here and ask them,  
6 if you will allow me to beg off with that answer.

7 JUDGE DALE: Mr. Pendergast?

8 MR. PENDERGAST: Just trying to put things  
9 in a perspective on kind of a macro basis, and it sort of  
10 has to do with the underlying philosophy behind the  
11 proposal that the parties have respectively filed, as  
12 Public Counsel's indicated, very close to each other.  
13 While they may have come up from their original by 25  
14 percent, I guess you could say we came down by 30 from the  
15 original 80.

16 But I think it's fair to say that if the  
17 Commission were to approve the rule as drafted, as  
18 suggested by either the utilities or Public Counsel, that  
19 you can tell Missouri consumers that they will be able to  
20 go ahead and get reconnected this winter, probably for a  
21 lower amount than they were last winter when nobody said  
22 there was an emergency, because we're going from  
23 80 percent down to 50 percent. And I don't believe there  
24 was probably a 30 percent difference in gas costs between  
25 last winter and this year.

1                   And you will also be able to tell them that  
2   for anybody that was on normal usage the winter before,  
3   because we are allowing you on a levelized pay plan,  
4   because we are allowing you to go ahead and spread those  
5   costs over, you now have a vehicle available, and it will  
6   be available to everybody, where you will be able to go  
7   ahead and have a lower bill this winter than what you had  
8   last winter or at least no higher a bill than what you had  
9   last winter.

10                  Now, to the extent that there's an  
11   emergency, I think you can fairly say that you have  
12   addressed it by replicating or improving upon the  
13   conditions that you had during the previous winter when  
14   there was no emergency, in terms of what the customer pays  
15   during the winter period. And of course, you know,  
16   customers are most interested in making sure they have gas  
17   to heat their home.

18                  JUDGE DALE: Did any of the Commissioners  
19   have any other questions for any of the parties?

20                  I know that Commissioner Appling has a  
21   statement he would like to make. Public Counsel has  
22   committed to giving us a late-filed exhibit and I have  
23   copies of the MEDA letter, but --

24                  MS. MEISENHEIMER: I have offered to help  
25   or work with other parties to develop that, if the

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1 information's available. They would have the information,  
2 so I can't promise to provide it. I will be happy to  
3 gather the information.

4 JUDGE DALE: If you are unable to gather  
5 the information as you anticipated, could you just file a  
6 pleading that says tried but could not?

7 MS. MEISENHEIMER: Sure.

8 JUDGE DALE: Thank you.

9 CHAIRMAN DAVIS: Judge, can I ask one  
10 question of counsel for Staff, OPC and the Attorney  
11 General, and that is, have they had an opportunity to  
12 review the proposal that was put forth by Mr. Pendergast,  
13 and would they care to offer some brief comments thereon?

14 MR. SCHWARZ: Speaking for Staff, it's my  
15 understanding that we had not seen this prior to its  
16 circulation today. I know that Friday things got hectic  
17 with filings in this case and other cases. So the Staff  
18 has not had an opportunity to the really take a look at  
19 it. I'm --

20 CHAIRMAN DAVIS: I'll tell you what. We'll  
21 short circuit that, Mr. Schwarz. Could you take a look at  
22 it and maybe send us a red line version of your comments  
23 on it?

24 MR. SCHWARZ: I can certainly commit to  
25 giving the Commission Staff's comments on this document by



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1 the close of business tomorrow.

2 CHAIRMAN DAVIS: Be wonderful.

3 MR. MARTIN: OPC did have a chance. We did  
4 review the proposal of Mr. Pendergast, but again, we were  
5 concerned with the first D little I. Again, it's tracking  
6 people who could come into the system with \$2,000 of  
7 arrearage that they had before. They even took advantage  
8 of the rule, and that was part of our concern with their  
9 tracking proposal or with their proposal initially, and I  
10 think one still has the same issues.

11 I think we're also very concerned with if  
12 you look at their little 4 or their definition of what is  
13 a bad debt, based on when the customer has failed to pay,  
14 final bill by delinquent date, we were just having a lot  
15 of difficulty envisioning how that would all be calculated  
16 and determined. So we did look at this particular  
17 proposal as a proposal and it was not one that we're  
18 interested in going forward with.

19 As we said before, we prefer the AAO. We  
20 put forth a proposal that had an option of the AAO or our  
21 tracking proposal. We wanted to have again something that  
22 could be passed and be implemented this year, so that's  
23 why we had put an option there to allow a tracking  
24 mechanism that allowed the companies to get a recovery,  
25 but we were not willing to go as far as this proposal.

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1                   CHAIRMAN DAVIS: Okay. Thank you.

2                   MR. MICHEEL: Just quickly, Mr. Chairman,  
3 we're still concerned with the single issue nature of the  
4 direct charge, but I have not had a chance to fully look  
5 at this. But my understanding is it's still got the  
6 single issue nature, and that's going to be a concern.

7                   CHAIRMAN DAVIS: I don't have any further  
8 questions.

9                   MR. MARTIN: Your Honor, not to prolong the  
10 proceedings but just very briefly, obviously nothing's  
11 perfect, and I do want to reemphasize that we have  
12 attempted through numerous proposals that have been  
13 presented to try and reach something that accommodates as  
14 best we can the interest of the parties. We didn't get  
15 100 percent of the way there, but we certainly made an  
16 effort.

17                   The only other thing I would say is there's  
18 been a lot of discussion about single issue ratemaking,  
19 and you know this issue has never been addressed head on  
20 by a court, to my knowledge, except by the Circuit Court  
21 of Cole County. And the Circuit Court of Cole County,  
22 maybe he's not an appellate judge, but he has indicated  
23 that you are legally required to have a funding mechanism  
24 that is something more than an AAO.

25                   Now, people may go ahead and think that a

1 Court of Appeals might find it differently, but to go  
2 ahead and suggest there's not a good faith basis for  
3 saying that there is legal support, when a Cole County  
4 Circuit Judge independently reviewing it has said that  
5 it's required, I just believe is running amiss of the  
6 mark. And I will be quiet now. Thank you.

7 JUDGE DALE: Thank you. And now  
8 Commissioner Appling is going to make his --

9 COMMISSIONER GAW: I have a question  
10 whenever Commissioner Appling is done. Now, I was not --  
11 I didn't have any more questions, but now I may have some  
12 more.

13 CHAIRMAN DAVIS: I think Mr. Micheel wanted  
14 to offer some rebuttal, too.

15 COMMISSIONER APPLING: Why don't you all go  
16 ahead. I can yield. I will figure out a news release and  
17 send it out to you, since I'm not going to be able to  
18 speak here today. So ask your question, Commissioner.

19 COMMISSIONER GAW: Actually, if Doug --  
20 Mr. Micheel?

21 MR. MICHEEL: I won't get into a legal  
22 discussion about the impact of a Circuit Court ruling, you  
23 know, and things like that, so I'll just leave it at that.

24 JUDGE DALE: If I can just interject that  
25 if any of the parties would like to file any pleadings in

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1    which they would like to elucidate this particular issue  
2    more fully, they're welcome to do so before close of  
3    business tomorrow.

4                   COMMISSIONER GAW:  And I guess if that's  
5    the case, then I will -- I won't belabor this, but it was  
6    my recollection that before the end of that year, albeit  
7    late in the year for some individual entities in this  
8    room, everyone complied with that rule.  Am I wrong about  
9    that?

10                  MR. FISCHER:  Yes, your Honor.  Atmos  
11    never --

12                  COMMISSIONER GAW:  Atmos never conceded and  
13    left its customers to flounder around for that whole  
14    winter.

15                  MR. FISCHER:  -- never conceded.

16                  I don't think there was a problem on the  
17    system, but to make the record correct, they did not  
18    implement that on a voluntary basis.

19                  COMMISSIONER GAW:  Did some of them move to  
20    Ameren's territory, perhaps?

21                  MR. FISCHER:  I have no idea.

22                  COMMISSIONER GAW:  Is Atmos the only one?

23                  MR. FISCHER:  It's my understanding -- and  
24    certainly Mr. Hack is here to speak to Missouri Gas  
25    Energy.  The other appellant in that case did eventually

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1 concede or come around.

2 COMMISSIONER GAW: When they saw the  
3 flowers blooming. He can answer that.

4 MR. HACK: In an effort to be cooperative,  
5 we implemented the rule. We don't view it as a  
6 concession.

7 COMMISSIONER GAW: I'm not suggesting  
8 whether it was a concession or not. Just one of the  
9 reasons why we didn't see a Court of Appeals look at that  
10 case. Thank you. That's all I have.

11 JUDGE DALE: And without further adieux,  
12 Commissioner Appling will make a statement.

13 COMMISSIONER APPLING: I have a short  
14 statement. I was out earlier when you first started  
15 today, and I hadn't planned to be here, so I put together  
16 a statement to be read by the Judge. And this is  
17 directed -- and it's a bold question and bold request.  
18 I'm asking the executive officer for each one of the  
19 Missouri regulated gas and electric companies to -- I'm  
20 asking all of the Missouri regulated gas electric  
21 utilities to step up to the plate. Please go back to your  
22 board rooms to see if you can contribute more financial  
23 assistance -- bold statement I said -- from your bottom  
24 line to programs that help low-income families in this  
25 state. It's a request, gentlemen. It's a bold request to

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1     you and your CEOs, and I will follow this up promptly with  
2     news release in asking you to do that, to go back, take a  
3     hard look at it and see if there's something that you can  
4     do that will help the cause here.

5                     I'm one of the people that's on this  
6     Commission that is attentive to all of you, I listened to  
7     all of you very loud and clear, and I'm making that  
8     request to you this afternoon to go back and do that.  
9     Thank you very much, and I hope that you will go out and  
10    do your best on this issue. Thank you.

11                    JUDGE DALE: Thank you. Commissioner  
12    Appling's remarks will be attached, and they're inserted  
13    into the record as Exhibit 9. And I also have copies up  
14    here once again of the MEDA letter. Is there any other  
15    business that we need to address?

16                    MR. PENDERGAST: Judge, did you admit  
17    Exhibit 8?

18                    JUDGE DALE: Well, they're just being taken  
19    into the record, Exhibit 1 through 9 are to be included in  
20    the record. Anything else?

21                    (No response.)

22                    JUDGE DALE: Then that concludes this  
23    hearing. We are adjourned and off the record.

24                    WHEREUPON, the hearing of this case was  
25    concluded.

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