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3
4 TRANSCRIPT OF PROCEEDINGS
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10 In the Matter of Missouri Gas)
Energy and its Tariff Filing to)
11 Implement a General Rate)File No. GR-2009-0355
Increase For Natural Gas Service)

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13 RONALD D. PRIDGIN, Presiding,
SENIOR REGULATORY LAW JUDGE.

14
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JEFF DAVIS,
16 TERRY JARRETT,
KEVIN GUNN,
ROBERT KENNEY,

17 COMMISSIONERS.

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

2 JUDGE PRIDGIN: Good morning. We're
3 back on the record, Case No. GR-2009-0355. And let
4 me just take a minute to go over with the parties and
5 tell you my understanding of where we are and see if
6 you have anything in addition. But we got through
7 some rate design witnesses yesterday pending bench
8 questions. I believe Dr. Thompson was not available
9 yesterday but is available today.

10 When we went into recess yesterday,
11 Ms. Meisenheimer was on the stand and still -- still
12 had recross and redirect and may also have some bench
13 questions. Mr. Kind is not available today but will
14 be available next week. Mr. Johnstone is unavailable
15 today, but also will be available next week in case
16 the bench has questions. And I believe all the other
17 rate design witnesses are currently available. Does
18 that sound accurate?

19 MR. BERLIN: Yes, Judge.

20 JUDGE PRIDGIN: Okay. Shakes and nods.
21 All right. And then I think I asked the parties
22 yesterday -- maybe I'm being ambitious, but if we get
23 through rate design today -- actually, that all
24 that's on the schedule -- is there something that the
25 parties could move up so we could use more hearing

1 time today? Mr. Boudreau? I'm sorry.

2 MR. BOUDREAU: I -- I hesitate to speak
3 for everybody else. I'll just -- I'll just give you
4 my views. I'm not sure that it's going to be easy to
5 move somebody up into the slot.

6 JUDGE PRIDGIN: Okay.

7 MR. BOUDREAU: And I understand -- I
8 understand your -- your interest in keeping things
9 moving along. I think one of the issues is the
10 company's witness on energy efficiency,
11 Mr. Hendershot, isn't available until tomorrow.

12 JUDGE PRIDGIN: Okay.

13 MR. BOUDREAU: And I thought about some
14 other -- you know, other possibilities, but haven't
15 had -- frankly haven't -- haven't had a chance to
16 talk with counsel for that -- that witness. And even
17 in that event, there's been some late discovery. I'm
18 not complaining, but we -- there was some documents
19 that came to me relatively recently in -- in response
20 to some discovery, and I'm not sure I'm going to have
21 a chance to review those and be ready to ask
22 questions about them --

23 JUDGE PRIDGIN: Okay.

24 MR. BOUDREAU: -- any sooner than maybe
25 Friday. So that's -- that's the quandary that I've

1 got. And I don't mean to -- to speak for anybody
2 else, I'm -- I'm just speaking for myself. So I'm
3 not sure that I see an easy opportunity to move
4 anybody up into that slot on energy efficiency.

5 JUDGE PRIDGIN: Okay.

6 MR. BOUDREAU: And with that, I'll defer
7 to other counsel.

8 JUDGE PRIDGIN: And if other counsel
9 want to speak to that, that's fine.

10 MR. CONRAD: Judge, I'm wondering if it
11 might -- might be useful to go off the line maybe for
12 a couple minutes and let counsel approach.

13 JUDGE PRIDGIN: Oh, certainly. If you
14 want to, let's go off the record briefly, then.

15 (DISCUSSION HELD OFF THE RECORD.)

16 JUDGE PRIDGIN: All right, thank you.
17 We're back on the record. We just went off the
18 record briefly for counsel to give me their
19 perspective on today's scheduling. And with that in
20 mind, what I'd like to do, unless counsel have other
21 suggestions, is to put Ms. Meisenheimer back on the
22 stand and see if we have any bench questions and then
23 move on to recross and redirect, and that would leave
24 Mr. -- excuse me -- Dr. Thompson to take the stand
25 and then other witnesses, depending on -- on if there

1 are any bench questions. And this would be -- and
2 rate design will be the only issue that we hear today
3 if I understand from counsel correctly.

4 MS. SHEMWELL: Do you want to take a
5 break for openings?

6 JUDGE PRIDGIN: We certainly can.
7 I'm -- in fact, I'm glad you brought that up,
8 Ms. Shemwell. The bench would want to hear openings.
9 And you can sit there, Ms. Meisenheimer, you can go
10 back, because I think we're going to have counsel do
11 openings, so wherever you're more comfortable, it's
12 up to you.

13 MS. MEISENHEIMER: I'll let them have
14 the stage for that.

15 JUDGE PRIDGIN: I understand. And --
16 and Ms. Shemwell, thank you for reminding me. I
17 think we did want to hear openings on rate design.
18 And Mr. Boudreau, did you have a mini opening on
19 that?

20 MR. BOUDREAU: Yes, I do, please.

21 JUDGE PRIDGIN: Is there anything else
22 before Mr. Boudreau gives an opening on rate design?

23 (NO RESPONSE.)

24 JUDGE PRIDGIN: All right.

25 Mr. Boudreau, when you're ready, sir. And

1 Ms. Shemwell, thank you.

2 MR. BOUDREAU: I think I'll come up to
3 the podium if that's all right.

4 JUDGE PRIDGIN: Certainly.

5 MR. BOUDREAU: Good morning, and may it
6 please the Commission. The straight fixed variable
7 rate design for MGE's residential class of customers
8 approved by the Commission in 2006 -- actually it was
9 2007 -- the 2006 rate case has been a success story.
10 Those rates have aligned the financial interest of
11 the company with those of its customers.

12 And the evidence you have heard so far
13 on this -- on this issue demonstrates that straight
14 fixed variable rates have resulted in savings for
15 MGE's residential customer class and ushered in
16 innovative, company-sponsored energy efficiency
17 programs that provide incentives for the typical
18 customer to conserve on about 70 percent of his
19 annual bill attributable to -- to natural gas that's
20 used for heating and other household uses.

21 This rate design has been beneficial to
22 low-income households, many of whom are high-use
23 customers because the price of natural gas is not
24 loaded with distribution costs that are independent
25 of usage and of the actual commodity cost.

1 Now, why would low-income customers have
2 higher usage than customers with higher income?
3 Well, they may live in older, less insulated -- less
4 well-insulated housing; they may have older, less
5 efficient appliances; they may be unemployed or
6 underemployed and therefore at home more and so the
7 thermostat is set higher. And so these -- these may
8 seem counterintuitive, but this -- this -- these are
9 the facts and considerations which back this general
10 theory up.

11 Now, with -- MGE is sponsoring or will
12 be sponsoring -- excuse me -- the testimony of Phil
13 Thompson who has done a study of MGE's customer base
14 and its service area in western Missouri that has
15 addressed this issue. So I'd -- I'd encourage you if
16 you have any questions about how this can be, how
17 this -- this relationship can be, I'd suggest that
18 you direct some questions to him and he would be glad
19 to -- to elaborate on the findings in his study.

20 I've -- I've called the straight fixed
21 variable rates a success story. And how do we know
22 this? Well, we need no look -- we need look no
23 further than this past -- the test year in this case.
24 Anne Ross for the Staff and Russ Feingold for MGE
25 have both testified that residential customers paid

1 less during the test year than would have been the
2 case had the old rate design been in place. That's a
3 fact.

4 The conversion to straight fixed
5 variable rates in 2007 occurred with very few
6 customer complaints. That also is a fact. Of the
7 company's approximately 440,000 customers, only 11 of
8 them address the fixed charge component of their bill
9 at the local public hearings in this case. That's 11
10 out of 440,000 people.

11 Of those 11 customers, MGE's analysis
12 shows that a number of them were actually better off
13 under straight fixed variable rates. That's a
14 schedule -- Russ Feingold addresses that, and
15 that's -- that data is contained in a highly
16 confidential schedule to his testimony. Specifically
17 that would be Exhibit 9 HC.

18 COMMISSIONER DAVIS: Was that exhibit
19 handed out yesterday or is that an article -- is that
20 an attachment to Feingold's testimony?

21 MR. BOUDREAU: Well, it's actually a --
22 it's a highly confidential schedule to his
23 surrebuttal testimony, but it was offered -- since it
24 was just the schedule that was HC, it was offered as
25 a separate exhibit. So if you have his surrebuttal

1 testimony with his one schedule, you would have that
2 document. It's a multipage document. It's about
3 five or six pages.

4 COMMISSIONER DAVIS: Uh-huh. Got it.

5 MR. BOUDREAU: For -- for MGE, straight
6 fixed variable rate design addresses the circumstance
7 of the industry trend of declining customer
8 consumption of natural gas, a problem the Commission
9 recognized in the 2006 rate case. Reverting to the
10 old rate design formula is a -- will just create
11 financial difficulties for MGE.

12 MGE has implemented, as I mentioned, a
13 number of energy efficiency programs to empower its
14 customers to further manage their energy consumption.
15 Straight fixed variable rates allow MGE to make these
16 programs available to their customers. That's just a
17 fact.

18 The continuation of this
19 easy-to-understand rate design for the residential
20 class and its expansion to the new small general
21 service class sends clear and meaningful price
22 signals to customers. It eliminates intraclass
23 cross-subsidies, it encourages further energy
24 conservation efforts and it moderates seasonal bill
25 fluctuations and eliminates risk of over- or

1 under-recovery of fixed distribution network costs
2 due to deviations in actual weather conditions from
3 the normal that has to be estimated.

4 This is a variable, by the way. The
5 weather variable is one that's beyond the control of
6 MGE, or the Commission for that matter. Revenue
7 decoupling mechanisms like straight fixed variable
8 rates are the overwhelmingly favored regulatory
9 policy on both the state and the federal levels.
10 Governor Nixon became a proponent of this approach in
11 2001 when he was Attorney General.

12 Several energy task forces sponsored by
13 the Commission have recommended this concept as a
14 necessary ratemaking feature to facilitate energy
15 conservation efforts. Public Counsel actually
16 endorsed this idea in 2004, but has since backtracked
17 and fought the idea at every turn. Public Counsel's
18 inconsistencies on this topic are reason enough to
19 disregard his views on this subject.

20 So what's the alternative that's before
21 you? Well, I'm not sure that I actually know
22 anymore. Public Counsel's testimony as filed is that
23 the Commission should revert to the old rate design
24 where 55 percent of the fixed costs are collected in
25 a customer charge and the remaining 45 percent are

1 collected in the volumetric rate along with the
2 commodity costs. This is supported by her class cost
3 of service, she just told Staff counsel Bob Berlin
4 yesterday.

5 Or is it? Not long after insisting that
6 a rate design was -- proposal was cost-justified,
7 Ms. Meisenheimer told Commissioner Clayton that the
8 Commission could do whatever it wants to; split the
9 baby wherever you want to. This is just a
10 reach-into-the-bag-and-grab-something sort of rate
11 design proposal.

12 What are we trying to avoid, according
13 to Public Counsel? Well, we just learned yesterday
14 that it's apparently seasonal disconnects. Three
15 rounds of prepared testimony and not one word spoken
16 about this topic. And all of a sudden, the
17 Commission's urged to do something to address this,
18 what I can only call is a nonissue.

19 Why is it a nonissue? Well, there's not
20 one scintilla of evidence in the record to suggest
21 that this is a problem or any attempt to quantify the
22 problem or to address its impact, if any, that it may
23 have on MGE or its customers. There's just nothing
24 in the record to deal with this.

25 MGE has also proposed a reconfiguration of

1 some of the other rate classes. I think I'm going
2 to -- I don't think I'm going to address those
3 specifically. Some of those are being -- I think are
4 going to be addressed in some of the matters that are
5 going to be brought before the Commission in terms of
6 a proposed resolution, so I think it may not be
7 helpful. The company has some as-filed testimony that
8 deals with these topics, but I'm not sure that it's a
9 particularly good use of my time or the Commission's
10 time at this point to start in that fashion.

11 With that, I'll -- I'll conclude my
12 remarks and just -- just remind you that this is --
13 the straight fixed variable rate design has worked
14 exactly as advertised, that it has -- it has caused
15 little, if any, customer reaction -- adverse customer
16 reaction to it. I mean, that's just a fact. If you
17 look at the numbers -- if you look at the number of
18 customers served by MGE, it's been basically a
19 nonissue and it's worked basically exactly as
20 advertised.

21 And I think a lot of good has come from
22 it, a lot of savings -- or savings have been realized
23 by MGE's residential class of customers, and we think
24 it's a good thing and the -- and the Commission
25 should be pleased with the results of its decision in

1 the last rate case and should continue that rate
2 design and expand it to the new small general service
3 class. With that, I'll conclude my remarks. Thank
4 you.

5 JUDGE PRIDGIN: Mr. Boudreau, thank you.
6 I think the Chairman has some questions.

7 MR. BOUDREAU: Oh.

8 CHAIRMAN CLAYTON: Mr. Boudreau, I just
9 want to be clear. You said that there's been no
10 adverse reaction to the straight fixed variable rate
11 design in MGE's service territory?

12 MR. BOUDREAU: Very little, if any,
13 adverse reaction.

14 CHAIRMAN CLAYTON: Have you read the
15 local -- the transcripts from the local public
16 hearings that we had?

17 MR. BOUDREAU: We've looked at the
18 transcripts and we -- and Russ -- and Mr. Feingold on
19 behalf of MGE looked into those -- into that data and
20 has addressed that in his -- and I know there are
21 some customers that didn't like the idea. I mean,
22 that -- I think any rate design that you pick,
23 somebody's not going to like what the result is.

24 CHAIRMAN CLAYTON: Well, I understand,
25 but to say there's no adverse reaction, I can

1 remember three or four different witnesses that had
2 an adverse reaction --

3 MR. BOUDREAU: Well --

4 CHAIRMAN CLAYTON: -- to the change in
5 rate design --

6 MR. BOUDREAU: -- I don't --

7 CHAIRMAN CLAYTON: -- so can you
8 characterize that there's been no adverse reaction to
9 this rate design?

10 MR. BOUDREAU: There's been very little.
11 I don't know that I said no, but if I did, I --

12 CHAIRMAN CLAYTON: Maybe we can go back
13 and read the transcript. Maybe I heard an error.

14 MR. BOUDREAU: Well, perhaps I misspoke.
15 The point is that there was very little adverse
16 reaction to it. I think the head count was 11
17 witnesses that addressed this issue, and a number of
18 them were actually better off under the straight
19 fixed variable rate design. So out of 440,000
20 customers, I don't consider that a huge outcry of
21 protest about the rate design.

22 CHAIRMAN CLAYTON: Okay. Thank you.

23 JUDGE PRIDGIN: Mr. Boudreau, thank you.

24 Any other counsel wish to make an opening on rate
25 design?

1 Under SFV, gas bills are simple for customers to
2 understand. There's one fixed customer charge and
3 then there is the cost of the gas itself. The fixed
4 customer charge is level throughout the year. It
5 does not change. The other charge for gas is
6 variable. It changes with how much gas is used.
7 There's no doubt in the customer's mind as to what
8 they're paying for, the fixed charge of delivering
9 gas and the variable charge for the gas itself.

10 Customers receive a true and accurate
11 price signal on how much gas is being used and how
12 much that gas costs. SFV is a great fit for
13 residential in the new small general service customer
14 classes because it is practical. Both classes show
15 similar load and usage characteristics. SFV
16 customers have the same meters, same regulators, the
17 same type of service lines and are served by the same
18 type and size of mains. The costs of serving both
19 residential class and the new SGS class are fixed.

20 Because the system that serves these
21 customers is designed to serve all customers in the
22 class and because a system in place is designed to
23 serve on the peak day, the costs are fixed. The
24 costs do not vary with a volume of gas used by any
25 single residential or small general service class

1 customer. The costs of serving residential and SGS
2 class customers just stay the same.

3 Unlike the large industrial users, the
4 costs to bring gas to the residential and small
5 business customers don't change. The residential and
6 SGS customer may use gas for any number of end uses;
7 perhaps a limited use like cooking or for space and
8 water heating or other gas appliances such as ovens,
9 fireplaces, gas lights or driers.

10 The point here is simple: The cost of
11 serving the customer cooking with gas is the same as
12 the cost of serving the customer that uses gas for
13 space and water heating. If a gas-cooking customer
14 adds a gas furnace or a water heater, the company
15 does not change its investment. The company does not
16 buy or install new equipment because a customer
17 changes his end use of gas. The company does not
18 hire new staff to serve that need. SFV rate design
19 ensures that each customer pays the right price for
20 delivery service from the company and the true price
21 of gas delivery service in a flat, fixed level
22 charge.

23 Public Counsel asks the Commission to
24 take a big step backwards, to go back a few years to
25 order the company to divide out the cost of service

1 and to collect 45 percent of the cost of service in a
2 volumetric rate.

3 Now, let's be clear on what a volumetric
4 rate does. It puts an arbitrary charge on each ccf
5 of gas bought by the customer. It makes the ability
6 of that company to collect its costs, the cost of
7 serving that customer, dependant on the actual volume
8 used by the customer.

9 But company costs do not go away. The
10 costs are still there. The cost of delivering gas to
11 the customer does not change with volume. The costs
12 do not change depending on what appliances the
13 customer uses or chooses to use. We know most
14 customers use gas for space and water heating.

15 Under the 45 percent volumetric charge
16 proposed by Public Counsel, that means the customer
17 will pay most all of the gas costs -- or all of the
18 cost of service during the winter season because
19 that's when customers buy the most gas. That can
20 make for a very expensive winter heating season.

21 With the volumetric charge, customers
22 pay their cost of service when they're buying the
23 most gas. Again, we need to remember one thing: The
24 cost of serving the customer, the cost of flowing
25 that gas to the customer. That cost does not vary

1 with the volume flows to that customer. SFV rate
2 design gives the customer a levelized charge for gas
3 delivery service, and it gives the customer
4 confidence that charge will not change depending on
5 how much gas is bought.

6 Now, why is this important? How does
7 spreading out the cost of service in a fixed
8 levelized charge help the customer? Let's look at
9 what happens when there is a severe,
10 colder than normal winter, the kind of cold winter
11 that demands huge amounts of gas for heating homes.

12 Under SFV rate design, the customer pays
13 only for the cost of delivery of -- of the gas and
14 then for the gas cost itself. But when -- as Public
15 Counsel proposes, 45 percent of the cost of service
16 is linked directly to how much gas the customer buys.
17 The customer can take a devastating financial hit in
18 a colder winter. And in a year with a severe or
19 colder than normal winter, the company sells more
20 gas.

21 Under Public Counsel's volumetric rate
22 design, the company makes more money from the
23 consumer. There is no limit to how much the company
24 makes from customers. It just keeps selling gas,
25 customers keep using more gas, the company makes more

1 money and so on and so on.

2 Now, we know there is a flip side to
3 Public Counsel's volumetric rate design, and it's
4 this: If customers are lucky and there is a
5 warmer than normal winter, the customer buys less
6 than the average amount of gas. And that is also
7 true under the SFV rate design.

8 But under Public Counsel's volumetric
9 rate design, the customer does not pay back the full
10 costs of the service to the company. The company
11 under-collects its cost because 45 percent of its
12 costs are tied directly to the flowing usage of a
13 lesser quantity of gas.

14 Now, what would any sensible business
15 person do when it under-collects its costs? We see
16 every day in today's economy what happens when
17 companies do not cover their costs. Because the
18 volumetric rate design ties the recovery of costs to
19 the amount of gas it sold, the company must sell more
20 gas or cut its costs.

21 And there's also one other option.
22 The company can file for another rate case, another
23 rate increase. I think anyone, not just the utility,
24 but any business person trying to recover his costs
25 would have to take steps to sell more product, in

1 this case, to sell more gas. It's just common sense.
2 Under Public Counsel's proposal, the more gas the
3 company sells, the more it will be able to recover
4 its costs.

5 So from the concerns I just mentioned
6 comes the great policy issue of the day: We don't
7 want customers buying more gas so the company can
8 recover its costs. By any measure, that simply is
9 not good energy conservation policy. No policy and
10 no public initiative supports the idea that customers
11 should use more energy.

12 The battle cry today is to conserve
13 energy, cut back gas usage. Every day we see and we
14 hear the message, conserve energy. So why would we
15 put a gas utility in a position to be perversely
16 incited to sell more gas in a year of
17 warmer than normal weather? It doesn't make sense.
18 No public initiative and certainly no public person
19 is calling for customers to use more gas energy.

20 Staff believes that the current SFV rate
21 design offers the fairest deal to customers. SFV
22 protects customers from overpaying their non-gas
23 service charge when they have to buy more than the
24 average amount of gas.

25 And now in closing, SFV rate design

1 strikes a fair and reasonable balance of the
2 interests. It sends a true, accurate price signal to
3 customers on how much gas is used and what the gas
4 itself costs. SFV also shows the customer the true
5 cost of delivering that gas to the customer or small
6 business. Armed with that knowledge, customers are
7 free to make informed decisions, decisions about
8 their use of energy and their choice of conservation
9 investments.

10 And before I close, I should also
11 mention that Staff witness, Anne Ross, has provided
12 testimony on retaining the SFV rate design for the
13 residential class and implementing it for the new
14 small general service class, and she will be
15 available for any questions you may have. Staff
16 witness Dan Beck has provided testimony related to
17 the system's costs that support residential and SGS
18 classes in the SFV rate design. And thank you. That
19 concludes my opening remarks.

20 JUDGE PRIDGIN: Mr. Berlin, thank you.
21 I believe the Chairman has questions for you, sir.

22 CHAIRMAN CLAYTON: Mr. Berlin, I didn't
23 hear in just kind of giving us the overview of your
24 case. Is the Consumer Services department going to
25 provide any information on the customer reaction to

1 the straight fixed variable rate design?

2 MR. BERLIN: Anne Ross has done a survey
3 of those comment cards and is prepared to address any
4 questions --

5 CHAIRMAN CLAYTON: She has that
6 information?

7 MR. BERLIN: -- they have on that.

8 CHAIRMAN CLAYTON: Can we also get some
9 information from the number of complaints or consumer
10 contacts that the Commission Consumer Services
11 department received, kind of a comparison of before
12 and after the implementation of straight fixed
13 variable rate design to get an idea on how the new
14 rate design has been received? And I don't want any
15 exact names. I think it's just kind of a statistical
16 representation.

17 MS. SHEMWELL: Mr. Chairman, with the
18 way that the MGE comments were done this year, we
19 will have gotten an extraordinary number of comments,
20 I believe something more than 12,000. Anne has done
21 a sample of those and can -- Anne Ross -- and can
22 address that. But to compare last year with this
23 year with the -- sending out the comment card might
24 not be a realistic comparison.

25 CHAIRMAN CLAYTON: Well, I guess what

1 I'm asking is not so much for the comment cards, I'm
2 asking for when the new rate design went into effect.

3 MS. SHEMWELL: Okay, yes.

4 CHAIRMAN CLAYTON: Okay? The tariffs go
5 into effect and people start getting their bills and,
6 you know, you're always going to receive a certain
7 amount of complaints on just about every utility, I'm
8 assuming.

9 MS. SHEMWELL: Yes.

10 CHAIRMAN CLAYTON: But did those
11 complaints change in any significant way and were
12 there additional complaints through the normal
13 complaint process, the 1-800 number or whatever in
14 terms of reacting to the change in rate design?

15 MS. SHEMWELL: We have not filed
16 testimony on that, but I suppose we could agree to
17 call Ms. Fred and get that answer from her.

18 CHAIRMAN CLAYTON: Okay. Great. Thank
19 you.

20 JUDGE PRIDGIN: Ms. Shemwell, thank you.
21 Mr. Berlin, thank you. Any other parties wish
22 opening on rate design, either Mr. Conrad -- both of
23 you? Mr. Conrad.

24 MR. CONRAD: As you can see, your Honor,
25 I'm working without a net. And I'll be -- I'll be

1 very brief and intentionally so. I touched on this
2 topic earlier and in my earlier initial comments.
3 I broke -- there are -- there are probably those
4 who would say, well -- and I have a good friend of
5 mine who -- who says it's better to remain -- sit
6 and remain silent and let people think you're stupid
7 than to get up and talk and let everybody know for
8 sure.

9 I broke into this in '74, and although
10 I'm certainly not the sharpest pencil in the drawer,
11 as another friend of mine says, I was born at night
12 but not last night, it took me a while. And
13 Commissioner Kenney, I relish your -- your position
14 in this because this is all fresh and new to you.
15 But you will probably go through the same epiphany,
16 if you will, that I did.

17 And that is it took me a while wrestling
18 with -- actually, it was RP90-744. It was a
19 Northwest Central or even city service case at FERC.
20 And it dawned on me that while we had about eight or
21 ten expert witnesses, they were using the same
22 terminology across those witnesses, but in some
23 instances they were talking about the same thing.
24 Other witnesses were using entirely different
25 terminology to refer to particular things but still

1 talking about the same thing.

2 My concern here and what motivates me to
3 get up is just the -- the -- the straight fixed
4 variable terminology. I touched on this before. And
5 that's a term that's borrowed from FERC. It's --
6 it's important to understand that as we had talked
7 before, the FERC approach is motivated by entirely
8 different policy, and at -- at FERC it's a -- it's a
9 two-part system: They have a demand and a commodity
10 rate for the pipeline.

11 The demand rate is essentially set after
12 selection and subscription of the pipeline's
13 capacity, and then that is -- is allocated out over
14 the -- the LDCs or the customers that choose to buy
15 that capacity, and they themselves select how much of
16 that capacity they want to take. And that becomes
17 their fixed monthly -- we call it MDTQ, maximum daily
18 transportation quantity, and that is kind of the
19 parameter that they set.

20 Then the other part of that is the
21 commodity rate which I had mentioned before. The way
22 FERC does it is they have the utility, the pipeline
23 recover its variable costs and return and taxes in
24 that commodity, and FERC's policy was and is to
25 move -- encourage, incentivize, whatever you want to

1 use, the pipelines to move as much gas as they can.
2 That's FERC's policy. And as long as people
3 understand that when you say straight fixed variable
4 if you're using the FERC terminology, you're talking
5 about a different policy.

6 I would just simply say to you we've
7 not -- midwest has not gotten into the controversy
8 here, it is a good one. And my sense is that between
9 Staff and Public Counsel that the issues have been
10 well laid out for you and it is, your Honors, a clear
11 to me -- it is a clear policy question for the
12 Commission. What do you want to do?

13 To me, one of the purposes of this
14 Commission is to unsnarl all of the -- the expert
15 testimony and apply to it a good healthy dose of what
16 I would call Missouri common sense, and out of that,
17 craft a policy to the extent that you folks think is
18 appropriate. This is -- in the past, the parties
19 have gotten some criticism that lofted down from the
20 9th floor. They say, Well, they take all the policy
21 questions away from us by settlement.

22 Here's one I think that's a pretty clear
23 policy question for you all to decide, and I wish I
24 could -- could help you more with that, but I just am
25 encouraging people to try and keep the terminology

1 straight because we're talking about two different --
2 two different policies. With that, I don't know if
3 anybody has any questions.

4 JUDGE PRIDGIN: Mr. Conrad, thank you.
5 Mr. Poston?

6 MR. POSTON: Good morning. I'd just
7 like to start by addressing two points raised by
8 Mr. Boudreau. He brought up a 2004, I believe it was
9 some type of a task force where he characterized
10 OPC's position as agreeing to what has been proposed
11 here, and I don't have that document with me, but I
12 would guess if I looked at that, that we don't say
13 anything there about a straight fixed variable or
14 putting all margin costs into a single fixed rate. I
15 would imagine we talk about more generally that we
16 would be supportive of looking at new rate designs or
17 energy efficiency issues generally.

18 And I also take exception with the
19 assertion that there's been no customer backlash
20 against this rate design. I think the evidence in
21 this case will show that just the opposite is true.

22 And then as you know, Public Counsel
23 opposes a rate design that recovers all of MGE's
24 distribution costs in a single fixed charge. This
25 type of rate design has been labeled the SFV,

1 straight fixed variable, as you've heard, and this
2 term was borrowed from the Federal Energy Regulatory
3 Commission, or FERC, as Mr. Conrad just talked about.

4 In FERC Order 636 issued in 1992, the
5 FERC authorized pipelines to recover their
6 transportation costs under a SFV rate design. And
7 one of the reasons the FERC adopted the SFV rate
8 design for pipeline transportation was to encourage
9 the consumption of gas. The FERC's order states
10 specifically that, quote, The Commission's adoption
11 of the SFV should maximize -- maximize pipeline
12 throughput.

13 The FERC goes on to say that using --
14 quote, Using cost classification to design rates to
15 influence the consumption of gas is a traditional
16 regulatory technique of the Commission, end quote.
17 Just as the SFV encourages consumers to use more gas
18 when applied to pipeline rates, it will also
19 encourage consumers to use more gas when applied to
20 other rates. And we assert that encouraging
21 consumers to use more gas is the opposite of where
22 the Commission's energy policy should be heading.

23 Instead, the Commission should be
24 helping to send proper price signals to encourage
25 ratepayers to consume less gas. OPC's -- OPC's

1 proposed rate design accomplishes that goal unlike
2 the straight fixed variable rate design. OPC's
3 proposal encourages energy efficiency and
4 conservation by keeping the proper price signal by
5 letting ratepayers see the rewards for conservation
6 in both the non-gas and the gas portion of their
7 bills instead of just including the price signal in
8 the gas portion alone.

9 In MGE's 2004 rate case, the Commission
10 understood that point and rejected a high fixed
11 charge, concluding on page 55 of the Commission
12 Report and Order that, quote, High fixed monthly
13 customer charges tend to -- to defeat customer
14 efforts to reduce their bill by conserving natural
15 gas, end quote.

16 Public Counsel proposes a rate design
17 that is nearly identical to the rate design approved
18 by the 2004 Commission. It would recover 55 percent
19 of non-gas costs in a fixed rate and 45 percent
20 through a volumetric rate. This is just and
21 reasonable just as it was in April of 2000 when it --
22 when it -- at the time it was -- before it was
23 replaced.

24 Public Counsel is putting up two
25 witnesses on this issue. Mr. Kind, Ryan Kind is an

1 economist with our office, and his testimony evidence
2 will demonstrate that the straight fixed variable
3 rate design is not consistent with an energy policy
4 of encouraging more efficient and less wasteful use
5 of energy. Mr. Kind has a lot of experience in this
6 field. I would encourage you to ask him as many
7 questions as you have about this issue.

8 Our second witness is Ms. Barbara
9 Meisenheimer, and she testified yesterday and will
10 testify again today if you have questions for her.
11 Ms. Meisenheimer is also an economist, and her
12 testimony evidence has shown that the traditional
13 rate design makes sense for both a cost perspective
14 and from the perspective of what is reasonable for
15 all customers of the residential and small general
16 service classes.

17 Her evidence and evidence from Staff and
18 MGE demonstrates that MGE incurs costs based on
19 demand or how much gas consumers use, and here we
20 look at our evidence as looking at both short-term
21 and long-term costs. And therefore, a rate design
22 that is based on usage properly assigns these demand
23 costs to those responsible for them.

24 Ms. Meisenheimer's testimony will also
25 demonstrate that the impact of a straight fixed

1 variable rate design is hardest on Missouri's
2 low-income population because low-income consumers on
3 average are low-volume gas users, and therefore, a
4 rate design that dumps all non-gas costs into a fixed
5 customer charge forces more costs onto these smaller
6 users.

7 MGE and the Staff assert that low-income
8 users use more gas than average, but that is simply
9 not true and is contrary to the specific conclusions
10 of several federal agencies that have performed
11 studies on this issue. Not only does that -- not
12 only does the data support that conclusion, but
13 common sense supports it as well. Low-income
14 consumers simply can't use above average amounts of
15 gas if they can't afford it.

16 Furthermore, we're concerned that
17 increasing the already high \$26 customer charge will
18 force more consumers off of the system, and no one,
19 that individual, ratepayers in general or the company
20 benefit when consumers drop off.

21 We ask that you establish a rate design
22 that is affordable to all consumers, that sends the
23 proper energy efficiency price signals and that
24 properly recognizes that MGE incurs costs based on
25 demand and should -- and that should be reflected in

1 the volumetric rates. Thank you.

2 JUDGE PRIDGIN: Mr. Poston, thank you.

3 Mr. Chairman?

4 CHAIRMAN CLAYTON: Legal question,
5 Mr. Poston. Staff -- or Public Counsel's position is
6 to revert to a rate design that had 55 percent of the
7 fixed cost -- 55 percent of transportation costs
8 placed in the fixed rate; is that correct?

9 MR. POSTON: Distribution costs.

10 CHAIRMAN CLAYTON: Than in the
11 distribution costs?

12 MR. POSTON: Yes.

13 CHAIRMAN CLAYTON: The alternative
14 proposed by Staff and by the utility is to place 100
15 percent of those costs in the rate design -- in
16 the -- in the fixed costs, correct?

17 MR. POSTON: Right. Correct.

18 CHAIRMAN CLAYTON: As a legal question,
19 does this Commission have the ability to choose any
20 other alternatives or does it choose between choice A
21 and choice B? Yesterday there was a suggestion that
22 we could pick any -- 60 percent, 70 percent,
23 80 percent, 90 percent. But as a legal question, do
24 we have the ability to actually choose anything other
25 than the 55 percent or the 100 percent?

1 MR. POSTON: If -- if the evidence
2 supports something different, I would say yes, you --
3 you do.

4 CHAIRMAN CLAYTON: Well, I am -- that --
5 that doesn't really help me because I need to know
6 whether there is evidence -- whether you're
7 supporting evidence that suggests that. Is Public
8 Counsel placing sufficient evidence in the record
9 that would support anything other than its 55
10 percent?

11 MR. POSTON: Yes. I think if you look
12 at the record, and I don't know the exact numbers,
13 you will look and you can see the percentage of
14 distribution costs that would be based on demand.
15 And if you wanted to fashion a rate design that --
16 try to capture that in a volumetric rate, I would say
17 you have the evidence for that.

18 CHAIRMAN CLAYTON: Okay. Thank you.

19 JUDGE PRIDGIN: Mr. Poston, thank you.
20 Mr. Finnegan, do you have an opening on rate design?

21 MR. FINNEGAN: No, I do not.

22 JUDGE PRIDGIN: Thank you. Commissioner
23 Davis?

24 COMMISSIONER DAVIS: Can I -- can I
25 inquire of Mr. Poston really quick?

1 JUDGE PRIDGIN: Certainly.

2 COMMISSIONER DAVIS: Mr. -- Mr. Poston,
3 were you representing Laclede Gas in their last rate
4 case?

5 MR. POSTON: Representing them?

6 JUDGE PRIDGIN: I mean, were you
7 representing OPC in Laclede Gas's last rate case?

8 MR. POSTON: Yes.

9 COMMISSIONER DAVIS: Okay. Now, would
10 you agree with me that Laclede Gas is essentially
11 decoupled?

12 MR. POSTON: I -- Ms. Meisenheimer may
13 be -- or Mr. Kind may be a better person to answer
14 that question. I know that Laclede has departed from
15 a more traditional rate design because they have some
16 type of block rates, but I can't really recall --

17 COMMISSIONER DAVIS: Okay.

18 MR. POSTON: -- what they said, but I --

19 COMMISSIONER DAVIS: Do you --

20 MR. POSTON: -- I have heard it referred
21 to as more of a decoupled, that it could be referred
22 to as decoupled.

23 COMMISSIONER DAVIS: Okay. And do you
24 know what Laclede's fixed monthly charge is?

25 MR. POSTON: I do not.

1 COMMISSIONER DAVIS: Does \$18 a month
2 sound correct?

3 MR. POSTON: I just -- I don't know.

4 COMMISSIONER DAVIS: Okay. Do you think
5 Ms. Meisenheimer will know? She's smiling.

6 MR. POSTON: I don't know.

7 COMMISSIONER DAVIS: I think she knows.

8 MR. POSTON: I'm thinking maybe no, she
9 doesn't, but she might.

10 COMMISSIONER DAVIS: All right. Thank
11 you.

12 MR. POSTON: Sure.

13 JUDGE PRIDGIN: Mr. Poston, thank you.
14 Anything further before Ms. Meisenheimer retakes the
15 stand?

16 (NO RESPONSE.)

17 JUDGE PRIDGIN: Okay. Ms. Meisenheimer,
18 if you'll come forward. And my preference is because
19 the -- because we're kind of picking back up in the
20 middle of a witness, just to depart just a little bit
21 from -- from the usual order and to let parties
22 recross and redirect Ms. Meisenheimer and that may
23 prompt Commission questions, because otherwise, if we
24 go to bench questions now, they haven't heard her
25 testify.

1 And so in the event that the bench has
2 questions, it would certainly give parties another
3 opportunity to recross and redirect. So with that in
4 mind, let me see if counsel have any questions for
5 Ms. Meisenheimer. Mr. Finnegan?

6 MR. FINNEGAN: No questions.

7 JUDGE PRIDGIN: Mr. Conrad, questions?

8 MR. CONRAD: (Shook head.)

9 JUDGE PRIDGIN: All right. Ms. Shemwell
10 or Mr. Berlin? Mr. Berlin?

11 MR. BERLIN: Yes, Judge, I think just
12 one or two questions.

13 RE CROSS-EXAMINATION BY MR. BERLIN:

14 Q. Yesterday, Ms. Meisenheimer, I believe
15 Chairman Clayton asked you some questions about
16 seasonal disconnects?

17 A. Yes.

18 Q. Do you know the number of customers that
19 fall off the system because of seasonal disconnects?

20 A. I -- I don't know a specific number.
21 I...

22 Q. Do you have a percentage?

23 A. I don't have a percentage. I can speak
24 to comments that I read related to seasonal
25 disconnects.

1 MR. BERLIN: Thank you. That's the only
2 questions I had.

3 JUDGE PRIDGIN: Mr. Berlin, thank you.
4 Mr. Boudreau?

5 MR. BOUDREAU: Not now. Mr. Berlin
6 covered my topics, so thank you.

7 JUDGE PRIDGIN: All right. Very good.
8 Thank you. Let me see if we have any questions from
9 the bench. Mr. Chairman?

10 QUESTIONS BY CHAIRMAN CLAYTON:

11 Q. Ms. Meisenheimer, we talked a little
12 bit yesterday. I just want to finish up talking
13 about customer reaction and Public Counsel's
14 understanding of what the -- what the public's
15 reaction has been to this rate design. Can you
16 describe your understanding of how the customers have
17 reacted in MGE's service territory following this
18 change in rate design?

19 A. I think there's been unprecedented
20 response, and I think in part, that opportunity came
21 about by the Commission allowing customers to respond
22 with comment cards. We certainly encourage you to
23 review the comment cards. I did some work early in
24 the case, and I --

25 MR. BOUDREAU: I think I'm going to

1 object. I have a standing objection to the use of
2 the comment cards as part of the record in this case.
3 The Commission hasn't ruled on it yet, but I've
4 enunciated what my objections are in terms of -- the
5 only request that's been made is that the Commission
6 take official notice of it.

7 I've lodged my objection. The bench has
8 asked me to file written comments which I'm in the
9 process of preparing to file. Hopefully get those
10 filed before the end of the week. And I object to
11 this line of questioning. I don't think that the
12 comment cards are in the record nor should they be in
13 the record nor is there a basis for taking official
14 notice of them as part of the record.

15 JUDGE PRIDGIN: All right. Mr. Boudreau,
16 thank you. I'll overrule the objection understanding
17 you've still got it pending and you still plan to
18 file something in -- in writing to object to this.
19 So with that, I'll -- and you can have your standing
20 objection on this line of questioning if you'd like.

21 MR. BOUDREAU: Well, I would like to
22 renew the objections that I made the other day, then.
23 I mean, I don't want it -- I don't want the record to
24 reflect that somehow I've waived the objections.
25 There's no basis for taking official notice, there's

1 no evidentiary foundation that's been laid for any of
2 these documents. It's -- it's -- frankly, is not
3 admissible under any standard that I'm aware of, and
4 I do object and it is a continuing objection to any
5 testimony about this until a proper foundation has
6 been laid.

7 JUDGE PRIDGIN: And I'll -- and I'll
8 certainly show it as a continuing objection, and let
9 the record reflect you're not waiving any -- any
10 objection on this line of questioning. I'm sorry.
11 Mr. Chairman?

12 BY CHAIRMAN CLAYTON:

13 Q. Ms. Meisenheimer, can you go back before
14 the comment cards and go back to did you-all keep a
15 record or a log of contacts that you receive from the
16 public?

17 A. I -- I didn't handle the majority of the
18 calls that we received from customers. I did,
19 however, go back before the comment cards and review
20 comments that had been lodged that the Commission
21 related to, in part, the -- the decision in the last
22 case.

23 Q. Well, let me ask this: I'm not -- my
24 first question is do you-all keep a record of
25 complaints that come from consumers that come into

1 your office? A consumer calls your office to lodge a
2 complaint, do you-all keep a record of that?

3 A. I -- I think Mr. Poston would be
4 likely -- would be more likely than me to have a
5 particular log of individual customers. We do
6 receive customer calls and respond to customers.

7 Q. Do you -- do you keep track of them is
8 all I'm trying -- all I'm asking is do you keep track
9 of the calls that come in from customers to your
10 office?

11 A. I don't think we keep a lot of them like
12 the Staff does where they record what --

13 Q. Do you keep any log, any log, any record
14 of calls that come in regarding customer complaints?

15 A. I do think that we have some records of
16 the -- of the calls --

17 Q. And then do you use those -- do you use
18 those calls when -- when you -- when you determine
19 what Public Counsel's position will be on a
20 particular issue?

21 A. Yes.

22 Q. Such as this rate design issue?

23 A. In developing policy positions, we
24 certainly consider the -- the comments that we've
25 received from customers and their reaction to various

1 proposals.

2 Q. Did Public Counsel notice a change in
3 the types of calls that it received from customers in
4 the MGE service territory following the change in
5 rate design?

6 A. To -- to the extent that I'm -- that I'm
7 aware of comments that we received, I would say that
8 a number of customers were -- felt that it was an
9 unfair rate design and --

10 Q. So was there a change in the type of
11 call you received from -- or the type of complaint
12 that you received from customers in the MGE service
13 territory between from the time before and after the
14 change in rate design?

15 A. Definitely between before and after the
16 rate design. Some of the -- some of the comments
17 that we received were actually within the context of
18 the last case.

19 Q. They're in the context of the last case
20 or while the case was being decided?

21 A. In -- while the case was being decided
22 after, you know, the proposal went out to have this
23 type of a rate design.

24 Q. Does Public Counsel compile those calls
25 in any type of record within its office or are

1 basically you just judging this from memory from the
2 times you picked up the phone?

3 A. My -- my response is based primarily on
4 my memory. I -- I don't access a log of any kind.
5 I -- I -- I know that we -- that we do keep logs on
6 certain customer issues and complaints. I've dealt
7 more with it in the area of phones than in gas.

8 Q. In the what?

9 A. In -- in the phone area --

10 Q. In the phone area?

11 A. -- than the gas area.

12 Q. Well, is Mr. Kind knowledgeable of this
13 log? I mean, is there -- if Public Counsel is
14 choosing in part to take a position based on customer
15 complaints, I'm assuming that it's got some
16 information on these types of complaints than just
17 from memory somewhere?

18 A. Well, we're -- we're a relatively small
19 office, we have a few people that work on this
20 particular issue. We talk a lot within our office.
21 It's not like we have one department that -- that
22 does rate design policy and another department that
23 does customer complaints as -- as does the
24 Commission.

25 And so the -- the comments that come in

1 from customers, we -- we have, I think, probably a
2 better general knowledge within the group that makes
3 those -- those policy -- the decisions about what our
4 policy is going to be in a particular case. I
5 think -- I think we're closer to it. We actually
6 speak to -- to some of the customers that -- that
7 call in. Typically our attorneys handle most of the
8 call -- most of the calls from customers.

9 Q. But there's no policy on keeping notes
10 or keeping track of the type of complaints that come
11 in?

12 A. On -- on this -- for this --

13 Q. And if you're not the right witness --

14 A. -- particular issue --

15 Q. -- I understand that.

16 A. -- I -- I don't think I'm the right
17 witness to ask that.

18 Q. Who -- who would be the right witness?

19 A. Well, I think that probably Mr. Poston
20 could comment on this. I understand he's not a
21 witness in the case. But to the extent that you can
22 ask him that question, Mr. Kind may have additional
23 thoughts. We certainly also participate in the
24 public hearings, listen to customer comments there
25 and consider those things in determining what our

1 policy position will be.

2 CHAIRMAN CLAYTON: Okay. Thank you.

3 Mr. Poston, are you aware of any Public Counsel
4 records on which Public Counsel has relied?

5 MR. POSTON: Not a record that we keep
6 that I could bring to you and submit, if that's what
7 you're looking for.

8 CHAIRMAN CLAYTON: Okay. I mean,
9 there's no log that you're aware of?

10 MR. POSTON: No, we just don't have the
11 resources to do that.

12 BY CHAIRMAN CLAYTON:

13 Q. Okay. Well, then, let's go back to the
14 comment cards. Has Public Counsel reviewed the
15 comment cards that have been received?

16 A. I -- I have reviewed some of the
17 comments -- comment cards that have been received as
18 has Mr. Poston and perhaps Mr. Kind.

19 Q. If a complaint is lodged in a type of
20 comment card like that, how does Public Counsel
21 evaluate whether or not it rises to the level of a
22 rate case issue? How do you determine that an issue
23 is big enough to actually litigate before the
24 Commission?

25 A. Well, there -- in -- in some portion of

1 it, I would say are the -- are the concerns that we
2 hear from customers consistent with general policy --
3 policy concerns that we have about a particular
4 proposal like rate -- this rate design. For example,
5 I -- I read a number of comments where customers were
6 talking about that they use very little gas in the
7 summer months and that they don't see the
8 reasonableness of paying the majority of their bill
9 in a -- in a charge that has nothing to do --

10 Q. I -- I -- I don't -- I understand. My
11 question is how do you -- how do you determine -- say
12 someone comes in and they're unhappy with a
13 maintenance man from the gas company who comes out.
14 How many of those cards does it take before you think
15 there is a problem with the maintenance department at
16 MGE or whether there's a problem with a policy? I
17 mean, is there a -- is there a threshold in -- in
18 number of cards? Is it simply justifying a position
19 that the Public Counsel has already taken or do you
20 find vindication? How do you determine whether an
21 issue rises to the level?

22 A. No, to -- there are many cases where I
23 may get a single complaint from a customer about an
24 issue, I will initially attempt to follow up with the
25 company that it relates to. In some cases I consult

1 with Staff technical people regarding an issue.
2 Many, many times I have worked on just an individual
3 customer complaint. I can't say that there is a
4 threshold number that we look at.

5 And the review that I did, I wasn't
6 sorting through looking for an -- for specific
7 complaints related to this one issue; I looked at
8 a -- a sample of the complaints. I -- I can't say
9 that it was a statistically -- and in response to a
10 suggestion that the Staff is going to come in with
11 new evidence regarding a sample taken from customer
12 comments, I -- I think it would be wholly appropriate
13 if we get to respond to -- to that depending on
14 information about it. We haven't -- we haven't seen
15 anything about that from the Staff.

16 Q. Well, would it be fair to characterize
17 Public Counsel's analysis of complaints that you
18 don't look at the number of complaints on a
19 particular issue, but rather look at the substance of
20 each of the complaints?

21 A. I think that's -- that's a fair -- a
22 fair statement.

23 Q. And when you look at the substance of a
24 complaint, how do you evaluate whether it rises to
25 the level of a rate case issue? How big of an issue

1 does it need to be to get here? I mean, maybe
2 there's something that you think is wrong but we just
3 don't have the resources to come before the
4 Commission and fight it. What -- what brings it up?

5 A. If it is -- if it is an issue that we --
6 that we would view as affecting a number of customers
7 or that could potentially affect a number of
8 customers, it -- it could likely be something that we
9 would raise within a rate case, so if --

10 Q. So a broad -- a broad -- it would have a
11 broad effect on -- on a lot of people potentially?

12 A. Yes. If we couldn't get resolution
13 through other channels such as discussing whatever
14 that -- that issue was with -- with the company
15 and -- and trying to resolve it in -- in a -- in a
16 manner that didn't bring it before the Commission.

17 Q. Could you give me an example of any
18 other example of an issue that you would receive
19 through a comment process, whether it be local public
20 hearings or whether it be through these comment cards
21 that were attempted in this case that would
22 potentially rise to the same level as -- as this
23 issue?

24 If you were to look through these
25 thousands of cards and could -- do you have any other

1 examples that would jump out, I mean, other than just
2 saying our rates are too high and we're not happy
3 paying our rates which would be a general concern
4 just about everywhere?

5 A. Yes, but I -- I think that many
6 customers recognize that when costs reasonably go up,
7 that those -- those costs need to be recovered. I --
8 I don't think that every customer that comments is
9 saying we don't want to pay to allow a company to
10 recover its costs if those costs are reasonably
11 incurred.

12 We have lots of customers that
13 commented -- I -- I would say a lot of customers who
14 also commented on executive salaries, issues like
15 that. That's an issue that -- that we might choose
16 to evaluate within the context of a rate case as
17 well.

18 Q. Okay.

19 A. So that's an example of another --

20 Q. Any other examples aside from executive
21 salaries?

22 A. Certainly if there were issues related
23 to customer or service quality customers --

24 Q. Billing questions?

25 A. Billing issues.

1 Q. Problems in reading bills?

2 A. Were their bills properly prepared, are
3 the customers being responded to in a timely
4 manner -- manner from a company when the customer
5 calls in with an inquiry regarding service quality,
6 billing, other issues. There are broad areas that --
7 that we -- typically if -- if we view there to be a
8 significant customer impact and a significant
9 customer concern, then -- then we will address those
10 in rate cases to the extent that our resources allow.

11 Q. Is it -- do you believe that the level
12 of reaction in the local public hearing process
13 suggested a need to revisit this rate design?

14 A. Yes, I think that in -- in the public --

15 Q. And I guess my follow-up is how do
16 you -- give me some examples or why, in that local
17 public hearing process.

18 A. Well, some of the same types of
19 policy -- policy concerns that existed in the last
20 case were carried over into this case in terms of
21 customer comments at public hearings. Those -- those
22 same policy concerns were concerns that we had
23 previously. We don't feel that the rate design has
24 been a overwhelming success by any means.

25 Q. Okay. On the comment cards, can you

1 give me an idea of the -- I guess a quantity and
2 quality assessment of what the comment cards produced
3 relating to rate design issues?

4 A. The -- the reason that I didn't provide
5 some kind of summary in my own testimony regarding
6 the comment cards is that with the overwhelming
7 number of those comment cards, I -- I wasn't able to
8 review all of them.

9 Q. Okay. I understand that.

10 A. And I --

11 Q. There were a lot. There were -- there
12 were way too many, I understand that. But in -- in
13 the cards that you did review, the sampling that you
14 did review -- and obviously it wouldn't be
15 statistically perfect, but in your assessment, you
16 obviously took into consideration those cards in
17 providing your testimony here today, is that yes
18 or --

19 A. Yes, and in -- not just comment card
20 responses from customers, I also looked back from
21 after the rate design was implemented where customers
22 were calling in to raise concerns about that rate
23 design after it was implemented.

24 Q. I understand. We -- we talked -- we got
25 that --

2 Q. -- we got that part, we got the local
3 public hearing. On the comment cards, did you find a
4 pattern of complaint on this type of rate design?

5 A. I did. I found a couple of different
6 complaints in -- in the comment cards that I
7 reviewed. Those types of complaints related to the
8 rate design --

9 MR. BOUDREAU: I'm just going to take
10 the opportunity at this time to renew my objection.
11 We're getting into her assessment of what somebody
12 might have said on a comment card. This is -- this
13 is -- is over the top in terms of allowing somebody
14 to testify about what somebody else said. It's
15 hearsay testimony, I renew my objections.

16 This is incompetent testimony in a -- in
17 an -- in a -- in an administrative procedure, and the
18 Administrative Procedure Act lays that out, the court
19 cases support this, the Supreme Court has said it's
20 incompetent testimony under Article V. I -- I
21 object. This is hearsay testimony about what she's
22 offering -- what other people may have said about
23 something for the truth of the matter asserted. It's
24 hearsay testimony.

25 JUDGE PRIDGIN: And again, I understand,

1 Mr. Boudreau, and your -- and your objection is noted
2 for the record.

3 BY CHAIRMAN CLAYTON:

4 Q. Go ahead and answer the question if you
5 remember the question.

6 A. I -- I -- I think so. There were two --
7 two primary areas of concern. One was that many of
8 these customers that are low-use customers, the ones
9 that I reviewed, they felt that it was completely
10 unfair that they might have very low usage, yet pay
11 such a large proportion of their bill in a fixed
12 cost. In fact, the fixed cost in -- in some of those
13 comments significantly outweighed the portion of
14 cost -- the portion of their bill that recovered gas
15 cost.

16 And that -- then there were other
17 comments that just generally the idea of such a high
18 fixed cost was prohibitive to customers. I
19 specifically remember cases where customers said
20 that, you know, they had to consider leaving --
21 leaving the system due to the cost of the fixed --
22 due to the portion that is the fixed charge.

23 Q. Okay. So you had -- you had the two
24 types of complaints in -- in describing adverse
25 reaction you have witnessed from your clients in

1 preparing for this case; is that correct?

2 A. That's two. Another is a more --

3 Q. All right. All right. Let me ask you
4 this: There were some statements by Staff earlier --
5 by Staff counsel earlier that there is -- and I think
6 Ms. Ross's testimony suggests this -- about customers
7 are paying less under the change in rate design than
8 they would have otherwise paid under the traditional
9 rate design. Do you agree or disagree with that
10 assertion?

11 A. I agree that there are some customers
12 that will pay less under the straight fixed variable
13 rate design than they did under a traditional rate
14 design.

15 Q. And in -- in -- in finishing that
16 thought, what type of customers are those? What type
17 of use, what type of demographic would you think?

18 A. High-use customers would pay less on --
19 higher-than-average-use customers would pay less
20 under the straight fixed variable rate design on an
21 annual basis than would a customer with less than
22 average use.

23 Q. Okay. What about a low in -- what about
24 a low-use customer?

25 A. Low use -- a low-use customer actually

1 pays more under the straight fixed variable rate
2 design than they would have under a traditional rate
3 design. I have a schedule in my testimony that -- in
4 my direct testimony that actually sets out for you
5 the range of impacts that we believe that could occur
6 based on the range of usage levels that were provided
7 in response to DRs in this case.

8 Also with respect to low-income
9 customers, I completely disagree that on average,
10 low-income customers use more than average customers.
11 I don't believe that's the case. I believe that the
12 company has testimony that is not broad enough to
13 truly present evidence regarding low-income
14 customers.

15 Low-income customers, certainly they
16 live in less efficient housing, but they live in
17 smaller housing -- smaller homes. They have less
18 discretionary income, if you will. They face a
19 higher energy burden. And so I think that low-income
20 customers use less gas on average than do average
21 households, and so this rate design is -- is a burden
22 to them.

23 Q. Okay. Last set of questions. Under the
24 straight fixed variable rate design, all residential
25 customers pay the same fixed rate; is that correct?

1 A. Yes.

2 Q. Okay. So everybody's paying the same
3 regardless of income, regardless of usage, regardless
4 of size of house or pool or any other factors, that
5 everybody pays the same rate?

6 A. Yes.

7 Q. Okay. If you go -- if we revert back to
8 the rate design that you are proposing and you change
9 it and you only have 55 percent of those costs in the
10 fixed charge and then you have the rest in
11 volumetric, is one class of customers subsidizing
12 another class of customers under your rate design?

13 A. One class of customers --

14 Q. One type of customer. I don't want to
15 say -- I don't want to use the term class as it's
16 defined in a -- in a tariff, but I mean, are -- do
17 certain types of users, whether by house, by usage,
18 by appliance that they may own, are there any
19 subsidies that occur within the residential class by
20 changing that rate design?

21 A. I don't -- I don't think that there are
22 subsidies. We have set the fixed charge to recover
23 more than what we identify as direct cost of
24 serving -- of residential customer including those
25 things that are specifically at the customer premise;

1 the service line, the meter, expenses associated with
2 maintenance and operation of -- of those. That
3 portion we're charging -- or we're -- would be
4 collecting the exact same from each residential
5 customer.

6 Q. So it's -- you dispute an assertion that
7 a higher -- under your rate design proposal that a
8 higher use customer would be subsidizing a lower use
9 customer?

10 A. Yes, I do. And -- and I -- I think that
11 the evidence in this case, not just Public Counsel's
12 evidence, but the company's study, the Staff's study,
13 allocate cost in part based on demand. Certainly the
14 companies allocate less on demand than might other
15 studies, but I don't think 100 percent customer
16 charge is appropriate based on cost. I think that
17 there is a range where you have discretion.

18 And I could point you to places in the
19 company's testimony where I believe that you could
20 look to see what might be a ceiling that would be
21 cost-based. There's certain costs that are shared.
22 How you decide that it's appropriate to collect
23 those, I believe you have discretion to make
24 decisions within a range, and we would certainly
25 encourage you to consider that.

1 If you don't like the 55 percent which I
2 think is appropriate and reasonably based on cost, I
3 think you have other things to look at where you can
4 reasonably select within a range. But I don't think
5 100 percent is an appropriate place to be based on
6 the cost allocations in this case.

7 CHAIRMAN CLAYTON: Thank you.

8 JUDGE PRIDGIN: Mr. Chairman, thank you.
9 Commissioner Davis?

10 QUESTIONS BY COMMISSIONER DAVIS:

11 Q. Good morning, Ms. Meisenheimer.

12 A. Good morning, Commissioner.

13 Q. Just to -- to reiterate, when Mr. Berlin
14 asked you if you knew how many people had dropped off
15 the system or a percentage of people, you said you
16 didn't know, correct?

17 A. That's correct.

18 Q. And you could have sent a data request
19 and requested that information, correct?

20 A. I -- I don't know that the company would
21 have actually been able to answer that based
22 specifically on rate design. I think that the
23 company could have answered how many service line --
24 or how many customers did they have at a point in
25 time.

1 Q. Okay. Ms. Meisenheimer, is there a
2 clock back there on the wall?

3 A. Yes, sir.

4 Q. Are you perfectly capable of answering
5 the question yes, no, maybe or I don't know? Do you
6 have any mental defect that prevents you from
7 answering a question in that manner?

8 A. I -- I will do my best to answer your
9 questions yes, no, maybe or I don't know.

10 Q. Okay. Thank you, Ms. Meisenheimer. In
11 your direct testimony you talked about the 55
12 percent, 45 percent split, correct?

13 A. Yes.

14 Q. Is there any scholarly basis for that
15 recommendation?

16 A. Yes.

17 Q. What is it?

18 A. It is the study that I did in my rounds
19 of testimony. It is the study that the Staff
20 prepared in this case. I --

21 Q. And can you show me -- I have your
22 testimony here. Can you show me where that 55 and 45
23 are? Point the numbers out on the page,
24 Ms. Meisenheimer. That's all I'm asking.

25 A. I can't point to 55 percent.

1 Q. You can?

2 A. I can't.

3 Q. You can't. You just said you could.

4 A. I...

5 Q. So in your direct --

6 A. Well, let me try.

7 Q. In your direct testimony other than on

8 page 4, is 55 percent in there anywhere else?

9 A. I don't mean to be hesitating. I'm

10 looking for the section of my testimony where I

11 talked about the basis for the customer charge.

12 Q. That's fine.

13 A. I don't have 55. I do not have 55

14 percent discussed in that area of my testimony.

15 Q. Okay. Is it anywhere else?

16 A. In direct?

17 Q. Is it in your rebuttal or your

18 surrebuttal?

19 A. Yes.

20 Q. And where is it -- and where is that?

21 A. In my surrebuttal testimony at page 26.

22 Q. Okay.

23 A. And I can review the rebuttal quickly

24 for you if you would like me to see if it appears in

25 there as well.

1 Q. Okay. But it says your cost -- I'm
2 going to read this. "My cost of service study
3 supports a customer charge of \$12.36. However, I
4 propose to collect 55 percent of residential revenue
5 through the monthly customer charge. Based on the
6 \$15 million increase in Public Counsel's method of
7 determining class revenues, my proposed customer
8 charge would be \$15.18. The remaining 45 percent of
9 residential costs would be recovered through a
10 uniform volumetric rate"; is that correct?

11 A. Yes.

12 Q. Okay. Now -- so your cost of service
13 study actually supports a number less than 55
14 percent; is that correct?

15 A. That is correct.

16 Q. Okay. So you just plucked 55 percent
17 out of the air from the last --

18 A. No.

19 Q. -- the number from the last rate case,
20 right?

21 A. No.

22 Q. No. So where does -- where does 55
23 percent come from?

24 A. The 55 percent is a level that will
25 recover more than what I identified as the direct

1 cost of service and it is -- it is the amount that
2 was collected in a previous -- determined just and
3 reasonable by the Commission in a past case.

4 Q. Okay. But you don't cite any textbook
5 or any scholarly journal that supports that
6 55 percent number, correct?

7 A. No, I don't.

8 Q. Okay. Thank you. Ms. Meisenheimer,
9 would you agree that in ratemaking we have to
10 consider all relevant factors?

11 A. Yes.

12 Q. And we would have to consider all
13 relevant factors in deciding the issue of rate
14 design, would we not?

15 A. Yes.

16 Q. Would you agree with me that there are
17 other factors to be considered in rate design besides
18 incentivizing customers to use less gas or
19 electricity?

20 A. Yes.

21 Q. Okay. Going back to your direct
22 testimony, you testified that MGE earned \$18,109,155
23 from the period of April 2007 through December
24 2008 -- under the straight fixed variable rate
25 design, it earned 18 thousand -- \$18,109,155 more

1 from the straight fixed variable rate design over the
2 period of April 2007 through December 2008 than it
3 would have under the traditional volumetric rate
4 proposal, correct?

5 A. Yes.

6 Q. Okay. To the best of your knowledge,
7 Ms. Meisenheimer, did OPC or the PSC Staff at any
8 time that during -- during that period ever file an
9 over-earnings complaint against Missouri Gas Energy?

10 A. No.

11 Q. Why not?

12 A. Well, in part, we were appealing the
13 decision that led to it. Other reasons that we
14 didn't file a complaint, I -- I don't have other
15 reasons --

16 Q. Do you think it's --

17 A. -- why we didn't file the complaint.

18 Q. -- think it's -- did you -- you reviewed
19 Mr. Hack's testimony, did you not?

20 A. No, actually, I didn't.

21 Q. You didn't. Okay. So you have no
22 knowledge as to whether MGE was actually earning its
23 allowed return or not, then?

24 A. I didn't review his testimony.

25 Q. Okay. But you think that since you're

1 such a small office down there and since you-all
2 talk, that if anyone would have thought MGE was --
3 was earning their allowed return or more than their
4 allowed return, you would have probably heard it,
5 correct?

6 A. I probably would have, yes.

7 Q. Okay. Now, Ms. Meisenheimer, if we were
8 going to average out that \$18 million over a period
9 of 21 months, would you agree with me that if we were
10 just going to average that out equally, it would come
11 out to \$862,000?

12 A. I haven't done that calculation, but
13 I -- I wouldn't dispute that calculation.

14 Q. Okay. And then if we multiplied it back
15 by 12, we'd get roughly \$10,348,000?

16 A. Again, I haven't verified that math, but
17 I wouldn't dispute it.

18 Q. Okay. Now, were you present for -- for
19 any of our conversations with either Mr. Murray or
20 OPC witness Lawton?

21 A. I wasn't present. I had -- I had it
22 turned on while I was upstairs listening.

23 Q. Okay. So if every basis point of ROE is
24 worth \$50,000 and your rate design would have shorted
25 MGE \$10.3 million, would you agree with me that

1 that's more than 200 basis points?

2 A. I -- I didn't provide any testimony on
3 that. I don't know where those numbers come from.

4 Q. Okay.

5 A. So I don't know.

6 Q. Well, I'm just saying hypothetically
7 speaking, are you capable of dividing ten million by
8 50,000?

9 A. Yes.

10 Q. Okay. And if we divide ten million by
11 50,000, is that 200?

12 A. Yes.

13 Q. Okay. Now, if MGE's allowed rate of
14 return is 10 and a half percent, do you know that, do
15 you know that that's what their current rate of
16 return is right now or did they not tell you that in
17 your small office?

18 A. The authorized --

19 Q. Authorized rate of return.

20 A. The authorized --

21 Q. Authorized return on equity.

22 A. -- return from the last rate case?

23 Q. Yes.

24 A. 10.5, that sounds right.

25 Q. 10.5. So if we were to subtract 200

1 basis points from that amount, it would be 8.5,
2 correct?

3 A. 200 basis points, yes.

4 Q. 200 basis points. All right.

5 Ms. Meisenheimer, do you have any idea what the
6 lowest allowed ROE of a public utility commission
7 awarding in the last 30 years would be?

8 A. No.

9 Q. No. So if Regulatory Research
10 Associates had published a report stating that no
11 public utility commission in the country had awarded
12 an ROE of less than 8.75 percent in more than 30
13 years unless there was a penalty involved, do you
14 have any reason to doubt the validity of that
15 statement?

16 A. I don't know.

17 Q. You don't know. Okay. Do you know how
18 much money MGE spends to purchase gas every year?

19 A. No.

20 Q. Then how do you know -- how do you
21 calculate putting your -- your fixed charges into the
22 volumetric rates?

23 A. You asked me if I know how much they
24 spend buying gas.

25 Q. Right.

1 A. I think you asked me that.

2 Q. Okay. So do you know how many units of
3 gas they purchase in a year?

4 A. I think that information is in the
5 record or some estimate of the volumes provided.

6 Q. You -- you would have had to use that
7 number in computing your -- your volumetric rate,
8 wouldn't you?

9 A. Certainly we use a throughput of --
10 volumes of throughput --

11 Q. Okay.

12 A. -- in our calculations, yes.

13 Q. Was it "we"? Did somebody else do that
14 calculation for you?

15 A. We rely on the Staff's calculation of
16 that number usually.

17 Q. So did you do the work or did the PSC
18 Staff do the work?

19 A. The Staff -- the Staff does some of the
20 work that I use, and then where the Staff, for
21 example, didn't calculate volumes on a
22 weather-normalized basis for the residential class,
23 I -- I added that in my initial testimony. Later the
24 Staff recalculated that. Those are often numbers
25 that we use that Staff has developed. And there are

1 cases where I'll use company numbers as well.

2 Q. Now, Ms. Meisenheimer, one of the points
3 you make in your testimony is that under a straight
4 fixed variable rate design, a customer who uses no
5 gas pays as much for these non-gas services as
6 customers who use limitless natural gas resources,
7 correct?

8 A. That would be true.

9 Q. Okay. Now, you work here in this
10 building, correct?

11 A. Yes.

12 Q. Do you ever read the Jefferson City
13 newspaper?

14 A. Infrequently.

15 Q. Okay. Do you know this building has a
16 dumpster out behind it?

17 A. Yes.

18 Q. Are you aware that the -- the City just
19 changed its trash service here?

20 A. No.

21 Q. Do you know that every homeowner, tenant
22 or landlord on the tenant's behalf is required to pay
23 approximately \$15 a month for trash service whether
24 they use it or not?

25 A. No.

1 Q. Okay. Do you know if -- if Mr. Mills or
2 the Office of Public Counsel or any of your coworkers
3 have ever written a letter or publicly testified at
4 one of the City's meetings that the garbage rates in
5 Jefferson City are unconscionable because they aren't
6 volumetric?

7 A. No.

8 Q. Ms. Meisenheimer, do you have cable
9 television or dish at home?

10 A. Yes.

11 Q. How much -- well, first of all, what do
12 you -- what service do you have?

13 A. I have a basic service and then I have a
14 selection of movie channels. I have DVR service as
15 well, and I have three receivers in the house.

16 Q. Okay. So if you don't mind me asking,
17 how much does that cost you?

18 A. I think that that total bill when I
19 don't rent movies through that service is
20 approximately \$58 a month.

21 Q. Okay. Now -- and -- and you
22 occasionally rent movies that -- that cost you more
23 than that?

24 A. That add incrementally to the cost, yes.

25 Q. Uh-huh. Yeah. Do you ever like go out

1 and get like Wrestlemania on Pay-Per-View or
2 anything?

3 A. Not Wrestlemania, no.

4 Q. Okay. Isn't that a straight fixed
5 variable rate design?

6 A. No, it's not.

7 Q. It's not. Okay. It's not. You agree,
8 though, that your cable rates, they don't charge you
9 based on the -- your basic cable, they don't -- or
10 dish or whatever you have, they don't charge you
11 based on the number of shows you watch, correct?

12 A. For basic service, I pay for a selection
13 of channels. I pay incrementally for additional
14 channels and shows that I would want to watch.

15 Q. Right. And you pay that charge whether
16 you watch one hour of TV a month or whether you watch
17 100 hours of TV a month; is that correct?

18 A. The basic fee for the -- the minimum
19 channels, that would be correct. However, I
20 subscribe to a package that includes more, and I pay
21 more for it.

22 Q. Okay. And with that enhanced package,
23 you still pay that fee whether you watch anything,
24 everything or nothing, correct?

25 A. Excluding Pay-Per-View movies, yes.

1 Q. Okay. Ms. Meisenheimer, do you have a
2 cellular phone?

3 A. Yes, I do.

4 Q. Okay. And if you don't mind me asking,
5 who's your service provider?

6 A. I actually have a Tracfone that -- that
7 I subscribe to.

8 Q. All right.

9 A. I have another cell phone that I use as
10 well, but the Tracfone that -- that I subscribe to
11 I'm happy to answer questions about that.

12 Q. So what you've got -- but you've got two
13 cell phones?

14 A. Yes.

15 Q. Okay. So one of them is a Tracfone.
16 That's -- that's pay-as-you-go?

17 A. Yes, it is, per minute.

18 Q. Okay. And the other one's -- the other
19 one that you don't want to answer questions about is
20 not?

21 A. The other one is not in my name. I
22 just -- I use it.

23 Q. Okay. But the other one that you use
24 that's not in your name, that's some other plan,
25 correct?

1 A. Yes. It is a plan in excess of the
2 basic plan and more is paid for it, yes.

3 Q. Right. And do you know, does that plan
4 have a base monthly charge?

5 A. It does.

6 Q. Okay. And then there's certain -- you
7 know, if you use more than a certain amount of
8 minutes or if you're roaming or if you call directory
9 assistance, then you pay extra; is that -- is that
10 fair?

11 A. Yes, and just simply because the
12 allotment of minutes is larger than the minimum
13 amount that could have been bought in a package,
14 it's -- it's more.

15 Q. Now, is that a straight fixed variable
16 rate design?

17 A. No.

18 Q. No. Okay. Now, you cited Bonbright's
19 book, Principles of Public Utility Regulation for the
20 principle that utility regulation is intended to
21 mimic the outcomes and the market environment faced
22 by competitive firms, correct?

23 A. Yes.

24 Q. Would you agree with me that cell phones
25 and cable television now are pretty much deregulated?

1 A. In terms of prices, yes.

2 Q. Okay. You're not going to tell me that
3 there's quality of service regulation on cell phones,
4 are you?

5 A. There are regulations in terms of like
6 can your service be switched, and there are federal
7 regulations on -- on cell phones.

8 Q. But you'd agree with me that they're
9 pretty loose, right?

10 A. Yeah, they're looser than I'd like them
11 to be, yes.

12 Q. Okay. All right. Now, you filed
13 testimony in Laclede Gas's last rate case, correct?

14 A. Yes, I did.

15 Q. And do you recall if that was
16 GR-2007-2008?

17 A. 0208.

18 Q. 0208?

19 A. That sounds -- that sounds right.

20 Q. Okay.

21 A. I -- I wouldn't dispute that's the case
22 number.

23 Q. Okay. And -- and that case was settled
24 by Stipulation and Agreement, was it not?

25 A. Yes, the rate design.

1 Q. Okay. Okay. Do you recall what the
2 base monthly charge that was agreed to in that case
3 was?

4 A. Off the top of my head, I can't remember
5 exactly what the base charge was. I am familiar with
6 the -- with generally the rate structure that was
7 agreed to.

8 Q. Okay.

9 A. I -- I could provide for you a copy of
10 the tariff sheet that identifies the monthly charge,
11 if that would be helpful.

12 Q. And you -- you said that you're --
13 you're generally familiar with the rate -- rate
14 design that was employed in that case, correct?

15 A. Generally, yes.

16 Q. Okay.

17 A. I -- I worked it, I should probably -- I
18 just don't recall -- it depends on what you ask me.

19 Q. Okay. All right. Well, does the number
20 \$18.60 ring a bell?

21 A. I honestly can't remember whether it was
22 18.60. I -- I don't have any reason to dispute that
23 sitting here.

24 Q. I'm not trying to trick you here.

25 A. I'm happy to provide the tariff sheet

1 that identifies that rate.

2 COMMISSIONER DAVIS: Okay. Okay. Does
3 anybody have an objection to her providing the tariff
4 sheet?

5 MS. SHEMWELL: No.

6 BY COMMISSIONER DAVIS:

7 Q. Okay. Now, you recall -- can you
8 explain briefly how the Laclede Gas rate works?

9 A. The Laclede Gas rate works in a manner
10 that includes a fixed customer charge, but then the
11 volumetric rate is higher in lower use for the
12 non-gas recovery and then it also -- I think there's
13 a -- there's an effect on PGA rates.

14 Q. The Chairman's gone, but if -- if he was
15 looking for middle ground, do you think Laclede Gas's
16 rate design could be middle ground?

17 A. I think it's better than straight fixed
18 variable.

19 Q. Okay. Now, you heard my conversation
20 with Mr. Poston. Would you agree that Laclede is
21 pretty much decoupled too?

22 A. Yes.

23 Q. Okay. Could you -- I believe I read in
24 your testimony that the -- the average MGE customer
25 used approximately 70 ccf; does that sound right?

1 A. That sounds right. I have a little
2 arrow in one of my tables that puts it in the 60
3 range for a residential customer. I --

4 Q. Do you think you could calculate a --
5 what -- what's -- what a 70 ccf usage for Laclede
6 Gas -- or if we were going to take that 70 ccf
7 average from MGE and apply it to Laclede Gas, could
8 you -- could you give us an estimate of what that
9 would -- would look like for a customer's bill?

10 A. I -- I can prepare that for you. Would
11 you like it to include the commodity component --

12 Q. Absolutely.

13 A. -- and -- and all non-gas --

14 Q. Absolutely.

15 A. -- components, excluding things like
16 ISRS that really aren't --

17 Q. Yeah, we'll assume that ISRS has been
18 zeroed out.

19 A. I'm -- I'm happy to provide that for
20 you.

21 Q. Thank you. We might have to come back
22 because Mr. Boudreau might want to ask you some
23 questions about it.

24 In your surrebuttal testimony you cite a
25 lot of data to argue that -- that higher income

1 consumers consume more energy than lower income
2 consumers, correct?

3 A. Yes.

4 Q. Schedule 5, page 2 of 6. Now, this is
5 national data from Energy Information Administration,
6 correct?

7 A. Yes.

8 Q. Okay. And you would agree with me that
9 if you're looking at the energy consumption and you
10 look at the -- the household income category, that it
11 certainly appears -- is it fair to say that
12 low-income households are smaller than higher income
13 households in terms of both number of family members
14 living there and square footage?

15 A. The section that disaggregates by
16 household income category where it's setting levels
17 of income, ten -- up to 10,000, 10,000, 14,000 --

18 Q. Uh-huh, uh-huh.

19 A. -- it does indicate that the number of
20 people per household increases with income -- that
21 hesitation is with respect to the section where it
22 does income relative to the poverty line.

23 Q. Uh-huh.

24 A. It -- it actually decreases.

25 Q. Okay.

1 A. With respect to floor space per
2 household based on income categories in dollar terms,
3 yes, generally it's increasing. It appears to be
4 increasing everywhere within that category and as
5 well for the -- where it's based on relative to the
6 poverty line for floor space.

7 Q. Right. Would you agree if you're
8 looking at the -- at the -- the section entitled
9 "2005 Household Income Category" and you're looking
10 at the -- the sections entitled "Energy Consumption"
11 and "Energy Expenditures" and you look at the -- the
12 further breakdown of the -- on a per-household-member
13 both in terms of BTU and in dollars, that that column
14 does seem to at least have a loose correlation with
15 Dr. Thompson's analysis that there's more of a --
16 a -- a U-shaped curve in energy consumption based on
17 the number of people that you have living in a
18 household?

19 A. The per-household-member column, that's
20 what you're looking at?

21 Q. Uh-huh.

22 A. I -- I don't disagree that it -- it
23 declines and then later rises. I -- I don't agree
24 that that is consistent with what he did in his study
25 in terms of the comparison.

1 COMMISSIONER DAVIS: Okay. Well,
2 Mr. Boudreau, you get ready to object here if I cross
3 the line.

4 BY COMMISSIONER DAVIS:

5 Q. Do you recall roughly how many of the --
6 the cards that -- the customer comment cards that you
7 reviewed?

8 A. I -- probably between -- probably
9 between about 400 and 6 to 700.

10 Q. Okay. So roughly 400 would be 3 percent
11 and if you got to -- to 6 or 700, you could be
12 looking at more than 5 percent?

13 A. Okay.

14 Q. You'll go -- you'll go with those
15 estimates?

16 A. I'll go with those.

17 Q. You'll go with those estimates. I might
18 be leading you astray.

19 A. You could be. I'll -- I'll have to
20 think on that as we talk more.

21 Q. And it was your mental impression based
22 on reading those cards that there were several
23 responses that were opposed to the straight fixed
24 variable rate design, the -- the 24.61 or whatever
25 charge that was; is that correct?

1 A. As opposed to the charge that's being
2 proposed, yes, and --

3 Q. Wait, wait, wait, wait. The charge that
4 is being proposed?

5 A. The -- the difference is what the rate
6 is today and what it was -- and what is being
7 proposed. I mean, some people responded too that
8 they don't like the charge where -- the level it's
9 set at. The company's proposed a \$29 charge.

10 Q. Right.

11 A. So just generally opposed to that type
12 of a charge, yes.

13 Q. Now, we may get -- we may get some
14 statistical analysis of this, and I think you've
15 reviewed enough of the cards to have a fair
16 statistical analysis. Is it fair to say that --
17 well, first of all, did you -- did you review a
18 representative -- do you think you reviewed a
19 representative sample of all the cards or did you
20 just review the cards that were opposed to the
21 straight fixed variable?

22 A. I didn't set up a process to do a random
23 selection. However, I did not go looking for certain
24 issues. So I mean, I'd say -- I don't have a reason
25 to say that it was a biased sample.

1 Q. Okay. You don't have any -- okay. So
2 in the sample that you reviewed, is it fair to say
3 that more people were opposed to any rate increase in
4 general than they were the straight fixed variable?

5 A. No, I wouldn't agree with that.

6 Q. You wouldn't agree with that.

7 Ms. Meisenheimer, your last question: If Elvis
8 Presley were to appear here now and testify on behalf
9 of MGE in support of the straight fixed variable rate
10 design and he was all decked out in his sequins and
11 his jumpsuit, that wouldn't have any bearing on your
12 opinion, would it?

13 A. No.

14 COMMISSIONER DAVIS: Okay. No further
15 questions. Thank you.

16 JUDGE PRIDGIN: Commissioner Davis,
17 thank you. Commissioner Jarrett, questions?

18 COMMISSIONER JARRETT: I don't know how
19 I could follow Elvis, but I'll give it a try.

20 JUDGE PRIDGIN: Who can?

21 QUESTIONS BY COMMISSIONER JARRETT:

22 Q. Good morning, Ms. Meisenheimer.

23 A. Good morning.

24 Q. I just have a few quick questions. I
25 want to take you back to your testimony when you were

1 answering questions from Chairman Clayton. And I
2 believe what you indicated when you were talking
3 about complaints about the straight fixed variable
4 rate design, that you looked at several different
5 things. You looked at complaints or calls that had
6 come into the office of the OPC; is that correct?

7 A. To the extent that I spoke to those
8 customers, yes.

9 Q. You looked at the public hearing
10 testimony; either you were at the testimony -- at the
11 hearings or read the transcripts about people --

12 A. Or -- or discussed things that -- that
13 came up in discussions with other members of the
14 office that were there, yes.

15 Q. And then you also looked at the cards?

16 A. I looked at the cards. I also looked
17 at -- before the cards started coming in, I had -- I
18 had looked at customer response since the last rate
19 case.

20 Q. Okay. Now, did you with -- with any of
21 the -- the customers that you -- you talked to, that
22 called in to OPC, did you gather any information from
23 them and conduct any analysis as to whether they were
24 better off or worse off under the old rate design or
25 the straight fixed variable rate design?

1 A. I -- I'd say that we had calls from both
2 types of customers.

3 Q. Okay. That wasn't my question.

4 A. I'm sorry.

5 Q. My question was, did you gather data
6 from the people you talked to and conduct an analysis?

7 A. No.

8 Q. Okay. Regarding the people that
9 provided testimony during the public hearings, did
10 you talk to any of those people and gather data and
11 do any analysis as to whether they were better or
12 worse off under the straight fixed variable rate
13 design or the old rate design?

14 A. No.

15 Q. Regarding any of the people that
16 complained on the cards that you looked at, did you
17 follow up or collect any data and do an analysis or
18 anybody at OPC do an analysis as to whether those
19 folks were better off or worse off under the straight
20 fixed variable rate design or the old design?

21 A. No more than could be gathered by the
22 comment itself with respect to certain customers who
23 talked about if they had low summer usage, then
24 their -- they would be paying less in gas costs than
25 they were being charged for the fixed charge.

1 Q. But you didn't do any analysis yourself
2 of any of that -- or anybody in OPC -- did anybody --
3 did you or anybody in OPC do any analysis of any
4 customer that complained?

5 A. No.

6 COMMISSIONER JARRETT: Thank you. No
7 further questions.

8 JUDGE PRIDGIN: Commissioner Jarrett,
9 thank you. Commissioner Kenney?

10 QUESTIONS BY COMMISSIONER KENNEY:

11 Q. Ms. Meisenheimer, thank you. I just
12 have one question. Commissioner -- Commissioner
13 Davis asked you about your Tracfone and the cable TV?

14 A. Yes.

15 Q. And he asked you if their pricing
16 methods were a straight fixed variable rate design
17 and your answer was no. My question is why -- why
18 are those not a straight fixed variable rate design?

19 A. Those services are offer -- they offer
20 packages of services that include a variable amount
21 of the service provided. If I want more channels, I
22 pay a higher -- for a higher -- higher package rate
23 for my satellite television. For my cell phone
24 service, that cell phone service I pay by the minute
25 that I want to buy to use the phone. Once I've used

1 my minutes, I have to pay more to buy more minutes.
2 Same with a cell phone package. You can buy larger
3 packages with more minutes included in the packages.

4 And even with respect to trash service,
5 if -- if I fill my dumpster and want an additional
6 emptying of my dumpster in a particular month, I'm
7 likely going to pay an incremental charge. That's
8 true when I had to get dumpster service to have the
9 shingles changed on my roof.

10 Q. You were also asked, and I think your
11 answer was that some customers will pay less under
12 the straight fixed variable rate design. Are you
13 able to quantify or did you do -- undertake a study
14 that would indicate -- that would quantify that sum,
15 how many customers will pay less under the single --
16 or straight fixed variable?

17 A. In -- in my direct testimony on page 12
18 with respect to the residential customers, and then
19 in -- on page 14 with respect to small general
20 service customers. I'll look at the one on page 12
21 that deals with residential.

22 Q. Okay.

23 A. What I've indicated for you here is by
24 ccf for a month what usage levels would incur more or
25 less under the straight fixed variable rate design

1 than under a traditional rate design. So that's what
2 this table shows you.

3 In this one, in -- the one with the
4 residential, I've actually marked where the average
5 use is as well to give you kind of an idea of -- but
6 this range that I've used that goes all the way from
7 zero up to 10,000, those ranges were based on
8 information regarding what monthly use could be, what
9 was the range of use for residential customers in
10 particular months.

11 For the small general service class
12 which is shown on page 14, that one, I think I had
13 intended to include a marker to show you where the
14 average was, but it apparently isn't here. But I
15 told you on previous page 13 that small -- the
16 average monthly use for a small general service class
17 is just under 190 ccf. So it's not marked in here,
18 but you could certainly just mark it in there, you
19 know, at about the 200 level.

20 COMMISSIONER KENNEY: Thank you. That's
21 all. I don't have any other questions.

22 JUDGE PRIDGIN: Thank you, Commissioner.
23 I don't have any questions.

24 This looks to be a pretty convenient
25 time for a break since we've been going for about two

1 hours. Let's resume in about 15 minutes. That would
2 be about 20 till 11:00. Is there anything from
3 counsel before we go off the record?

4 I'm sorry. Ms. Shemwell, did you have
5 something?

6 MS. SHEMWELL: Yes, Judge. Commissioner
7 Clayton had asked about some queries of the system in
8 terms of numbers of complaints, and we will be able
9 to run that this afternoon. I think his question was
10 the number of complaints after the last case compared
11 with this case, and if the parties would like to pose
12 queries, we can run those as well. Thank you.

13 JUDGE PRIDGIN: All right. Thank you.
14 If there's nothing further, let's make it like 10:45
15 we'll resume. All right. Thank you. We're off the
16 record.

17 (A RECESS WAS TAKEN.)

18 JUDGE PRIDGIN: All right. Good
19 morning. We're back on the record, and
20 Ms. Meisenheimer is still on the stand and I'll
21 remind you you're still under oath. I believe we
22 just completed with bench questions. I'll see if we
23 have any recross, redirect, and then when
24 Ms. Meisenheimer's testimony is complete, I
25 understand we're moving on to Dr. Thompson from MGE;

1 is that correct?

2 MR. POSTON: I think that's right.

3 JUDGE PRIDGIN: Okay. All right. Okay.

4 Let me see if we have any cross based on bench
5 questions. Mr. Conrad, any questions?

6 MR. CONRAD: No.

7 JUDGE PRIDGIN: Okay. Thank you.

8 Staff, either Mr. Berlin or Ms. Shemwell?

9 MR. BERLIN: One question.

10 JUDGE PRIDGIN: Yes, sir.

11 FURTHER RE-CROSS-EXAMINATION BY MR. BERLIN:

12 Q. Ms. Meisenheimer, I believe Chairman
13 Clayton asked you some questions about low-gas users.
14 Do you represent low-, average- and high-gas users?

15 A. Yes.

16 MR. BERLIN: Thank you. That's it.

17 JUDGE PRIDGIN: Mr. Berlin, thank you.

18 Mr. Boudreau?

19 MR. BOUDREAU: Yes, I think I have just
20 a few.

21 FURTHER RE-CROSS-EXAMINATION BY MR. BOUDREAU:

22 Q. I believe in response to a question from
23 Commissioner Davis, you said you did not review
24 Mr. Hack's testimony in this case; is that correct?

25 A. I didn't review all of Mr. Hack's

1 testimony in this case.

2 Q. Well, the reason I ask is Mr. Hack filed
3 rebuttal concerning at least one aspect of your
4 direct testimony. Are you aware of that?

5 A. No. I --

6 Q. No. So you didn't bother to look at the
7 record to see what somebody was saying about what you
8 were saying?

9 A. I reviewed his direct testimony. I
10 didn't -- I didn't review his testimony for rebuttal.

11 Q. Going to some questions that you
12 received from Commissioner Clayton, and I know you
13 want to avoid the term "subsidies" --

14 A. Okay.

15 Q. -- but I want to talk about -- you had
16 an exchange about that topic. Would you agree with
17 me that in the context of that discussion about
18 customer usage and who ends up -- and where the money
19 comes from to pay for the total cost of service,
20 would you agree with me that higher-than-average-use
21 customers were paying more than lower-than-average-use
22 customers under the rate design that you've
23 recommended to the Commission?

24 A. Yes.

25 Q. I believe you also testified that you

1 used the calls, the customer comment calls that your
2 office gets in terms of -- of fashioning the
3 recommendations that you made to the Commission in
4 terms of the testimony?

5 A. In some cases.

6 Q. But not all the time?

7 A. Not all the time.

8 Q. Okay. Did you refer or take a look at
9 or consider those customer calls that came into your
10 office concerning MGE in terms of preparing your
11 direct testimony in this case and your rate design
12 recommendation?

13 A. Yes.

14 Q. Okay. But that's not mentioned in your
15 testimony, is it?

16 A. I -- I think that my direct testimony
17 mentioned that I reviewed customer comments.

18 Q. I stand corrected, you do. I see
19 that -- I see that spot in your testimony.

20 Do I recall your testimony correctly
21 with -- with Commissioner Clayton that you considered
22 the comments, the customer comments at the local
23 public hearings in fashioning your rate design
24 recommendation?

25 A. I -- our office, yes.

1 Q. Your direct testimony was filed on
2 August 21st of 2009, was it not?

3 A. September 3rd of 2009. Were you asking
4 me about direct?

5 Q. That's correct, September 3rd dealt with
6 rate design. And the local public hearings took
7 place sometime after that; isn't that correct?

8 A. I don't recall when the public hearings
9 were.

10 Q. Okay. So you don't know whether or not
11 the local public hearings were scheduled by the
12 Commission to take place between September 8th and
13 11th?

14 A. I -- I don't recall the date on this
15 particular case when the public hearings were. I --
16 I can at least give you that I didn't mention public
17 hearing comments in the description of what was
18 reviewed for the direct testimony.

19 MR. BOUDREAU: Okay. I don't think I
20 have any further questions for Ms. Meisenheimer.
21 Thank you.

22 JUDGE PRIDGIN: Mr. Boudreau, thank you.
23 Any redirect?

24 MR. POSTON: Yes, thank you.

25 JUDGE PRIDGIN: When you're ready,

1 Mr. Poston.

2 FURTHER REDIRECT EXAMINATION BY MR. POSTON:

3 Q. I'd like to start by following up on a
4 line of questions from Commissioner Davis about a
5 Laclede Gas tariff --

6 A. Yes.

7 Q. -- when he was asking you about a rate
8 that Laclede charges -- charges for -- I believe he
9 was talking about residential general service. Do
10 you have Laclede's tariff sheet with you for
11 residential service?

12 A. Yes, I have both the tariff sheet that
13 has the PGA rate and the tariff sheet that has the
14 non-gas rates.

15 Q. Okay. And is the PGA rate necessary in
16 order to calculate what a customer's bill would be
17 under a certain amount of usage --

18 A. Yes.

19 MR. POSTON: -- for Laclede? Judge,
20 could I have these marked?

21 JUDGE PRIDGIN: You may, and let me -- I
22 think we're up to 101. Let me double-check. Up to
23 101, yes, sir.

24 MR. POSTON: And we don't have them
25 stapled together. I don't know if -- you just want

1 them as -- I guess they'd be better as one exhibit.

2 JUDGE PRIDGIN: That's fine.

3 MR. POSTON: And I do have copies.

4 JUDGE PRIDGIN: Mr. Poston, these are
5 tariff sheets from Laclede Gas Company?

6 MR. POSTON: Yes.

7 JUDGE PRIDGIN: All right. Thank you.

8 (EXHIBIT NO. 101 WAS MARKED FOR
9 IDENTIFICATION BY THE COURT REPORTER.)

10 BY MR. POSTON:

11 Q. Okay. You have a copy of what's been
12 marked as Exhibit 101?

13 A. Yes.

14 Q. And this is -- would you agree this is
15 Laclede's residential general service tariff sheet,
16 sheet No. 1, that was effective August 1st, 2007?

17 A. Yes.

18 Q. And what is the customer charge per
19 month?

20 A. The customer charge is only \$15.50.

21 Q. And then there's a usage charge on there
22 as well; is that accurate?

23 A. Yes, based on therm, their -- their
24 block rates based on therm usage.

25 Q. Okay. And you also --

1 A. It's -- it's also different by season.

2 Q. And also included in Exhibit 101 is a
3 Laclede -- Laclede PGA tariff; is that right?

4 A. Yes.

5 Q. And you identified that sheet number
6 actually without a copy of it?

7 A. The -- it's revised sheet No. 29 and
8 it's dated November 17th, 2008.

9 Q. And is it your belief that you need
10 both of these sheets in order to calculate a
11 consumer's usage, a residential consumer's usage for
12 Laclede?

13 A. Their bill, yes.

14 MR. POSTON: Judge, I move to enter
15 Exhibit 101.

16 JUDGE PRIDGIN: Exhibit No. 101 is
17 offered. Any objection?

18 MR. BOUDREAU: None.

19 MR. CONRAD: No.

20 JUDGE PRIDGIN: Hearing none,
21 Exhibit 101 is admitted.

22 (EXHIBIT NO. 101 WAS RECEIVED INTO
23 EVIDENCE AND MADE A PART OF THE RECORD.)

24 JUDGE PRIDGIN: Mr. Poston?

25 THE WITNESS: We...

1 BY MR. POSTON:

2 Q. Did I miss something, Ms. Meisenheimer?

3 A. Well, this -- this -- I just noticed
4 that the PGA section only, it -- it only indicates
5 the winter only block rates.

6 Q. Okay. So --

7 A. So we may have to add another sheet that
8 includes a rate that might be in effect during a
9 summer month --

10 Q. Okay.

11 A. -- so that we can calculate that -- that
12 bill comparison.

13 MR. POSTON: Okay. Did you hear that,
14 Judge? We may need to have a supplement sheet.
15 There may be another that we have missing. And if we
16 find another one, we will bring it.

17 THE WITNESS: If -- if he wanted usage
18 for a month other than a winter month, we'd need a
19 different -- different sheet.

20 JUDGE PRIDGIN: All right. That's fine.
21 Thank you.

22 BY MR. POSTON:

23 Q. And I'm going to continue with questions
24 that you -- following up on questions that you
25 received today, and then when I'm done, I'll go to

1 the questions from yesterday.

2 You were asked questions about what
3 Public Counsel considers when deciding whether to
4 raise an issue in a rate case. Do you recall?

5 A. Yes.

6 Q. If Public Counsel hadn't received a
7 single complaint against straight fixed variable, do
8 you believe Public Counsel would have still opposed a
9 straight fixed variable rate design?

10 A. Maybe not.

11 Q. Can you please explain?

12 A. Certainly we -- we do pay attention to
13 what -- what customers are concerned about in
14 determining the policies that -- that we choose to
15 devote our resources to pursuing. In this -- in this
16 instance, I -- I don't know that I could say for sure
17 whether or not we would have continued to oppose it
18 on a policy basis if -- if ultimately customers
19 didn't -- didn't have concerns about it. I think
20 that would be a decision that would be made by others
21 in my office and then -- in addition to myself.

22 Q. Let me ask you this: Do you need to
23 gather customer comments in order to conclude that
24 low-income consumers would be worse off under the
25 straight fixed variable?

1 A. No, no, not necessarily. We don't.
2 However, you know, certainly we -- we try to be
3 responsive to our -- to the comments that we receive
4 from customers in terms of contemplating our policy.

5 Q. And in response to a line of questions
6 from Commissioner Davis, can you please explain why
7 you propose 55 percent as a customer charge?

8 A. I think that the 55 percent proposal is
9 based on cost and related to costs in the manner that
10 I described in my testimony. I think that it more
11 than adequately recovers the costs that we identified
12 as associated with directly serving a customer
13 premise, and I discussed those within my responses
14 and testimony.

15 And then also it does not over-recover
16 in terms of costs that would be allocated based on
17 something other than an assumption of uniform
18 characteristics within that class. For example,
19 there are costs that every party in this case that
20 did a cost study allocated on the basis of demand,
21 and the rate design that includes a fixed charge and
22 a volumetric component allows recovery of costs more
23 in line with how costs are incurred in terms that the
24 greater demand occurs in the winter and that it is a
25 relevant factor in the cost of developing the natural

1 gas system, the delivery system on a long-run
2 planning horizon.

3 So certainly the company and the Staff
4 in their study recognized that demand plays a role in
5 how costs should be allocated among classes, and in
6 my opinion it should also be considered in how costs
7 should be allocated within those classes.

8 Q. Is that 55 percent above what you think
9 is supported by the direct customer costs?

10 A. Yes, it is. It is -- it is somewhat
11 above the cost that I identified, and I set that out.
12 Surrebuttal was the last round that I did. I think
13 that the direct cost per customer that I identified
14 was \$12.36. A customer charge that recovers 55
15 percent of costs in the -- in the fixed charge would
16 recover more than that.

17 And I did a calculation based on an
18 assumed increase of \$15 million. If ultimately the
19 Commission has a net increase of greater than 15
20 million, then that fixed charge would actually be
21 then even somewhat higher.

22 Q. Can you explain why you proposed
23 55 percent when the direct costs are lower than that?
24 Why did you go above that amount?

25 A. I -- in -- in part, that is in response

1 to arguments that the -- that there are concerns over
2 whether the company needs some kind of insulation
3 against weather, for example, and this allows them to
4 collect more than what we identify as the direct cost
5 of serving the customer premise and provides them
6 some -- some insulation, some protection against
7 variation in volumes.

8 Meanwhile, it also allows customers an
9 opportunity to vary usage and be able to have some
10 control over the non-gas charges that they pay on
11 their bill, so I view it as a reasonable balance.

12 Q. Can you please turn to your schedule 5
13 in your surrebuttal? Page 2 of 6 is where you were
14 looking with Commissioner Davis?

15 A. Yes.

16 Q. And in response to a question, I believe
17 you said that the data here is not consistent with
18 Dr. Thompson's study. Can you please explain why you
19 made that statement?

20 A. Well, this data is broken out in the two
21 sections that I discussed. It breaks it out by
22 income in terms of dollar amount per household, it
23 breaks it out in terms of relative to the poverty
24 threshold, and this talks about characteristics of
25 different levels of income. Dr. Thompson's study

1 does not identify different characteristics
2 disaggregated by that level -- by those levels of
3 relevant income.

4 In other words, he does a study that
5 looks at what's the income in a zip code. It doesn't
6 tell you how many of those people are actually in
7 poverty or at different particular income levels, so
8 it aggregates the relevant characteristic about a
9 household. What is their income in determining the
10 impact on -- in making a conclusion regarding the
11 rate design impact on low-income households even
12 though he has nothing that disaggregates it to a
13 level of different incomes.

14 Q. And in response to questions from
15 Mr. Boudreau about Mr. Hack's testimony, did Mr. Hack
16 file testimony on rate design or policy?

17 A. It's -- it's my memory that his -- his
18 testimony was primarily dedicated to policy, and then
19 he -- you know, one of the ways that I identify what
20 testimony I review in a case is what are the issues
21 as -- as listed on the top part of testimony, what
22 issues do you address in your testimony. Line cost
23 of service and rate design, I don't recall seeing
24 that on Mr. -- any -- related to those issues on
25 Mr. Hack's testimony.

1 Q. When you're -- when you're filing
2 testimony on rate design, do you normally respond to
3 testimony on policy?

4 A. No, not necessarily.

5 Q. Do you know when the first customer
6 notices went out to consumers in this case?

7 A. I -- I don't recall.

8 Q. Would it have been before the public
9 hearings?

10 A. Yes, it would have told customers when
11 and where public hearings would occur in addition to
12 other information generally about the proposals in
13 the case.

14 Q. And those notices, do they also invite
15 consumers to file comments?

16 A. They did.

17 Q. And did those comments begin arriving at
18 the Commission before the public hearings?

19 A. I don't know.

20 Q. Okay. I'm going to take you back to
21 tomorrow now -- or yesterday. Sorry. I would like
22 it to be tomorrow. You disagreed when Mr. Berlin
23 asked you about rates being designed for the average
24 customer. Can you please explain why you disagree?

25 A. Yes. I -- I disagreed with Mr. Berlin

1 on an assumption that rates were designed for an
2 average customer because I think rates are designed
3 to actually accommodate not only the average customer
4 within a class, but also variations that do occur
5 within the class.

6 With respect to a rate that's based on
7 volumes, it allows the customers to pay costs more in
8 line with when those -- or what drives those costs.
9 For example, peak demand in the winter drives cost to
10 the residential class. Residential customers are
11 weather-sensitive, very weather-sensitive, and that
12 has an impact on the total system that has to be
13 designed. By doing a volumetric rate that allows you
14 to on a per-consumption basis collect a portion of
15 costs, it is consistent with the manner in which
16 those costs are incurred. And I -- that -- I'm
17 trying to remember the question.

18 Q. That's okay. That's fine. Thank you.

19 A. Okay.

20 Q. In response to questions from Chairman
21 Clayton, you indicated that both low- and high-use
22 customers are harmed if low-use customers are driven
23 off the system due to the straight fixed variable
24 rate design. Can you please explain why both low-
25 and high-use customers would be harmed?

1 A. Low-use customers, certainly it's, I
2 think, pretty obvious that if they're driven off the
3 system because of a prohibitive fixed charge, that --
4 that they lose a service that they obviously found
5 valuable in the past at a lower rate.

6 High-use customers can be harmed because
7 the total cost of the system are going -- are going
8 to be recovered through rates. So if you don't have
9 low-use customers contributing to the recovery of
10 some of the investment and expenses, then that's
11 going to be shifted in future cases to recovery from
12 high-use customers. So both low-use customers and
13 high-use customers can be harmed by low-use customers
14 leaving a system.

15 Q. Yesterday you stated that a problem with
16 Dr. Thompson's study is the aggregation of income
17 characteristics by zip code. What is that problem?

18 A. A key problem with -- with that type of
19 analysis is that he's describing what are the
20 characteristics, the total characteristics of a zip
21 code based on income. It doesn't identify what are
22 the behavior patterns and usage patterns for
23 customers at different levels of income. So if
24 our -- if the key element we're trying to investigate
25 is at different levels of income, how much gas do

1 customers use, I don't think his study isolates for
2 different levels of income.

3 Instead, it simply says generally for
4 this zip code that has X average income level. It
5 doesn't say anything about whether -- or what
6 proportion of the households in that zip code might
7 be low-income customers at different -- and in
8 particular at what level of income, for example,
9 relative to the poverty level.

10 Q. And yesterday you indicated that a
11 problem with Dr. Thompson's review was that it looked
12 at LIHEAP customers and that they were just a subset
13 and not representative of the low-income population.
14 Do you recall?

15 A. Yes.

16 Q. Why is that a problem with the study?

17 A. I -- I think that there is evidence that
18 is also supported by these nationally recognized
19 authorities on low-income issues that says LIHEAP
20 customers tend to use more than the average
21 low-income customer. So if we're talking about
22 what's the impact on low-income customers of this
23 rate design, it is improper to look at only a subset
24 of low-income customers to base your total conclusion
25 on.

1 He is looking at LIHEAP-only customers.
2 They get a direct subsidy of somewhere in the
3 neighborhood of between \$174 and \$283 over a heating
4 season to offset the cost of natural gas in
5 particular. It varies depending on what type of
6 heating fuel they use, how much their support --
7 their grant payment is. But that is certainly going
8 to affect how they appear to use volumes of gas
9 versus low-income customers on average.

10 So while you may observe that LIHEAP
11 customers tend to have usage that looks more like an
12 average customer that's not low income, when you look
13 at the body of low income, all low-income customers,
14 they tend to use less on average, and I explained
15 that in my testimony.

16 Q. Do you believe that all of MGE's
17 customers that are eligible for LIHEAP assistance
18 actually apply for assistance?

19 A. No. I -- I believe that there are
20 varied reasons why customers might not take advantage
21 of a LIHEAP -- a LIHEAP grant that might otherwise be
22 available to them.

23 Q. And what are those reasons?

24 A. Some of those reasons might be that they
25 have a cultural preference not to take government

1 support and to instead --

2 MR. BOUDREAU: I think this -- I'm going
3 to object at this point. I think the question calls
4 for the witness to speculate.

5 JUDGE PRIDGIN: That's fine.

6 MR. BOUDREAU: Thank you.

7 BY MR. POSTON:

8 Q. Mr. Berlin noted your testimony about
9 straight fixed variable providing the company with
10 less risk and more assurance of revenues and
11 earnings. Do you recall that?

12 A. I'm sorry. Could you repeat that?

13 Q. Mr. Berlin discussed your testimony and
14 questions with you about straight fixed variable
15 providing the company with less risk and more
16 assurance of revenues and earnings?

17 A. Yes, I...

18 Q. And my question is, is MGE more likely
19 to lose customers when access charges are increased
20 with the straight fixed variable rate design relative
21 to the level of customer changes [sic] in the
22 traditional rate design?

23 A. I think that customers that are --
24 low-use customers --

25 Q. I -- I meant customers -- I'm sorry.

1 Customer charges in the traditional rate design.

2 Sorry. Go ahead.

3 A. Customer charges --

4 Q. I said changes and I meant to say
5 charges. Go ahead.

6 A. Okay. Low-use customers certainly are
7 going to be considering what is the amount that they
8 are going to be charged for taking a service. With a
9 higher fixed charge, they are going to likely be less
10 willing to remain on the system than --

11 MR. BOUDREAU: Well, again, I'm going to
12 object. This is -- this is calling for speculation
13 about what customers might think in a certain
14 circumstance. I think it's -- I'm going to object on
15 that ground. She's speculating about what customers
16 might think or might do.

17 JUDGE PRIDGIN: Mr. Poston?

18 MR. POSTON: I didn't hear her talking
19 about what customers might do. The question is
20 asking about -- well, the likelihood of customers
21 dropping off, I don't think that's asking her to --
22 to speculate. I think that's her giving her expert
23 opinion of, you know, what kind of, I guess, economic
24 factors could go into a customer's decision to
25 make -- to make those decisions.

1 JUDGE PRIDGIN: All right. I'll
2 overrule.

3 THE WITNESS: From an economic
4 perspective, certainly as a price increases, a
5 customer would demand less. That's a general premise
6 of demand theory. And it may, in fact, be that if
7 the rate gets high enough as in recovering everything
8 in a fixed charge, all non-gas costs through a fixed
9 charge, that that will become prohibitive from the
10 customer even taking service at all.

11 BY MR. POSTON:

12 Q. And is this one of the potential adverse
13 consequences of using straight fixed variable?

14 A. Yes, I think it is.

15 Q. Mr. Berlin asked you some questions
16 about whether volumetric rate more accurately
17 reflects cost differences under certain specific
18 circumstances. Do you recall?

19 A. Yes.

20 Q. Does the volumetric rate more accurately
21 reflect cost differences of serving MGE's residential
22 customers?

23 A. Yes, I think it does, and I've -- I've
24 already talked about in response to a previous
25 question related to demand driven by winter peak use.

1 There are other aspects of the -- the line of
2 questioning that I wasn't able to respond to. I
3 tried to ask a question to clarify with respect to --
4 I was asked questions about the -- the length of
5 mains needed to serve customers in different areas
6 and that there -- that there are differences between
7 individual customers.

8 Well, the company in other areas of its
9 tariff has ways to minimize those differences. For
10 example, if a main's extension is needed that's going
11 to be longer than 75 feet or is going to go through
12 terrain that is more difficult and would cause higher
13 cost to be incurred to lay the pipe through it, the
14 company actually has areas in their tariff where they
15 can collect that money in advance from customers.
16 And so I was -- I continued to try to clarify whether
17 he was asking about contributions by customers or
18 contributive plant or whether it was a contributive
19 plant.

20 So certainly, there are differences in
21 the cost needed to serve individual customers. Some
22 of those we take into account in the cost study, the
23 primary drivers, demand, annual use. Those -- those
24 are key elements. We take into account number of
25 customers which is also a key element. For many of

1 the costs, we believe that within the class, say, for
2 example, residential class, the cost characteristics
3 are similar. And so that -- that was the response
4 that I was trying to give in -- when I was asked
5 those questions.

6 Q. You reference the length of mains. Are
7 distribution mains one of the largest single plant
8 categories of margin costs?

9 A. Yes, it is. And it's not only an issue
10 of the investment in plant level that the company
11 earns a return on, but we then allocate within our
12 cost studies. We also allocate other costs in
13 a expenses-follow-plant -- under an expenses-follow-
14 plant principle. So not only do we allocate the cost
15 of the mains themselves, but we would also then
16 follow through with that into the expenses associated
17 with mains.

18 For example, if we allocate a portion of
19 mains based on demand, we then also allocate a
20 portion of expenses related to the operation and
21 maintenance and other -- other expenses, labor, some
22 A&G accounts, all those things we would then also
23 allocate in the same manner.

24 Q. Mr. Berlin asked you questions about a
25 table that appears on page 12 of your direct

1 testimony.

2 A. Yes.

3 Q. And he -- and the questions focused on a
4 customer using 200 ccf use in a month. Do you recall
5 those?

6 A. Yes, I do.

7 Q. Can you contrast those discussions about
8 that customer, the 200 with a customer that would be
9 below the average?

10 A. Yes. Mr. Berlin asked me about a
11 customer that had above-average use, and he asked
12 me well, if -- if this customer then pays less under
13 the straight fixed variable, then don't they have
14 that money in hand to maybe do their efficiency
15 measures.

16 On the other side of that, though, is
17 that there are many customers that fall below-average
18 use that under this straight fixed rate design are
19 going to be paying more than they did in the past,
20 taking money out of their pockets that they could be
21 deciding on what energy efficiency measures they
22 might choose to pursue. So instead of perhaps making
23 those investments, that money is going to the
24 company.

25 Q. You were asked questions by Mr. Berlin

1 about whether a company needs to change equipment and
2 incur those costs when usage levels change. Do you
3 recall those questions?

4 A. Yes, I do.

5 Q. Can you please explain to me how usage
6 changes can impact short-term versus long-term costs?

7 A. Yes, there is a difference. Certainly
8 in the short run, some costs are fixed, and we -- we
9 need to remember, however, that in the long run, the
10 demand that the company expects to face is a key
11 factor in determining how much investment is made,
12 how to size things. They call it design day demand.
13 It's -- it's a key factor, and it should be
14 remembered.

15 Even though you are looking at costs at
16 a particular snapshot in time, it doesn't mean that
17 those costs don't change based on the factors that
18 every party identified as relevant in allocating
19 those costs to classes; demand being one, volumetric
20 annual usage being the other.

21 Q. And you answered several questions
22 yesterday about the low-income energy consumption
23 studies that are attached to your surrebuttal?

24 A. Yes.

25 Q. And there was discussions about whether

1 it was appropriate to use midwest data for Missouri.

2 Can you please look at your Schedule 2 of 2?

3 A. Schedule 2, page 2 of 2?

4 Q. Let me make sure I'm right there. Yes,
5 that's right, Schedule 2, page 2 of 2. Are you
6 there?

7 A. Yes.

8 Q. Okay. In looking at this table, do you
9 see the different regions identified?

10 A. Yes.

11 Q. And what are those regions?

12 A. There's a northeast region, there's a
13 midwest region, there's a south region and a west
14 region.

15 Q. And do low-income households use less
16 gas on average than all regions?

17 A. Low income use less gas in each region
18 than does the average for -- or than do all
19 households, and also less than only households that
20 are non-low-income.

21 Q. Do you have any reason to believe MGE's
22 low-income consumers have usage patterns that vary
23 from what these studies show for all regions in the
24 country?

25 A. No, I don't.

1 Q. Is MGE's service area in the geographic
2 center of the United States?

3 A. Yes, it is.

4 Q. Do you believe this had any bearing on
5 whether these study results are more likely to be
6 consistent with usage patterns of MGE's low-income
7 ratepayers?

8 A. I -- I think that that -- that the
9 results are representative.

10 Q. Can you please turn to page 3 of your
11 direct testimony?

12 A. I'm on page 3.

13 Q. And Mr. -- Mr. Boudreau asked you
14 questions about your sentence that starts at -- on
15 line 7, and his questions asked about whether
16 straight fixed variable customers would pay less if
17 they used less --

18 A. Yes.

19 Q. -- do you recall? And I believe your
20 answer -- one of your answers to the questions were
21 taking your testimony out of context. Do you
22 understand that?

23 A. Yes.

24 Q. Can you please explain what you meant by
25 that?

1 A. Yes. In that discussion I believe that
2 Mr. Boudreau was attempting to characterize -- or he
3 was describing straight fixed variable with both its
4 impact on non-gas rates and commodity rates. This
5 section of my testimony, however, addresses only the
6 non-gas portion of the bill.

7 With a traditional rate design just in
8 the non-gas portion, the customer has an opportunity
9 to reduce their usage and help control their bill.
10 Under the straight fixed variable rate design, it
11 isn't true with respect to non-gas cost that they
12 have the ability to control the non-gas recovery on
13 their bill. And certainly, under both rate designs,
14 a customer has an ability to -- to control commodity,
15 the commodity components.

16 So I think what I said in response was
17 that I didn't view the comparison as apples to
18 apples. Under traditional rate design, customers
19 have more ability, a better ability to control their
20 bill because they continue to control a portion of
21 non-gas charges as well as gas charges.

22 Q. And Mr. Berlin asked you a question
23 about your testimony where you show a 30 percent
24 eligibility for LIHEAP in one part of your testimony
25 and 16 percent eligibility in another.

1 A. Yes.

2 Q. Do you believe -- do you understand?

3 And I believe he cut you off before you could explain
4 your answer. Do you remember that?

5 A. Yes.

6 Q. Could you please explain what you were
7 trying to explain to Mr. Berlin?

8 A. What I was trying to explain was that
9 the LIHEAP results that are shown on bam surrebuttal,
10 Schedule 1, page 3 of 7, there's a chart in my
11 testimony that shows recipients and eligible
12 customers, and this is on a national -- I believe
13 this one is a national report in terms of the rate at
14 which customers that are eligible for support
15 actually take it.

16 I tried to go even further and look into
17 on a Missouri-specific basis what -- what is that
18 level of take versus eligibility. And so there are a
19 couple of places in my testimony where I come up
20 with -- with numbers that identify the different take
21 rates for different -- different geographic areas.
22 So that national number of 17 percent, I think I did
23 a calculation, and this was based on actually MGE's
24 service territory by county.

25 I went and looked at what -- what are

1 all the counties that MGE serves, identified what
2 proportion of the population within those counties
3 are low income at a particular level of the poverty
4 level, and then did a comparison of that with the
5 number of LIHEAP customers that Mr. Thompson said
6 that he had reviewed that were given to him by MGE.

7 And I found that that was only a small
8 fraction of what you would expect to be the number of
9 low-income customers within their service territory
10 based on the county characteristics that they serve.
11 The 30 percent is actually a number -- I didn't want
12 to be accused of underestimating.

13 And so what I also did is I went to
14 information that was Missouri-specific on what are
15 the number of recipients of LIHEAP services, and I
16 found that from the Department of Health and Human
17 Services, and that was 127,000 customers in total in
18 Missouri receiving some type of assistance. I
19 divided that by the number of households that would
20 be eligible under the 150 percent federal guidelines,
21 and that's where the 30 percent came from.

22 So I mean, I feel like I really did try
23 to look at a number of different sources to determine
24 whether this claim about whether low-income customers
25 use more or less gas than an average household does.

1 I feel that I went to a different -- a number of
2 different sources to look into that, to review that
3 and try to identify that for the areas that Missouri
4 Gas Energy serves.

5 Q. Yesterday Commissioner Clayton asked you
6 a question about the reasons Public Counsel opposes
7 straight fixed variable rate design, and I believe he
8 asked you to -- to list those. Do you recall?

9 A. Yes.

10 Q. And this is my last question. Would
11 you -- well, let me -- let me back up. And I believe
12 one of your responses to Commissioner Clayton was
13 that you gave him some reasons but that you believe
14 this didn't cover all of them; you couldn't think of
15 them at the time. So I just want to ask you, will
16 you please briefly highlight or bullet-point the
17 reasons Public Counsel believes straight fixed
18 variable rate design is an unreasonable approach
19 towards designing rates?

20 A. Okay. I -- in --

21 Q. In just one -- just brief bullet points.

22 A. Brief bullet points. It's not supported
23 by causation or the cost allocations done by the
24 parties in this case; it is detrimental to low-income
25 customers on average; it is detrimental to low-use

1 customers; it is detrimental to even high-use
2 customers on a longer term basis.

3 MR. POSTON: Thank you. That's all.

4 JUDGE PRIDGIN: Mr. Poston, thank you.
5 Ms. Meisenheimer, thank you very much. You may step
6 down.

7 And I assume the next witness would be
8 Dr. Thompson from MGE; is that correct?

9 MR. BOUDREAU: Yes.

10 JUDGE PRIDGIN: All right. Anything
11 before he comes forward to be sworn?

12 (NO RESPONSE.)

13 JUDGE PRIDGIN: All right.

14 Dr. Thompson, if you'll come forward, please.

15 (The witness was sworn.)

16 JUDGE PRIDGIN: Thank you very much,
17 sir. Please have a seat. Mr. Boudreau, when you're
18 ready, sir.

19 MR. BOUDREAU: Thank you.

20 DIRECT EXAMINATION BY MR. BOUDREAU:

21 Q. All right. Could you please state your
22 name for the record, sir.

23 A. My name is Philip Thompson.

24 Q. And would you spell your last name for
25 the court reporter, please?

1 A. T-h-o-m-p-s-o-n.

2 Q. Mr. Thompson, could you tell me who --
3 by whom you are employed and in what capacity?

4 A. In this case I'm employed by MGE as a
5 consultant.

6 Q. Okay. And you are testifying on behalf
7 of MGE?

8 A. That's correct.

9 Q. And you have -- are you the same
10 Dr. Thompson that has caused to be prepared and filed
11 in this case prepared rebuttal testimony in
12 question-and-answer form that has been marked
13 previously for identification as Exhibit No. 36?

14 A. Yes, I am.

15 Q. Was that testimony prepared by you or
16 under your direct supervision?

17 A. Yes, it was.

18 Q. Do you have any corrections you would
19 like to make to that testimony?

20 A. Just one very minor one on page -- I
21 think it's page 6 at line 18, it says, "Schedule
22 PBT-2 contains a series of four graphs." There are
23 actually five graphs.

24 Q. Okay. With that correction, if I were
25 to answer -- or ask you the same questions that are

1 contained in your prepared testimony, would your
2 answers as set forth therein be substantially the
3 same?

4 A. They would.

5 Q. And would they be correct and complete
6 to the best of your information, knowledge and
7 belief?

8 A. Yes.

9 MR. BOUDREAU: With that, I'd offer
10 Exhibit No. 36 into the record and tender
11 Dr. Thompson for cross-examination.

12 JUDGE PRIDGIN: Mr. Boudreau, thank you.
13 No. 36 has been offered. Any objections?

14 MR. CONRAD: No.

15 JUDGE PRIDGIN: Hearing none, 36 is
16 admitted.

17 (EXHIBIT NO. 36 WAS RECEIVED INTO
18 EVIDENCE AND MADE A PART OF THE RECORD.)

19 JUDGE PRIDGIN: Cross-examination.
20 Mr. Berlin, do you wish cross?

21 MR. BERLIN: I have a few questions.

22 JUDGE PRIDGIN: Okay. Mr. Poston, do
23 you have cross?

24 MR. POSTON: Yes.

25 JUDGE PRIDGIN: Mr. Finnegan,

1 Mr. Conrad?

2 (NO RESPONSE.)

3 JUDGE PRIDGIN: No? Fine. Okay. All
4 right. Bear with me. I'm sorry. Mr. Poston?

5 MR. POSTON: I think Mr. Berlin perhaps
6 should go first.

7 JUDGE PRIDGIN: That's not how I had it
8 on my list, but it doesn't matter to me. Mr. Berlin?

9 MR. BERLIN: That's fine. Thank you.

10 CROSS-EXAMINATION BY MR. BERLIN:

11 Q. Good morning, Dr. Thompson.

12 A. Good morning.

13 Q. Your study -- in your study I believe
14 you said you looked at some 180 zip codes in the MGE
15 service territory?

16 A. That's correct.

17 Q. Okay. And you have a study, I guess,
18 that would be known for the ultimate findings of
19 having a U-shaped -- finding there's a U-shaped
20 relationship of income and gas usage. Is that a --
21 is that a -- is that a correct way to explain the
22 U-shaped study results?

23 A. That's the way I've characterized it,
24 yes, with, again, it's -- the U-shape comes from the
25 appearance of a graph where you have income on the

1 horizontal axis and gas usage on the vertical axis.

2 Q. And -- and you looked at low-income
3 customers of MGE, correct?

4 A. I looked at all customers of MGE.

5 Q. Okay. And you also looked at their gas
6 usage?

7 A. Yes.

8 Q. And -- and out of -- out of your study,
9 you determined, I believe, that there are some
10 low-income customers that use higher-than-average
11 gas -- gas use or gas consumption?

12 A. Let me be very clear about the source of
13 the MGE data and -- and how it was derived. I asked
14 MGE for the total amount of usage in a given zip code
15 and the total number of bills in a given zip code and
16 divided that out to get the average usage in a given
17 zip code. I did not match individual customers -- I
18 did not start with the individual customer data, and
19 I did not get individual customer data on their
20 individual incomes.

21 Q. Did you -- did you get the income data
22 by zip code?

23 A. Yes.

24 Q. And how did you validate the results of
25 your -- your study?

1 A. I'm not sure what you mean by
2 "validate." It's based on sound statistical
3 principles. That's --

4 Q. Okay. Well, yeah, that would be my
5 question. If -- did you validate it through
6 statistics or -- if you could explain how that -- how
7 you validate those results.

8 A. Well, there's a well-established
9 statistical technique called regression analysis, and
10 that allows us to determine for a given what we call
11 dependent variable, in this case gas usage, how does
12 each of a number of factors influence that dependent
13 variable. You can attribute either a positive or a
14 negative influence to each one of those factors on
15 the dependent variable. In this case the dependent
16 variable is gas use, the independent variables were
17 income and the number of rooms in the house, other
18 variables according to demographic and -- and housing
19 information.

20 Q. Okay.

21 A. That was the more elaborate part of the
22 study. I mean, the graphs that I have in schedule
23 PBT-2 simply show you the zip code averages for the
24 variables that those show, and no regression analysis
25 is involved there.

1 Q. So am I -- am I correct in understanding
2 there are low-income customers that have -- or use
3 low amounts of gas and that there's low-income
4 customers that use high amounts of gas?

5 A. Oh, sure.

6 Q. Okay. And that there's high-income
7 customers that use low amounts of gas and high-income
8 customers that use high amounts of gas?

9 A. That's probably true. The U-shape comes
10 from sort of the middle income range where they use
11 relatively low amounts of gas.

12 MR. BERLIN: Okay. I have no further
13 questions. Thank you.

14 JUDGE PRIDGIN: Mr. Berlin, thank you.
15 Mr. Poston?

16 MR. POSTON: Thank you.

17 CROSS-EXAMINATION BY MR. POSTON:

18 Q. Good morning.

19 A. Good morning.

20 Q. Have you testified before other state
21 utility commissions?

22 A. No.

23 Q. And in your direct -- well, I guess --
24 or rebuttal testimony --

25 A. Right.

1 Q. -- is what you filed. Okay. Page 3,
2 line 20, if you could please turn there.

3 A. Yes, I have it.

4 Q. Okay. And down towards the bottom --
5 oh --

6 A. Line 20?

7 Q. Yeah, line 20. You state that the
8 Commission -- this Commission has traditionally
9 considered factors other than cost of service in
10 determining rates, correct?

11 A. I say the Commission has traditionally
12 used cost of service studies, but has considered
13 other factors.

14 Q. Right. Okay. And one of the factors
15 you identify is consumption characteristics, and then
16 you have in parentheses there, "(effect on low-income
17 customers)" --

18 A. Correct.

19 Q. -- correct? Do you believe this
20 Commission should consider the effect on low-income
21 customers when it makes its rate determination in a
22 rate case?

23 A. Certainly it's one of many factors.

24 Q. Another factor you identify is rate
25 affordability; is that correct?

1 A. Yes.

2 Q. And you believe this Commission should
3 consider the effect on low income or -- yeah, this
4 effect on rate affordability when it makes its rate
5 determination?

6 A. Yes.

7 Q. And you also identify economic factors.
8 Can you -- what are those? What is that referencing?

9 A. I imagine those things would -- this is
10 a statement of the Commission, and so I'm -- I'm sort
11 of interpreting -- giving it my own interpretation of
12 what they mean by economic factors.

13 Q. Okay.

14 A. You know, the condition of the economy
15 when you're, for example, setting a rate for a large
16 industrial customer or large industrial customers,
17 you might want to consider the state of the economy
18 along with that. That might be an example.

19 Q. And would that be a consideration for
20 residential customers?

21 A. If you could explain that question a
22 little further.

23 Q. Should the Commission consider the
24 impact of the state of the economy on residential
25 customers when it makes rate determinations?

1 A. Sure.

2 Q. And small businesses, should they
3 consider the impact on the economy on small
4 businesses when they make rate determinations?

5 A. Different states of the economy lead to
6 different economic factors, and those should certainly
7 be considered, yes. The weight that they give to
8 each factor is, of course, up to the Commission.

9 Q. At what level of income would you
10 consider an MGE customer to be low income?

11 A. I did not have a set number. I was
12 looking at -- just sort of to distinguish sort of low
13 income from high income from middle of the range
14 income. So in my study if you'd look at maybe the
15 bottom three, certainly the bottom two quintiles, for
16 example, which would be -- if you look at my schedule
17 PBT-2, page 1 at the bottom, I have it by -- by
18 income. I said quintile. I should have said decile.

19 You see the third lowest decile there is
20 about -- looks like 38 or so thousand dollars worth
21 of household income. So I suppose when I'm talking
22 about low income, I'm talking about those in the --
23 in the bottom two deciles, somewhere in that range.
24 I wasn't speaking to a specific number, I was just
25 talking more -- more generally in contrast to

1 high-income people and middle-income people.

2 Q. And the study that you've included in
3 your testimony is based in part on 1999 U.S. Census
4 data; is that correct?

5 A. Yeah, the 2000 Census, but it's
6 collected -- you know, they -- they talk about --
7 they ask questions about 1999 in the -- in the 2000
8 Census, yes.

9 Q. Would you agree that measures relative
10 to the Federal Poverty Guidelines are common measures
11 of low income?

12 A. That's often how people who are
13 categorized as low income are identified relevant --
14 relative to 100 percent or 150 percent or 50 percent
15 of the poverty level.

16 MR. POSTON: Could I approach?

17 JUDGE PRIDGIN: Yes, you may.

18 BY MR. POSTON:

19 Q. You may recall this line of questioning
20 before. I believe we've had this discussion a few
21 years ago. What have I handed you?

22 A. It's entitled the "1999 Health -- Health
23 and Human Services -- HHS," I assume that means
24 Health and Human Services Poverty Guidelines, one
25 version of the U.S. federal poverty measure.

1 Q. And do you have any reason to believe
2 this is not the 1999 Federal Poverty Guidelines?

3 A. No.

4 Q. And according to this, can you please
5 tell me the 1999 poverty guidelines for a family of
6 three in the 48 contiguous states and Washington, DC?

7 A. Sort of goes on to two pages, so I have
8 to see what -- make sure I see what I'm -- in the
9 right columns here. 48 contiguous states --

10 MR. BOUDREAU: I think -- I think I'm
11 going to lodge an objection at this point. I'm not
12 sure that there's a -- there's a proper foundation
13 for the document, asking the witness whether he has
14 any doubt whether this is some document -- I don't
15 think that establishes a foundation for a document.
16 So I'm going to object on that ground.

17 JUDGE PRIDGIN: Mr. Poston?

18 MR. POSTON: Well, I can try to lay more
19 foundation if you'd like.

20 JUDGE PRIDGIN: That's fine.

21 BY MR. POSTON:

22 Q. Would you look down at the bottom of
23 this page where it shows the web site? Does it
24 appear to you that this document was produced from
25 a -- the Health and Human Services web site?

1 A. The URL leaving out http, blah, blah,
2 blah, is aspe.hhs.gov/poverty/99poverty.

3 Q. Do you have any reason to believe I've
4 created this document on my own?

5 A. No.

6 Q. Is it your belief that this is an
7 accurate document of the U.S. Department of Health
8 and Human Services 1999 Poverty Guidelines?

9 A. It is a published -- it's a number that
10 the government publishes as its poverty guideline.

11 Q. I mean, do you believe that what I've
12 given you is the government's poverty guidelines?

13 A. Yes.

14 Q. I'll go back to my question. Can you
15 please tell me the 1999 poverty guidelines for a
16 family of three in the 48 contiguous states?

17 A. \$13,880.

18 Q. How about a family of four?

19 A. \$16,700.

20 Q. Okay. If you could please look at your
21 Schedule PBT-2.

22 A. Yes.

23 Q. And on the top chart there, you have --
24 it's "Mean Household Income Versus Mean Household
25 Usage," correct?

1 A. Correct.

2 Q. And could you please tell me what

3 each -- I guess those are X's?

4 A. Yes.

5 Q. -- what each X represents?

6 A. Each X represents a zip code, and it --

7 and it represents a combination of the mean household

8 income taken from the 2000 Census for that zip code

9 and the mean usage by MGE customers within that zip

10 code for the period 1998, I believe October '98

11 through September of 2000.

12 Q. Okay. And --

13 A. That's mean monthly use.

14 Q. Okay. And how many of your data points

15 would include the Federal Poverty Guidelines from

16 1999 for a family of three?

17 A. You know, it's kind of hard to read this

18 graph, and I don't have my complete set of data with

19 me, but if we're looking at 13,000, I'd say there

20 might only be two or three points at most.

21 Q. And these data points include census

22 information from all households within the zip codes;

23 is that correct?

24 A. Say that again.

25 Q. The census data, it's -- it looked at

1 all households within the zip code; is that correct?

2 A. I believe the income data comes from
3 what they call their long form which is a sample, one
4 in 100 sample.

5 Q. They didn't just go out and take census
6 data on low-income houses, did they?

7 A. No.

8 Q. They included all ranges of incomes that
9 were within -- within that zip code, correct?

10 A. They -- they cover every -- supposedly
11 every household. Again, I'm not -- I -- I can't
12 remember if the income data comes from the form
13 that everyone gets or if it comes from the one in
14 100, the housing characteristics come from the one
15 in 100.

16 Q. So the -- your data points could include
17 data regarding households that were well above the
18 average income level; is that correct?

19 A. Well, for that zip code, you're going to
20 have households that are above the average for that
21 zip code and households that are below the average
22 for that zip code.

23 MR. POSTON: Thank you. That's all I
24 have.

25 JUDGE PRIDGIN: Mr. Poston, thank you.

1 Mr. Chairman?

2 QUESTIONS BY CHAIRMAN CLAYTON:

3 Q. Good morning.

4 A. Good morning.

5 Q. Sorry about that. I kind of snuck up on
6 you.

7 A. Yeah.

8 Q. I just wanted to ask from your
9 perspective what type of contacts you received from
10 customers since the implementation of this rate
11 design.

12 A. I've -- I've been an economics professor
13 at Central Michigan and now at Western Washington
14 University. I haven't received any contacts from
15 customers.

16 Q. I understand not you personally, but
17 are you aware of the company receiving any contacts?
18 Was that computed in any of your analysis?

19 A. No.

20 Q. Do you take into consideration any of that?

21 A. No.

22 CHAIRMAN CLAYTON: Okay. Thank you.

23 JUDGE PRIDGIN: Mr. Chairman, thank you.

24 Commissioner Kenney?

25 QUESTIONS BY COMMISSIONER KENNEY:

1 Q. I just have one question. Were you --
2 were you in the room for Ms. Meisenheimer's
3 testimony?

4 A. The portion this morning, yes.

5 Q. How do you respond to her critique that
6 your study doesn't -- with respect to low-income
7 customers doesn't disaggregate among income levels
8 and therefore that it's not particularly instructive?

9 A. Well, it is true that -- as I said
10 earlier here this morning, that -- that it -- we did
11 not match a customer's usage precisely with that
12 customer's income, that is correct. People who do
13 these kinds of studies say in an ideal world, we
14 would have a -- information on each house with 100
15 different variables so we could match things up very
16 well like that.

17 But the suggestion there is that somehow
18 if you identify one of these points as, let's say,
19 one of the ones that are in the lower income area but
20 have high usage, the implication of the criticism is
21 that somehow within that zip code, the reason why you
22 have low income and high usage is that you've got a
23 lot of people with low income but they have -- they
24 could have very low usage and the few people that
25 have high incomes in that zip code have extremely

1 high usage so that you get an average high usage in
2 that -- in that particular zip code.

3 Now, I would say that the probability of
4 that occurring is relatively low. You can look at,
5 for example, one of the schedules attached to
6 Ms. Meisenheimer's surrebuttal, page 5 of her
7 surrebuttal -- page 5 of her Schedule 1 to her
8 surrebuttal testimony, and you see --

9 Q. Where are you looking?

10 A. This is page -- Barbara Meisenheimer's
11 surrebuttal, Schedule 1, page 5 of 7. It's at the
12 top. It says "Table A-3A, Residential Energy."

13 Q. Okay.

14 A. If you look under the columns that say
15 "Natural Gas" as the main heating fuel and go down to
16 the midwest numbers which are about halfway down that
17 column, you see the numbers under the dollars column
18 non-low-income households, \$2,050 per year; low-income
19 households, \$1,760 per year, that's not a very big
20 variation. That suggests that it's highly unlikely
21 that the high-income users in a low-income zip code
22 are going to use huge amounts of gas compared to the
23 low-income users in that zip code.

24 So the idea that you would have a zip
25 code that has low income but high usage because of

1 some strange combination of income and usage among
2 the high- versus the low-income usage in those -- in
3 that zip code, the probability of that occurring is
4 vanishingly small, I would say.

5 Along those same lines, if you look at
6 my schedule, PBT-2, page 1, the top graph there that
7 shows the income versus usage points, just to pull a
8 couple of examples, you have -- there's one zip code
9 with an income level of around 70,000 or so, maybe a
10 little bit less than that, that has a mean household
11 usage of about 90 ccf's. You go down to about 15 or
12 \$16,000 of household income, there's another one
13 that's about 90 ccf's.

14 If, in fact, that low income, high usage
15 has some -- has some odd mix of low income very low
16 usage and high income, very high usage, then you've
17 got some high-usage customers that are -- you've got
18 some -- excuse me -- high-income, high-usage
19 customers that are quite different from the
20 high-income customers in that \$70,000 income range.

21 So what you're saying, you've got -- in
22 the low-income zip codes, you've got high-income
23 customers who are quite a bit different from the
24 high-income customers in high-income zip codes. I
25 don't think there's any evidence to support that --

1 that idea, and I -- as I said, I suggest that that's
2 an extremely small probability.

3 COMMISSIONER KENNEY: Thank you. I
4 don't have any other questions.

5 JUDGE PRIDGIN: Commissioner Kenney,
6 thank you. I don't have any questions. Any recross?

7 MR. BOUDREAU: Yes, I believe so. Thank
8 you.

9 JUDGE PRIDGIN: I'm sorry. Before
10 redirect, we have recross.

11 MR. BOUDREAU: Oh, I'm sorry.

12 JUDGE PRIDGIN: That's all right.

13 MR. POSTON: No, thank you.

14 JUDGE PRIDGIN: Okay. No recross. I'm
15 sorry. Redirect?

16 MR. BOUDREAU: I apologize.

17 JUDGE PRIDGIN: That's all right.

18 REDIRECT EXAMINATION BY MR. BOUDREAU:

19 Q. I believe Mr. Poston asked you a few
20 questions about page 3 of your rebuttal testimony and
21 the factors that the Commission should take into
22 account --

23 A. Yes.

24 Q. -- in terms of making rate design
25 determinations?

1 A. Yes.

2 Q. And he asked you specifically about

3 consumption characteristics and rate affordability,

4 right?

5 A. Correct.

6 Q. And there was a number of others in

7 there that he didn't specifically mention. Among

8 those would be the current rate structure that's in

9 place?

10 A. Correct.

11 Q. And customer service quality, just to

12 mention a couple of others?

13 A. Correct.

14 Q. So it certainly wasn't an exhaustive

15 discussion that you had about issues --

16 A. No, there's --

17 Q. -- that the Commission should consider?

18 A. -- there's a long list, and again, this

19 is a quotation from a Commission order, you know.

20 Q. Yes.

21 A. The Missouri Gas Energy case.

22 Q. You also had some discussion with

23 Mr. Poston about your definition of low income and

24 then some discussion about poverty levels?

25 A. Correct.

1 Q. You weren't in your study making a --
2 you know, you weren't defining low income for your
3 analysis based on any poverty level guidelines --

4 MR. POSTON: Objection, leading.

5 JUDGE PRIDGIN: Mr. Boudreau?

6 MR. BOUDREAU: Let me rephrase the
7 question.

8 BY MR. BOUDREAU:

9 Q. Do you recall that exchange with
10 Mr. Poston?

11 A. Based on the HHS document?

12 Q. Yes.

13 A. Yes.

14 Q. Okay. Again, so what were the -- what
15 was the -- you were looking at income levels
16 generally?

17 A. I was looking at the HHS poverty
18 guidelines.

19 Q. Okay.

20 A. And I was reporting some numbers --

21 Q. Right.

22 A. -- that were on this -- this web page.

23 Q. That was the document that he gave to
24 you. So I guess my question is, the information that
25 you used to compile your study, you had --

1 A. I did not use this information at all.

2 Q. Okay.

3 A. And I -- I did not use any sort of
4 division that said poverty versus nonpoverty. These
5 numbers can be questioned on the basis of how they're
6 derived, which most people don't really know how to
7 derive --

8 Q. Okay.

9 A. -- which is to take a standard food
10 budget and multiply it by a certain factor. That's
11 how they've always been derived.

12 Q. Okay.

13 A. So it's not really a cost of how much
14 people have to spend for everything that they -- they
15 purchase.

16 Q. So you were using -- as I understand,
17 you were using information that MGE provided to you
18 about income information -- or you -- well, let me --
19 let me ask it this way: How did you go about
20 categorizing the information that you used in terms
21 of making the relationship conclusions that you did
22 about income versus usage?

23 A. The usage data was obtained from MGE,
24 total ccf's by month divided by the total number of
25 bills in that zip code that month.

1 Q. Okay.

2 A. The income data for the same zip codes
3 came from the 2000 Census.

4 Q. Okay.

5 A. And that is the average income in that
6 zip code.

7 Q. Okay.

8 A. There was no designation of poverty,
9 nonpoverty. And as I believe I suggested earlier
10 just to be clear, when I say low income in my
11 testimony, I'm referring to those points that are at
12 the lower end of the income scale, not by saying
13 well, if you're above some arbitrary level, you're --
14 you're not low income or if you're below it, you are
15 low income.

16 Q. Uh-huh. Okay. And you're looking at
17 information that came out of MGE's service
18 territory --

19 MR. POSTON: Objection.

20 BY MR. BOUDREAU:

21 Q. -- and this --

22 MR. POSTON: Leading.

23 BY MR. BOUDREAU:

24 Q. The source of this information about zip
25 codes, does it correlate to MGE's service territory?

1 A. The 180 zip codes that I used were all
2 in MGE's service territory.

3 Q. Okay. Thank you. I think you received
4 some question -- or response to a question that you
5 got from Mr. Berlin for Staff, and he was asking you
6 about the -- the relationship that your study
7 establishes. And I was wondering if you could -- you
8 could tell the Commission what -- what your study
9 shows.

10 A. Mr. Berlin's question was referring to
11 my characterization of the U-shaped relationship, and
12 again --

13 Q. And then I guess my question is, what is
14 the significance of that U-shaped relationship? What
15 does that tell us?

16 A. What -- what the U-shape says is that
17 people at lower income levels use above average
18 amounts of gas, and people at higher -- the highest
19 income levels -- so let me go back up.

20 People at the lowest income levels use
21 above average amounts of gas, people at the highest
22 income levels -- and again, I'm referring to
23 income -- I'm referring to the zip codes in my study
24 when I say "people." I'm saying these -- the average
25 incomes and usages of these zip codes. So -- so zip

1 codes that have the lowest income levels have
2 above-average usage, zip codes with the highest usage
3 levels per household have above-average usage and zip
4 codes that fall in the middle have below-average
5 usage, and that's what derives the U-shape, is the
6 appearance of those ideas on a graph.

7 Q. Okay. And do you consider that your --
8 the results of your study to be statistically sound?

9 A. Yes, I do.

10 Q. Okay. I believe you got a question from
11 Commissioner Kenney asking you about
12 Ms. Meisenheimer's critique of your study. Do you
13 recall that?

14 A. Yes.

15 Q. And one of the critiques that
16 she leveled at your study that is -- is that it's
17 inconsistent with federal level studies. Do you
18 recall that?

19 A. That's correct.

20 Q. What's your reaction to that?

21 A. Well, I would say it's not necessarily
22 inconsistent with any of this data that's provided
23 here.

24 Q. And why do you say that?

25 A. It's -- you could have within an overall

1 average in a region, let's say, an area that behaves
2 differently from that region and the average would
3 still come out to be different. Just as you could
4 have in a zip code with low income and high usage,
5 there are going to be some customers with low income
6 and low usage.

7 Just as in a low-income, low-usage zip
8 code, and there are some on my chart, you're going to
9 have some low-income households that have high usage.
10 And so it's entirely consistent to -- to have a small
11 part of a study area be different from the overall
12 study area on average.

13 Q. Another critique that -- that
14 Ms. Meisenheimer had was the level of aggregation of
15 your data?

16 A. Yes.

17 Q. And that -- can you address whether the
18 level of aggregation of the data in your study is
19 somehow better or worse or indifferent vis-à-vis the
20 federal studies upon which she has relied?

21 A. I'm not -- first of all, I'd have to see
22 the actual question that was asked in the recs and
23 some of the other -- that's r-e-c-s, recs -- some of
24 the other surveys that are referred to here. But
25 again, I think looking at zip code level aggregation

1 is -- is fairly -- fairly sound for the reasons I,
2 you know, explained to Commissioner Kenney that, yes,
3 it's -- it's possible that you could have some very
4 strange distribution of customers within a zip code
5 and come up with a certain average level within that
6 zip code, but I think the probability of that is
7 extremely unlikely.

8 MR. BOUDREAU: I have no further
9 questions. Thank you.

10 JUDGE PRIDGIN: Mr. Boudreau, thank you.
11 Dr. Thompson, thank you very much, sir. You may step
12 down.

13 THE WITNESS: Thank you.

14 JUDGE PRIDGIN: I believe the bench --
15 now that Dr. Thompson's completed his testimony,
16 the bench wants to get some brief recross of Ms. Ross
17 from Staff. And of course, we'll allow recross/
18 direct from counsel, then we will likely break for
19 lunch. So I thought I saw Ms. Ross. Ms. Ross, I'll
20 remind you you're still under oath from yesterday.

21 MS. ROSS: Yes.

22 JUDGE PRIDGIN: Thank you. And I
23 believe we have some bench questions, Mr. Chairman?

24 CHAIRMAN CLAYTON: Thank you.

25 QUESTIONS BY CHAIRMAN CLAYTON:

1 Q. Good afternoon, Ms. Ross. Thanks for
2 coming back.

3 A. Yes.

4 Q. We had a full agenda yesterday and
5 couldn't make it in during your testimony.

6 Staff is advocating once again for the
7 straight fixed variable rate design; is that
8 accurate?

9 A. That is accurate.

10 Q. And your position on behalf of the Staff
11 is consistent with the position that Staff took in
12 the last MGE rate case?

13 A. Yes.

14 Q. I can't remember if Staff actually
15 proposed the rate design in its direct testimony or
16 if it eventually came to an agreement.

17 A. No, we -- we proposed it.

18 Q. You did propose it?

19 A. Uh-huh.

20 Q. Okay. So this rate design would be
21 nearly identical, just the numbers that are within
22 the rates would be different?

23 A. Yes.

24 Q. After the conclusion?

25 A. That's correct.

1 Q. Okay. Can you give me an assessment of
2 how Staff looks at customer reactions to rate design
3 issues or how Staff evaluates whether there's merit
4 or lack of merit to customer concerns on any issue, I
5 suppose, that would come out of a rate case?

6 A. I believe that I'd have to say that a
7 lot of our -- a great deal of our position comes from
8 talking with our Consumer Services department because
9 they're the ones that actually talk to the customers.
10 To some extent we talk to the companies to see what
11 their experience has been, what types of complaints
12 we're getting. We -- we can look at numbers, for
13 example, the number of customers that are leaving the
14 system. In this case, those are the types of things
15 that I looked at.

16 Q. Okay. Would you look at number of
17 complaints as being one way of looking at evaluating
18 customer reaction or customer happiness or
19 unhappiness with a particular issue, number of
20 complaints?

21 A. Do you mean number of complaints overall
22 or number of complaints about a specific component
23 or --

24 Q. Well, I'm -- I'm specifically asking
25 about as it relates to this issue, but I'm trying to

1 get a general idea of whether or not Staff looks at
2 whether customers are complaining about any
3 particular issue. Do you look at that? Is that --
4 is that relevant in how Staff comes up with its
5 position?

6 A. It's a factor, yes.

7 Q. It is a factor?

8 A. Yes.

9 Q. Okay.

10 A. Yeah.

11 Q. Okay. So it is a factor in general. So
12 then the next question would be did Staff look at
13 customer reaction to the rate design that came out of
14 the last case from customers?

15 A. I did, but I have to be honest and say
16 that I looked at it in general throughout the life of
17 the case. I -- of course, I heard about the 12,000
18 customer comments.

19 Q. I haven't even gotten to that yet.

20 A. Okay.

21 Q. I haven't even gotten to that.

22 A. So maybe I didn't understand.

23 Q. But I'm just -- I'm asking do you -- in
24 looking at Staff's position in this case, did you --
25 did you, you know, consider or evaluate customer

1 reaction to this rate design in general?

2 A. Yes.

3 Q. Okay. Now, would that have included
4 customer feedback through our normal consumer hotline
5 dating back to right after when these tariffs took
6 effect and the new design --

7 A. Yes.

8 Q. -- went into place?

9 A. Yes.

10 Q. All right. And can you give me an idea
11 of what that customer reaction was in general?

12 A. My impression is that it wasn't
13 overwhelming. There were people that called in that
14 didn't understand the change in the rate design.
15 There were people that called in that didn't like the
16 change in the rate design. I don't know how many we
17 got that liked the change in the --

18 Q. Okay. Well, let's -- let's -- let's
19 break into this. Are you aware of how many phone
20 calls through the consumer hotline or through the
21 phone system that the consumer department received on
22 rate design issues associated with MGE, say, within
23 the 12-month period following the change in rate
24 design? Do you have a ball park figure?

25 A. No, I don't have a ball park.

1 Q. Would we -- would -- would we be able to
2 generalize, would it have been less than 100, more
3 than 100, more than 1,000 --

4 A. I don't know.

5 Q. -- do you have any idea?

6 A. I could give my impression, but --

7 Q. Sure.

8 A. -- it's just conjecture. And I can't
9 say 100 or 1,000. After the rate design went into
10 effect, I talked to Gay Fred several times to find
11 out what they were getting and were they being
12 inundated with -- with calls because that was one of
13 the concerns that was raised by parties in the last
14 rate case. My impression was no, they were not.

15 Q. Okay.

16 A. With a company this size, I don't know
17 that 100 would be realistic.

18 Q. What -- with a -- how do you -- when you
19 say "a company this size," do you look at the number
20 of customers?

21 A. Yes.

22 Q. Okay. How many customers -- how many
23 residential customers does MGE have? Is that a
24 public number?

25 A. Oh, yeah.

1 Q. Yeah.

2 A. As I'm sitting here, it's either 300 --
3 like 350,000 or 450 -- I'm kind of blanking. I
4 believe it's in the threes.

5 Q. It's a bad day to blank.

6 A. I know it is.

7 Q. So if you have roughly 3 or 400,000
8 customers, how many customers outcrying about a
9 particular issue would have to complain for Staff to
10 consider it an outcry or something that it should be
11 concerned about?

12 A. I'd say 1 to 2 percent because that
13 would be 3,000 or 6,000 customers, and that's quite a
14 few customers.

15 Q. Yeah, that -- that would be quite a few
16 complaints to the process. And you think it was less
17 than that --

18 A. I do.

19 Q. -- less than that 1 to 2 percent figure?

20 A. I do. I do.

21 Q. Okay. Now, that's in terms of quantity.
22 But in terms of the substance of the quality of the
23 complaint where they get into detail, did they -- is
24 it more than just not being aware of what happened?
25 Do you evaluate the specifics of concerns that are

1 raised through the complaint process? Does that make
2 sense?

3 A. I'm not sure. Do you --

4 Q. Did Gay Fred do that when -- do they
5 evaluate each of those claims when they come in to
6 determine whether there is merit to their complaint,
7 whether it requires further investigation, whether
8 they need technical support?

9 A. I assume that they do.

10 Q. Okay. So at any point did you -- were
11 you getting more feedback from the Consumer Services
12 department on the nature -- the specific nature of
13 their concerns? And I think you started talking
14 about this earlier. Some had concerns or they just
15 didn't know what had happened, they just were not
16 aware of the rate case, some were perhaps unhappy
17 with the change?

18 A. We had to educate, sit down with our
19 Consumer Services department and educate them on the
20 new rate design, the effects it would have on various
21 customers, the effects they might see during certain
22 times of the year. Every now and then they'd -- they
23 would send me a complaint.

24 Q. Did -- do you-all evaluate after you
25 provide that education whether the consumer is still

1 unhappy with the rate design? I mean, in most of
2 these -- most of these instances are you aware of
3 after the education, was the customer still not happy
4 about it or did they say, Hey, we understand, this --
5 this makes more sense to me, I'm comfortable with it?
6 Do you all keep track of that reaction in any way?

7 A. I don't know about Consumer Services. I
8 just know about the customers that I talked to. And
9 afterwards, I think that they weren't as unhappy
10 but -- but no, they -- they might be resigned.

11 Q. Yeah.

12 A. You know, they weren't jumping for joy,
13 but I do think that they to some extent understood
14 the fairness. And it's all different customers. I
15 talked to some elderly customers and some business
16 customers and...

17 Q. Are you aware of whether the consumer
18 contacts, do they still come in through the normal
19 channel, the normal hotline following that initial
20 reaction on the rate design?

21 A. So you're saying are they still
22 getting --

23 Q. Yeah, how long has this rate design been
24 in effect?

25 A. Couple years.

1 Q. Couple years. So let's say you get
2 outside of 12 months, you have a year's worth of
3 experience, people get used to the bill. Do the
4 calls still come in complaining? Or maybe that's a
5 wrong characterization. Maybe it ought to be do they
6 still come in either complaining or inquiring about
7 this rate design?

8 A. I would guess that they do.

9 Q. Yeah. And would you say that the nature
10 of their calls are in favor of the rate design or in
11 opposition of it?

12 MR. BOUDREAU: Well, I'm -- I'm going
13 to -- I'm going to have to -- I mean, if we're
14 talking about characterizing, you know, what people
15 think or say, I'm -- I don't want to cut this off
16 because I understand why the Commission --

17 CHAIRMAN CLAYTON: No, you just seem to
18 be doing that a lot lately.

19 MR. BOUDREAU: Well, the point is, is
20 that we're in a contested case that's governed by
21 certain rules of evidence, and the fact of the matter
22 is characterizing what other people have been saying
23 is problematic to me because it calls for judgment
24 and interpretation --

25 CHAIRMAN CLAYTON: Well, Mr. Boudreau,

1 do you think it's appropriate that we try to gauge
2 public reaction to this rate design, and if so, how
3 do we go about getting that public reaction?

4 MR. BOUDREAU: Well, I think that we've
5 had -- we've had local public hearings and we've got
6 advocates for various interest groups that have
7 offered testimony --

8 BY CHAIRMAN CLAYTON:

9 Q. Ms. Ross, could Staff prepare a sampling
10 of customers that would be a fair representation of
11 the types of complaints that have been made to the
12 Commission, whether it be by comment card or whether
13 it be by consumer complaint that perhaps we could
14 issue subpoenas to call these people in and get
15 their -- get their opinion on what they think of this
16 rate design?

17 A. Well, we --

18 Q. Is that some material that the Staff
19 could provide to the Commission?

20 A. We have that with the customer cards.

21 Q. You do have that information?

22 A. I think, yes. It's not a statistical
23 study, but...

24 Q. Would it be possible to get the names
25 and addresses to where we could call these

1 individuals as witnesses so we could get firsthand
2 information about customer reaction to this rate
3 design?

4 A. On some of them. Some of them didn't
5 provide that information on their comments.

6 CHAIRMAN CLAYTON: Would that be
7 acceptable to you, Mr. Boudreau?

8 MR. BOUDREAU: Well, I'm not -- I'm not
9 sure if I know what the -- what the Chairman is
10 proposing in terms of timing and what -- I'm not sure
11 that I understand what you're -- what you're
12 proposing. I'm sorry.

13 CHAIRMAN CLAYTON: Perhaps I was
14 unclear.

15 MR. BOUDREAU: Well, I'm -- perhaps I'm
16 just slow in picking it up. I'm -- I'm just not sure
17 I'm understanding what -- what is being proposed.

18 CHAIRMAN CLAYTON: I'm trying to get an
19 impression on what customer reaction has been to this
20 rate design. Obviously there's an objection to the
21 comment card. I attended the local public hearings
22 where there was consumer objection to this in --
23 which was contrary to the statement earlier that
24 there was -- there has been no adverse reaction or
25 little adverse reaction, and I'm trying to get a

1 handle on how the Commission can get this information
2 before it and consider it in making this decision.

3 So I can't ask about the comment cards,
4 I can't ask about specific -- or just general
5 samplings of what consumer information has come in
6 through the hotline. So I'm suggesting that perhaps
7 we should get a sampling of the names that are on
8 file with the Commission and then issue subpoenas and
9 call these folks in for detailed consumer reaction.

10 MR. BOUDREAU: The problem that I have
11 with this, and I don't know if -- what your proposal
12 addresses is, is that if somebody is -- if somebody
13 is characterizing what a customer is saying or what
14 the customer's take on a particular issue is, I don't
15 have an opportunity, my client doesn't have an
16 opportunity to take a look at the information behind
17 that particular customer to determine whether or not
18 they're better off or worse off under the rate
19 design. So I'm -- I'm concerned about
20 characterizations of somebody, you know, whether they
21 like it or don't like it --

22 CHAIRMAN CLAYTON: I understand.

23 MR. BOUDREAU: -- because I don't have
24 any -- I don't have any way to offer evidence to
25 rebut that or to explain what the circumstances are.

1 CHAIRMAN CLAYTON: Well, how about if we
2 call in the actual people who have complained and
3 then give you a full opportunity to cross-examine
4 those witnesses?

5 MR. BOUDREAU: That would be not unlike
6 the local public hearing, I suppose, where, you know,
7 a witness gets on and states his case.

8 CHAIRMAN CLAYTON: Well, Mr. Boudreau, I
9 appreciate that and I understand the rules of
10 evidence, I understand what you're trying to -- what
11 you're trying to object to here. I've tried to keep
12 my questions to be general in nature, general in
13 impressions. I'm asking if the Staff used this
14 information in evaluating -- evaluating its position,
15 and I expect the Staff to be able to respond and say
16 yes or no whether they listened to it or not. That's
17 what I'm trying to do.

18 But I will tell you this: You, in your
19 opening statement said there was no adverse reaction
20 to this rate design, and I want to be able to explore
21 this. Now, if you have suggestions on how I can do
22 that in a lawful manner, I'm eager to hear that.

23 MR. BOUDREAU: I made the comments that
24 I did based on the record as I understand it.

25 CHAIRMAN CLAYTON: Okay.

1 MR. BOUDREAU: And --

2 BY CHAIRMAN CLAYTON:

3 Q. I'd like -- Ms. Ross, would it be
4 possible for you to compile a list of a sampling of
5 customers in the Kansas City area that have expressed
6 displeasure with this and perhaps invite them down to
7 appear before the Commission? Would that be possible?

8 A. With the public -- public comments, yes.
9 I mean, getting the other customers' names and
10 addresses and phone numbers would be -- would involve
11 our Consumer Services department.

12 Q. I understand.

13 A. So --

14 Q. Is that something that we could explore?

15 A. Sure.

16 CHAIRMAN CLAYTON: Okay. Thank you. No
17 further questions.

18 JUDGE PRIDGIN: Mr. Chairman, thank you.
19 Commissioner Kenney?

20 COMMISSIONER KENNEY: No questions.
21 Thank you.

22 JUDGE PRIDGIN: All right. Thank you.
23 Cross based on bench questions?

24 MR. POSTON: Yes.

25 JUDGE PRIDGIN: Mr. Poston?

1 MR. POSTON: Thank you.

2 RE-CROSS-EXAMINATION BY MR. POSTON:

3 Q. In response to questions from
4 Commissioner Clayton, he had asked you how Staff
5 considers customer reactions. Do you recall?

6 A. Uh-huh, yes.

7 Q. And the first you identified was that
8 you visit with Consumer Services?

9 A. Yes.

10 Q. And who did you discuss before you --
11 before this -- you filed your rate design position in
12 this case? Who at Consumer Services did you speak
13 with about -- about consumer reaction?

14 A. I've -- I've talked to Gay Fred several
15 times. I've probably talked to each one of them at
16 some point because we were concerned that we were
17 going to overwhelm them like happened with the
18 comment cards.

19 Q. You were concerned that you were going
20 to overwhelm the Consumer Services department?

21 A. Sure.

22 Q. With -- how -- why were you concerned
23 you were going to overwhelm them?

24 A. That was something that Public Counsel
25 brought up that they thought might be a problem, so

1 we wanted to -- we didn't believe it would be a
2 problem, "we" being Staff, but it was -- I suppose it
3 was certainly a possibility. Public Counsel brought
4 it up, so --

5 Q. It was a possibility that you thought
6 consumers would be calling in, is that what you're
7 saying, complaining?

8 A. Our position was that we didn't think
9 they would, but I didn't want to ignore evidence if
10 it did happen.

11 Q. And so you visited with Ms. Fred, and
12 what kind of questions did you ask her?

13 A. Have you been getting a lot of
14 complaints? Have people been calling in about the
15 rate design? That pretty well --

16 Q. And how many times did you -- did you
17 meet with her?

18 A. Oh, gosh, it's hard to say because I
19 talk to Gay all the time. I mean, I see her around.
20 I -- we probably talked about it ten or 15 times, 20
21 maybe.

22 Q. And you also stated in one of your
23 considerations that you talked to the company, and
24 who at the company did you talk to?

25 A. I talked to Pam Levetzow.

1 Q. Okay.

2 A. I talked to Mike Noack once or twice.

3 Q. And you asked them the same questions,

4 what was the customer feedback, that kind of thing?

5 A. Yes, uh-huh.

6 Q. And if -- if a customer calls the Public

7 Service Commission and complains about a rate, does

8 the Commission relook at that rate and decide whether

9 they should continue that rate or change that rate?

10 A. It does not trigger an official -- I

11 don't know what the language would be. I mean, yes,

12 we -- we -- we try to listen to what we're hearing

13 from customers.

14 Q. That's not what I'm asking.

15 A. Okay. I don't think I --

16 Q. If a customer calls in and says, I don't

17 like MGE's rate, will that complaint then reach the

18 Commission and the Commission will relook at that

19 rate?

20 A. In the next rate case, yes.

21 Q. But not immediately?

22 A. No, not immediately, not -- yeah. Not

23 relook at that rate. It's been set and it's the rate

24 until the next rate case.

25 Q. So a customer's call is not going to

1 change that rate until the next rate case?

2 A. That's correct.

3 Q. So what is the value of them calling and
4 complaining?

5 A. Could you rephrase that because I'm not
6 sure I understand your question?

7 Q. What is the value to the consumer about
8 calling and complaining if it's not going to change
9 the rate?

10 A. Those -- those comments are logged.
11 When you click on a case in EFIS, there's a -- you
12 know, you can pull down the public comments. When we
13 get closer to a rate case or someone files a rate
14 case, we look at those.

15 Q. Okay.

16 JUDGE PRIDGIN: And Ms. Ross, I'm sorry.
17 Could I trouble you to speak in the microphone?

18 THE WITNESS: Oh, I'm sorry. I'm sorry.
19 I'm sorry.

20 JUDGE PRIDGIN: That's all right.

21 BY MR. POSTON:

22 Q. And how many comments did you say you
23 reviewed, or did you say?

24 A. I didn't. I didn't. Over the course of
25 the case -- I started out thinking I'd read them all

1 and after about the --

2 Q. So did I.

3 A. -- the first 100, I slowed down a
4 little. And then I started just periodically I'd go
5 in and read three or four. I have a stack here, and
6 I -- and I knew -- I have a stack here that have 100
7 and -- let me look at my math -- 114 approximately,
8 if I counted them right, customer complaints that
9 I -- I went through EFIS and I selected every tenth
10 page, the very first complaint on it.

11 The only reason I threw one out is if it
12 was a commercial or if they didn't say anything
13 because there were some complaints where they just
14 turned it back in or -- but other than that, I
15 didn't -- I didn't filter them.

16 Q. So what you're -- are you talking about
17 customer complaints and not necessarily the comments
18 on the rate case?

19 A. No. I'm sorry. I'm not. I am talking
20 about the comments on the rate case.

21 Q. Okay.

22 A. I'm sorry.

23 Q. And so roughly how many did you look at?
24 I don't -- what was your best estimate?

25 A. Altogether?

1 Q. Yes.

2 A. Oh, I would say that altogether I looked
3 at 200 to 250. I only have physical, you know, paper
4 copies of 114 or 15.

5 Q. And would you agree that some of those
6 comments -- well, scratch that. Last question. If
7 the Commission were to decide to call customers to
8 come and comment, do you think like a video feed from
9 Kansas City would be helpful so that they wouldn't
10 have to travel to Jefferson City?

11 A. Yes, yes, I do.

12 MR. POSTON: Thank you. That's all.

13 JUDGE PRIDGIN: Mr. Poston, thank you.

14 Any further cross?

15 (NO RESPONSE.)

16 JUDGE PRIDGIN: Redirect?

17 MR. BERLIN: Yes.

18 FURTHER REDIRECT EXAMINATION BY MR. BERLIN:

19 Q. Ms. Ross, I believe Mr. Poston had asked
20 you about the comment cards that you looked at, and
21 you looked at, you said, about 250?

22 A. I -- I looked at 250 over the -- I mean,
23 200, 250 over the course of the case, yes.

24 Q. And about how many of those cards that
25 you looked at brought up the issue of rate design?

1 A. You know, that's a hard question to
2 answer because I'm very sensitive to the discussion
3 of rate design coming from the customers. And that's
4 why I pulled paper copies of 114 so that I could
5 actually sit down and count the ones that complained
6 about the rate design or that was -- that seemed to
7 be their -- their major complaint or a major
8 complaint from them. So I can give you that
9 percentage.

10 Q. What is -- what is that percentage?

11 A. Well, I -- back of the envelope, because
12 there were 18 out of 114. If my math is correct
13 because I did long division here, it's about 15.7 or
14 16 percent of the -- of those writing in.

15 I do want to point out that this was
16 August. Most of these came in August and September
17 which is the summer months which is when it's
18 especially obvious that they're paying more than they
19 used to.

20 Some of the customers that called in --
21 or I'm sorry -- that wrote in on the comments didn't
22 seem to understand what part of their gas bill is
23 margin, what part is -- is gas cost. And there
24 was -- we could do a better job of education.

25 Q. Is -- is the -- of that 18 percent, did

1 that 18 percent include the ones that just didn't
2 understand --

3 A. No.

4 Q. -- the rate design?

5 A. No. These are -- these are people
6 that -- that I do believe they at least understood
7 that they were paying more this summer than they had
8 last summer or, you know, before.

9 Q. And they didn't understand why? Or that
10 was --

11 A. That is correct.

12 Q. All right.

13 A. That is -- they didn't understand our
14 reasons why.

15 MR. BERLIN: All right. I have no
16 further questions. Thank you.

17 JUDGE PRIDGIN: All right, Mr. Berlin,
18 thank you. Ms. Ross, thank you very much.

19 THE WITNESS: You're welcome.

20 JUDGE PRIDGIN: You may step down. I'd
21 like to break for lunch and then discuss with counsel
22 briefly further scheduling. Can we go off the record
23 to do that?

24 All right. Thank you. We'll go off the
25 record and if need be, we can announce on record when

1 and if we need to reconvene and -- or I can simply
2 announce to the Commissioners when we'll reconvene.
3 So we'll stay in recess.

4 (WHEREUPON, the hearing of this case was
5 recessed until October 30, 2009.)

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| 1 | EXHIBITS INDEX | | |
| 2 | | MARKED | RECEIVED |
| 3 | Exhibit No. 36 | | |
| 4 | Rebuttal Testimony of | | |
| 5 | Philip B. Thompson | * | 620 |
| 6 | Exhibit No. 101 | | |
| 7 | Laclede's residential general | | |
| 8 | service tariff sheet, | | |
| 9 | sheet No. 1, that was | | |
| 10 | effective August 1st, 2007 | 592 | 593 |
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1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI)
3)ss.
4 COUNTY OF COLE)

5
6
7 I, PAMELA FICK, RMR, RPR, CSR, CCR #447,

8 within and for the State of Missouri, do hereby
9 certify that the witness whose testimony appears in
10 the foregoing deposition was duly sworn by me; that
11 the testimony of said witness was taken by me to the
12 best of my ability and thereafter reduced to
13 typewriting under my direction; that I am neither
14 counsel for, related to, nor employed by any of the
15 parties to the action to which this deposition was
16 taken, and further that I am not a relative or
17 employee of any attorney or counsel employed by the
18 parties thereto, nor financially or otherwise
19 interested in the outcome of the action.

20
21
22
23 _____
24 PAMELA FICK, RMR, RPR, CSR, CCR #447
25