

1 disconnected. Never disconnected the first month, the  
2 second month, the third month, the fourth month, the fifth  
3 month, the sixth.

4                   It only got disconnected, if it was, was  
5 when Sara Chappelow's bill became an issue at  
6 4024 Prospect. And again, MGE stated that they had  
7 correspondence with me back before. Not one time was --  
8 could they show that MGE asked me who lived there. Not  
9 one time when the service was connected did they ask me  
10 who should the service be in. Not one time -- when they  
11 said I came to the office to ask whether the gas service  
12 still in my name, not one time did they ask me whose name  
13 should it have been in.

14                   When I call MGE to restore service on 4024  
15 Prospect and had them take it out of whoever's name it  
16 was, not one time did they ask me, well, what happened to  
17 that last bill before we connect your service at this  
18 address for seven months? We need to know who was there  
19 before you left.

20                   So it was never an issue. It was never an  
21 issue, until they transferred it to 4231 Tracy. That's  
22 when it became an issue, and I -- you know, like I said,  
23 they never asked me one time. And then if you go back to  
24 Schedule 14, whether it was -- which is in Exhibit 5,  
25 which is the customer's contact entry, and he specifically

1 stated this was for Prospect, 4024 Prospect. On 4/30 they  
2 reviewed the bill that was mailed out. 5/04 they said it  
3 was -- they had advanced 60 days. Then you go up to 5/07,  
4 told Sara to fax information to Debbie. So far no mention  
5 of ever speaking of James Dudley.

6                   5/22, advanced Dudley's -- James Dudley's  
7 Social Security number, never spoke yet. 6/01, first  
8 recovery letter sent; no mention of ever contacting, even  
9 after they got the fax from Sara Chappelow. 6/14, second  
10 recovery sent. 10/24 they called the police. 4/24 bad  
11 debt final transfer. 7/24, notified Credit World --  
12 that's 4/24, notified Credit World. No mention of  
13 contacting Mr. Dudley in this report, and if it had to do  
14 with Prospect, and only on 7/24/02 did Mr. Dudley call to  
15 notify MGE about the bill. Not one mention of MGE  
16 contacting Mr. Dudley for a whole year about this bill, no  
17 disruptions, no nothing.

18                   And if you look at Schedule -- if you look  
19 at Schedule 13B, on 6/10/02, they billed \$1.01 onto the  
20 266, which didn't get paid. 6/10, for the June bill was  
21 38.59 added onto the 266. This is -- that's fitting to  
22 come out in July. These -- the 38.59 was not due in June.  
23 It just was -- it just had got that bill. It was just on  
24 6/10, and they had just estimated that bill, actual  
25 estimated bill 38.59 onto the 266.

1                   Then 6/25, they added 325 to the 2,204,  
2   which made it 2,510, and that was the bill that was sent.  
3   So the 38 was actual bill that was in June that was going  
4   to be -- had to be paid in July. And that's why there  
5   wasn't a bill for 305, because it hadn't come out yet in  
6   June. It came out in July. So the 38.59 was not even  
7   really due until July, and that's when they -- when they  
8   knew that the 7/10 bill was coming, that's when they added  
9   everything and sent everything out.

10                   And Schedule -- I'm going to tell you.  
11   They said, yeah, the previous bill was 305, from what we  
12   understood from the billing practice, but if you look  
13   down, to avoid discontinuing, pay before July 22nd, that  
14   ain't saying \$305, this is saying \$2,510. So the previous  
15   bill wasn't an issue. Then they said if I'm late, they  
16   want \$2,528. So the \$305 was never an issue.

17                   And as I said before, they stated that  
18   \$1,000 would be acceptable in order to restore service at  
19   4231 Tracy, not 305, not \$27, but \$1,000, and if I  
20   couldn't pay it, that I could seek some type of  
21   assistance.

22                   JUDGE RUTH: Okay. I think there was  
23   another question from the Bench.

24                   COMMISSIONER CLAYTON: Just one question  
25   regarding the relief that you're requesting. Are you

1 attempting to get gas hooked up somewhere right now based  
2 on this case?

3 THE WITNESS: No, I'm not.

4 COMMISSIONER CLAYTON: You're not. Okay.  
5 Thank you.

6 JUDGE RUTH: Okay. Based on that one  
7 question from the Bench, I'll ask if there's any recross  
8 from Staff?

9 MR. BERLIN: No, your Honor.

10 JUDGE RUTH: MGE?

11 MR. COOPER: No, your Honor.

12 JUDGE RUTH: Do you need to clarify  
13 anything about your answer to this one question from the  
14 Bench? Only --

15 MR. DUDLEY: That one question?

16 JUDGE RUTH: Only that one question.

17 MR. DUDLEY: All I'm seeking is that they  
18 remove Ms. Chappelow's bill and that the Commission rule  
19 whether they violated Public Service Commission rules, MGE  
20 rules. And as far as gas service, no, I'm not seeking gas  
21 at this time, but if I do, I will like to be able to get  
22 it.

23 JUDGE RUTH: Sir, you may step down then.  
24 That will be all the questions, at this time at least, for  
25 you.

1 I propose to take a short lunch break until  
2 12:30. If any party thinks that that's not adequate,  
3 that's only 40 minutes, tell me and we can consider  
4 adjusting that. But when we come back, we'll still have  
5 Leonberger, Bussey, Bolden and Russo. It's hard for me to  
6 estimate how much time it will take, and this hearing is  
7 only scheduled for one day, so that is why I am proposing  
8 to cut the lunch break a bit short.

9 MR. COOPER: Could we push it to about  
10 12:45, your Honor?

11 JUDGE RUTH: We can push it to 12:45, but  
12 I'll tell you we're staying past five if the hearing's not  
13 finished at five, and I'll let the court reporter know,  
14 she may need to make some arrangements at lunch if it  
15 looks like we could go late. And that may be something  
16 the parties could discuss over lunch when we get back, if  
17 you can give me an estimate if you think we're going to  
18 need to go past five o'clock today.

19 Any other party have a comment?

20 (No response.)

21 JUDGE RUTH: It's been suggested we go to  
22 12:45. That's almost an hour. It only saves five  
23 minutes.

24 MR. BERLIN: Your Honor, Staff is okay with  
25 12:45.

1 JUDGE RUTH: Okay. We'll make it 12:45.

2 I'll tell you I'm starting right at 12:45, however, and  
3 we're now off the record for a lunch break.

4 (A BREAK WAS TAKEN.)

5 JUDGE RUTH: We're back on the record now.  
6 We took a lunch break. Before we did that, we had  
7 finished with Mr. Dudley's first witness, which was  
8 himself. And now, Mr. Dudley, you may call your second  
9 witness. It's my understanding that's Ms. Leonberger; is  
10 that correct?

11 MR. DUDLEY: Correct.

12 JUDGE RUTH: Okay. Ms. Leonberger, if you  
13 would please sit in the witness chair. Mr. Dudley, if you  
14 could come over to the podium.

15 Ms. Leonberger, before I swear you in,  
16 would you please spell and state your name for the record.

17 THE WITNESS: My name is Tracy Leonberger.  
18 I'm a Consumer Services Specialist II with the Missouri  
19 Public Service Commission. The address is 200 Madison  
20 Street, P.O. Box 360, Jefferson City, Missouri 65102.

21 JUDGE RUTH: And would you spell your name  
22 for the record.

23 THE WITNESS: L-e-o-n-b-e-r-g-e-r.

24 JUDGE RUTH: Thank you. Would you raise  
25 your right hand?

1 (Witness sworn.)

2 JUDGE RUTH: Thank you. You may proceed,  
3 Mr. Dudley.

4 TRACY LEONBERGER testified as follows:

5 DIRECT EXAMINATION BY MR. DUDLEY:

6 Q. Good morning. Good afternoon, rather.

7 A. Good afternoon.

8 Q. Did you have an occasion to get a complaint  
9 from James Dudley?

10 A. Yes, I did.

11 Q. And did that complaint state -- can you  
12 kind of tell me what the complaint stated? I guess I  
13 should say, I guess it would be Exhibit 5, Schedule 4,  
14 page 5. Will you just summarize?

15 A. On 7/29/2002, I was assigned your  
16 complaint. The complaint had a letter to Sheila Lumpe,  
17 Chairman, and it was written on 7/18/02. And in that  
18 complaint you stated that you were writing in regards to a  
19 gas bill from the address of 4024 Prospect that you were  
20 disputing, and that was in the amount of 2,204.59.

21 Attached to that letter, the enclosures  
22 were the original bill copies, a notice dated May 16th,  
23 2002 in the amount of 2,204.59. There was also a bill, a  
24 final bill addressed to James Dudley at 4024 Prospect  
25 Avenue, and that was in the amount of 104.63.

1                   There was also a bill to James Dudley at  
2   4231 Tracy Avenue that also included a disconnection  
3   notification, and that bill amount was 2,528.04.

4                   **Q.       So in your investigation, did you ever**  
5   **consider or find out the total amount of the disputed bill**  
6   **of the service at 4231 Tracy?**

7                   A.       You told me in your letter what you  
8   disputed.

9                   **Q.       So in your -- so in your investigation, and**  
10   **we'll go back, was there another time that you received a**  
11   **phone call from Mr. Dudley?**

12                  A.       I spoke to you on August 15th, 2002.

13                  **Q.       And was there -- indicating what? When I**  
14   **called you, what was I indicating? What was I saying to**  
15   **you?**

16                  A.       I provided you with the dates of service  
17   that you will have to provide documentation, that you are  
18   not living there and benefiting from the service. I had  
19   you write down these dates and the amounts so that you  
20   would have them. I told him that the company would accept  
21   a \$1,000 amount of payment to turn on the service, and I  
22   also sent you a letter to back up that conversation.

23                  **Q.       And what was that service? Where was that**  
24   **service to be reconnected at if you paid \$1,000?**

25                  A.       It's not noted in my notes.



1           Q.       And was there a time that you sent a fax to  
2 MGE?

3           A.       The day I received the complaint, I faxed  
4 the complaint in its entirety to the company. That was  
5 July 30th, 2002.

6           Q.       Do you know if someone received that fax?

7           A.       Hang on just one second. I received a  
8 confirmation from MGE. It's a confirmation on our fax  
9 machine that it went through.

10          Q.       And if you'd turn to page 4 on that same  
11 complaint on your fax, and if you look at line --

12          A.       Okay. I don't have a page. Could I see  
13 what you're speaking about?

14          Q.       Give her a copy of the --

15                   JUDGE RUTH: Yes. Let me see. Show it  
16 to -- actually to counsel, both sides, so they will know  
17 what you're looking at.

18                   Ms. Leonberger, he's calling page 4 what's  
19 actually, I think, page -- well, it's page 4 of -- he's  
20 got your fax transmittal.

21                   MR. DUDLEY: As Schedule 2.

22                   JUDGE RUTH: Yes. If you want to show it  
23 to her. This is part of Exhibit 5. I don't know if you  
24 have a copy of that.

25                   THE WITNESS: No, I don't. Okay. That's

1 part of my attachment, the original fax sent to the  
2 company on July 30th, 2002.

3 BY MR. DUDLEY:

4 Q. And No. 3, was you asking MGE to do  
5 something?

6 A. We don't have access to company records, so  
7 I did not know whether or not the service was on or off.

8 Q. All right. But did you ask them to do  
9 anything?

10 A. I asked them to stop collection proceedings  
11 while this is being investigated.

12 MR. DUDLEY: That's all I have.

13 JUDGE RUTH: Staff, do you have any  
14 cross-examination for this witness?

15 MR. BERLIN: I don't, your Honor, but I  
16 would like to take care of a housekeeping matter from  
17 earlier today, where I have Exhibit 7 copies that I  
18 promised I would provide.

19 JUDGE RUTH: And that's very good. Let's  
20 go ahead and wait, I think, 'til the end of this witness,  
21 and we'll do those. I want to ask Mr. Dudley if he's  
22 passed some documents out, too, but thank you.

23 MGE, do you have cross for this witness?

24 MR. COOPER: Very briefly, your Honor.

25 CROSS-EXAMINATION BY MR. COOPER:

1           Q.       Ms. Leonberger, Mr. Dudley asked you about  
2 a letter dated July 18, 2002. Do you have that in front  
3 of you?

4           A.       Yes, I do, a copy.

5           Q.       Do you have a copy of the first page of  
6 that document?

7           A.       Yes, I do.

8           Q.       Do you see a paragraph that says, I am  
9 writing you in regard to a gas bill for \$2,204.59?

10          A.       As I previously testified, that is the  
11 amount I said was on the letter.

12          Q.       And you don't see any other amount on the  
13 letter, do you?

14          A.       No, sir.

15          Q.       Okay. And if we turn to the facsimile  
16 transmission that's attached to Mr. Dudley's surrebuttal  
17 testimony that precedes the letter to Ms. -- to Chairman  
18 Lumpe, it looks to me like on the second page of that  
19 schedule, near the bottom, there's a reference again to  
20 the \$2,204.59. Do you see that?

21          A.       Could you show me what you're speaking of?

22          Q.       Sure. Do you have that schedule in front  
23 of you? It's a fax transmittal to Shirley Bolden from  
24 Tracy Leonberger. It was a part of Mr. Dudley's  
25 surrebuttal testimony.

1 A. My cover sheet, the fax cover sheet?

2 Q. The fax cover sheet, and then I think there  
3 are four pages total, three pages that follow your fax  
4 cover sheet.

5 A. Yes.

6 Q. And if we look at the second page of that  
7 grouping, do you see that?

8 A. Yes.

9 Q. Near the bottom that \$2,204.59 amount --

10 A. Yes.

11 Q. -- is reflected again, correct?

12 A. Right. That's correct.

13 Q. And then if we turn over to the last page,  
14 or the fourth page of that grouping, the first entry there  
15 in addressing the dispute also references the \$2,204.59,  
16 doesn't it?

17 A. That's correct.

18 MR. COOPER: That's all the questions I  
19 have at this time.

20 JUDGE RUTH: Okay. Questions from the  
21 Bench, Commissioner Clayton?

22 Okay. We're going to proceed, but it's  
23 possible that I may need to recall this witness for  
24 additional questions from the Bench. But at this point,  
25 then, Mr. Dudley, you have an opportunity for redirect,

1 but it has to be limited to questions to follow up on the  
2 questions that Mr. Cooper just asked. Does that make  
3 sense?

4 MR. DUDLEY: Yes.

5 JUDGE RUTH: If you want to step up here,  
6 you can follow up on those questions.

7 REDIRECT EXAMINATION BY MR. DUDLEY:

8 Q. Ms. Leonberger, the \$2,204, did you know  
9 where that account came from, that amount in your  
10 investigation?

11 A. I did not know anything until I received a  
12 response back from the company.

13 Q. And what did it say?

14 A. It was dated August 2nd, 2002, and it  
15 stated that there was fraudulent use of service at this  
16 address, and they did not break down the money amounts at  
17 that time.

18 Q. So when you seen the 2,204, you didn't know  
19 whether it was Prospect or Tracy?

20 A. The bills that you attached to your  
21 original letter had Prospect on some of them and  
22 Tracy on some of them. I mean, they were broken down.  
23 The 4231 Tracy Avenue bill was in an amount of 2,528.04.  
24 The Prospect -- 4024 Prospect Avenue bill was broken down  
25 into the amount of 104.63, and then there was a cover, I

1 don't know what this particular sheet is, I guess it's a  
2 remittance stub, that showed 4024 Prospect Avenue, and  
3 that was in an amount of 2,204.59.

4 Q. So was the \$2,204 in dispute with you? Was  
5 that a disputed deal? Did you consider that a disputed  
6 bill?

7 A. That was in dispute, because that's the  
8 amount you listed on your -- on your letter, the only  
9 amount.

10 MR. DUDLEY: Okay. Thank you.

11 JUDGE RUTH: Okay. Ms. Leonberger, you may  
12 step down, but please remain available in case we need to  
13 recall you for questions from the Bench. Thank you.

14 THE WITNESS: I certainly will.

15 JUDGE RUTH: Okay. Before we move to the  
16 next witness, this morning I believe that Mr. Dudley  
17 admitted some documents, and at that time did not have  
18 copies to pass out to the other parties. You were  
19 supposed to check on a break to see if they had copies of  
20 your direct, your surrebuttal, and that may have been all.  
21 I take it you have not had an opportunity to do that.

22 MR. DUDLEY: No.

23 JUDGE RUTH: On the next break, you'll need  
24 to make sure -- normally when a document's admitted into  
25 evidence, you have copies for everyone. Make sure that

1 Staff and MGE have copies of your exhibits so far. You  
2 can do that on the next break.

3 And, Mr. Berlin, did you have some  
4 documents?

5 MR. BERLIN: Yes, your Honor.

6 JUDGE RUTH: This is what's already been  
7 admitted as Exhibit 7; is that correct?

8 MR. BERLIN: That is correct.

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

11 JUDGE RUTH: Okay. Mr. Dudley, it's my  
12 understanding you have one more witness; is that correct?

13 MR. DUDLEY: Correct.

14 JUDGE RUTH: And that's Ms. Bussey?

15 MR. DUDLEY: Correct.

16 JUDGE RUTH: Okay. Would you like to call  
17 her now then? I believe she's here.

18 MR. COOPER: She is, your Honor.

19 JUDGE RUTH: If you would move up to the  
20 witness chair, please. Before I swear you in, could I  
21 have you state and spell your name for the record, please.

22 THE WITNESS: Sure.

23 JUDGE RUTH: And you may have to adjust the  
24 microphone so that everyone can hear you, including those  
25 that are listening on the web. You may need to move.

1 THE WITNESS: It's in front of me. You  
2 want me to say something?

3 JUDGE RUTH: Yes. I need you to state and  
4 spell your name for the record.

5 THE WITNESS: Wanda Bussey, B-u-s-s-e-y.

6 JUDGE RUTH: And can you tell me you're  
7 here representing -- excuse me, not representing, but  
8 you're here because of your employment with MGE, you're  
9 employed by MGE; is that correct?

10 THE WITNESS: That is correct.

11 JUDGE RUTH: And what is your position with  
12 MGE?

13 THE WITNESS: I'm a senior customer service  
14 representative.

15 JUDGE RUTH: Okay. Thank you. At this  
16 time I need you to raise your right hand.

17 (Witness sworn.)

18 JUDGE RUTH: Thank you. Mr. Dudley, you  
19 may proceed.

20 WANDA BUSSEY testified as follows:

21 DIRECT EXAMINATION BY MR. DUDLEY:

22 Q. Good afternoon.

23 A. Hi.

24 Q. Can you explain some of the different jobs  
25 you had in your 20 years at MGE?



1           A.       Starting when? I've been with the company  
2 for about 26 years. I have been in several different  
3 departments, starting from opening mail all the way up to  
4 answering calls from customers.

5           Q.       So have you had any knowledge in billing  
6 statements?

7           A.       Yes.

8           Q.       Contact sheets, MGE's contact sheet history  
9 of customers?

10          A.       Meaning conversations that we've had with  
11 our customers?

12          Q.       Yes, ma'am. Right.

13          A.       Yes.

14          Q.       Billing account analyst sheet?

15          A.       Yes.

16          Q.       Are you familiar with a reporting agency  
17 with the Credit World from MGE?

18          A.       Yes.

19          Q.       Are you familiar with the practice of the  
20 billing adjustments from the Public Service Commission on  
21 MGE?

22          A.       Can you explain that?

23          Q.       Where a bill, you might have overcharged  
24 and you need to make an adjustment on an account?

25          A.       I'm still not understanding your question.

1 Q. I'm asking have you had any knowledge of  
2 practice with the billing adjustment procedures of MGE's  
3 or the Public Service Commission? And I'm saying again  
4 that where, if you overcharge, undercharge, can you make  
5 adjustments on that account?

6 A. Yes.

7 Q. Complaints from MGE or Public Service  
8 Commission?

9 A. Can I myself make an adjustment if we find  
10 that it's correct?

11 Q. No. No. Have you had any knowledge of the  
12 complaints of -- I guess I want to say procedures for MGE  
13 if a customer have a complaint or a customer feel that he  
14 was undercharged, overcharged, do you know the procedures  
15 maybe MGE might have in dealing with that complaint, the  
16 rules?

17 A. Yes, I believe so.

18 Q. Are you familiar with transferring accounts  
19 from MGE to another account?

20 A. Yes.

21 Q. Are you familiar with dispute policies from  
22 MGE or the Public Service Commission?

23 A. Yes.

24 Q. Are you familiar with sending out  
25 disconnect notices, MGE policies?

1 A. Yes.

2 Q. Are you familiar with the Public Service  
3 Commission discontinuance of service policies and rules,  
4 MGE, Public Service Commission in order to discontinue a  
5 service, the procedures?

6 A. Yes.

7 Q. The procedure for applying for gas service?

8 A. Yes.

9 Q. And procedures -- don't you work somewhere  
10 like the fraud department?

11 A. We call it the loss prevention department.  
12 Loss prevention department.

13 Q. So can we call it fraud?

14 A. Well, you can, but we call it the loss  
15 prevention.

16 Q. Okay. Do you know anything about this  
17 complaint?

18 A. Yes.

19 Q. Just a basic question. In preparing for  
20 your testimony today, did anyone tell you, advise you what  
21 to say on the stand?

22 A. No. They have -- in fact, I haven't been  
23 prepared, so I don't know what type of questions you're  
24 going to be asking.

25 Q. Did you get a call in July the 15th, 2002

1 or July 2002 from Mr. Dudley complaining about a bill?

2 A. I'm not sure of the date. I know I have  
3 spoken with you, but as far as the date, I'm not sure.

4 Q. Well, was he complaining about a bill? Was  
5 he complaining about -- did he have a dispute about a  
6 bill?

7 A. Yes.

8 Q. That was sent to him?

9 A. Yes.

10 Q. Okay. And it was at the 4231 address,  
11 right?

12 A. That's correct.

13 Q. Did he kind of remember what the amount  
14 was?

15 A. We said it several times today, so I'm sure  
16 we all know it by now. It's \$2,099.96.

17 Q. So when Mr. Dudley called you, he disputed  
18 \$2,099 to you?

19 A. I'm sure that that would be the amount.

20 Q. Okay. I don't know if you have this in  
21 front of you.

22 A. I don't.

23 JUDGE RUTH: Before you approach the  
24 witness, can you tell me what you're going to show?

25 MR. DUDLEY: I was going to get another

1 copy. This is Exhibit 5, and this is the billing  
2 statement at 4231 Tracy.

3 JUDGE RUTH: So that we're all on the same  
4 page, show it to both sides.

5 MR. DUDLEY: Can I approach?

6 JUDGE RUTH: Yes.

7 BY MR. DUDLEY:

8 Q. This is from MGE, right?

9 A. That's correct.

10 Q. Now, you see that the billing amount is  
11 \$2,528, correct, down on the right-hand corner?

12 A. Yes.

13 Q. Okay. And so Mr. Dudley's bill was \$2,510.  
14 If you look at the fourth row on the previous balance, you  
15 see to avoid disconnected, pay before July the 22nd, 2002,  
16 correct?

17 A. Yes.

18 Q. And the amount is \$2,510?

19 A. That is correct.

20 Q. So are you assuming Mr. Dudley wasn't  
21 questioning the \$2,510 and just was questioning \$2,099?

22 A. Mr. Dudley, I can't say what you would  
23 assume. Me understanding the bill, I can tell you what  
24 the previous balance is.

25 Q. But looking at the bill, the total balance

1 is \$2,538, correct?

2 A. That is the total amount, yes.

3 Q. Okay. Now, you're saying that

4 Mr. Dudley -- you're saying that the 305 is the previous  
5 balance, correct?

6 A. That is correct.

7 Q. Did you send a 305 bill out?

8 A. Yes, we would have.

9 Q. No. Did you send one?

10 A. Yes.

11 Q. Okay. Do you have a copy of that bill that  
12 you sent out?

13 A. Again, I didn't know what my questions were  
14 going to be, so I didn't know what to bring. I don't have  
15 it here in front of me.

16 Q. Well, do you think maybe on break that  
17 someone at MGE might have a copy of that \$305 bill?

18 A. Ms. Bolden may be able to address that  
19 information -- or that question for you.

20 Q. Okay. Again, you said that -- so a  
21 disconnect notice was sent to Mr. Dudley in July of 2002  
22 also?

23 A. Are you saying that that is in this packet?

24 Q. No, I'm not. I'm just asking --

25 A. Okay.

1 Q. -- from your knowledge of it.

2 A. Again, Ms. Bolden may be able to answer  
3 that, Mr. Dudley. I didn't have all the particulars on  
4 what you were going to ask -- or if you're saying that is  
5 it on this?

6 Q. No, I'm not. I'm asking you did MGE send  
7 one out, from your investigation?

8 MR. COOPER: I think that assumes facts not  
9 in evidence. I don't think Ms. Bussey said that she  
10 performed an investigation. I think that she's appearing  
11 because Mr. Dudley called her as a witness, and she can  
12 answer what she can answer, and obviously she won't be  
13 able to answer what she can't here.

14 But the person who has provided testimony  
15 and indicated that she's investigated this situation is  
16 Ms. Bolden, who actually filed testimony in the matter.

17 JUDGE RUTH: Do you want to make a response  
18 to the objection? Otherwise I'm going to rule on it.

19 MR. DUDLEY: Yes, I'd like to make a  
20 response. Ms. Bussey was the only person that I ever  
21 communicated with at MGE. Ms. Bussey was the only person  
22 that we communicated with in court, not Ms. Bolden.  
23 Ms. Bussey was the first one I called. Ms. Bussey was the  
24 second one I called. So Ms. Bussey would have knowledge  
25 and prior knowledge of this case.

1 JUDGE RUTH: And she's indicated she  
2 doesn't know the answer to some of your questions.  
3 There's been also an objection. I'm going to sustain the  
4 objection. You'll need to ask another question or  
5 rephrase your question, and some of these questions you  
6 may wish to ask on cross-examination of Ms. Bolden. You  
7 may proceed.

8 BY MR. DUDLEY:

9 Q. If we can look at Exhibit 5, I think you  
10 had it, Schedule 13. We're looking at A.

11 MR. COOPER: And that's the account  
12 analysis; is that right?

13 MR. DUDLEY: Right.

14 THE WITNESS: Is it in this exhibit? I'm  
15 not finding it.

16 BY MR. DUDLEY:

17 Q. Yes, it is. It's about four or five pages  
18 from the end.

19 A. Okay. 13.

20 Q. Right. And this is account analysis,  
21 right?

22 A. An account analysis, yes.

23 Q. And this is for 4231 Tracy?

24 A. That's correct.

25 Q. And James Dudley?



1 A. Yes.

2 Q. If you turn to B, and you start from 6/25,  
3 a direct transfer was \$2,204, correct?

4 A. That is correct, and 59 cents.

5 Q. And was it added to the 305?

6 A. Yes, it was.

7 Q. That made it \$2,510?

8 A. And 13 cents, yes.

9 Q. 7/10, is it still \$2,510?

10 A. And 75 cents, yes.

11 Q. 7/30, is it still 2,528.04?

12 A. 7/30 I have \$2,546.42.

13 Q. Then you got 9/03, was it charged off to  
14 bad debt?

15 A. That's correct.

16 Q. And balance still \$2,546.42?

17 A. That is correct.

18 Q. So did you have authority to remove the  
19 transferred bill?

20 A. If the correct information was presented,  
21 yes.

22 Q. And then on 10/1 of 2002, where it says  
23 reapplication to transfer from, we see that 290 was paid,  
24 but we still see a balance of \$2,546?

25 A. That is correct.

1 Q. So my question to you again is, did you  
2 remove the transfer balance of \$2,204 from that account?

3 A. Did I remove that?

4 Q. Yeah.

5 A. No, I did not.

6 Q. So far as you know, it was still 2,200 and  
7 whatever else was collected onto the bill, as far as you  
8 know?

9 A. Are you asking me if the balance was still  
10 2,546.42?

11 Q. Or whatever else after that. If you didn't  
12 remove the 2,200 from the account, so if I got a \$50 bill,  
13 it would still be \$2,275 or something like that. If I had  
14 a \$2,000 bill that you didn't -- that wasn't removed by  
15 you, which was \$2,204, then I received a \$60 bill, then  
16 that would make my bill still \$2,264, wouldn't it?

17 A. That's correct.

18 Q. So it never was removed as far as you know?

19 A. That's correct.

20 Q. And 7/30 on the same page, to 8/02, final  
21 bill, was \$18 and it was still \$2,546.42, correct?

22 A. Yes.

23 Q. So can you explain why the previous balance  
24 was never final bill?

25 A. I'm not understanding your question.

1           Q.       You said my previous balance was \$305, and  
2 I'm asking you why come on my final bill the \$305 wasn't  
3 the final bill instead of 2,000?

4           A.       Because as you stated, the amount that was  
5 transferred over was attached to that bill of \$305.54.

6           Q.       Let's look at on the same exhibit you have,  
7 No. 14, and this is the customer's contact sheet, right?

8           A.       Yes.

9           Q.       Answer sheet. And it was dated for  
10 4024 Prospect in the name of Sara Chappelow?

11          A.       That's correct.

12          Q.       When did you get involved in this  
13 complaint, in this dispute?

14          A.       As far as an exact date, I really could not  
15 tell you.

16          Q.       I mean, was it before I called or was it  
17 after I called?

18          A.       It would have been probably before,  
19 depending on when you called. Again, I don't have the  
20 dates, but I was given the information presented from  
21 Mr. -- I'm sorry -- from Ms. Chappelow.

22          Q.       Now, we see that 5/7/2000 Sara Chappelow  
23 wanted to talk to a supervisor, correct?

24          A.       That is correct. That's what's noted.

25          Q.       And on 5/22, the fax was transferred to

1    you?

2           A.       Yes.

3           Q.       Did you look at the fax?

4           A.       I don't know that I looked at it on that  
5   date, but I have seen it.

6           Q.       You read it?

7           A.       Yes.

8           Q.       So on 5/22, when you read the fax, maybe  
9   not on that particular date, do you have just an idea what  
10   date you might have read it?

11          A.       I sure don't.

12          Q.       In any event, at 5/22, it wasn't a concern  
13   to you to call Mr. Dudley at that time to see why  
14   Ms. Chappelow is saying that she never lived there at that  
15   address?

16          A.       In my investigating, not saying exactly  
17   what was done at this time, I do contact the owner. Now,  
18   whether or not I was able to contact the owner, I cannot  
19   tell you that.

20          Q.       Wouldn't it be noted like it was when it  
21   gave fax information to Ms. Bussey to check out?

22          A.       Actually -- I'm sorry.

23          Q.       Go ahead.

24          A.       On this contact entry that you've given me,  
25   I don't have any notes on there --

1 Q. So --

2 A. -- myself. They noted -- the person that  
3 originally spoke with Ms. Chappelow has noted that, the  
4 one that received the information. And again, that's why  
5 I cannot tell you the time, because I'm not telling you  
6 that I would be able to get to that right when it was  
7 given to me. So my notes are nowhere on here.

8 Q. And it has been a long time?

9 A. Yes.

10 Q. And your recollection is that you don't  
11 remember ever calling me or have you -- do you have a date  
12 where you tried to call me or do you have any records or  
13 anything that might help you?

14 MR. COOPER: I'm going to object to this  
15 line of questioning based upon relevance at this point.  
16 I'm not sure what difference it makes to the ultimate  
17 issues that have been identified whether Mr. Dudley was  
18 called or not called by Ms. Bussey in regard to the  
19 Chappelow information in the summer of 2001.

20 MR. DUDLEY: Well, my argument is the  
21 relevancy is that if it was such a big issue or if the  
22 2,200 bill was a bill that was -- should have been  
23 investigated, then I should have been one person to be  
24 notified of whether Sara Chappelow at that time lived  
25 there or not, and I'm saying that there's no --

1 JUDGE RUTH: Can you explain how that's  
2 relevant to what's at issue in this case?

3 MR. DUDLEY: Well, because MGE is stating  
4 that I have been notified and they have sent documents.  
5 They have made statements that they called, they have left  
6 messages, you know, on the phones or whatever, and this is  
7 what I'm trying to show, that the relevance is that it was  
8 never done.

9 JUDGE RUTH: I'm not sure your line of  
10 questioning is narrowly tailored to get to the result you  
11 want to go at. However, I'm going to allow you a little  
12 bit of leeway and you may continue your line of  
13 questioning, but if it appears that you're getting off  
14 track, I may interrupt you or someone else may raise an  
15 objection.

16 BY MR. DUDLEY:

17 Q. Okay.

18 A. Can I add that the reason we're saying that  
19 we contacted you is on the bills that were actually sent  
20 in your name, not the ones that were sent in  
21 Ms. Chappelow's name.

22 Q. Well, let me ask you this: When Ms. Chap--  
23 when you did receive that fax and you did investigate, did  
24 you come to the conclusion that you should take her name  
25 off the account?

1 A. I didn't, no.

2 Q. And as one point in your investigation and  
3 knowledge, was her name removed from the account?

4 A. Her name is not removed from the account.  
5 The bill is, the amount of the bill was removed and  
6 transferred, if I'm understanding you.

7 Q. Let me ask you this: What's the procedure  
8 for taking Ms. Chappelow's bill and then applying it to  
9 James Dudley's bill with a different address?

10 A. Mr. Dudley, I didn't transfer the bill, so  
11 I can't answer why it was done or why that person chose to  
12 do it. I wasn't the one that made the transfer.

13 Q. Do you have any idea who might have?

14 A. It's noted. The initials here, VAJ on  
15 April the 24th on Schedule 14.

16 Q. All right. You say it was VAJ?

17 A. Yes, sir, April the 24th. The time was  
18 11:18, and VAJ was the one that made the transfer, where  
19 it says bad debt transfer, final bill, bad debt to final  
20 bill transfer.

21 Q. And you wouldn't happen to know that name,  
22 would you?

23 A. Yes, I have the name.

24 Q. What's the name?

25 A. Virginia Jackson Johnson.

1 JUDGE RUTH: I'm sorry. What was the name  
2 again?

3 THE WITNESS: Virginia Jackson Johnson.

4 BY MR. DUDLEY:

5 Q. Did there ever come a time where you  
6 discussed this complaint with Ms. Bolden?

7 A. Yes, we have talked about it.

8 Q. Did you and Ms. Bolden talk about it in  
9 July of 2002?

10 A. I don't remember the dates again. I'm  
11 sorry.

12 Q. I mean, what about October 2002?

13 A. Again, I don't remember the dates.

14 Q. So when -- okay. So this is Exhibit 4, and  
15 in dispute 4 CSR 240-13.05 dispute, and I want -- you  
16 don't have a copy of this?

17 A. I don't.

18 JUDGE RUTH: You're reading from something  
19 that's copied into your Exhibit 4?

20 MR. DUDLEY: Yeah, Exhibit 4.

21 JUDGE RUTH: Cite the section number that  
22 you're reading.

23 MR. DUDLEY: 4 CSR 240-13.045.

24 JUDGE RUTH: Thank you. You want to  
25 approach the witness with that.



1 MR. DUDLEY: Yes.

2 JUDGE RUTH: Would you show the section of  
3 it to both counsel. And you may approach.

4 BY MR. DUDLEY:

5 Q. If you look at that document, is that  
6 something that you're familiar with, the dispute, rules  
7 for dispute?

8 A. Yes, I'm familiar with them.

9 Q. Now, we know that you'd spoken with  
10 Mr. Dudley in July?

11 A. Okay.

12 Q. And my question is, did you speak with  
13 Mr. Dudley before the service was disconnected?

14 A. Again, the date that the service was  
15 disconnected was on July the 24th. So if you're saying  
16 that I spoke with you before then, then yes.

17 Q. Okay. And according to that rule, if you  
18 was notified that a bill was in dispute, service was not  
19 supposed to be disconnected, correct?

20 MR. COOPER: I would object to any  
21 interpretation of the rules by Ms. Bussey. I believe that  
22 she certainly can testify as to what the rule says, but as  
23 to what its meaning is, I don't think that she's been  
24 established as an expert in that area to answer those  
25 sorts of questions.

1 JUDGE RUTH: Mr. Dudley, I'm going to grant  
2 that objection. It's a fine line. So she can answer  
3 slightly rephrased. Do you follow?

4 MR. DUDLEY: Yeah.

5 BY MR. DUDLEY:

6 Q. The question is, could you -- could you  
7 read No. 1?

8 A. A customer shall advise a utility that all  
9 or part of a charge is in dispute by written notice, in  
10 person or by a telephone message directed to the utility  
11 during normal business hours. A dispute must be  
12 registered with the utility at least 24 hours prior to the  
13 date of proposed disconnection for a customer to avoid  
14 disconnection of service as provided by these rules.

15 Q. So in your opinion, did Mr. Dudley call you  
16 before 24 hours before the service was disconnected?

17 A. Again, you're saying before the 24th of  
18 July. Like I said, I don't remember the date that I spoke  
19 with you, so I can't answer that.

20 Q. Okay. You still have Exhibit 5, right?

21 A. Yes.

22 Q. Let's look at Schedule 10 in Exhibit 5.  
23 That's Missouri Gas Energy's motion for summary judgment.

24 A. I'm sorry. Are you asking me a question?

25 Q. Did you have it?

1 A. Yes, I do.

2 Q. Would you turn to page 5, affidavit of  
3 Wanda Bussey, No. 19. Do you have it?

4 A. Yes.

5 Q. Okay. Did anyone advise you to say that  
6 Mr. Dudley did not file a complaint with the Missouri  
7 Public Service Commission, or is this something that you  
8 have knowledge of?

9 A. The first question that you have, you asked  
10 me if I had knowledge of it. I did not have knowledge  
11 that you had filed a complaint.

12 Q. Let me do that again. First question is,  
13 did anyone advise you to put No. 19 in there that  
14 Mr. Dudley did not file a complaint with the Public  
15 Service Commission?

16 JUDGE RUTH: Was that No. 17? I want to  
17 make sure I'm following you.

18 MR. DUDLEY: 19 on page 3, affidavit of  
19 Wanda Bussey.

20 BY MR. DUDLEY:

21 Q. So the question was, did anyone advise you  
22 to write that in your affidavit?

23 A. No, sir.

24 Q. So this is something that you had knowledge  
25 of and interpreted from the Public Service Commission?

1 A. I'm not understanding your question.

2 Q. Is this what you have knowledge of by  
3 understanding the rules of the Public Service Commission?

4 A. I'm sorry. I still don't understand.

5 MR. COOPER: Your Honor, if it will --

6 THE WITNESS: I think it was a question  
7 that was asked.

8 JUDGE RUTH: Just a minute. One at a time.

9 MR. COOPER: I don't know whether it helps  
10 matters or not, but this complaint was filed on  
11 November 7th of 2003. So I guess I don't know where we're  
12 headed with this. We're asking about a document dated  
13 October of 2002. It seems pretty clear to me that there  
14 wasn't a complaint on file in October of 2002.

15 So I guess my objection is kind of  
16 wandering here, but it primarily is that it's just the  
17 line of questioning is not relevant because it ignores the  
18 facts that are found in this proceeding that Mr. Dudley's  
19 complaint was filed in November of 2003.

20 JUDGE RUTH: Do you have a response,  
21 Mr. Dudley? And I will say that we do seem to be  
22 wandering on our questions and I'm not sure where you're  
23 headed either.

24 MR. DUDLEY: My response was that when I  
25 asked her to make a determination of the dispute, I was

1 told that she couldn't interpret that dispute because it  
2 was something that, I guess, a law or rule or something,  
3 but my point was that if she could file in her affidavit  
4 and speak on the rules of the Public Service Commission --

5 MR. COOPER: I guess my response would be,  
6 is what we're talking about here is a factual matter, was  
7 it filed or wasn't it filed? We know when it was filed.

8 JUDGE RUTH: I think the witness can answer  
9 that question. Is that your question to Ms. Bussey, did  
10 she write this sentence, No. 19?

11 MR. DUDLEY: Right.

12 JUDGE RUTH: Okay. Do you have a copy of  
13 what he's referring to?

14 THE WITNESS: Yes, I do.

15 JUDGE RUTH: Can you answer his question,  
16 please?

17 THE WITNESS: Let me make sure I'm  
18 understanding. You're saying No. 19?

19 BY MR. DUDLEY:

20 Q. Right.

21 A. No, that wasn't it. I'm sorry.

22 Q. Mr. Dudley did not file a written  
23 complaint?

24 A. Okay. To my knowledge, this is questions  
25 that were asked, were you -- did you file a written

1 complaint to the Commission?

2 Q. This is your affidavit stating that you  
3 made --

4 A. Okay. Okay. I'm sorry. Yes. And you're  
5 asking me did someone ask me or tell me to say that?

6 Q. Right.

7 A. No.

8 Q. And my question was, was this the knowledge  
9 from MGE's rules from dealing with the Public Service  
10 Commission that you knew that in order to do a certain  
11 thing you had to file a written complaint? Is that why  
12 you stated that he didn't file a written complaint,  
13 because you knew the rules that apply to the Public  
14 Service Commission or MGE about filing a written  
15 complaint?

16 A. I'm sorry. I don't understand your  
17 question.

18 Q. Let's go to Missouri Gas -- stay on page 3.

19 A. On page?

20 JUDGE RUTH: Say again where you're at.

21 MR. DUDLEY: Page 3 on the same document,  
22 affidavit of Wanda Bussey.

23 JUDGE RUTH: Thank you.

24 BY MR. DUDLEY:

25 Q. No. 15, are these -- this page here, did

1 someone tell you to write this or this is what you have  
2 knowledge of when you wrote these?

3 A. This is what I have knowledge of.

4 Q. Okay. So you had knowledge that on April,  
5 that the balance was transferred from Prospect to Tracy  
6 June the 25th? You had knowledge of that, correct?

7 MR. COOPER: I object to the question,  
8 because I think we've blended two dates there, we've  
9 blended an April date and a June date.

10 MR. DUDLEY: Well, let's go the 16th.

11 BY MR. DUDLEY:

12 Q. The balance was transferred to 4231 Tracy  
13 on June 25th. You had knowledge of that, correct?

14 A. Yes.

15 Q. Is that -- you had knowledge because of the  
16 investigation, or how did you become aware of it?

17 A. I would have records of that.

18 Q. Is that something that you did?

19 A. As far as what, getting the dates?

20 Q. No, transferring.

21 A. Making the transfer?

22 Q. Yeah.

23 A. Again, I did not transfer the bill.

24 Q. So they sent you --

25 A. Well, we have records of it. As we

1 presented to you, we have records that we can go back and  
2 get the dates that a transfer was done, not necessarily  
3 saying that that person is the one that made the transfer.

4 Q. Okay. 17, MGE notified Mr. Dudley of the  
5 balance transfer. Is that personal knowledge or just some  
6 records that you have?

7 A. If I'm saying that Mr. Dudley was notified,  
8 then I would say that I notified you that the -- that a  
9 transfer was done.

10 Q. And could you kind of explain your  
11 procedure in notifying a customer of a transferred  
12 balance?

13 A. My procedure would be as we were speaking,  
14 you and I having a conversation, that the bill was  
15 transferred, when I said that I gave you knowledge that  
16 the bill was transferred. As far as actually sending the  
17 amount, no, I would not have sent that.

18 Q. You're saying that when Mr. Dudley had  
19 knowledge of the bill being transferred was the day that  
20 you and him spoke on the phone, and that's when you  
21 advised him that there was a transferred bill?

22 A. That's when I would have, yes.

23 Q. Is that what you did?

24 A. Did I notify you --

25 Q. Right.



1           A.       -- to say for sure? I don't know,  
2 Mr. Dudley. Again, like I said, if I'm telling you that  
3 I -- that was part of our conversation, that's the way I'm  
4 understanding it, is that that was a part of our  
5 conversation that I notified you of the transferred debt.

6           Q.       But normally you would do that if you was  
7 talking to a customer about a disputed bill, that you  
8 would explain to them that this is what happened and this  
9 is what we did?

10          A.       At this time, I don't know that the bill  
11 was disputed.

12          Q.       Well, you know that the bill was  
13 transferred, and you told Mr. Dudley. We know that 18,  
14 the gas service at 4231 Tracy property was terminated July  
15 the 30th, 2002. I mean, is that something that you knew  
16 or somebody told you to say?

17          A.       I would have ways of getting that  
18 information from our records.

19          Q.       Okay. And I imagine by you not having no  
20 documents, that you don't recall this, when the service  
21 was actually turned off?

22          A.       I believe the service was actually  
23 terminated on July the 24th.

24          Q.       So you think this might be just a misprint  
25 or misdate?

1 A. I'm not sure what it is.

2 Q. This says July 30th and this is your  
3 affidavit?

4 A. Yes.

5 Q. And this Missouri Gas Energy on page 8 on  
6 the tariff, is this something that -- do you see it, MGE,  
7 Missouri Gas Energy?

8 A. Yes.

9 Q. Is this something that you attached to this  
10 copy?

11 A. I don't know who attached it.

12 Q. You didn't?

13 A. No, I didn't.

14 Q. Let's go to a Schedule 12 on the same  
15 exhibit, suggestions for MGE motion for summary judgment.  
16 Do you know MGE attorney Martin Montemore and Jacqueline  
17 Nixon?

18 A. Yes.

19 Q. And the suggestions in support of MGE, is  
20 this some information that you gave MGE's attorney about  
21 this case?

22 A. The page is Schedule 12?

23 Q. Yeah. Yes.

24 A. Yes.

25 Q. So you advised No. 9 -- let's go to

1 No. 8, that in April 2002, the past due balance for  
2 4024 Prospect address was transferred to Mr. Dudley's  
3 account at 4231 Tracy which was already past due. Is this  
4 a statement that you gave to MGE's attorneys?

5 A. Where are you at now?

6 Q. On line 9.

7 MR. COOPER: What page are we on? Are we  
8 in suggestions to opposition to Plaintiff's motion?

9 MR. DUDLEY: No, we're in support of MGE's  
10 motion for summary judgment.

11 JUDGE RUTH: Okay. Hold on.

12 THE WITNESS: What page is that?

13 MR. COOPER: Your Honor, I'm going to  
14 object to the line of questioning on these schedules.  
15 We're going down through information that's already in  
16 evidence. It's repetitive, it's not material in that, as  
17 I say, it's already in evidence. I don't know that  
18 Mr. Dudley is allowed to cross-examine what I guess is his  
19 own witness here that he's called.

20 And as I say, I go back to relevance in  
21 that I think all this is information that's in the record.  
22 It's there. It's available for the Commission, and I  
23 don't see what useful purpose it serves to go over the  
24 same information again and again.

25 JUDGE RUTH: Did you want to respond,

1 Mr. Dudley? If not, I'm going to rule.

2 MR. DUDLEY: Go ahead and rule.

3 JUDGE RUTH: I think your line of  
4 questioning or at least where I assume you're going is  
5 relevant; however, it has been redundant. So I'm going to  
6 ask, you may want to take a moment, focus your thoughts  
7 and pull together your questions so that we can move  
8 forward.

9 MR. DUDLEY: That's all the questions I  
10 have.

11 JUDGE RUTH: I'm sorry. Did you say that's  
12 all the questions, or did you have a couple more?

13 MR. DUDLEY: Yeah.

14 JUDGE RUTH: I'm not chasing you.

15 MR. DUDLEY: I'll come back.

16 JUDGE RUTH: Staff, I'll ask you if you  
17 have cross-examination for this witness.

18 MR. BERLIN: No, your Honor.

19 JUDGE RUTH: And MGE?

20 MR. COOPER: No, your Honor.

21 JUDGE RUTH: Any questions from the Bench?

22 Commissioner Clayton?

23 QUESTIONS BY COMMISSIONER CLAYTON:

24 Q. Ms. Bussey, thank you very much. I'm just  
25 going to ask a few questions real quick, because I know

1 it's getting later on in the day.

2 Are you personally aware of the types of  
3 collection letters or the types of collection activity  
4 that were communicated to Mr. Dudley in the month of May  
5 prior to the balance transfer?

6 A. Yes.

7 Q. You are?

8 A. Yes.

9 Q. Okay. Are you the supervisor in that  
10 department?

11 A. No.

12 Q. Or manager or what is your -- is this your  
13 account, I suppose?

14 A. I am no supervisor or manager. I'm just --

15 Q. We'll work on that.

16 A. No, thank you. No, thank you.

17 Q. All right. But are you personally aware of  
18 Mr. Dudley's account?

19 A. Yes.

20 Q. Okay. And is it a fair statement that  
21 several collection letters prior to the balance transfer  
22 advising Mr. Dudley of possible termination of service  
23 would have gone out in the month of May 2002?

24 A. That's correct.

25 Q. And do you recall when that initial letter

1 would have gone out indicating that his service would be  
2 cut off within 21 days?

3 A. Without actually looking at the bill and  
4 the dates, I cannot tell you, but in looking at the bills  
5 and the dates, yes, I can.

6 Q. Would that -- but that would have been  
7 within the month of May?

8 A. Again, as far as the amounts, I guess I  
9 need to look at the dates and the amounts of the bill to  
10 see whether or not a notice would have gone out, because  
11 it depends on also the amount of the bill.

12 Q. According to your affidavit, the balance  
13 was not transferred from the Prospect Avenue address to  
14 the Tracy Avenue address until June 25th, I believe?

15 A. Okay. Then yes.

16 Q. Is that correct?

17 A. Yes.

18 Q. So why wasn't his service disconnected  
19 prior to that time? Do you understand my question? If  
20 you don't, tell me.

21 A. Prior to -- are you speaking of the \$305  
22 amount?

23 Q. Yes.

24 A. Well, it just depends on several things.  
25 It depends on the workload. It depends on the amount of

1 the bill. It depends on if the service person would have  
2 gone out during that time. To my knowledge, again, the  
3 shutoff date was July the 24th, and that was the date that  
4 the service was shut off.

5 Q. And that was based on the delinquency of  
6 the balance transfer; is that correct?

7 A. That was based on the bill at the address.

8 Q. At the address?

9 A. Yes.

10 Q. But that did not occur within 21 days of  
11 the initial letter in the month of May; is that correct?

12 A. I don't have that.

13 Q. The service wasn't cut off within 20 days  
14 of the May disconnection notice, was it?

15 A. Are we speaking of May's bill or June's  
16 bill? I think that's what I need, the exact date of the  
17 bill, because it would have been June's bill, I believe.

18 Q. The initial disconnection, I want to know  
19 when the disconnection notices were sent to Mr. Dudley  
20 based on his Tracy address bill. Are you aware of that?

21 A. I would like to look at them. I think we  
22 have them here on file.

23 MR. COOPER: Do you need Ms. Bolden's  
24 testimony?

25 THE WITNESS: Yes.

1 COMMISSIONER CLAYTON: That's all right.

2 THE WITNESS: I don't have the dates.

3 COMMISSIONER CLAYTON: If you don't have  
4 the material, you don't have the material.

5 MR. COOPER: That's where they're  
6 reflected, Commissioner.

7 BY COMMISSIONER CLAYTON:

8 Q. Do you admit or deny that Mr. Dudley spoke  
9 with you concerning his bill roughly July 15th of 2002?

10 A. I cannot agree on the date. I'm sorry. I  
11 don't know the date that we spoke. I do know that we did  
12 speak, but I don't know the date.

13 Q. Do you agree that you spoke with him on  
14 more than one occasion?

15 A. Yes.

16 Q. And when he called you, he advised that he  
17 was disputing his bill; is that correct?

18 A. No.

19 Q. He did not?

20 A. (Witness shook head.)

21 Q. What did he advise you?

22 A. He advised me, to my knowledge, that there  
23 was a debt owed, and my response to him was that I needed  
24 proof of where he was staying or who was staying at that  
25 address to even start my investigation into it.



1           Q.       So it's your interpretation that that  
2 wasn't a dispute in the billing?

3           A.       That was my interpretation, yes.

4           Q.       So he was just making an inquiry?

5           A.       To me it was, yes.

6           Q.       So did he agree that he owed the money?

7           A.       No, he didn't.

8           Q.       He thought he did not owe the money?

9           A.       That's correct.

10          Q.       Wouldn't you call that a dispute?

11          A.       Now looking at it, yes.

12          Q.       Yeah. Okay. And he advised you of that on  
13 more than one occasion; is that correct?

14          A.       I know that he advised me of it on one  
15 occasion. When we spoke after that, basically to my  
16 knowledge it was to gather information of who was actually  
17 living at the property. Again, my -- I don't have my  
18 records here. I didn't know what type of questions that  
19 were going to be asked.

20          Q.       I understand. Do you admit or deny that in  
21 Exhibit 5, the affidavit of Wanda Bussey, that this is  
22 your sworn affidavit?

23          A.       Yes.

24          Q.       That it's notarized, it's your signature  
25 dated November 4th, 2002?

1 A. Yes.

2 Q. In that, you did make the statement -- as  
3 indicated by Mr. Dudley, you made the statement, quote,  
4 Mr. Dudley did not file a written complaint with the  
5 Missouri Public Service Commission, close quote. That's  
6 paragraph 19. Do you recall making that statement?

7 A. Yes.

8 Q. Okay. Why did you make that statement if  
9 you didn't have personal knowledge of it?

10 A. If I didn't have personal knowledge that he  
11 filed a complaint?

12 Q. Yes.

13 A. Well, that's what I was saying. Evidently  
14 that wasn't a question asked to me, whether or not he had  
15 filed a complaint with the Commission.

16 Q. Who asked you that question?

17 A. Probably was my supervisor, Ms. Lambert at  
18 the time.

19 Q. So this affidavit are answers to questions  
20 by your supervisor?

21 A. At that -- yes.

22 Q. Okay. And also paragraph 20, quote,  
23 Mr. Dudley did not request a rehearing from the Public  
24 Service Commission, close quote. Do you have personal  
25 knowledge whether or not he requested a rehearing from the

1 PSC?

2 A. No, I don't.

3 Q. And that is in response to some question  
4 from your supervisor?

5 A. That's correct.

6 Q. Okay. So your supervisor did help you  
7 prepare this affidavit in preparation of this other  
8 litigation; is that correct?

9 A. I believe it was my supervisor and our  
10 attorney at the time, when we were going through these  
11 questions.

12 Q. Okay.

13 A. Our attorney at the time. I'm sorry.

14 Q. There was a line of questioning regarding  
15 the transfer of the bill from the Prospect Avenue address  
16 to the Tracy Avenue address, and you indicated that you  
17 had some knowledge of when and why that occurred; is that  
18 correct?

19 A. Yes.

20 Q. Okay. And I think Mr. Dudley asked you if  
21 you actually made the transfer. Do you recall that  
22 question?

23 A. That's correct.

24 Q. And your response was, no, you didn't do  
25 that?

1 A. That's correct.

2 Q. Do you know who did make that transfer?

3 A. Yes.

4 Q. Who was that?

5 A. Virginia Jackson Johnson.

6 Q. I'm sorry. That was already asked, wasn't  
7 it? Okay. And are you aware of the reason behind that  
8 transfer?

9 A. No, I'm not.

10 Q. Are you aware or have any knowledge  
11 regarding this bill transfer occurring based on the  
12 landlord/tenant relationship of Mr. Dudley with the  
13 Prospect Avenue address?

14 A. Repeat that for me.

15 Q. Do you have personal knowledge of the  
16 reasons surrounding this bill transfer regarding the  
17 Prospect Avenue property?

18 A. That was given to me, yes.

19 Q. Okay. By this Virginia Jackson Johnson?

20 A. Yes.

21 Q. Okay. Are you aware of the policies of MGE  
22 regarding balance transfers?

23 A. Yes.

24 Q. And is it the policy of MGE to transfer or  
25 attempt to transfer balances of tenants that don't pay

1    **their bills to the landlords?**

2           A.       No, it is not.

3           Q.       **It is not. Okay. Although that is what**  
4    **occurred in this case, correct?**

5           A.       I wouldn't say because the tenant didn't  
6    pay it. I would say because the information requested was  
7    not provided, which evidently led to believe that she felt  
8    that he benefited from the service.

9           COMMISSIONER CLAYTON: Okay. Thank you  
10   very much, Ms. Bussey.

11          JUDGE RUTH: Okay. Staff, do you have any  
12   recross based on questions from the Bench?

13          MR. BERLIN: No, your Honor.

14          JUDGE RUTH: And MGE?

15          MR. COOPER: No, your Honor.

16          JUDGE RUTH: Okay. Mr. Dudley, this is an  
17   opportunity for you to have redirect. The redirect needs  
18   to be limited to following up on questions that were asked  
19   since you asked your first set of questions. In other  
20   words, it's not an opportunity to bring in new  
21   information. It's to follow up on questions from the  
22   Bench, for example.

23   REDIRECT EXAMINATION BY MR. DUDLEY:

24          Q.       **So you do have a lot of personal knowledge**  
25   **about this case, about James Dudley's complaint, right?**

1           A.       When you're saying personal, I'm not  
2 understanding what you mean.

3           Q.       The knowledge, all the information that you  
4 was given because you said you knew about Mr. Dudley's  
5 case?

6           A.       I knew there was a bill transfer and as far  
7 as why it was transferred.

8           Q.       Did you have any knowledge that Sara  
9 Chappelow was in a contract with MGE?

10           MR. COOPER: Objection, not related to  
11 questions from the Bench.

12           JUDGE RUTH: I'm going to sustain that  
13 objection.

14 BY MR. DUDLEY:

15           Q.       So based on information that you know, when  
16 you did your affidavit and any other information that you  
17 gave, you really didn't know all that information,  
18 somebody else assisted you with that information?

19           MR. COOPER: Objection. It's been asked  
20 and answered. I believe she responded to the Commissioner  
21 in terms of what she did and didn't have personal  
22 knowledge of at the time she executed her affidavit.

23           JUDGE RUTH: It has been asked and  
24 answered. However, I'll allow a little bit of leeway.  
25 The witness can answer the question again, but you'll want

1 to move forward after this.

2 THE WITNESS: Ask it again. I'm sorry.

3 BY MR. DUDLEY:

4 Q. I said all information that you provided to  
5 the MGE attorney and all your complaints, that this wasn't  
6 really personal knowledge that you had, it was more  
7 assisted by other people?

8 A. That's not correct. If a question was  
9 asked, like I said, I have the availability to get that  
10 information. So just as the information was given to me  
11 to investigate Ms. Chappelow, I have the knowledge or I  
12 have the resource of getting that information. I guess  
13 maybe I'm not understanding the question. Are you saying  
14 if I was supposed to say something? No.

15 Q. So Ms. Chappelow provided you with  
16 documents and you relied on those documents to make your  
17 decision that --

18 MR. COOPER: Objection, not related to  
19 questions from the Bench.

20 JUDGE RUTH: He didn't finish his question.  
21 Let me hear the rest of your question.

22 BY MR. DUDLEY:

23 Q. Okay. I was asking, did you rely on the  
24 information that Sara Chappelow provided you with in your  
25 investigation to determine that Mr. Dudley was responsible

1 for that bill?

2 JUDGE RUTH: Don't answer. I've heard the  
3 rest of your question. It's not related to questions from  
4 the Bench, so you'll need to move on.

5 MR. DUDLEY: Okay. That's it.

6 JUDGE RUTH: Okay. Ms. Bussey, you may  
7 step down now. You're not excused. There may be  
8 questions from some of the other Commissioners later on,  
9 so if you'll remain available. Thank you.

10 Okay. We have left MGE's witness and  
11 Staff's witness, but before we move on, we're going to  
12 take a short 10-minute break. We're going to use the  
13 clock in the back which says 5 minutes after 2. I will  
14 start again at 15 minutes after 2, so be here. We're off  
15 the record.

16 (A BREAK WAS TAKEN.)

17 JUDGE RUTH: Before we move on, I'll just  
18 comment that, again, there was not a joint order of  
19 witnesses, order of cross-examination filed. There was  
20 some different documents. So I'll ask, my notes I was  
21 going to have Staff go next with Mr. Russo, and then MGE  
22 with Shirley Bolden. If the parties propose something  
23 different, this is your opportunity to tell me.

24 MR. COOPER: That would be acceptable to  
25 the company, your Honor.



1 MR. BERLIN: That's fine with us, your  
2 Honor.

3 MR. DUDLEY: That's fine.

4 JUDGE RUTH: Then at this time, we are  
5 ready to call James Russo. Mr. Russo, the first thing I  
6 need to do, then, is have you raise your right hand.

7 (Witness sworn.)

8 JUDGE RUTH: Okay. And just for the  
9 record, go ahead and state and spell your name. Your  
10 attorney might have done that, but I want to make sure.

11 THE WITNESS: James M. Russo, R-u-s-s-o.

12 JUDGE RUTH: Thank you. Mr. Berlin, you  
13 may proceed. And I don't know what's going on upstairs.  
14 I'm sorry for the noise.

15 JAMES M. RUSSO testified as follows:

16 DIRECT EXAMINATION BY MR. BERLIN:

17 Q. Good afternoon, Mr. Russo. Mr. Russo, how  
18 are you employed currently?

19 A. By the Missouri Public Service Commission,  
20 Staff member.

21 Q. What is your position?

22 A. I'm a regulatory auditor in the energy  
23 department. I work with tariffs and rate design.

24 Q. Mr. Russo, did you cause to be prepared  
25 direct and rebuttal testimony in this proceeding?

1 A. Yes.

2 Q. Do you have any corrections to make to your  
3 direct or rebuttal testimony?

4 A. No, I do not.

5 Q. Would your answers that you provided in  
6 your direct and rebuttal testimony be the same today as  
7 they were presented in your testimony?

8 A. Yes, they would.

9 Q. And are your answers true and correct to  
10 the best of your knowledge?

11 A. Yes, they are.

12 MR. BERLIN: Your Honor, I'd like to offer  
13 into evidence the direct, what's titled the corrected  
14 direct testimony of James M. Russo, and the rebuttal  
15 testimony of James M. Russo.

16 JUDGE RUTH: Okay. My notes indicated that  
17 the corrected direct testimony of James Russo would be  
18 Exhibit 8. Am I missing something? That's right?

19 MR. COOPER: It was my understanding we  
20 marked these 1 and 2.

21 JUDGE RUTH: That's right. I assigned  
22 those numbers in the beginning, so the corrected direct is  
23 1, and then the rebuttal is 2. Now am I correct?

24 MR. BERLIN: That is correct.

25 JUDGE RUTH: All right. Are there any

1 objections to Exhibits 1 and 2, Mr. Russo's corrected  
2 direct and his rebuttal testimony, being received into the  
3 record? Mr. Dudley?

4 MR. DUDLEY: No objection.

5 JUDGE RUTH: Could you turn your microphone  
6 on?

7 MR. DUDLEY: No objection.

8 JUDGE RUTH: Thank you. And Mr. Cooper?

9 MR. COOPER: No objection.

10 JUDGE RUTH: Exhibit 1 and 2 are received  
11 into the record. Thank you.

12 (EXHIBIT NOS. 1 AND 2 WERE RECEIVED INTO  
13 EVIDENCE.)

14 MR. BERLIN: And I tender him for  
15 cross-examination.

16 JUDGE RUTH: MGE?

17 MR. COOPER: No questions.

18 JUDGE RUTH: Mr. Dudley?

19 CROSS-EXAMINATION BY MR. DUDLEY:

20 Q. How are you doing?

21 A. Very good. Thank you.

22 Q. In your direct testimony, you did  
23 investigate the complaint that Mr. Dudley sent, filed?

24 A. Yes, sir.

25 Q. And in your investigation, under the tariff

1 rule, did Mr. Dudley fall under Section 1.04 as a customer  
2 or resident at 4024 Prospect?

3 A. No.

4 Q. In your opinion, in your investigation, did  
5 MGE have a right to transfer that gas bill from  
6 4024 Prospect to 4231 Tracy in your investigation, in your  
7 opinion?

8 A. In terms of the \$2,099.96, no.

9 Q. Correct. But if they sent one for \$2,204,  
10 would this -- would that make a difference of being  
11 transferred from that property over to 4231 Tracy?

12 A. I'm not sure what you're asking there.  
13 Rephrase that, please.

14 Q. You said \$2,099, correct?

15 A. That's correct.

16 Q. But the transfer billing amount was \$2,204,  
17 correct?

18 A. That's correct. There's a difference of  
19 \$104.63, which would have been legitimate for MGE to  
20 transfer. So out of the total, 2,099.96 would not be  
21 valid, in Staff's opinion, and the 104.63 would be valid.

22 Q. So in your opinion, is the \$2,204 a valid  
23 transfer?

24 A. The transfer is the total amount. In my  
25 opinion, part of it is valid, part of is not valid, as I

1 previously stated.

2 Q. What I'm asking you, is the 2,000 -- I'm  
3 asking about the transfer amount of \$2,204, not the  
4 partial, not the other. Was it a correct transfer?

5 A. Part of it was correct, sir. They  
6 transferred the amount owing on 4024 Prospect that was  
7 owed by two different parties. That was a total amount,  
8 and out of that total amount, again, the 104.63 would be,  
9 in Staff's opinion, owed by Mr. Dudley. The \$2,099.96, in  
10 Staff's opinion, would not be owed by Mr. Dudley.

11 Q. And you are employed by the Public Service  
12 Commission, correct?

13 A. That is correct, sir.

14 Q. And you are familiar with the rules of the  
15 Public Service Commission, correct?

16 A. That is correct, sir.

17 Q. Are you familiar with the Public Service  
18 Commission rules with MGE according to Section 8.801?

19 A. Are you referring to their tariff, sir?

20 Q. Yes, I am.

21 A. Yes, sir.

22 Q. I'd like to get my exhibits, if I may.

23 JUDGE RUTH: Yes.

24 BY MR. DUDLEY:

25 Q. Do you have a copy of Exhibit 4?

1 A. No, I do not.

2 MR. DUDLEY: I'd like to state that Public  
3 Service Commission attorney let me use his copy, and I'd  
4 like to approach the witness showing Exhibit 4, No. 4,  
5 No. 1 of Exhibit 1 of tariffs 4 CSR 240-13.4045, if I may  
6 approach.

7 JUDGE RUTH: Yes.

8 BY MR. DUDLEY:

9 Q. According to paragraph 1, if a customer  
10 notifies a utility of a dispute within 24 hours, in your  
11 opinion of your understanding of the Public Service  
12 Commission rules, was a customer's service was supposed to  
13 be disconnected? Let me rephrase.

14 And I'm going to No. 1, and it says, a  
15 customer shall advise the utility. Then I'm going to jump  
16 down to about the fourth, fifth line, where it says,  
17 dispute must be registered with the utility at least  
18 24 hours prior to the date proposed discontinuance to  
19 avoid discontinuance of service provided by these rules.  
20 Do you agree with that?

21 A. It's in the rules, yes, I agree with that.

22 Q. So if a customer advised the utility within  
23 24 hours of his service being disconnected, the service by  
24 these rules states that it shouldn't be disconnected?

25 A. That's correct.

1           Q.       So if it was disconnected, then these rules  
2 wasn't followed, in your opinion of these rules?

3           A.       Not necessarily.

4           Q.       Could you explain?

5           A.       There's a lot more to this rule than just  
6 those two lines. And in my rebuttal testimony I refer to  
7 parentheses 7 in this rule, specifically that -- and I do  
8 believe this is in my testimony on -- it's on page 3 of my  
9 rebuttal testimony on lines 26 and 27. I stated that  
10 Staff believes MGE discontinued service within the scope  
11 of Section 7 of this rule. When you go through this rule,  
12 it states that if failure of the customer to pay to the  
13 utility the amount not in dispute within four working days  
14 from the date that the dispute is registered or by the  
15 delinquent date of the disputed bill, whichever is later.

16                   It's my understanding that Mr. Dudley  
17 contacted MGE on 7/24. It's my understanding, and I hate  
18 to do this to the Commissioners, that it was disconnected  
19 on 7/29, but I've heard today that it was either  
20 disconnected on 7/24 or 7/30. But even if those other two  
21 dates are true, it doesn't matter. They are still within  
22 their rights, because if they disconnected on 7/24,  
23 Section 1 states you have to give notice at least 24 hours  
24 prior. In that case the notice was not given within  
25 24 hours. If it was the 30th, that is still beyond the

1 four days required in Section 7.

2 Q. Okay. Now, No. 7, it said a failure of a  
3 customer to pay utility the amount not in dispute within  
4 four working days. And my question to you is, how did you  
5 know whether it was in dispute or not a dispute?

6 A. Based on the information I gathered in my  
7 investigation, based on my conversations with Mr. Dudley,  
8 based on my conversations with MGE, based on reviewing  
9 documents filed in our electronic filing information  
10 system, EFIS, with the Commission, it was -- I believe  
11 that the disputed amount was just the 2,099.96. So that  
12 tells me that the 104.63 was not in dispute, and that at  
13 that point in time, I believe it was 305.54 from  
14 4231 Tracy -- I don't know if that's the correct  
15 address -- was also not in dispute.

16 Q. Now, you have been here, you have heard  
17 testimony all morning, correct?

18 A. Yes, sir.

19 Q. You did hear that on July the 15th, that  
20 2,500 was disputed?

21 A. I've heard a lot of things this morning.  
22 I've heard that certain numbers were disputed and I've  
23 heard that certain numbers were not disputed.

24 Q. So we do know that disputed -- dispute was  
25 going on in this complaint?



1           A.       We know there was a portion disputed, that  
2 is correct, yes, sir. I agree with that.

3           Q.       And -- but you really don't have actual  
4 facts of the true amount of the dispute other than the  
5 transferred portion of the bill, correct?

6           A.       I have my opinion as to what I thought or  
7 what I believe is in dispute and what is not in dispute,  
8 that is correct.

9           Q.       If you turn -- I don't know if you still  
10 have this exhibit. Let me ask you this question, same  
11 page, No. 2. When a customer advises utility all or part  
12 of a charge is in dispute, the utility shall record the  
13 date, time and place when contact is made and investigate  
14 contact properly and thoroughly and attempt to resolve the  
15 dispute in a matter satisfactory to both parties. Now, do  
16 you agree with that rule in No. 2?

17          A.       Yes, sir.

18          Q.       Did you receive any of this information  
19 from MGE that what was disputed, what wasn't disputed, the  
20 recorded time and day? Did you get any of that  
21 information?

22          A.       I have the recorded time and date, yes.  
23 It's off of their customer information account. They note  
24 it on Septem-- I'm sorry -- on July 24th that you  
25 contacted them, yes.

1 Q. So we know that it was disputed in July the  
2 24th and nothing else?

3 A. We know there was a disputed amount. It  
4 was my belief in talking to MGE personnel and -- and I --  
5 unfortunately, I don't know if their witness, Shirley  
6 Bolden, was in on that conversation. She may have been --  
7 that the amount in dispute was 2,099.96.

8 Q. And let me ask you this, and I don't know  
9 if you have this, Exhibit 5.

10 A. I don't have the exhibit. I may have some  
11 of the documents within the exhibit, though.

12 Q. Okay. We're looking for Exhibit 5,  
13 Schedule 1, the billing statement from MGE, July the 10th.

14 A. I do not have that.

15 JUDGE RUTH: Which one, billing statement  
16 from when?

17 MR. DUDLEY: July the 10th, 2002.

18 JUDGE RUTH: Thanks.

19 MR. DUDLEY: I'd like to give a copy.

20 JUDGE RUTH: Yes, you may approach the  
21 witness.

22 BY MR. DUDLEY:

23 Q. On July the 10th, 2002, we see a gas bill  
24 amount to avoid disconnect payment before July 22nd, 2002,  
25 which is the second one from 1729, and that bill was

1    \$2,510?

2           A.       And a few change, 78 or 76, yes.

3           Q.       Correct. Do you see a final bill of  
4    \$2,299, \$2,099?

5           A.       No, I do not.

6           Q.       So in your opinion, if you knew that  
7    Mr. Dudley was arguing about the transfer bill, which in  
8    your opinion you decided that 104 was mine, so instead of  
9    2,200, which we do see transferred balance of \$2,204.59  
10   was transferred from that property of 4024 Prospect,  
11   correct?

12          A.       We see a total amount there, that's  
13   correct.

14          Q.       Okay. So in your opinion, from looking at  
15   this document, seeing that 2,204 not the \$2,099 that in  
16   your opinion you felt that I disputed, which is not on  
17   here, and the final bill become \$2,528 and the previous  
18   balance was supposed to be 305, in your opinion you don't  
19   think that the \$2,510 was in dispute?

20          A.       In my opinion?

21          Q.       Yeah, in your opinion looking at this  
22   document.

23          A.       No. I don't think that. That's my  
24   opinion, though. And I can't speak for what Mr. Dudley  
25   would have thought, but I don't believe that, no.

1 Q. Well, let me ask you one more time. Let me  
2 ask you one more time. My previous balance was \$305,  
3 correct?

4 A. Yes, sir.

5 Q. And here is a balance of \$2,528 that the  
6 gas company MGE is asking for, which we know by looking at  
7 this bill that the 2,200 was a transfer amount?

8 A. Correct.

9 Q. And the total is \$2,528 from a \$305 bill,  
10 and you don't feel that's a dispute?

11 JUDGE RUTH: Okay. I think this question's  
12 been asked and answered several times. Let's move on.

13 BY MR. DUDLEY:

14 Q. Okay. So we can turn to, if you have it,  
15 Exhibit 2, which is discontinue service. You might not  
16 have that.

17 JUDGE RUTH: We are calling it Exhibit 2.  
18 Do you really mean part of -- it's part of Exhibit 5?

19 MR. DUDLEY: It's part of Exhibit 4,  
20 page 2.

21 JUDGE RUTH: Okay.

22 MR. DUDLEY: Should be the second page.

23 JUDGE RUTH: Can you hold up which one  
24 you're referring to?

25 MR. COOPER: I think what Mr. Russo's

1 holding up is from the surrebuttal testimony rather than  
2 the direct testimony.

3 MR. DUDLEY: Can I approach?

4 JUDGE RUTH: Yes, you may. Before you  
5 approach the witness, show counsel what you're going to  
6 show him, and I want to see. Are you talking about the  
7 rule?

8 MR. DUDLEY: Right.

9 JUDGE RUTH: Okay. So that's --

10 MR. DUDLEY: Exhibit 4.

11 JUDGE RUTH: The bottom says Exhibit 4, but  
12 let's not refer to it as Exhibit 4 since it's not in this  
13 case.

14 MR. DUDLEY: Page 2.

15 JUDGE RUTH: It's the one that the first  
16 section is 4 CSR 240-13.050?

17 MR. DUDLEY: Correct.

18 THE WITNESS: I have a copy of that.

19 JUDGE RUTH: You may proceed.

20 BY MR. DUDLEY:

21 Q. Now, 4 CSR 240-13.045, discontinuance of  
22 service, and this is one of the Public Service Commission  
23 rules for discontinuing service, correct?

24 A. Yes.

25 Q. Now, No. 1 says, service may be

1 disconnected for any of the following reasons: Nonpayment  
2 of an undisputed delinquent charge.

3 Do you have any knowledge where Mr. Dudley  
4 agreed to pay any bill in July the 10th, 2002?

5 A. I have no knowledge of anything that  
6 occurred on July 10th, 2002 concerning Mr. Dudley.

7 Q. Well, let's go to B to try to move a little  
8 faster, let's go to B down to G. If you just glance  
9 through it, whatever, and tell the Commission whether this  
10 applied to Mr. Dudley's case, as far as discontinuing  
11 service?

12 A. Whether 1B through 1G would apply?

13 Q. Right.

14 A. No, they would not, just glancing at them  
15 here.

16 Q. Right. And No. 2 states that none of the  
17 following constitutes significant cause for the utility to  
18 discontinue the service, A, which don't apply either, does  
19 it, A?

20 A. No, sir.

21 Q. Okay. Let's go over to 5 on the right  
22 side.

23 A. Okay.

24 Q. It says, utility shall not disconnect the  
25 residential service pursuant to section 1 unless a written

1 notice by First Class Mail is sent to the customer at  
2 least 10 days. Do you agree that's correct?

3 A. Uh-huh. Yes.

4 Q. And you don't know if that was done or not  
5 in this case, from your investigation, do you?

6 A. I have copies of documents that were filed  
7 by Mr. Dudley that's called Mr. Dudley's answer to MGE's  
8 answer that was filed on December 22, and I -- this is  
9 from our EFIS system, our information system, and within  
10 that documentation there's a whole series of copies of  
11 notations from MGE citing notices that they gave to  
12 Mr. Dudley and the dates that they did. So I would have  
13 to say that I believe MGE gave proper notice to  
14 Mr. Dudley, based on these documents.

15 Q. So we know that on July the 10th, 2002, a  
16 bill was sent out, correct?

17 A. We know there -- yeah, there is a statement  
18 dated July 10th, 2002, yes, sir.

19 Q. Okay. So sake of testimony was that I  
20 spoke with Ms. Wanda Bussey on the 15th, correct, and if  
21 that was the case, have you seen any statements in there  
22 that show a date that the service that MGE sent out a  
23 notice 10 days prior to disconnecting the service?

24 A. Again, there's a whole series of notices  
25 within that were provided by Mr. Dudley, copies of MGE's

1 records. Let me just look through them quickly here.

2 Q. Okay.

3 A. There's one here that says, remarks,  
4 disconnect notice mailed 7/10/2002. That's -- it's  
5 numbered 32 in Mr. Dudley's answer to MGE's answer that  
6 was filed with the Commission. It's No. 32.

7 Q. So --

8 A. There may be more. There's one here, it's  
9 No. 33, it's dated 7/15, and it states, account sent for  
10 early intervention. It refers to generated an early  
11 intervention record. There's one here dated 7/16. It's  
12 No. 34 on the bottom of the page, and it says, final  
13 disconnect 96-hour notice mailed. That's on -- that's  
14 dated 7/16.

15 There's one dated 7/17, which says -- well,  
16 that's No. 35 on the bottom of the page. It says, left  
17 message. So there's quite a few of these that were filed  
18 by Mr. Dudley on December 22nd, 2003 with the Commission.

19 Q. Which was documents that were received from  
20 MGE? Were them MGE's documents?

21 A. You'd have to ask Mr. Dudley. If they say  
22 they're MGE's documents.

23 Q. Okay. So now on 7/10, a notice was  
24 supposed to have been sent out, correct?

25 A. I believe that was correct, sir, yes.



1 Q. But we know on 7/10 that a billing  
2 statement was sent out for \$2,510. We know that, correct?

3 A. We know something on 7/10. I don't know  
4 anything that was mailed on 7/17 for billing statements.

5 Q. No. 7/10.

6 A. Yeah, 7/10.

7 Q. So we know on 7/10 that a billing statement  
8 was sent out?

9 A. Yes.

10 Q. Okay. 7/15, we know from testimony that  
11 Mr. Dudley spoke with Ms. Bussey at MGE?

12 A. Yes.

13 Q. Okay. So this is the same day that some  
14 mailing was supposed to be sent out. On 7/16, we know  
15 that on 7/15, again, that Mr. Dudley has spoke with  
16 Ms. Bussey, because it's the same one, 7/15 and 7/17?

17 A. Correct.

18 Q. Okay. So in your opinion, if Mr. Dudley  
19 had spoke with someone at MGE, MGE would advise Mr. Dudley  
20 that his service would be disconnected if he didn't pay a  
21 certain amount by this time, since we had so many  
22 disconnect letters sent out?

23 A. I don't know.

24 MR. COOPER: Objection, calls for  
25 speculation.

1 MR. DUDLEY: I was asking an opinion.

2 JUDGE RUTH: Is that your response?

3 MR. DUDLEY: Yes.

4 JUDGE RUTH: I'm going to sustain the  
5 objection.

6 BY MR. DUDLEY:

7 Q. Okay. So if Mr. Dudley -- we'll go down a  
8 little further to a little below maintain active record  
9 date of mailing and delivery. The notice of  
10 discontinuance of service should not be issued to that  
11 portion of a bill which is determined to be an amount in  
12 dispute subject to Section 4 CSR 240-13.045, Section 5 and  
13 6, that it's currently subject to a dispute. So my  
14 question to you is, if Mr. Dudley disputed this bill with  
15 MGE according to this rule on discontinuance of service, 5  
16 should his utilities have been disconnected?

17 A. Yes. The disconnect notice that Mr. Dudley  
18 received was only for the service on the Tracy property.  
19 The disconnect notice did not include anything from the  
20 Prospect property. It did not include the 2,099. It did  
21 not include the 104. It included -- it says 306.16 which  
22 is a little bit more than 305.54, but I believe the  
23 difference there is attributed to a -- I guess they call  
24 it a late payment charge or late payment charge. I'd have  
25 to look at their billing records to see what that 60-some

1 cents is.

2 But their notice very clearly -- it's item  
3 No. 34 in Mr. Dudley's answer to MGE's answer again, and  
4 it says right there on the 306.16. So when they  
5 disconnected Mr. Dudley at that point, it was for the  
6 delinquent amount on the Tracy property.

7 Q. Okay. Now, I asked you this question. You  
8 have been in this session listening to testimony, correct?

9 A. Yes, sir.

10 Q. Now, when I asked Ms. Bussey was that bill  
11 ever removed, her answer was no. Do you recall that?

12 A. Yes.

13 Q. So if it had never been removed, how -- in  
14 your opinion, how could you just apply 305 to something  
15 that had never been removed?

16 A. Again, they're following the statute. The  
17 statute clearly states that they can only -- excuse me.  
18 The statute clearly states that the disconnect notice only  
19 includes the nondisputed amount, and that's what that was.  
20 That's nondisputed. That's on the Tracy Avenue. So they  
21 would not have included anything that they thought might  
22 have been in dispute, and that was the money owed on  
23 Prospect Avenue.

24 So MGE followed the rule and did not  
25 include it. If they would have put it on that notice,

1 then Staff's opinion would have been different. Staff's  
2 opinion would have been they violated the rule.

3 Q. In testimony that have -- in this testimony  
4 in this court today, did you ever hear Mr. Dudley not  
5 dispute the \$2,510?

6 MR. COOPER: Objection, argumentative.

7 BY MR. DUDLEY:

8 Q. Let me ask you this: Do you agree that in  
9 your investigation, did Mr. Dudley ever admit to you that  
10 he agreed to pay \$305?

11 A. Mr. Dudley never agreed to pay anything to  
12 me or not pay anything to me. We never talked about that.

13 Q. Well, in any of the documents that you  
14 received, correspondence that you received, did Mr. Dudley  
15 ever agree that he was responsible for \$305?

16 A. Mr. Dudley and I discussed the amount owed  
17 on the Prospect Avenue property that related to Sara  
18 Chappelow. That is the extent of our discussion.

19 Q. But if Mr. Dudley did dispute that \$305,  
20 then would they be in violation of this rule?

21 A. That's a -- Mr. Dudley never did that. I  
22 mean, are you asking for an opinion? I'm not sure what  
23 you're asking.

24 Q. Yeah, I'm asking for an opinion on this.

25 JUDGE RUTH: You're asking him to

1 speculate?

2 MR. DUDLEY: No.

3 MR. COOPER: I'll object on the basis of  
4 speculation, but also on the basis that it assumes facts  
5 not in the record.

6 JUDGE RUTH: I'm going to sustain the  
7 objection based on the speculation. I'm not sure about  
8 the facts in the record. I don't think I need to get into  
9 that.

10 BY MR. DUDLEY:

11 Q. So I'll I ask this, rephrase it. If a  
12 person disputed all the bills or all the amount on the  
13 bill, and service was disconnected even though it was in  
14 dispute, would they be -- wouldn't it be that they didn't  
15 follow this rule of 4 CSR 240-13.050?

16 A. I have to say maybe, and the reason is  
17 there's a lot more to the rules than just that particular  
18 part. A person could have a frivolous complaint against  
19 the company, and there's sections that deal with that. So  
20 maybe. It's hard to do a hypothetical under those  
21 conditions.

22 Q. Okay. Let's turn to page 3, same document.  
23 In general terms and conditions for gas service,  
24 claimants, residential only. Do you have that one?

25 A. Can you show me what you're looking at,

1 please?

2 Q. MGE's rules of the Public Service  
3 Commission.

4 A. Is that Section 8.01 of the tariff?

5 Q. Yes, it is.

6 A. Yes, I should have that. Yes, I do.

7 Q. Now, you agree, this is still a format from  
8 the Public Service Commission rules CSR 240?

9 A. No, this is the actual tariff that MGE  
10 operates under.

11 Q. So they don't operate under the code?

12 A. It's in addition to the rules. It goes  
13 beyond. This is their tariff that's on file with the  
14 Commission.

15 Q. So this is what MGE's supposed to follow?

16 A. Yes, sir, in addition to the rules.

17 Q. Now, look at 8.01, complaint and dispute  
18 claim. According to this rule, 8.01, if a customer  
19 advises utility that his bill is being -- that his bill is  
20 being disputed, should service be disconnected if he  
21 advised the utility within 24 hours that he had a dispute  
22 with the utility within that 24-hour period, should his  
23 service be disconnected under that 8.01 rule?

24 A. I think you're asking what you probably  
25 asked earlier concerning the other rule. I'm not sure.

1 Q. And --

2 A. If it is the same question, I'll give the  
3 same answer. In terms of what the rule says, yes, the  
4 rule does say that. Or excuse me. The tariff does say  
5 that.

6 Q. So turn to page 2, 8.02.

7 A. I do not have that.

8 JUDGE RUTH: You're going to approach the  
9 witness with the copy? Fine.

10 BY MR. DUDLEY:

11 Q. According to this tariff, 8.02, that a  
12 payment of a nondis-- a payment of a non -- a payment of  
13 an amount not in dispute if a customer makes a complaint  
14 or a disputed charge, he or she should pay the company  
15 amount equal to that part of the charge not in dispute,  
16 correct?

17 A. Yes, sir.

18 Q. Okay. Now, if you go to the second  
19 paragraph, the amount not in dispute shall be mutually  
20 determined by these parties. These parties shall consider  
21 the customer's prior consumption history, weather  
22 variation, the nature of the dispute and any other  
23 pertinent fact in determining this amount not in dispute,  
24 correct?

25 A. Yes.

1           Q.       In your opinion, do you have anything that  
2 showed that Mr. Dudley or MGE came to any agreement of  
3 \$104 or \$305 bill in 2000 -- July the 10th, 2002?

4           A.       I don't have any direct knowledge of any  
5 conversation between Mr. Dudley and MGE.

6           Q.       So you don't know if Mr. Dudley has a  
7 dispute or not, do you?

8           A.       I know Mr. Dudley had a dispute because he  
9 filed a formal complaint with the Commission.

10          Q.       Okay. I guess I'm going to ask you to turn  
11 to page 10, and the same Exhibit 4, page 10.

12                   MR. COOPER: What page are you on?

13                   JUDGE RUTH: Okay. They're not labeled as  
14 10, so you need to help us out a little more and describe  
15 what page.

16                   MR. DUDLEY: It's the Missouri Public  
17 Service Commission response letter from Tracy Leonberger.

18                   JUDGE RUTH: Would you hold that up? So  
19 it's August 23rd, 2003 letter?

20                   MR. DUDLEY: Yes, it is.

21                   JUDGE RUTH: Okay. Thank you.

22 BY MR. DUDLEY:

23           Q.       If you turn to page 2 -- I mean page 11,  
24 did you consider this in your investigation?

25           A.       No.



1 Q. Did you ever have a chance to review it?

2 A. No.

3 Q. Okay. I'm going to ask you to take a  
4 minute and just review the first paragraph.

5 A. Okay.

6 Q. And this is from -- to Mr. Dudley  
7 August 23rd, 2002, correct?

8 A. Yes.

9 Q. I'll read it. The company representative  
10 stated in order to turn on service at this location, they  
11 would agree they would accept \$1,000 in initial payment  
12 with an agreement to pay the remaining balance. So my  
13 question is, do you agree that's what that says?

14 A. Yes, that's what that says.

15 Q. So to pay an initial \$1,000 balance,  
16 wouldn't that be more than \$305?

17 A. Yes, it is.

18 Q. Would you agree by looking at page 2 --  
19 page 10 rather, just one page back, and this was sent to  
20 Mr. Dudley August the 23rd, 2002?

21 A. Yes.

22 Q. Okay. And it's at the 4231 address, Tracy  
23 address?

24 A. Where it was mailed to?

25 Q. Correct.

1 A. Yes.

2 Q. Okay. And I'll read this part. This is a  
3 follow-up letter in response to our phone conversation  
4 August the 14th, 2002. You indicated in your complaint  
5 against MGE that the company has transferred a bill to  
6 your account at 4231 Tracy that you do not owe. So we  
7 know that it's still -- it's a dispute August the 23rd,  
8 correct?

9 A. We know that the Prospect Avenue was in  
10 dispute, yes, that's correct.

11 Q. And at that time do you have any knowledge  
12 of whether gas service was off at that time at 4231 Tracy?

13 A. It's my understanding -- again, we're  
14 getting back into those July dates.

15 Q. This is August.

16 A. I understand that. It's my understanding  
17 that as of -- as of July 30th, it was definitely  
18 disconnected. So in August I would have to say it was  
19 still disconnected.

20 Q. Okay. So are you saying that if that --  
21 Mr. Dudley's gas service was turned off for 305, that he  
22 didn't need to pay \$1,000 or if it was turned off for --  
23 are you saying --

24 MR. COOPER: I object. I don't think  
25 Mr. Russo's saying anything. This is Ms. Leonberger's

1 letter. She testified earlier. I'm not sure what  
2 Mr. Russo could possibly answer in regard to what  
3 Ms. Leonberger said in her letter.

4 JUDGE RUTH: Okay. I want to hear the  
5 question first, the whole question.

6 BY MR. DUDLEY:

7 Q. Would you agree that from this thousand  
8 dollar initial payment at 4231 Tracy, that it was more  
9 than 305?

10 A. Yes.

11 MR. DUDLEY: That's all I have.

12 JUDGE RUTH: Okay. Questions from the  
13 Bench, Commissioner Clayton?

14 QUESTIONS BY COMMISSIONER CLAYTON:

15 Q. Just a few questions, and I'll try to be  
16 brief. Is it a relevant question to ask whether or not a  
17 dispute existed prior to disconnection in July of 2002, a  
18 dispute between the company and the customer? Is that a  
19 relevant question of whether one existed?

20 A. Yes.

21 Q. And to determine whether a dispute existed,  
22 one would have to look to the state of mind of the  
23 parties; is that correct?

24 A. Yes.

25 Q. Would you look anywhere else for a dispute?

1           A.       I guess it depends how you define state of  
2 mind, because I would include -- whenever you have a  
3 dispute, it's more than one party obviously, but it would  
4 not only be what the parties say verbally, it would be  
5 what the parties say written, what they would write down.

6           Q.       I understand, but basically it comes back  
7 to what they were thinking in July of 2002?

8           A.       Sure.

9           Q.       And then we look to evidence either in  
10 writing or --

11          A.       Yes, sir.

12          Q.       -- words that were spoken?

13                   Okay. Now, beyond -- first of all, let me  
14 ask you this: In your investigation, were you familiar  
15 with Exhibit No. 7, which is the letter written by  
16 Mr. Dudley to Sheila Lumpe, Chairman of the Public Service  
17 Commission?

18          A.       No, I was not.

19          Q.       You were not. Okay. If you didn't look at  
20 this document, what did you look to or what items did you  
21 find that would provide evidence as to the state of mind  
22 of Mr. Dudley?

23          A.       I looked at all documents that were filed.  
24 I talked to Mr. Dudley at least on two different  
25 occasions. And when I say all documents filed, it's those

1 that have gone through the EFIS system and documents that  
2 MGE faxed to me.

3 Q. Okay. And do any come to mind? Let's  
4 focus on documents for the time being. Do any documents  
5 either through EFIS or that were sent to you by MGE that  
6 come to mind on which you based your opinion that there  
7 was is not a dispute as to certain figures in July of  
8 2002?

9 A. When I reviewed Mr. Dudley's original  
10 complaint filed with the Commission in November of that  
11 year, when I talked to the different parties --

12 Q. You mean November of 2003?

13 A. Did I say 2002? Yeah. Hang on a second,  
14 Commissioner. I'm sorry.

15 Q. That's all right. I think you mean the  
16 official complaint?

17 A. Yes, sir.

18 Q. Yeah, November 2003. It's late.

19 A. It gets confusing, too many dates here.  
20 When I went through that process, the only amount that I  
21 saw, even though all of these amounts talked about today  
22 have been cited somewhere, the only real amount that was  
23 in dispute would have been something at Prospect, whether  
24 it's the 2,209 or the 2,099, if you want to include the  
25 104. That's up to the parties. That part was

1 questionable.

2 The amount on the Tracy address, I never saw anything that  
3 would have said that was in dispute.

4 Q. Okay. What documents did you see that  
5 indicated to you that there was only a dispute to the  
6 2,200 or the 2,099, do you recall?

7 A. Just offhand you had Mr. Dudley's  
8 complaint, my conversation with Mr. Dudley, my  
9 conversation with MGE. MGE provided documents that are  
10 titled things like account analysis, their customer  
11 remarks. And then in looking at other documents the  
12 parties filed throughout the course. When this -- when  
13 this started, it was just what happened with Sara  
14 Chappelow. As it progressed and as I wrote my rebuttal,  
15 other things came into play at that point in time, and  
16 that's the violation of the rules up until then, until I  
17 believe it was in Mr. Dudley's direct testimony. Those  
18 weren't even issues until that point.

19 Q. Okay. Have you seen -- now, since that  
20 have you seen Exhibit No. 7?

21 A. Is that --

22 Q. The letter to Sheila?

23 A. Yes, I have.

24 Q. To Chairman Lumpe?

25 A. Yes, I have.

1           Q.       In this letter he makes reference to only  
2 the 2,204.59, which is the Prospect Avenue property. In  
3 your opinion, would this already be sufficient enough to  
4 indicate a dispute to halt disconnection on the Tracy  
5 Avenue property?

6           A.       According to the rules, it would have been,  
7 yes, but you get into the --

8           Q.       Yes, it would have been enough to halt the  
9 disconnection?

10          A.       It would have been enough where -- you have  
11 other monies that were owed legitimately.

12          Q.       I understand. I understand. But it's kind  
13 of a yes or no, I think.

14          A.       Well, the problem you've got is -- I'm  
15 going to say no.

16          Q.       Okay. So you first said yes, and then now  
17 it's no?

18          A.       Well, I have too much time to think about  
19 it, I guess.

20          Q.       Then why not? What would he have had to  
21 put in this letter that would have indicated sufficient  
22 amount of dispute for you to determine that a  
23 disconnection was improper in July of 2002?

24          A.       He would have had to include at that point  
25 the Tracy Avenue amount. The notice on the -- or the

1 amount on that disconnect notice was only for the Tracy  
2 Avenue property, and that was only, I believe I said,  
3 306.16. Again, there is a few pennies difference because  
4 of probably late payment charge. But if that was  
5 included, definitely Commissioner, there would be no doubt  
6 in my mind that, with that amount in there, that this  
7 should have been stopped.

8 Q. Are you aware on MGE's bills that once a --  
9 once a balance is transferred from another account, are  
10 you aware of whether the notices, whether the bills break  
11 out from where each of those amounts due come from?

12 A. It appears that it does, and it appears  
13 it's a single line item with a total amount in it. I'm  
14 looking at -- I think it's on Exhibit 5.

15 Q. Is that the Schedule 1, Exhibit 5 dated  
16 July 10, 2002?

17 A. Yes, Commissioner. And I have to -- that  
18 just says transferred balance, 2,204. It doesn't break it  
19 down. It doesn't tell -- at least I don't see where it  
20 came from.

21 Q. Okay. So it's your testimony, I suppose --  
22 and I'm making this assumption, so correct me if I'm  
23 wrong -- that the only way that he could have halted or  
24 stopped disconnection in the future would have made  
25 reference to more than just the 2,204 figure on the bill?



1 A. That's correct, sir.

2 Q. Would he have to make specific reference to  
3 the 305.54 or could he say approximately 300?

4 A. I think approximately 300 would be  
5 satisfactory.

6 Q. How about if he said, well, I think I owe  
7 the \$17, which is the current charge, and doesn't make  
8 reference to the other, to the 300, would that be enough  
9 to indicate a dispute?

10 A. Not without talking to him.

11 Q. Okay. In your investigation, was it your  
12 determination that MGE had followed its tariff and  
13 Commission rule in supplying sufficient notice to  
14 Mr. Dudley, beginning even prior to the month of July?  
15 Did they follow the rules with regard to sending notice  
16 and making phone calls and providing all the opportunities  
17 to get current with the bill?

18 A. Yes, sir.

19 Q. So it's your opinion that in no way did MGE  
20 violate its tariff?

21 A. That is correct.

22 COMMISSIONER CLAYTON: Thank you very much,  
23 Mr. Russo.

24 THE WITNESS: Thank you.

25 JUDGE RUTH: Okay. We'll move to recross

1 based on the questions from the Bench only. Mr. Cooper?

2 MR. COOPER: No questions.

3 JUDGE RUTH: Mr. Dudley?

4 RECROSS-EXAMINATION BY MR. DUDLEY:

5 Q. You said that in my complaint that I never  
6 mentioned anything about \$2,500?

7 A. I believe I did say that, yes. I'm not  
8 sure I said that, but I might have said that.

9 Q. I don't particularly know what exhibit that  
10 is, but I would like to show --

11 JUDGE RUTH: Right. There's actually two  
12 original complaints and they're not marked as an exhibit  
13 but they're part of the record. I think one was filed  
14 November 13th and one was filed beforehand. Which one are  
15 you -- I believe it was November 7th, perhaps. Which one  
16 are you looking at?

17 MR. DUDLEY: This is probably going to  
18 be --

19 JUDGE RUTH: You've got part of it, not all  
20 of it.

21 MR. DUDLEY: No, it was handwritten.

22 JUDGE RUTH: Can I see which one it is?  
23 This appears to be the one that was received by the  
24 Commission on November 13, 2003.

25 MR. DUDLEY: And then I have another one

1 that was sent November the 7th. Do you have that exhibit?

2 JUDGE RUTH: Those aren't exhibits, sir.

3 They're documents that --

4 THE WITNESS: I may have them here  
5 somewhere. I haven't seen them yet. I can't answer that,  
6 sir.

7 JUDGE RUTH: I've got a copy of  
8 November 7th and the November 13th. If you want to ask  
9 the witness about them, are you going to provide copies?  
10 And you've shown them to both counsel?

11 MR. DUDLEY: Yes.

12 JUDGE RUTH: Then you may approach. You  
13 may approach. I'm sorry. You've already handed it to  
14 him. Good, then you may continue with your questions.

15 BY MR. DUDLEY:

16 Q. Did you have a chance to review this  
17 complaint?

18 A. Yes.

19 Q. If you look at -- go down on line 10, July,  
20 discontinue service to Mr. Dudley's home July the 30th,  
21 2003, two years later for \$2,510, with most of this coming  
22 from 4024 Prospect. Don't you agree that Mr. Dudley did  
23 make reference to the \$2,510 bill?

24 A. Well, the statement's not correct. They  
25 did not discontinue the service for that amount. Yes, the

1 statements are written here, but it doesn't make it a true  
2 or correct statement. They disconnected the service  
3 306.16, which is the 305.54 plus another month for the  
4 last month late penalties.

5 Q. Don't you agree that you're speculating, I  
6 mean, because this wasn't your account, was it?

7 A. I'm not speculating at all, sir. I  
8 received the complaint. I researched the complaint, and I  
9 talked to Mr. Dudley, and he specifically told me that the  
10 amount in dispute was the Sara Chappelow property. That  
11 is part of this \$2,500 figure. This \$2,500 figure is not  
12 all Sara Chappelow.

13 Q. And that's the point that I'm making, that  
14 when Mr. Dudley filed his complaint, that Mr. Dudley  
15 stated \$2,510. Do you see anywhere 2,200 in this  
16 complaint?

17 A. On this document, no.

18 Q. So won't you agree with that Mr. Dudley's  
19 still speaking about \$2,510?

20 A. Not based on my conversations with  
21 Mr. Dudley, no.

22 Q. I'm talking about this document right here,  
23 in this document.

24 A. What he filed in this document, yes, it  
25 does say that.

1           Q.       Okay. So if you turn to page 2 of this  
2 document and you read up at the top, Mr. Dudley says he  
3 had talked with MGE twice, Better Business Bureau once,  
4 Missouri Public Service Commission informal complaint and  
5 now Missouri Public Service Commission formal complaint,  
6 don't you agree?

7           A.       I agree it says that, and I also agree that  
8 right below it it says that MGE removed the 2,099 off my  
9 account.

10          Q.       Now, back to that. That's -- this  
11 complaint now requests relief, it asked for relief, don't  
12 you agree?

13          A.       Again, it cited the 2,099 from the property  
14 on Prospect that was related to Sara Chappelow.

15          Q.       But what I'm asking you --

16                   JUDGE RUTH: Let me caution you not to be  
17 argumentative with the witness.

18                   MR. DUDLEY: And that's all I have.

19                   COMMISSIONER CLAYTON: May I ask one other  
20 question? The parties will have a chance to ask a  
21 question after this, but do you mind if I ask the witness  
22 another question?

23                   JUDGE RUTH: That's fine.

24 FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

25          Q.       Mr. Russo, you indicated that in your

1 investigation to determine whether MGE had been complying  
2 with its tariff and the rules, that you had reviewed all  
3 documents that had gone through EFIS; is that correct?

4 A. I believe I said that. I hope I didn't  
5 miss any document, but yes, I did say that statement.

6 Q. Okay. And that includes the complaint  
7 filed by Mr. Dudley, as well as the answer by MGE?

8 A. Yes, sir.

9 Q. Now, if MGE had discontinued the service  
10 based on the \$2,200 which is in -- I think you agree is in  
11 dispute?

12 A. Yes, sir.

13 Q. Then the discontinuance of service would be  
14 inappropriate?

15 A. Yes, sir.

16 COMMISSIONER CLAYTON: And, Mr. Berlin, if  
17 you could help me here, do you have a copy of MGE's  
18 answer?

19 JUDGE RUTH: December 18th or thereabouts.

20 COMMISSIONER CLAYTON: December 16, 2003,  
21 Robert J. Hack. Do you have that with you, Mr. Russo?

22 THE WITNESS: I may. I don't have it up  
23 here now, but I can get it.

24 MR. BERLIN: I have a copy of Missouri  
25 Energy's answer, Commissioner Clayton. Is that what

1 you're asking for?

2 COMMISSIONER CLAYTON: Yes, sir. Yes, sir.

3 THE WITNESS: Is that in December, you  
4 said?

5 COMMISSIONER CLAYTON: At the end it has  
6 the certificate of service dated December 16, 2003.

7 THE WITNESS: I believe I have that, sir.

8 BY COMMISSIONER CLAYTON:

9 Q. Did you review this document in your  
10 investigation?

11 A. At one time I have, sir.

12 Q. I'd like you to refer your attention to  
13 page 4, paragraph 8, and I'd like you to just read to  
14 yourself paragraph 8 and tell me if you recall reading  
15 this paragraph first of all.

16 A. Yes, I do, sir.

17 Q. Okay. In reading this paragraph, the  
18 position of the company, is it your position that MGE  
19 discontinued based on the Prospect balance transfer or the  
20 prior balance of the Tracy property?

21 A. When I researched this, I will say this and  
22 many other documents caused a lot of confusion for me. In  
23 my research, I would say that No. 8, where Mr. Hack, if he  
24 was the attorney, made that statement, that that did not  
25 happen. I will believe it was because of the other

1 address, the -- my mind's gone blank, but it was not  
2 because of Prospect. I don't think they did it because of  
3 this based on their -- and that's based on their notices  
4 that I looked at.

5 Q. But if we accept the statement as true,  
6 what was said by MGE in this paragraph, then, in your  
7 opinion, the discontinuance of service would be  
8 inappropriate?

9 A. Yes, sir.

10 Q. What documents trump this document? What  
11 is more important than a legal pleading filed in this  
12 case, in your investigation?

13 A. Well, maybe I don't read this the same way  
14 that an attorney would read it. Maybe I don't have that  
15 expertise or knowledge. When I read this and as I read it  
16 now, it seems to me that MGE is saying that this Prospect  
17 property in itself is sufficient, but I don't take that as  
18 being the only reason why, and maybe that's a weakness on  
19 my part, sir.

20 Q. Well, it's not. Let's not talk about  
21 weakness or --

22 A. But it's -- when I went through everything,  
23 and there's lots and lots of paper in this case, and when  
24 I was reading the actual disconnect notices -- and I  
25 understand they're not a legal notice or a legal pleading,



1 but in those disconnect notices, I thought it was really  
2 clear on what MGE did.

3 Q. But no where in this pleading, which is the  
4 answer to the complaint, does it state, I don't think,  
5 that service was discontinued on the basis of the prior  
6 debt. It makes reference to the prior debt, but in  
7 paragraph 8, it says, discontinuance was on the basis of  
8 the transfer, does it not?

9 A. It says discontinuance on the basis of this  
10 transfer is appropriate. It does say that, yes, sir.

11 Q. And it doesn't say anything about  
12 discontinuance based on the prior debt?

13 A. No.

14 Q. And basically you don't believe their  
15 attorney? You don't believe Mr. Hack? You're going to  
16 discredit Mr. Hack?

17 A. Can I -- I don't want to say anything about  
18 Mr. Hack.

19 Q. This isn't a matter of that, but basically  
20 you dispute what he has filed here?

21 A. Well, I don't know. I think he misspoke on  
22 No. 8 maybe. I don't know. I can't speak for the  
23 company.

24 COMMISSIONER CLAYTON: Okay. Thank you.

25 JUDGE RUTH: We've had a few questions from

1 the Bench again, which means we'll go back to some recross  
2 based on this set of questions from the Bench.

3 MGE, do you have any recross?

4 MR. COOPER: Yes, your Honor. At least I  
5 think I do.

6 RE CROSS-EXAMINATION BY MR. COOPER:

7 Q. Mr. Russo, following up on Commissioner  
8 Clayton's questions, and not about Mr. Hack --

9 A. Thank you.

10 Q. -- I believe that earlier in your  
11 testimony, in response to questions from I believe it was  
12 Mr. Dudley, you indicated that when you first looked at  
13 this complaint case, you thought that the issue was what  
14 should happen to the Sara Chappelow amounts; is that  
15 correct?

16 A. Yes.

17 Q. And I believe you further stated that you  
18 didn't believe that the disconnection truly formed up in  
19 your mind until the time you filed your rebuttal  
20 testimony; is that correct?

21 A. Can you resay that?

22 Q. And you can -- obviously, I want you to  
23 tell me what you think you referred to, but I have memory  
24 of you making some statements regarding why the difference  
25 between your direct and your rebuttal testimony, why the

1 difference in the approach you took between direct and  
2 rebuttal.

3 A. Well, originally I thought the complaint  
4 was just the Sara Chappelow property, the amount on at  
5 that property, the 2,099.96. In reviewing Mr. Dudley's  
6 filed direct testimony, at that point it became apparent  
7 that there were other issues, and in those issues were  
8 whether or not the disconnect was the proper thing to do  
9 according to the Commission rules. And so at that time,  
10 when I filed my rebuttal, between direct and rebuttal, I  
11 had to do further investigation, yes.

12 Q. And I believe Commissioner Clayton asked  
13 you what documents trumped MGE's answer, do you remember  
14 that?

15 A. Yes, sir.

16 Q. Are some of the documents that you looked  
17 at through the course of your investigation the records of  
18 the disconnect notices that were sent to Mr. Dudley?

19 A. Yes, sir.

20 Q. And did those records reflect the actual  
21 amounts outstanding that would have been associated with  
22 the disconnect notices?

23 A. Yes, sir.

24 Q. And did any of those disconnect notices  
25 include the \$2,204 and some cents from the 4024 Prospect

1 Avenue?

2 A. No, they did not.

3 Q. You were asked some questions as to what  
4 would be sufficient to indicate that a customer had a  
5 dispute with a bill. Do you remember that?

6 A. Yes.

7 Q. Is it enough just to say, I have a dispute,  
8 or do the Commission rules also have a frivolous standard  
9 included in there?

10 A. It's just not enough to say there's a  
11 dispute. There's a lot of things the rules require, and  
12 there is site investigation and those type of things.  
13 There is a section concerning frivolous amounts.

14 Q. A person, in other words, has to have some  
15 reason that they dispute the bill, correct?

16 A. Yes, sir.

17 Q. And even if they have a reason, not just  
18 any reason will do; it has to have some level of  
19 seriousness, correct?

20 A. There would have to be merit to it, yes.

21 MR. COOPER: That's all the questions I  
22 have.

23 JUDGE RUTH: Okay. Mr. Dudley, you may  
24 also have recross based on the second set of questions  
25 from the Bench.