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PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

On-The-Record Presentation

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Volume 10

In the Matter of Atmos Energy Corporation's Tariff Revision Designed to Implement A General Rate Increase For Natural Gas Service In The Missouri Service Area Of The Company	)))))	File No. GR-2010-0192

HARODL STEARLY, Presiding
SENIOR REGULATORY LAW JUDGE
ROBERT M. CLAYTON III, Chairman,
JEFF DAVIS,
TERRY M. JARRETT,
KEVIN GUNN,
ROBERT S. KENNEY
COMMISSIONERS

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TRANSCRIPT OF PROCEEDINGS

JUDGE STEARLEY: Good morning. It's Tuesday, August 17th, 2010, and the Commission has set this time for an on-the-record proceeding in the matter of Atmos Energy Corporation's tariff revision designed to implement a general rate increase for natural gas service in the Missouri service area of the company, which is File Number GR-2010-0192, which has also been consolidated with File Number GR-2006-0387.

My name's Harold Stearley and I'm the regulatory law judge presiding. The court reporter this morning is Jenni Leibach and we will begin by taking entries of appearance starting with Atmos Energy Corporation.

MR. DORITY: Thank you, Judge. Larry W. Dority with Fischer & Dority P.C. appearing on behalf of Atmos Energy Corporation. Our address is 101 Madison, Suite 400, Jefferson City, Missouri 65101. Thank you.

JUDGE STEARLEY: Okay. Thank you, Mr. Dority.

For Noranda Aluminum, Incorporated.

MS. ILES: Carole Iles with Bryan Cave, LLP. My address is 221 Bolivar, Suite 101, Jefferson City, Missouri.

JUDGE STEARLEY: Thank you, Ms. Iles.

For the Department of Natural Resources.

MS. WOODS: Sarah Mangelsdorf and Shelley Woods, Assistant Attorneys General, appearing on behalf of

Missouri Department of Natural Resources, Post Office Box 899, Jefferson City, Missouri 65102.

JUDGE STEARLEY: Thank you, Ms. Mangelsdorf (sic).

For the Office of Public Counsel.

MS. BAKER: Thank you, your Honor. Christina Baker for the Office of the Public Counsel, PO Box 2230, Jefferson City, Missouri 65102.

(Video streaming interruption.)

JUDGE STEARLEY: I just love it when the machines talk to us. Hopefully we're just beginning and not ending the conference recording.

Thank you very much, Ms. Baker.

For the Staff of the Missouri Public Service Commission.

MR. BERLIN: Thank you, Judge. Robert S. Berlin, Post Office Box 360, Jefferson City, Missouri 65102 appearing on behalf of the Staff of the Missouri Public Service Commission.

JUDGE STEARLEY: Thank you, Mr. Berlin. Did I miss anyone?

All right. Well, as I always start off these hearings, I need to advise everyone to please shut off all cell phones and BlackBerries and other electronic devices that might interfere with our recording and our web casting this morning.

Are there any preliminary matters we need to take up before we start? Hearing none, let me briefly run through the witness list: For Atmos Energy Company, Mr. Mark Martin and Joe Christian; for Staff Steve Rackers, Jim Dittmer, Tom Einhoff (phonetic), Tom Solt and Dr. Henry Warren; for Missouri Department of Natural Resources, John Buchanan; for Noranda Aluminum Donald B. Johnstone; and for Public Counsel, Barbara Meisenheimer. Did I get everyone there?

And of course the witnesses are available for questions from the Commissioners. They won't necessarily be called to the witness stand, but the Commission does appreciate you making them all available.

And what I would like to do is just mass swear in the witnesses and then that way the Commissioners can ask questions without there being any interruptions for that. So at this time, if all the witnesses would please raise your right hands for me.

(All potential witnesses were sworn.)

JUDGE STEARLEY: Thank you, all. You may be seated. Does anyone wish to make an opening statement?

MR. DORITY: Judge, if I might, I have a brief opening, I'd like to make, please.

JUDGE STEARLEY: Please proceed, Mr. Dority.

MR. DORITY: Good morning. May it please the

Commission. For the record, my name is Larry Dority with the law firm Fischer & Dority, appearing on behalf of Atmos Energy Corporation.

With me this morning, I would like to introduce for the record Mr. Mark Martin, Vice-President of Rates, Regulatory Affairs, for the Kentucky Mid-States Division of Atmos located in Owensboro, Kentucky. Mr. Martin is seated at the table where I was. And also Mr. Joe Christian, Director of Rates and Regulatory Affairs for Atmos located at their corporate headquarters in Dallas. And Mr. Christian is seated behind Mr. Martin.

The parties are appearing before you this morning seeking your approval of the unanimous stipulation and agreement filed in this matter last Wednesday, August 11th. Before I address the major components of the stipulation, for the primary benefit of Commissioners Jarrett and Kenney, who were not previously involved in the consolidated file Case Number GR-2006-0387 proceeding, I would like to take a moment and just provide a very brief overview of Atmos' Missouri operations.

Atmos serves approximately 56,000 customers in Missouri and the customer base includes residential, commercial, and industrial customers. Employing a Missouri base workforce of approximately 71 employees, Atmos' utility plant in Missouri includes over 2,100 miles of transmission and distribution lines.

Regional offices for the Missouri operations are located in Hannibal, Kirksville, Jackson, Sikeston, Malden, Caruthersville and Butler. And we visited most of those locations during the local public hearings scheduled in this matter.

Atmos is the largest pure natural gas distribution company in the United States serving approximately 3.1 million residential, commercial, industrial and public authority customers in 12 states, with corporate offices as I mentioned located in Dallas, Texas. The company is comprised of six gas utility property divisions, and its Kentucky mid-states division located in Franklin, Tennessee provides natural gas distribution service in Missouri, Tennessee, Virginia, Georgia, Kentucky, Illinois, and Iowa.

Atmos' Missouri operations are the result of three separate acquisitions occurring in 1993, 1997, and 2000. Greeley Gas Company was purchased in 1993. This area consists of the Missouri communities of Rich Hill and Hume and surrounding areas in Bates County, Missouri, located on the west central part of Missouri on the Missouri-Kansas border.

United Cities Gas Company was purchased in 1997. The service areas in this acquisition are located in two separate areas of the state. The largest district includes the communities and surrounding areas of Hannibal, Canton, and Bowling Green in the northeast corner of the state. And prior to the acquisition by Atmos, United Cities have acquired the Palmyra district in Marion County. They also served a few customers in the Neelyville area in Butler and Ripley Counties and those counties, of course, are located on the Missouri-Arkansas border.

Associated Natural Gas Company was purchased in 2000. The A&G Missouri properties were also geographically separated. One operating division was in Butler, Missouri serving customers on the Missouri-Kansas border in the counties of Bates, Henry, and St. Clair. A&G had a large district in the Missouri bootheel area in the southeast.

(Video streaming interruption.)

JUDGE STEARLEY: Sorry, Mr. Dority. In keeping with my prior history, I do have the technology curse. Hopefully they've restarted our web cast for us. And please continue.

MR. DORITY: Very good. Thank you, Judge.

The SEMO operations were spread over the counties of Wayne, Iron, Butler, Stoddard, Scott, Cape Girardeau, New Madrid, Pemiscot, and Dunklin. And finally, A&G served communities in the Kirksville area in Adair, Macon, and Schuyler Counties on the Missouri-Iowa border.

As a result of extensive negotiations, the parties are presenting a unanimous stipulation and agreement that settles all issues for purposes of the rate case GR-2010-192 filed this past December as well as the remanded proceeding Case Number GR-2006-387, which was consolidated by your order of February 3rd.

Among the major components of the stipulation before you: One, Atmos would increase its annual non-gas Missouri jurisdictional revenues by $5,650,000, which includes approximately one million dollars in infrastructure system replacement surcharge, or ISRS, revenues previously authorized for qualifying plant in-service additions and currently being collected through a surcharge.

Of course, gas costs comprise 70 to 80 percent of the customer's total bill. In using Atmos' most current PGA filing data, the expected average increase to actually be experienced by retail customers from current rates is approximately seven percent. The parties are requesting that the new tariff sheets be effective for service rendered on and after September 1, 2010. And as the prefiled testimony reflects, the last revenue increase granted was in 1995 for the previous United Cities Company, and in 1997 for the A&G Company.

Second, the parties agree that the company should maintain its three rate districts that were approved in the company's 2006 rate case; those being the northeast, southeast, and west. Or as we affectionately refer to them, NEMO, SEMO, and WEMO.

Third, the company is adopting a two-part rate design and a majority of the rate increase resulting from the settlement of this case will be recovered through volumetric rates. However, approximately 75 percent of the company's total revenue requirement charged to the residential and small firm general service classes will be recovered through delivery charges. And those resulting delivery charges as well as the volumetric components are reflected on Appendix A to the stipulation. For the MGS, LGS, interruptable large volume gas and transportation service classes, the revenue increases are allocated on an across-the-board, equal-percentage basis to all rate elements.

Fourth, the parties have agreed that the company's proposal for classifying commercial customers into the small, medium, and large general service by meter type rather than by consumption should be adopted. Recognizing that unique situations can occur as identified during the local public hearing process, the stipulation provides that any customer may request a review by the company of the customer's usage to determine whether that customer would qualify for a different class through a meter replacement. Any customer who so qualifies would be properly classified in the company's billing system and that customer would not be charged for any future meter replacement.

Fifth, seasonal reconnection charges. The signatories agree that for the residential and small general service classes, seasonal reconnection charges would be no more than two months of delivery charges. Today, they are set at a maximum of three and a half months.

Sixth, a very important component of the company's Energy, Conservation and Efficiency program. With the existing cooperation and funding agreement requiring annual payments for the low-income weatherization program to be made to the state Environmental Improvement and Energy Resources Authority -- EIERA -- on or before September 1, the timing of this proceeding is very good for retooling the company's EE program.

Very briefly, in the past three years, the company's shareholders have contributed over half a million dollars to the program, having been required to contribute one percent of annual gross non-gas Missouri revenues. Future funding will include $150,000 in base rates, 105,000 of which will be annually dedicated to the residential low-income weatherization assistance program. We will also utilize a regulatory asset account mechanism for additional monies required to fund the total program.

The program year will begin with the effective date of tariffs approved in this case of September 1st and the initial total funding level of the next year of the program will be $210,000.

Similar to other recent Commission orders for LDCs, Atmos will take all reasonable actions towards the target of increasing annual expenditures for cost effective, conservation and energy efficiency programs to one-half percent of annual operating revenues including gas costs within a three-year period. We estimate that level to be approximately 280,000 to $305,000. Today, the funding level is approximately .3 percent.

The energy efficiency collaborative will be renamed the EE advisory group and will operate as an advisory rather than consensus group continuing to provide input to Atmos to design, implement and evaluate the program. For next year's program budget of $210,000 in addition to the existing program components of weatherization, high efficiency, natural gas, water heating and space heating rebates and education, a new proposal for building shell measures will be funded along with monies for consulting fees for the program.

In conclusion, I'm sure you can appreciate the extensive work required to reach such a global agreement in these matters. I would expect the other parties will want to touch upon specific areas of the stipulation as well, and we look forward to responding to any questions that you may have.

Thank you very much.

JUDGE STEARLEY: Thank you, Mr. Dority. Any other parties wish to make an opening statement? Well, hearing none, we'll open things up for questions from the Commissioners.

Commissioner Davis, I know you arrived a couple minutes later. I have mass sworn in all the witnesses so they are sworn and feel free to direct questions to counsel or the witnesses.

COMMISSIONER DAVIS: I think the Chairman's ready. He's looking ready. He's poised. I'll let him go.

JUDGE STEARLEY: Go right ahead, Commissioner Clayton.

CHAIRMAN CLAYTON: Thank you, Judge.

Thank you, Mr. Dority, for the presentation on the stipulation and agreement. I appreciate the -- going over most of the provisions that are included within the document.

First of all, just to be clear, this would be a net increase of $4.65 million; is that correct? If you take into consideration the ISRS?

MR. DORITY: That's correct, Commissioner.

CHAIRMAN CLAYTON: Is it possible to identify a dollar amount within that remaining 4.65 million, how much of that relates to additional investments and infrastructure that were not ISRS eligible or perhaps has not been added to the ISRS charge?

MR. DORITY: I may have to defer that. Just a moment, please.

CHAIRMAN CLAYTON: I mean, if the number is not identifiable, you can tell me that, too.

MR. DORITY: I don't believe it is, Judge.

CHAIRMAN CLAYTON: Mr. Berlin, could I -- there you go. Thank you. Stay right there.

MR. BERLIN: I think I can answer that question for you, Chairman Clayton.

CHAIRMAN CLAYTON: Sure, go ahead.

MR. BERLIN: We have identified out of that approximately $4.6 million that $965,000 is a revenue requirement value due to plant additions and other rate base changes.

CHAIRMAN CLAYTON: Okay. And that would be a revenue number -- the 965,000 is a revenue number, so that would reflect a significantly higher amount of dollars invested in infrastructure.

MR. BERLIN: Correct.

CHAIRMAN CLAYTON: Okay. Is it possible to identify that number? If you have it or if you don't, that's --

MR. BERLIN: I don't have it broken down any further than that.

CHAIRMAN CLAYTON: Okay. Of the 965,000 revenue requirement associated with infrastructure investments, do you have a breakdown by district?

MR. BERLIN: No, I don't.

CHAIRMAN CLAYTON: So we don't know what dollars went into the northeast versus the southeast versus the western district?

MR. BERLIN: We could provide it for you.

CHAIRMAN CLAYTON: How easy is that? I mean, I don't want to cause a tremendous amount of work.

MR. BERLIN: I think we need a little bit of time to work on it.

CHAIRMAN CLAYTON: Okay. Let's hold off on that request and see how the questions go today.

On the class cost of service rate design, there's an Attachment A, which sets out what the -- what the rate design impact would be associated with this revenue increase. And as I understand it, basically we would keep -- for existing revenue, we would keep a straight fixed variable rate design, which would mean 100 percent of existing costs are on a fixed monthly charge and zero on a volumetric charge and that the increase is 75 percent in the fixed charge, 25 percent in a new volumetric charge; is that correct?

MR. BERLIN: That's not entirely correct.

CHAIRMAN CLAYTON: Okay. Can you -- when I read it, that's what I took from it. Can you correct and help identify what's going on with the rate design?

MR. BERLIN: Perhaps it's a little bit easier for me to talk about one of the districts, such as the northeast district. The current straight fixed variable rate in effect today is $20.61. That has no volumetric component to it, as you are aware. The rate that will go into effect September 1st will go to a fixed delivery charge of $22.68 with a commodity rate of .05778.

CHAIRMAN CLAYTON: For the small firm general service, not for the residential customers.

MR. BERLIN: I'm sorry, that is for small firm general. Yes. I flipped to the wrong page. I'm sorry.

CHAIRMAN CLAYTON: That's okay.

MR. BERLIN: However, the volumetric rate or commodity rate for residential is .11546.

CHAIRMAN CLAYTON: 1.1546.

MR. BERLIN: .11546.

CHAIRMAN CLAYTON: Okay. Well, I'm looking on Line 2 of Appendix A and it says 1.1546. Before we get to those dollars, what I'm trying to get a sense of, what revenue is going to be in a fixed charge, what revenue is going to be in the volumetric charge. And I guess when I started this off, I thought 100 percent of today's revenues were on a fixed charge. That's today, right?

MR. BERLIN: Correct.

CHAIRMAN CLAYTON: And so when I read in Paragraph 3 of the stipulation, it says 75 percent of the company's total revenue requirement charged to residential and small firm will be covered through the delivery charge, which I thought was the fixed charge. But in the sentence before that, it says a majority of the rate increase --

COURT REPORTER: You need to slow down.

CHAIRMAN CLAYTON: I've never been told that before. Resulting from settlement of this case will be covered through volumetric rate.

Mr. Dority, can I come back to you? I didn't mean to burden Staff with this. If we can come back, I want to start with the company and then come back to Staff and Public Counsel. Are you comfortable with that, Mr. Berlin?

MR. BERLIN: Yes, Chairman Davis -- or Chairman Clayton.

CHAIRMAN CLAYTON: Have you ever done that before? All right. Mr. Dority.

MR. DORITY: Thank you, Mr. Chairman. Perhaps a better way to structure that sentence that you referred to at Paragraph 3 of the tariffs would be of the total of the -- of the total revenue requirement assigned to the residential and small general service classes, 75 percent of that amount will be recovered through the delivery charge.

CHAIRMAN CLAYTON: Total revenue.

MR. DORITY: So it's not necessarily locked into the previous amount.

CHAIRMAN CLAYTON: Okay. So basically this agreement is backing off the straight fixed variable where you had 100 percent in the fixed rate design and we're moving for residential and small general service, we're moving to a 75/25 split?

MR. DORITY: That's correct.

CHAIRMAN CLAYTON: Okay. That's helpful. Okay. Now, and why don't we just finish the thought with the other two classes, the medium general service -- three classes; medium general service, large general service, and interruptible large volume gas, how are those rate designs going to be computed?

MR. DORITY: They are staying as they were in terms of the design and the increase as allocated on an equal percentage basis.

CHAIRMAN CLAYTON: Okay. So among the classes, it is an equal percentage increase across the classes.

MR. DORITY: That's correct.

CHAIRMAN CLAYTON: Okay. Going back to Appendix A, so we -- what we have in the rate design, today a customer of Atmos in the northeast region -- and I picked that out just because it's the first category on the list -- today their fixed charge is $20.61. And that is 100 percent of delivery cost of non-gas cost placed into that $20.61. After today, if the stipulation is approved, that customer would pay an increase to $22.68 in fixed charge plus a volumetric rate of $1 -- 1.15460 per therm or million BTU or what would be the -- million CF, I guess.

MR. DORITY: Per MCF.

CHAIRMAN CLAYTON: And what period of time would be the increase for that residential customer in terms of rates? Is it two percent, five percent, ten percent increase in rates? And if that's not easily available --

MR. DORITY: May I let Mr. Christian respond to that, please?

CHAIRMAN CLAYTON: Sure.

MR. CHRISTIAN: With gas costs for that customer, and this is used on August PGA rates, it would be roughly a 14 and a half percent increase.

CHAIRMAN CLAYTON: 14 percent increase. Let's talk about the southeast region. What is the price paid per month for a southeast region customer? And then I might as well ask the western region as well.

MR. CHRISTIAN: Percentage increase?

CHAIRMAN CLAYTON: No, the dollar fixed monthly charge. What is the fixed charge today for a southeast customer and a western customer?

MR. DORITY: Mr. Chairman, today the rate for the southeast customer is $13.92. And for the western customer, the existing rate is $19.43.

CHAIRMAN CLAYTON: So southeast region gets a rate decrease on the fixed monthly charge?

MR. DORITY: That's correct. We agreed to go to a 75 fixed amount, that's correct.

CHAIRMAN CLAYTON: Okay. The 14 percent figure, the percentage increase in -- in gas -- not gas costs, but in at Atmos bill for a customer was approximately 14 percent for a northeast customer. Is that percentage also the case for a southeast and western?

MR. CHRISTIAN: For southeast, it's 11 percent and for western, it's 14 percent.

CHAIRMAN CLAYTON: Okay. Now, among these districts, was there a shift in revenue obligation among any of the districts or was it a straight -- a straight amount across the board?

MR. CHRISTIAN: We used Staff's model by district as they calculated the deficiency for each area and that calculated deficiency is what was assigned to that area. So there was no shifting among the area's deficiency.

CHAIRMAN CLAYTON: So are the -- would you say -- as I recall from the prior case, the 2006 case, the -- the rates paid by customers were based on revenue -- traditionally collected revenue by district when they consol -- when the districts were consolidated. I thought it was based on revenue, not based on costs. Are we still basing these rates on revenue or are they entirely based on costs or hybrid or am I getting it wrong?

MR. CHRISTIAN: Based on cost.

CHAIRMAN CLAYTON: Entirely, a hundred percent based on cost?

MR. CHRISTIAN: Yes.

CHAIRMAN CLAYTON: Okay. Are there any illustrative examples that could be pointed to that set out differences in the costs served the three districts? For example, are there a greater number of miles in the northeast and the western of pipe? How do the number of customers compare? Can you give me some information that would perhaps demonstrate why the cost is higher in northeast rather than the other territories?

MR. DORITY: Mr. Chairman, we might want to defer to the Staff class cost of service witness on that.

CHAIRMAN CLAYTON: Is that Mr. Rackers? No.

MR. BERLIN: Mr. Solt.

CHAIRMAN CLAYTON: Are you sworn?

MR. SOLT: Yes.

CHAIRMAN CLAYTON: Come on down. Question is:

Are there any shining examples of how the different districts compare in terms of their cost of service?

MR. SOLT: I can't tell you exactly. They have different vintages of equipment, they have different amounts of plant that are in the ground. Most of the current costs, operation maintenance expenses and so forth are probably pretty much similar, but it's just the historical costs.

CHAIRMAN CLAYTON: Do you know the number of customers in the northeast, southeast and western region?

MR. SOLT: Not offhand, I don't.

CHAIRMAN CLAYTON: Do you know the number of pipe or main and each of the number of miles?

MR. SOLT: No, I don't.

CHAIRMAN CLAYTON: Is that something --

MR. MARTIN: Mr. Chairman, I don't have the customer list, but there's -- we do have a lot more customers in the southeast area of the state. And also in the northeast, there's been a lot of cast-iron main replaced and a lot of copper services that have most likely been attributable to higher expenses for that area.

CHAIRMAN CLAYTON: When you say more customers in the southeast, do you have any idea double, triple?

MR. MARTIN: Of the 60,000 that we have in the state, I would say probably about 15 are in the northeast, probably another five in the west and the rest would be in the southeast.

CHAIRMAN CLAYTON: So 40 would be --

MR. MARTIN: And those are ballpark.

CHAIRMAN CLAYTON: And your territory is much bigger in the southeast?

MR. MARTIN: Yes, sir.

MS. BAKER: Mr. Chairman, I believe Ms. Meisenheimer can answer some of those questions that you have.

CHAIRMAN CLAYTON: Okay. Go ahead and finish.

MR. MARTIN: I'm finished.

CHAIRMAN CLAYTON: So approximately 40,000 in the southeast region?

MR. MARTIN: Yes, sir.

MS. MEISENHEIMER: In the previous case and in this case, Public Counsel did review the cost information that was available. I would say based on my experience with reviewing those costs of service, that in fact there are significant differences in the amount of rate base, specifically I'm thinking of major plant accounts, things including mains, services, meters.

There are differences. The SEMO district, the current SEMO district tends to be the lowest cost and I would say NEMO is the highest cost on average for the old districts that are now consolidated into NEMO.

CHAIRMAN CLAYTON: Okay.

MS. MEISENHEIMER: So I think that this outcome in terms of the variation in customer charge, the highest being in NEMO, the lowest being in SEMO, is -- is more consistent with the plant that's in the ground, the value of the plant that's in the ground in those various districts.

CHAIRMAN CLAYTON: Okay.

MS. MEISENHEIMER: In terms of where you might find that, I had some information in my testimony that made a comparison on a per-customer basis from costs that were developed in the previous case that were split out by each of the individual seven districts. And I think that maybe the company at some point in this case developed cost differences in operations and maintenance.

MR. MARTIN: Yeah.

MS. MEISENHEIMER: Is that in your testimony?

MR. MARTIN: Mr. Peterson's, yeah.

MS. MEISENHEIMER: So I would point you to those places of what are some of the cost differences. In my opinion, these cost differences are more cost-based than the previous case.

CHAIRMAN CLAYTON: Okay. As I recall in that past case, I think the company argued for a consolidation of all the districts; is that correct? And then there was -- I think Public Counsel opposed that consolidation and it kind of fell back on a stip and it had the three jurisdictions. Is that correct, do you recall?

MS. MEISENHEIMER: I don't think Public Counsel in terms of non-gas, we did not support consolidation. We thought there were significant cost differences within even the three consolidated districts that ultimately resulted.

CHAIRMAN CLAYTON: That's right, you-all never signed on anything in that case?

MS. MEISENHEIMER: Right.

CHAIRMAN CLAYTON: How quickly we forget. I forget. What would be the right way to ask the question of comparing temperatures? Is it heating degree days or the median temperature for heating degree day? What's the right way to ask that question? Mr. Solt or the company, what's the right way to ask the question with comparing the districts?

MR. SOLT: That would be in Ms. Cox's testimony and it would be by heating degree days.

CHAIRMAN CLAYTON: And how do heating degree days compare among the districts?

MR. SOLT: I don't have that in front of me. I mean, it's in Ms. Cox's testimony.

CHAIRMAN CLAYTON: Okay. Does anyone know that offhand?

JUDGE STEARLEY: And as different witnesses come forward, if you'd please identify yourself for our court reporter.

MR. WARREN: My name is Henry Warren, W-A-R-R-E-N. And I worked with Ms. Cox on the -- with the normalization. I don't have precise numbers, but up in the Kirksville area, I think the heating degree days are --

CHAIRMAN CLAYTON: Mr. Warren, can I stop you right there?

MR. WARREN: Yes.

CHAIRMAN CLAYTON: Before you just do Kirksville, do you have -- I just want to break them out with region, since we don't have a separate Kirksville --

MR. WARREN: I guess I should be more specific, for the old northeast region, we use the weather state at Kirksville for the whole region.

CHAIRMAN CLAYTON: Okay.

MR. WARREN: And so I believe it's in the neighborhood of probably around 5,500 heating degree days. And --

CHAIRMAN CLAYTON: 5,500 heating degree days?

MR. WARREN: For a year, yes, sir.

CHAIRMAN CLAYTON: I'm going to need you to explain that. I didn't expect that number.

MR. WARREN: Okay. And then in the southeast region, my best recollection is that it would be -- it would probably be closer to maybe 4,000 or a little over 4,000. So there's -- there's quite a gradient between southeast Missouri and northeast Missouri.

CHAIRMAN CLAYTON: How about the west?

MR. WARREN: Let's see, the west, we would use Kansas city for that, and I think that would be in the neighborhood of 5,000 heating degree days a year. Slightly less than that, but approximately.

CHAIRMAN CLAYTON: Okay. Now, can you explain the concept of heating degree days on an annual basis? How can you have 5,500 heating degree days in a year?

MR. WARREN: Okay. The -- for each day of the year, the average temperature is calculated using the maximum and minimum temperature. And that's a shorthand way of doing it, of course, but that's the prescribed way of doing it. And if the average -- you have no heating degree days if the average temperature is 65 degrees Fahrenheit or above. And if you had an average temperature of -- of 55, you would have ten heating degree days for that day.

And so in -- let's say a day in January, if the average temperature was 25, you would have 40 heating degree days for that day. And that's a major of the -- of, you know, what would be required. So that's an indication of what would be required to -- to, you know, raise the -- the temperature, you know, from 25 degree -- the energy needed to measure the raising it from, let's say, 25 degrees up to 65 degrees.

CHAIRMAN CLAYTON: Okay.

MR. WARREN: So you can --

CHAIRMAN CLAYTON: Let me ask you this question: Do you know the average annual usage for residential customers for each district?

MR. WARREN: Yes, I do. This is calculated using the parameters in the rate case that develop by -- developed by Ms. Cox. And the -- for the west, it's approximately 755 CCF. And one thing I might point out is that the -- the company filed its information in MCFs and we normally do our calculation in just CFs, and I believe that's where some of the decimal point --

CHAIRMAN CLAYTON: That makes sense. I get that. I was looking at one form, and I think Mr. Berlin was looking at a different page.

MR. WARREN: We just --

CHAIRMAN CLAYTON: One decimal place is what we're talking between MCF and CF?

MR. WARREN: Yes, sir.

CHAIRMAN CLAYTON: What kind of residential average do you have for SEMO?

MR. WARREN: 627.

CHAIRMAN CLAYTON: And What do you have for the northeast region?

MR. WARREN: 786.

CHAIRMAN CLAYTON: Okay. You may not have this information. I don't know if anyone does. Is there any way that you could give me a comparison of what the PGA rate is among the three districts? I suppose today or --

MR. CHRISTIAN: Like a current August PGA?

CHAIRMAN CLAYTON: Yeah, I just need a point-in-time comparison. I guess today is as good as any.

MR. CHRISTIAN: The MCF -- NMCF, I have 3.48 for northeast, 3.99 for southeast, and 4.54 for western.

CHAIRMAN CLAYTON: Okay. So if we were to do CCF, which way do we move the decimal point?

MR. CHRISTIAN: (Indicating).

CHAIRMAN CLAYTON: For the record, he pointed to the left. So it would be .45 -- no -- yes, .45 CCF?

MR. CHRISTIAN: Yes.

CHAIRMAN CLAYTON: Okay. Thanks. Point in a direction. Okay. I think you can run. Get out of here. I think I'm finished talking about rate design issues. All right. At least I'm done with the cost of service.

Right now, we have one gas utility, MGE has 100 percent and in a fixed delivery charge. Atmos did have is hundred percent. It will move to 75 percent and 25 division. And then what is Laclede's? Is it 55/45?

MS. MEISENHEIMER: I'd say somewhere between 55 and 60 percent in the customer charge and then they have some other things going on that get them a little more.

CHAIRMAN CLAYTON: So all three are doing completely different rate design?

MS. MEISENHEIMER: Yes. We're trying a number of different rate designs in the state.

CHAIRMAN CLAYTON: When you say you're "trying" them, are you trying them out to look for certain results, certain impacts? Can you elaborate on that when you say we are "trying" them?

MS. MEISENHEIMER: From my perspective, I think that in a relatively short time, we went -- we made some drastic changes in the rate designs for certain companies. And so I view this as an experiment in seeing whether those rate destains that satisfy the interests of the company -- the companies in terms of protecting them from some weather-related risks really pan out in terms of providing offsets, better conservation efforts, and other interests that the Commission has pursued, such as providing experimental low income programs. So I view it as an experiment and it seems reasonable to me that we not move immediately from one structure for all to a different structure for all.

CHAIRMAN CLAYTON: Okay. Getting back -- okay. I'm going to move on from rate design.
On Paragraph 12, it gets into energy conservation and efficiency programs. In the last case, there was a percentage of non-gas revenue set aside for energy efficiency programs. I think that was the first time the Commission set up a collaborative effort to address energy efficiency conservation, maybe low-income weatherization programs.

I was a little confused in reading through this and I just need some clarification, so I guess I will start with Mr. Dority and anyone can chime in if they would like. That amount was $160,000 that was set aside, and I thought that was a percentage based on non-gas costs. This stipulation will move towards a .5 percent of something and then there's several numbers that are thrown out there. I'm specifically comparing non-gas costs, total costs including gas costs, what exactly are we working toward and in say three-year's time, what is the dollar amount on an annual basis for these programs?

MR. DORITY: Mr. Chairman, you're correct. We are moving away from a requirement that the shareholders would contribute one percent of non-gas revenues that was tied in the 2006 case to the test year amount and we have on each succeeding year, we have contributed one percent of those revenues. We are moving towards a target, if you will.

And as I understand it and having reviewed the recent MGE and Empire orders and it's been primarily advocated by the Department of Natural Resources, that we reach a target level at the end of the three-year period of .5 percent, one-half of a percent, of our total revenues, including gas. And for Atmos, we have decided to use and the stipulation reflects a three-year average based upon the total gas revenues that will be appearing in our annual report that we filed with the Commission.

CHAIRMAN CLAYTON: Okay.

MR. DORITY: And we are projecting that amount to be around 280,000 to $300,000 on an annual basis.

CHAIRMAN CLAYTON: Okay. So we're doing a couple things here. First of all, we're moving a certain amount of dollars into rates for energy efficiency programs. Let's be clear about that.

MR. DORITY: That's correct.

CHAIRMAN CLAYTON: So shareholders have made that contribution in the past, we are now moving towards an initial investment by ratepayers in energy efficiency programs. Roughly the same amount of money, $150,000. But the program will work towards funding .5 percent, which that .5 percent is the 210,000 figure?

MR. DORITY: No, sir, that's our starting point for this next year's program.

CHAIRMAN CLAYTON: And what is the .5 percent?

MR. DORITY: The .5 percent we're projecting to be around 280 to $300,000.

CHAIRMAN CLAYTON: Okay. So, now, in this, 150 will go into rates and then the additional dollars that are spent will be placed in the regulatory asset and they'll carry interest at the short-term interest rate until the next case. So is there a mandate in this that 150,000 will be spent? I'm assuming there is not a mandate for the 280 to 300. That's kind of a goal. In past cases, we've kind of had this soft goal out here with go out and do your best. But are we mandating the 150 since we're including it in rates?

MR. MARTIN: Mr. Chairman, there is no mandate; however, if the company does not spend the $150, that residual balance, or the delta, would then go as a credit to the regulatory asset account.

CHAIRMAN CLAYTON: Okay. Okay.

MR. DORITY: And I might also mention, Mr. Chairman, that the stipulation reflects the unspent funds in the existing rebate and education components will be shown as a liability to that regulatory asset account.

CHAIRMAN CLAYTON: How much are those unspent funds?

MR. DORITY: I think it totals around 128,000 total.

CHAIRMAN CLAYTON: Is there -- does the stipulation contemplate this concept? In past cases, we have -- the Commission has asked for any disputes, as the advisory group or the collaborative as it works for it, any disputes or problems to be brought before the Commission. Assuming this case concludes and you go six months out and a dispute arises, do the parties contemplate that disputes within the advisory group can be T'd up for discussion by the Commission?

MR. DORITY: Yes, sir. If you will look at the bottom of Page 6of the stipulation, if the E-Advisory Group is unable to reach agreement upon an issue related to the program, except for that target level amount, any member may petition the Commission for further action or guidance.

CHAIRMAN CLAYTON: Okay. Does anyone else have any comment on that? That provision? Okay. Subparagraph T, current program components, there are several pieces to this including a residential low-income weatherization program, as well as a high efficiency natural gas water heating and space heating rebate and customer education program. Just looking through this, is the low-income weatherization assistance program, how many years has it been in existence?

MR. DORITY: Three.

CHAIRMAN CLAYTON: And can the parties give me feedback on whether it's worked, not worked, problems, highlights, anything like that? Anyone?

MR. DORITY: I can provide some numbers, if you will, that may speak for themselves.

CHAIRMAN CLAYTON: Sure, sure.

MR. DORITY: Over the three-year period, $302,410 was allocated for weatherization. And based on the latest information we have received from EIERA, it appears that there were approximately 136 homes weatherized. I'm not sure that I have the actual amount of funding remaining at this point in time. From Atmos' perspective, each September 1, we write a check to EIERA for the designated amounts and those funds are deposited in their funding along -- aggregated with the other programs, other various utilities and they do provide us a quarterly statement that outlines the number of homes, which agencies have been involved and so forth.

CHAIRMAN CLAYTON: Has anyone gone into one of those -- any of those 136 homes and conducted an analysis or provided information to those customers that would demonstrate reduced usage or demonstrated value in weatherization? Do you have any feedback on that idea?

Where you go and you have annual usage of 800 CCF and make the investments and it drops to 600 or something? Any feedback?

MR. DORITY: We do not have that information. And in fact, that's an issue that we have been discussing with DNR in terms of the confidentiality of information. I think we can work through that issue. Perhaps Mr. Buchanan might have a better sense as to whether those types of analysis have actually been conducted.

CHAIRMAN CLAYTON: Sure. Any feedback or comment on that?

MR. BUCHANAN: Good morning. My name is John Buchanan, B-U-C-H-A-N-A-N. I'm here representing the Missouri Department of Natural Resources, Division of Energy.

Mr. Chairman, the question you raised is one that we've been working through of late to determine the actual savings, the impacts of these investments with the -- not only the company's investment in low-income weatherization but also the overall impact of low-income weatherization funds which have been provided to the state since 1978.

At this point, there is an issue of privacy with regard to customers with a company. We're trying to work through that right now so that we can get aggregate data in order to crunch those numbers, if you would, to see exactly what they say. However, if I may be able to bring to your attention the fact that under the normal weatherization protocol, an evaluation is done before any investment is made in a low-income household and that is made through what's called an SIR, the savings-to-investment ratio.

So through a series of physical onsite examinations by a qualified energy auditor, which is typically employed by a local community action agency, they would go in and perform an exhaustive evaluation on the structure of the home, behavioral traits and so forth. That information would then be submitted through a methodology to calculate whether or not there would at least be a one-to-one SIR. If anything below that would appear, they would go in and look deeper to make certain that our math was correct, number one, but to make certain that we aren't unintentionally preventing customers within that low income group from participating in the program.

There could be residual issues, for example, where a facility, a structure may need to have some retrofitting completed. There may be some issues with a roof, there may be issues with windows, walls, as you know, doors and so forth that, we would take into consideration. So yes, we are moving toward doing that evaluation.

CHAIRMAN CLAYTON: I completely get that. I guess what I'm trying to get at in terms of analysis is you have the audit where you go in, you conduct an audit on the house, you find where the savings-to-investment ratio, the SIR, whatever, where you're going to get the best bang for the buck. So the dollars are spent. My question is the follow-up after the fact in monitoring the energy usage or I guess addressing these privacy concerns and assessing, then, the investment is bringing that return and communicating that return, you know, through a reduced usage to the customer. So you have that component of education as well as the overall reduce to main.

MR. BUCHANAN: Yes, we do. I can't speak authoritatively to the weatherization program because I don't know the -- the exact steps that the weatherization program goes through. That's managed by a separate operation within our division. But I can tell you that, yes, we do have -- I can confirm that we do have personnel that goes into these sites to look at the work that has been done to make sure that it has been done correctly and safely as well because it isn't just energy efficiency we're looking for. We're looking at improving of lifestyle, making sure that we are pursuing and assuring that those investments result in a benefit safety-wise as well as with regard to energy efficiency. I can tell you that it isn't done on each and every household, but it is definitely done on a percentage basis and is also a component of receiving our ARRA funds as well. We are mandated to do that as well.

CHAIRMAN CLAYTON: That's my next question: Can you give me a dollar amount of ARRA funding that is within the Atmos territory?

MR. BUCHANAN: No, I cannot.

CHAIRMAN CLAYTON: Or for energy efficiency weatherization programs?

MR. BUCHANAN: No, I cannot.

CHAIRMAN CLAYTON: Is that something you can provide to us?

MR. BUCHANAN: Yes.

CHAIRMAN CLAYTON: Or it may be in testimony somewhere, or if someone can highlight.

MR. BUCHANAN: We may be able to pull that together. I don't know how detailed that information has been broken down by the Department.

CHAIRMAN CLAYTON: Well, doesn't it need to be broken down in detail to know how to coordinate that money with this money and your programs with their programs?

MR. BUCHANAN: It does to some extent. With regard to the amount of money that's allocated to each agency, and you may have multiple service areas --

CHAIRMAN CLAYTON: But focusing on DNR.

MR. BUCHANAN: Yes.

CHAIRMAN CLAYTON: How do you-all -- because this issue came up with I think Empire Gas case, there was confusion about federal dollars that were going into that area and what kind of funding levels are we going to do. And I hope there is coordination between the company and DNR in the expenditure of those funds.

MR. BUCHANAN: Absolutely.

CHAIRMAN CLAYTON: Do they complement each other, do they go to the same thing, do they do different things, are they different projects? Can you give me any feedback on that?

MR. BUCHANAN: Yes. As a matter of fact, we do coordinate these funds due to the fact that the community action agencies that receive weatherization funds from not only the State of Missouri, prior to the receipt of the ARRA funds, we were receiving straight federal allocations, if you would. Now we are receiving the ARRA funds, but the community action agencies also receive funds for low-income weatherization investments from other sources. So there's often a co-mingling of funds in order to complete a household.

So assuming for a moment that we have an average expenditure pre-ARRA at approximately $3,500, that entire $3,500 would not be coming from the company, as an example. What the local agency would do is determine how to best leverage funds from the federal government which comes through the State of Missouri and award as a grant to the community action agency and then coupling that from funds with other sources, including the company.

So the company would have -- it wouldn't be a pure investment from them at 3,500. They would be picking up a portion of it. So it helps us maximize the number of units that we can, in fact, weatherize over this course of time. In this case, three years previous with the company's last rate case, going forward another three years.

CHAIRMAN CLAYTON: Okay. I don't think I have any more questions for DNR. Thank you.

MR. BUCHANAN: Thank you.

CHAIRMAN CLAYTON: I want to ask -- I don't think I have any questions about the high efficiency natural gas water heating, space heating and customer education piece of it. I do want to ask about: Are there any specific programs -- I don't see them in the stipulation that address low-income affordability issues in general. We've had some past cases where there have been specific references aside from weatherization that look at setting aside funds that will address disconnections, that will address working on affordability, rate design modifications. I didn't see anything in the stip that address that. Does anyone have any feedback?

MS. MEISENHEIMER: I do.

CHAIRMAN CLAYTON: Ms. Meisenheimer?

MS. MEISENHEIMER: This company has a far smaller level of operating revenue than some of the other companies that we have more extensive low income programs for. And so for our purposes, we were satisfied in this case to have the company expand on their current program that allows voluntary contributions by customers so that customers can choose whether they donate their money to these efforts and also the company's agreed to provide matching funds for money raised from customers on a voluntary basis.

CHAIRMAN CLAYTON: How would that differ from, say, the stipulation in the Laclede case in terms of low income -- there was a specific low income program. Atmos has a voluntary program with a company match, I think. How does the Laclede stip compare in terms -- in comparing what you just mentioned in that program and their program for low income customers?

MS. MEISENHEIMER: The Laclede program is certainly more extensive and includes more components. And I would say because it includes more components, parts of it are -- are more structured. The Laclede does have a voluntary program with a contribution and I believe there's some matching to that as well, but they have an additional component of their low income programs which provides bill discounts, provides arrears reduction incentives, and provides requirements for weatherization applications.

CHAIRMAN CLAYTON: So to simplify that, the Atmos program is basically a customer voluntary contribution with a company match and it doesn't have the structure, perhaps, of some of the more pilot program type concepts that are used in Laclede setting out specific discount programs, arrearage reduction programs, maybe specific items that relate to the cold weather rule. Is that -- is that an accurate way to simplify that?

MS. MEISENHEIMER: Yes. And again, one of the reasons that we're supportive of that is due to the significantly lower operating revenues of Atmos compared to Laclede. And the cost efficiency of an experimental program, we feel the cost efficiency is significantly higher for Laclede versus small Atmos. Atmos may be large across the country, but in Missouri, they're much smaller.

CHAIRMAN CLAYTON: Okay. How does Atmos compare with the other large LDCs as it relates to cold weather rule, eligible customers, low income customers, deficiencies. From Public Counsel's perspective, how doe their uncollectibles compare, customer with challenges, how do those compare among companies?

MS. MEISENHEIMER: I haven't done a specific study of what are the differences and the characteristics of the customer base, if that's what you're inquiring about.

CHAIRMAN CLAYTON: Are uncollectibles or bad debt, does it run about the same among the three LDCs? Does Atmos have a different character of its customer where maybe they have more low income people or less compared to Laclede on a percentage basis? I'm just trying to get a sense of the demographics of customers paying or not paying their bills or people struggling to pay their bills. Are there any characteristics that would suggest Atmos is any different than any other LDC is all I'm asking.

MS. MEISENHEIMER: No.

CHAIRMAN CLAYTON: Recognizing that the total numbers are smaller, looking at just by percentage basis.

MS. MEISENHEIMER: I haven't done anything that demonstrates that Atmos is significantly different if you broke it down on a discreet basis like by county or something.

CHAIRMAN CLAYTON: I guess an example I'll throw out and maybe Atmos can chime in. But for example, the southeast region, in the northeast, we tend to think the southeast is balmy down there. It's warmer in temperature, generally. Perhaps they don't get as much snow, but do they still have the same challenges of people not being able to pay their bills when it does get colder, or do they have a lower disconnect rate or is there a higher disconnect rate in northeast? I'm not trying to single out southeast. Are there any differences among this utility compared to other utility?

MS. MEISENHEIMER: I can't identify any specific differences on a company-wide basis in terms of geographic areas. I have recently reviewed information that indicates the St. Louis area was particularly hard hit by unemployment. I'm not suggesting that certain counties in Missouri served by Atmos weren't also especially hard hit, but just in general, the St. Louis area was above average in terms of the state and in terms of the nation.

CHAIRMAN CLAYTON: If Atmos wants to respond at all, they can, but don't feel compelled. Is there anything you want to add?

MR. MARTIN: No, sir.

CHAIRMAN CLAYTON: Then just very quickly, I want to ask a couple questions of Staff and OPC. What was Staff's direct testimony revenue requirement that it was requesting?

MR. BERLIN: Just a minute, please. Chairman Clayton, after -- I think we were about slightly over 5 million after making certain corrections.

CHAIRMAN CLAYTON: Well, this settlement is slightly over -- is the settlement higher than -- so the settlement is 5.6 less 1 million, for a net of 4.6 million. So Staff would have been maybe roughly a net of 4 million increase.

MR. BERLIN: That would have been at the middle point.

CHAIRMAN CLAYTON: Did Public Counsel have a revenue?

MS. MEISENHEIMER: We didn't have a separate revenue requirement recommendation from the Staff. We only went through direct testimony.

CHAIRMAN CLAYTON: Relating to customer service, does Staff or Public Counsel have any specific concerns or are they satisfied with the level of customer service provided to the customers of Atmos?

MR. BERLIN: Staff is satisfied with Atmos' efforts in customer service.

MS. MEISENHEIMER: One of the elements of the stipulation allows for general service customers who believe that they could qualify for a different meter size under this new rate design or this new split between SGS and MGS. One of our concerns was whether customers would have the ability to request that their usage be reviewed to see whether they could be switched and to ensure that the customer, if they were switched, wouldn't bear costs associated with that and we've tied that up in the stipulation with an element that the company agreed that the customer would not be required to pay for a change if they qualified.

CHAIRMAN CLAYTON: Thank you all very much for your patience.

JUDGE STEARLEY: All right. Thank you, Mr. Chairman. Any other questions from the bench.

COMMISSIONER DAVIS: I just have, I think, two questions. Ms. Meisenheimer, you're -- and I'm just wanting to infer here because I've read the stip. So you're okay with the -- the energy officially -- I'm sorry, the energy efficiency collaborative operating as an advisory rather than a consensus group? I'm just confirming that that's in the stip and that's one of the terms that you guys signed off on.

MS. MEISENHEIMER: It is in the stip. Would you like me to elaborate on why?

COMMISSIONER DAVIS: Sure. I just don't want to delve into your super secret black box negotiation.

MS. MEISENHEIMER: And we appreciate that. Public Counsel, I believe you've heard from Ryan Kind who's testified in the past. The Public Counsel's resources are limited and that in participating in numerous collaboratives is bearing a toll on our office in terms of resources.

So in part, although our preference would likely be to participate as a voting member on every issue, given our limited resources and the total package of settlement that we got in this case, we have agreed to that as an element of this stipulation.

COMMISSIONER DAVIS: All right. And then my -

- my last question, and I'm sure there is a logical explanation and it's probably more because I'm mathematically challenged. I was -- I just picked out the rates for the -- for the SEMO division for the -- for the fixed monthly charge. And when I was trying to back into it using the revenue numbers that were provided, everything, I came up with 73.5 percent roughly instead of 75, but you're assuring me that -- it is a 75/25 split.

MR. BERLIN: Correct, Commissioner Davis.

COMMISSIONER DAVIS: All right. Well, I'll have to go back and study and figure out where I lost my other one and a half percent. But I won't trouble you with it any more today. Thank you.

JUDGE STEARLEY: Commissioner Jarrett.

COMMISSIONER JARRETT: Thank you, Judge. My questions related to energy efficiency and I think the discussions the parties had with Chairman Clayton have answered all my questions on that. So thank you.

JUDGE STEARLEY: Commissioner Kenney.

COMMISSIONER KENNEY: I just have a few. Okay. I have a few remaining questions about energy efficiency, but before I get to that, I'm just curious on Paragraph Number 7, special contracts, and without getting into the specifics of the special contracts with Noranda and General Mills, why was it determined that that would not --

that income would not be -- those revenues would not be imputed in this case?

MS. ILES: I'm Carole Iles here on behalf of Noranda and our witness is Don Johnstone and I think he can.

COMMISSIONER KENNEY: Okay.

MR. JOHNSTONE: We have a cost study which demonstrates that the cost to serve Noranda is actually less than what's being charged under the special contract, so for at least from Noranda's points of view, there's no reason to impute revenues when we're already paying more than the fairly allocated costs.

COMMISSIONER KENNEY: And I guess the answer would be the same for General Mills? Ms. Meisenheimer, please.

MS. MEISENHEIMER: Well, we may not agree with the cost study that was referenced. Imputing revenue typically provides the company with a lower revenue requirement.

COMMISSIONER KENNEY: Uh-huh.

MS. MEISENHEIMER: And in this instance, the special contracts are in effect. They have been for awhile. And in this case, actually, we're going to extend those special contracts to where we align the termination of special contracts with the next rate proceeding. So that's a benefit. But this is an element of a total settlement package.

COMMISSIONER KENNEY: Sure.

MS. MEISENHEIMER: And in some settlements we do, and I mean, I'm not sure that we needed for purposes of this settlement to make that explicit for any reason. It's still a black box settlement.

COMMISSIONER KENNEY: Is the special contract, the amount, is that an HC item?

MR. DORITY: Yes.

COMMISSIONER KENNEY: I imagine it is. So can you tell me what it would have done to the revenue requirement by imputing that revenue without getting into the HC aspects of it? You can't do it or you can't do it without getting into the HC aspects of it?

MR. CHRISTIAN: I'm just recalling from the last case, in the imputation is between -- we do count the revenue we're bringing in off the contracts, of course the setting of rates. It's just the amputation is the difference in the discount and the full margin is what we're saying we will not impute and that difference between the two contracts and full margin is HC.

COMMISSIONER KENNEY: All right. Okay. Do you want to say something else?

MR. CHRISTIAN: No.

MR. BERLIN: Commissioner Kenney, I'll just say for Staff, Staff did not make any.

MS. MEISENHEIMER: And I'd agree that we are including the revenue that was actually paid by special contracts but we're not imputing the value of the discount below the tariff rates.

COMMISSIONER KENNEY: Okay. All right. Now we go to my questions about the energy efficiency collaborative. And this is -- the last line of Paragraph 6 -- or on Page 6, rather, that allows the advisory group and any member of the advisory group to petition the Commission for further direction except for matters related to the recommended target level. So does that exception include any concerns that a party might have about the efforts that are being made towards reaching the recommended target level? Does that make sense? I mean --

MR. DORITY: I think I understand your question.

COMMISSIONER KENNEY: Because I think there is a reading of this that would arguably prevent a member of the collaborative from petitioning the Commission about efforts being made towards reaching the recommended target level.

MR. DORITY: That's an excellent question, Commissioner.

COMMISSIONER KENNEY: Thank you.

MR. DORITY: And it's my understanding that

that was not contemplated in terms of excepting out what a member could bring to the Commission. If there was a concern about the efforts being extended towards reaching that goal, that is something that could be done.

COMMISSIONER KENNEY: Go ahead, I'm sorry.

MR. DORITY: The DNR wanted this language in so that it would simply be an explicit statement that that target level and reaching that target level is not something that's subject to negotiation.

COMMISSIONER KENNEY: So the only exception is the .5 percent.

MR. DORITY: That's correct.

COMMISSIONER KENNEY: That's not subject to determination. But everything else can still be brought to the Commission?

MR. DORITY: I'll let DNR speak for themselves.

MS. WOODS: That's correct.

COMMISSIONER KENNEY: And then on Page 7, with the rebates on high efficiency natural gas issues, there is a current level of unspent funds, some amount for education. What exactly does customer education consist of? How are customers being made aware of what's available to them?

MR. MARTIN: Commissioner Kenney, that's a great question. Currently, the program has been targeting fourth and fifth grade aged students and I believe we will look to expand that to more of an adult audience as we go forward to try to help those consumers better understand how they can make conservation efforts. But currently, it's been focused on school-aged children.

COMMISSIONER KENNEY: So the education is targeted towards teaching a certain target audience of school-aged children how to be energy efficient and how to conserve?

MR. MARTIN: Yes.

COMMISSIONER KENNEY: Is there a separate component that consists of educating your customers about what programs are available to them?

MR. MARTIN: Yes.

COMMISSIONER KENNEY: Is there a marketing campaign of some sort?

MR. MARTIN: There's the bill inserts as well as working with our local HVAC dealers as well and also the company's web site.

COMMISSIONER KENNEY: And how does -- what's Public Counsel's opinion with the efficacy of those efforts?

MS. MEISENHEIMER: Those efforts are a continuation of what was agreed to in the previous case. We certainly look forward to expanded education efforts. We thought the program that the company was going into schools and providing presentations as a part of the fourth and fifth grade program was a benefit and so I guess we're supportive of this.

COMMISSIONER KENNEY: Okay. Just a couple more questions about the collaborative which is being renamed an advisory group. Am I correct in understanding that OPC acquiesces or agrees to the advisory nature solely because of a lack of funds?

MS. MEISENHEIMER: Well --

COMMISSIONER KENNEY: Or put it another way, if you had funding enough to have staff and participate fully, you would not have agreed to change it from a consensus to an advisory?

MS. MEISENHEIMER: I don't know that I can be that specific because this is a total package where we got some things that we wanted and gave up some things that we wanted. But in general, our position would be that we believe it should be -- that the parties should be voting members. However, that's becoming more of a strain so the budget is probably the primary reason for that for our office.

COMMISSIONER KENNEY: Okay. All right. And then this is a minor. The state Environmental Improvement and Energy Resource Authority, the EIERA, it's -- this is just a drafting issue on Page 7, Paragraph (d)(i). It's set forth and then there's the parenthetical with the quotes explaining the abbreviation, and then on Page 5, the abbreviation is set out without setting out the full name. So it's just a drafting issue. Because it wasn't clear until I got over to Page 7 what EIERA stands for. And that's all the questions I have. Thanks for your time.

JUDGE STEARLEY: Mr. Chairman.

CHAIRMAN CLAYTON: I have one just single question. There's a footnote in the -- in the unanimous stip and agreement that refers to the prior case, the appeal, the remand, and the consolidation of the '06 case with this case. I think I know the answer to this, is -- I didn't see anything specific in the stip that actually addresses those issues. I guess the question is: Is it just contemplated in the totality of the agreement or is there anything that I should specifically refer to?

MS. BAKER: On Page 8, under Number 14, contingent waiver of rights, the stipulation is being entered into solely for the purpose of settling the issues in File Number GR-2010-0192 and the consolidated File Number GR-2006-0387, if that is your question of whether this is a stipulation for both of those cases.

CHAIRMAN CLAYTON: This stipulation resolves the '06 case as well. It's not like we're going to have to bifurcate the cases and address. So that piece of the case is gone.

MR. DORITY: That is correct.

CHAIRMAN CLAYTON: But there's no specific reference or provision that addresses Public Counsel's issues from the last case and how the rate design was done. There's no refunds or any -- I mean, I'm assuming that's all contemplated in the 75/25 and how you've come up with the total agreement.

MS. BAKER: Yes, that's correct.

CHAIRMAN CLAYTON: That's all I got.

COMMISSIONER KENNEY: I neglected a question. Paragraph 13 refers to a continuation of the bill checkoff program and that beginning with the effective date there will be a new component with the shareholder match. Is there a plan to publicize that specific component? Because I think that's significant and it may have some effect on people's desire to participate knowing that there's going to a match. Is there some effort that will publicize that additional component?

MR. MARTIN: We currently do promote the customer's voluntary contribution and we can tweak that to include the company match as well. We'd be glad to do that.

COMMISSIONER KENNEY: Okay. That's it. Thank you very much.

JUDGE STEARLEY: Any other questions from the bench? I did want to note for the record that Commissioner Gunn has been participating remotely, though he's not sitting on the bench today and he had e-mailed me several questions but he has found those all to be answered due to the extensive questions today. So I think that concludes the questions.

Now, we did have a number of witnesses provide some testimony and I did want to inquire, were any of the parties wanting to cross-examine any of those witnesses for any purpose?

MR. DORITY: No, thank you, Judge.

MS. BAKER: No, your Honor.

MR. BERLIN: No, your Honor.

MS. ILES: No, your Honor.

JUDGE STEARLEY: Cross will be waived, then. Does any party want to make any type of a closing statement?

MR. DORITY: Not necessarily a closing, I just would request as the stipulation reflects that to the extent it can, the Commission act expeditiously in this matter. I would point out that we spent a tremendous amount of time preparing the specimen tariffs that are attached to the stipulation. So to the extent that an Order is issued regarding those filing of new tariffs, I don't think it will require much review in terms of making sure that they conform to the stipulation and agreement.

JUDGE STEARLEY: And Mr. Dority, I don't believe the agenda has been posted yet for tomorrow, but we have reserved a slot on tomorrow's agenda to take this up.

MR. DORITY: Thank you. We appreciate that very much. Judge, there was just from a technical standpoint in terms of receiving the testimony into the record, which the stipulation contemplates, I noted that in the Laclede case, there was a motion filed by the parties that those filings be accepted from EFIS as opposed to filing written copies on paper with the court reporter. To the extent we need to make a similar request, I would do so.

JUDGE STEARLEY: Very good. And depending on how the Commission addresses the stip today, a list of those exhibits can be made and numbered and it can just be accepted electronically without additional paper filings.

MR. DORITY: Thank you, Judge.

JUDGE STEARLEY: Any other additional matters we need to take up? Well, hearing none, the stipulation hearing in GR-2010-0192 has been hereby adjourned. Thank you all very much.

CERTIFICATE OF REPORTER

I, JENNIFER L. LEIBACH, Registered Professional Reporter, Certified Court Reporter, CCR #1780, and Certified Shorthand Reporter, CSR #084-004623 (IL), and Certified Realtime Reporter, the officer before whom the foregoing hearing was taken, do hereby certify that the witnesses whose testimony appears in the foregoing transcript was duly sworn; that the testimony of said witnesses were taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Jennifer L. Leibach