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12 In the Matter of Missouri)
Gas Energy's Tariffs)
13 Increasing Rates for Gas)
Service Provided to) Case No. GR-2006-0422
14 Customers in the Company's)
Missouri Service)

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17 SENIOR REGULATORY LAW JUDGE
JEFF DAVIS, Chairman,
18 CONNIE MURRAY,
STEVEN GAW,
19 ROBERT M. CLAYTON, III,
LINWARD "LIN" APPLING,
20 COMMISSIONERS.

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

2 JUDGE JONES: Okay. Let's go ahead and
3 go on the record. This is Case Number GR-2006-0422
4 and we're continuing from our hearing that began
5 yesterday, today. First issue is the rate design.
6 And MGE, I see you have three witnesses. I heard
7 some talking earlier that Mr. Thompson had to be put
8 on. Do you-all want to put him on first?

9 MR. BOUDREAU: Well, what I thought I
10 might do is -- I have three witnesses and I thought
11 what I might do is put Mr. Amen on first. We had
12 discussed him yesterday in terms of whether or not
13 there were any questions but --

14 JUDGE JONES: That's fine with me.

15 MR. BOUDREAU: We can go ahead and take
16 care of that, and then what I thought I'd do is take
17 Mr. Thompson's after that because of his availability
18 issue, and then move on to Mr. Feingold.

19 JUDGE JONES: Okay. Is everyone else
20 okay with that change of order?

21 (NO RESPONSE.)

22 JUDGE JONES: All right, then, let's
23 call your first witness.

24 MR. BOUDREAU: Are we going to have an
25 opportunity to make an issue opening statement?

1 JUDGE JONES: Oh, sure, go right ahead.

2 MR. BOUDREAU: May it please the
3 Commission. As explained by company witness Robert
4 Hack yesterday, MGE's continued inability to earn its
5 Commission-authorized rate of return is the reason
6 this case was filed. This is caused in material part
7 by chronic volumetric revenue shortfalls caused by
8 declining customer usage and actual weather being
9 warmer than the Commission determined normal, assumed
10 as part of the rate-setting process.

11 As such, rate design is a crucial issue
12 in this case as it was in MGE's last rate case. The
13 Commission's reluctance in Case Number GR-2004-0209
14 to move away from combined -- a combination of fixed
15 and volumetric rate components to recover fixed
16 delivery costs has had the predictable result of
17 extending the company's earnings deficiencies, and
18 consequently, is a principal driver in this case.

19 The company has proposed two alternative
20 rate design proposals, the primary of which will
21 leave MGE financially indifferent to the levels of
22 throughput for the residential service and small
23 general service classes of customers.

24 The company's principal recommendation
25 is a straight fixed variable rate design for the

1 residential class which establishes a basic service
2 charge and eliminates the volumetric rate. As such,
3 the company's fixed cost of natural gas delivery
4 service will be recovered in a single fixed monthly
5 charge.

6 The foundation for this approach is a
7 class cost of service study undertaken for the
8 company by Ronald Amen of Navigate Consulting. The
9 straight fixed rate design -- the straight fixed
10 variable rate design has a number of benefits for MGE
11 and its customers.

12 First, customers do not overpay or
13 underpay each month. Bills should increase for the
14 average customer in the summer and shoulder months
15 when the bills are at their lowest and will decrease
16 or moderate bills in the winter months when bills are
17 at their highest level.

18 It eliminates -- the second, it
19 eliminates intraclass cross-subsidies as between
20 small and large residential customers. Currently,
21 customers with low usage pay less than half their
22 allocated delivery costs, while very high users pay
23 well over 100 percent. The situation is not fair or
24 equitable.

25 Also, moving away from the volumetric

1 rate components of existing rates should benefit
2 low-income customers who, as MGE's evidence will
3 show, are higher than average users of natural gas.
4 This will eliminate a structural disadvantage to
5 low-income users inherent in the traditional
6 combined, fixed and volumetric rate structure.

7 Additionally, this proposal will foster
8 bill -- bill stability and simplicity. As noted, the
9 straight fixed variable rate design will moderate
10 seasonable -- seasonal bill variability which is a
11 policy, I think that's implicitly validated by the
12 Commission's approval of the company's level pay
13 options, and it will reduce a bill to essentially two
14 principal components, the fixed basic service charge
15 and the true commodity charge as a function of the
16 PGA mechanism.

17 This should make it easier for customers
18 to understand the true full cost of service for
19 delivery and commodity elements of the service. No
20 one disputes this in this case. It should also
21 result in fewer billing complaints because it reduces
22 the number of bill elements.

23 It occurs to me that a number of the
24 written comments filed by MGE's customers by Public
25 Counsel last Friday illustrates the point that a lot

1 of the confusion -- there was a lot of confusion
2 about bills and what portion of the bill's gonna be
3 increased in this case, and I think that there's some
4 value, there's some substantial value in simplicity
5 of billing so the customers understand the bill
6 process and the ratemaking process.

7 Also, this proposal will properly
8 match revenues with costs as shown by the class cost
9 of service study sponsored by MGE. It should reduce
10 the frequency of rate cases. MGE has filed five rate
11 cases since March of 1996, or on average, every two
12 years for the last ten years.

13 Alternatively, MGE has proposed a rate
14 structure that would include a weather normalization
15 adjustment for the residential class -- or
16 residential service class. This would involve a
17 \$15.50 per month customer charge, and a delivery
18 charge that includes a weather normalization
19 adjustment, a feature expressly authorized by the
20 Missouri General Assembly in Senate Bill 179.

21 This is a rather involved proposal but
22 generally, this alternative rate design would provide
23 for monthly bill adjustments from October through May
24 of each year, and as explained by company witness
25 Russell Feingold, this proposal has a number of

1 benefits for MGE, its customers and the Commission.

2 Public Counsel originally suggested that
3 the entire increase in this case authorized by the
4 Commission be placed on the volumetric element of
5 MGE's current two-part rate structure. It has since
6 modified its position, I believe, to maintain the
7 existing proportion of fixed versus volumetric rate
8 revenue of 55/45, respectively.

9 This concession, to put it charitably,
10 is a recipe for disaster. And this is not just
11 hyperbole on my point -- on my part. It is just
12 simple fact. One need look no further than MGE's
13 last rate case for proof, and in that case MGE sought
14 to change its rate structure and to shift some of its
15 revenue from volumetric rate elements to fixed
16 monthly rate elements and to address chronic earning
17 shortfalls caused by decreasing customer usage due to
18 warmer-than-normal weather.

19 Public Counsel opposed any increase in
20 the customer charge, and ultimately, the Commission
21 decided to maintain the then-existing ratio for the
22 residential class of 55 percent of revenues through
23 fixed monthly rate elements, and 45 percent of
24 revenues through volumetric rate revenues. The
25 result of this decision was to be expected.

1 Warmer-than-normal weather caused customer usage
2 levels to drop and MGE fell far short of its
3 authorized earning level.

4 In the first three months of 2006 alone,
5 average per-customer residential usage fell 27.36
6 percent short of assumed usage when the MGE's -- when
7 MGE's rates were set in 2004, an amount totaling
8 nearly \$11 million. For calendar year 2005, the
9 shortfall was over \$6 million. That's not even in
10 the ballpark. That's not even in the city that the
11 ballpark is in.

12 This is also not an isolated event.
13 Total volumetric shortfalls during the last seven
14 years for MGE have amounted to nearly \$42 million,
15 and if I might, I have a chart to illustrate this
16 point.

17 What I'm gonna put up for illustration
18 is a chart out of MGE witness Russell Feingold's
19 testimony which illustrates the margin shortfalls in
20 revenue for the years -- from 1999 through 2005, a
21 consistent shortfall during that period. Well, this
22 is just simply not sustainable. Given this pattern
23 of earning shortfalls under the traditional rate
24 design, there is no reasonable basis to believe that
25 a status quo approach in this case will have

1 anything other than -- will be -- will be anything
2 other than a certain policy failure.

3 So sticking with Public Counsel's status
4 quo proposal simply ignores the serious problems this
5 company has had when it comes to recovering its fixed
6 cost of service previously approved by this
7 Commission.

8 More troubling is that sticking with
9 this traditional combination of fixed and variable
10 rate elements simply ignores recent history as it
11 relates to natural gas prices. The status quo rate
12 design discourages MGE from promoting natural gas
13 conservation programs because the company's
14 profitability remains dependent on greater fuel usage
15 by its customers.

16 Since 2001, policymakers in this state
17 have been grappling with high price -- with the high
18 price of natural gas and ways to help customers
19 curtail usage. If nothing else, this fact
20 illustrates that the rate design advocated by Public
21 Counsel has outlived its usefulness.

22 The times have changed and the
23 Commission's approach designing MGE's rates should
24 change with those times. I don't want the Commission
25 to be fooled by Public Counsel's parade-of-horribles

1 arguments about MGE rate design -- or proposed rate
2 design, that is.

3 Public Counsel may argue that a straight
4 fixed rate -- variable rate design entitled the
5 company or guarantees that the company will achieve
6 its earnings goals. This is not so. Even Public
7 Counsel witness, Russell Trippensee, in his
8 deposition conceded that a utility's return on equity
9 is never guaranteed.

10 As to any reduction in earnings risk,
11 MGE has proposed an adjustment to its rate of return
12 recommendation that would reduce revenue requirement
13 by more than \$1 million if the Commission adopts the
14 company's proposed straight fixed variable rate
15 design.

16 You may hear that the proposed rate
17 design is unprecedented or radical and a change in
18 entrenched policy. Well, the adoption of this rate
19 design would -- would represent a much needed change
20 in a demonstrably failed regulatory policy but it is
21 not unprecedented.

22 This rate design has been a
23 FERC-approved policy for pipeline companies for
24 years, and even LDCs such as Northern States Power
25 and Atlanta Gas Light and others have been authorized

1 to implement comparable rate structures.

2 You may also hear that the straight
3 fixed variable rate design eliminates the benefits
4 customers can realize through conservation efforts.
5 This is not so. The proportion of a customer's total
6 bill represented by delivery service will be very
7 small, approximately 26 percent relative to the gas
8 commodity charges. Only about \$9 per month,
9 approximately 10 percent of the customer's total
10 bill, will be shifted to the customer charge -- from
11 the commodity charge to the basic service charge.

12 This small amount will not cause
13 customers to stop finding ways to cut back on usage.
14 Arguing otherwise simply does not make common sense.
15 Nearly -- nearly 75 percent of an average customer's
16 bill related to the cost of gas will continue to
17 create an incentive for customers to examine their
18 consumption decisions.

19 In conclusion, I'd like to just say that
20 sticking with the demonstrably failed policy is no
21 regulatory virtue. The process in which we are
22 engaged is supposed to present MGE with a realistic
23 opportunity to earn its authorized rate of return on
24 operations.

25 The record in this case is undeniable.

1 MGE, though efficiently and safely operated by
2 dedicated employees, has consistently, routinely been
3 denied an opportunity to achieve its legitimate
4 Commission-approved financial goals, and it's time to
5 put aside failed policies and to chart a new course
6 that is fair to customers and MGE while at the same
7 time providing for some regulatory stability.

8 With that, I'll conclude my remarks, and
9 I would, at this time, if there's nothing further on
10 that front, ask Mr. Ronald Amen to take the stand,
11 please.

12 MS. SHEMWELL: Do you want opening
13 statements from all attorneys before we start with
14 witnesses?

15 JUDGE JONES: I'll take yours just
16 before you present your witness.

17 MS. SHEMWELL: Thank you.

18 JUDGE JONES: You might want to remind
19 me because once I start rolling through witnesses,
20 it's like a train.

21 MR. CONRAD: Judge, since we don't have
22 a witness, I was gonna suggest I might take about --
23 maybe about a minute and a half, and just so the
24 record is clear for Midwest, what our position is on
25 this.

1 JUDGE JONES: Do you mind him doing it
2 now?

3 MR. CONRAD: Well, I -- and if it's all
4 right with your Honor, I'll just stay here.

5 JUDGE JONES: If you want to do that.

6 MR. BOUDREAU: I'll just ask --

7 MR. CONRAD: I had a large dinner last
8 night and I find it more difficult than yesterday to
9 get through that row of chairs.

10 MR. BOUDREAU: I'll just ask Mr. Amen to
11 stay.

12 JUDGE JONES: Yeah, he can stay.

13 MR. CONRAD: For -- for Midwest, as I
14 think I mentioned yesterday, we have historically
15 taken the position that rates should be based on cost
16 of service and the principle that he who causes the
17 cost to be incurred should pay it.

18 Along with that comes a necessary
19 understanding that the manner in which costs are
20 incurred, frankly, doesn't -- doesn't change that
21 much depending on what the rate structure recovers.
22 And if the rate structure does not align with how
23 costs are incurred, then you have, let's just say
24 undesired effects.

25 It has also been Midwest's position and

1 we intend to hold to that today, that we have focused
2 our attention on rate design/rate structure issues
3 for large formerly commercial and industrial
4 customers and now largely transportation customers,
5 and have stayed out of the issue of residential rate
6 design and residential rate structure, asking only
7 that that class be obligated to pick up the costs
8 that that class incurs. We intend to follow that
9 today, so we'll essentially not -- not take shots at
10 one side or the other.

11 We do, I think it deserves mention,
12 agree with Public Counsel on one point and that is
13 that if what Mr. Boudreau says is correct, and the
14 evidence will show what the evidence shows, then it
15 does follow from that that the Commission should take
16 into account the impact on the company's risk and the
17 change of the company's -- to the company's risk that
18 that structural change costs.

19 I think in one sense I would also very
20 quickly clarify one thing that I think Mr. Boudreau
21 said that I'm pretty confident that he did not mean
22 in the sense that I -- that I potentially took it.
23 He made the statement the rates under his structure
24 do not change by volume. They actually do. I think
25 what he is talking about is the amount that a

1 customer pays of the non-gas cost for a -- for a
2 residential customer would not change based on -- on
3 the amount of gas that they use.

4 Clearly, the level of the bill, since it
5 contains the gas cost through the PGA which is not
6 actually before the Commission in this proceeding,
7 would change. So there is that impact and I thought
8 perhaps that would be clear.

9 With those comments, your Honor, I would
10 thank the bench for the opportunity to make that --
11 make that clear.

12 JUDGE JONES: Thank you, Mr. Conrad.
13 Mr. Finnegan, did you want to add anything?

14 MR. FINNEGAN: No, sir.

15 JUDGE JONES: Okay. With that, we'll
16 move to the witness. Would you raise your right
17 hand, please?

18 (THE WITNESS WAS SWORN.)

19 JUDGE JONES: You can proceed. And
20 pull that microphone in front of you so we can hear
21 you.

22 You can proceed.

23 (EXHIBIT NOS. 15 AND 16 WERE MARKED FOR
24 IDENTIFICATION BY THE COURT REPORTER.)

25 MR. BOUDREAU: Thank you.

1 DIRECT EXAMINATION BY MR. BOUDREAU:

2 Q. Would you state your name for the
3 record, sir?

4 A. My name is Ronald J. Amen, A-m-e-n.

5 Q. Mr. Amen, by whom are you employed and
6 in what capacity?

7 A. I'm employed by Navigant Consulting,
8 Inc. as a director in their energy practice.

9 Q. And you are here today to offer
10 testimony on behalf of Missouri Gas Energy; is that
11 correct?

12 A. Yes.

13 Q. Are you the same Ronald Amen that caused
14 to be -- appear and filed with the Commission direct
15 and rebuttal testimony marked respectively as
16 Exhibits 15 and 16?

17 A. Yes.

18 Q. Was that testimony prepared by you or
19 under your direct supervision?

20 A. Yes, it was.

21 Q. Do you have any corrections to make to
22 either of those items of final testimony today?

23 A. No.

24 Q. If I were to ask you the same questions
25 that are contained in both of those documents, would

1 your answers today be substantially the same?

2 A. Yes.

3 Q. Would your answers be true and correct
4 to the best of your information, knowledge and
5 belief?

6 A. Yes.

7 MR. BOUDREAU: With that, I'll offer
8 Exhibits 15 and 16 and tender the witness for
9 cross-examination.

10 JUDGE JONES: Any objections?

11 (NO RESPONSE.)

12 JUDGE JONES: Seeing none, Exhibits 15
13 and 16 are admitted into the record.

14 (EXHIBIT NOS. 15 AND 16 WERE RECEIVED
15 INTO EVIDENCE AND MADE A PART OF THE RECORD.)

16 JUDGE JONES: We'll have
17 cross-examination now from the Staff of the Commission.

18 MS. SHEMWELL: Thank you, Judge. Staff
19 considers this issue to be settled.

20 JUDGE JONES: Cross-exam?

21 MS. SHEMWELL: So I have no cross, thank
22 you.

23 JUDGE JONES: Cross-examination from the
24 Office of Public Counsel?

25 MR. POSTON: No, thank you.

1 JUDGE JONES: No cross? Anyone want to
2 ask -- ask Mr. Amen some questions?

3 MR. CONRAD: Just -- and I don't know
4 what the Commission's decision will be about a
5 stipulation presentation session, Judge, but I would
6 just ask him one or two questions briefly about that.

7 JUDGE JONES: Go right ahead.

8 CROSS-EXAMINATION BY MR. CONRAD:

9 Q. Sir, have you had an opportunity to
10 review the settlement agreement of the class cost of
11 service matter in this case?

12 A. Yes.

13 Q. Do you consider that to be a just and
14 reasonable settlement that you would recommend to the
15 Commission?

16 A. Yes, I do.

17 MR. CONRAD: Thank you, sir.

18 JUDGE JONES: I don't have any
19 questions. Seeing no more questions, you can step
20 down.

21 THE WITNESS: Thank you.

22 JUDGE JONES: You can call your next
23 witness, MGE.

24 MR. BOUDREAU: Thank you. At this time
25 I'd like to call Phillip Thompson to the stand,

1 please. Just as a housekeeping matter, is Mr. Amen
2 excused at this point?

3 JUDGE JONES: Yes.

4 MR. BOUDREAU: Okay. Thank you.

5 (THE WITNESS WAS SWORN.)

6 JUDGE JONES: Thank you, sir. You may
7 be seated.

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

10 DIRECT EXAMINATION BY MR. BOUDREAU:

11 Q. Would you state your name for the
12 record, please, sir?

13 A. My name is Phillip B. Thompson.

14 Q. And by whom are you employed and in what
15 capacity, sir?

16 A. I'm appearing here as an employee of
17 RT Associates Consulting. I'm also employed as an
18 associate professor of economics at Central Michigan
19 University.

20 Q. And you are here to present testimony on
21 behalf of Missouri Gas Energy in this proceeding?

22 A. Yes, I am.

23 Q. And in that regard you have caused to be
24 filed a prepared rebuttal testimony which has been
25 marked for identification as Exhibit 17; is that

1 correct?

2 A. That's correct.

3 Q. Was that testimony prepared by you or
4 under your direct supervision?

5 A. Yes, it was.

6 Q. Do you have any corrections you need to
7 make to your testimony or any of the exhibits thereto
8 at this point?

9 A. I don't.

10 Q. If I were to ask you the same questions
11 as are contained in that testimony, would your
12 answers today be substantially the same?

13 A. Yes.

14 Q. And would your answers be true and
15 correct to the best of your information, knowledge
16 and belief?

17 A. Yes.

18 MR. BOUDREAU: With that, I'd like to
19 offer Exhibit 17 and tender this witness for
20 cross-examination.

21 JUDGE JONES: Any objections?

22 (NO RESPONSE.)

23 JUDGE JONES: Seeing none, Exhibit 17 is
24 admitted into the record.

25 (EXHIBIT NO. 17 WAS RECEIVED INTO

1 EVIDENCE AND MADE A PART OF THE RECORD.)

2 JUDGE JONES: I take it Staff has no
3 questions?

4 MS. SHEMWELL: Actually, I do have some
5 questions, thank you, Judge.

6 JUDGE JONES: Go right ahead.

7 CROSS-EXAMINATION BY MS. SHEMWELL:

8 Q. You worked for the Office of the Public
9 Counsel, Mr. Thompson?

10 A. Yes, I did.

11 Q. By the way, I'm Lera Shemwell. I work
12 for the Staff. Good morning.

13 A. Good morning.

14 Q. Not all low income will have higher
15 usage; is that right?

16 A. Correct.

17 Q. Do you have any idea what percentage?
18 Can you tell from your study what percentage?

19 A. No, I can't.

20 Q. Can you tell from your study whether or
21 not low-income customers are able to employ
22 conservation measures to control their usage?

23 A. My study did not examine that issue, no.

24 Q. Are you aware that MGE is complaining in
25 this case about lower customer usage --

1 A. Yes.

2 Q. -- per customer?

3 A. Yes.

4 Q. Increased costs may lead to lower usage,
5 right?

6 A. If you're referring to increased bills
7 to the consumer, yes.

8 Q. Yes?

9 A. Yes.

10 Q. And shockingly high bills may lead to
11 lower use by customers?

12 MR. BOUDREAU: Well, I'm gonna object to
13 the form of the question.

14 JUDGE JONES: That objection's
15 sustained. You asked the question once and then you
16 added "shocking" later. It's still the same question.

17 MS. SHEMWELL: Well, my point was -- let
18 me ask this.

19 BY MS. SHEMWELL:

20 Q. With ever-higher bills would you agree
21 that conservation efforts increase?

22 A. Yes.

23 Q. In looking at page 3 of your testimony
24 and on line 5, if I may just read that and you follow
25 along, if you will.

1 "Purchased gas costs are always
2 collected through a volumetric rate, while the LDCs
3 non-gas or margin costs are collected through a
4 combination of the fixed charge and the volumetric
5 rate." Have I read that correctly?

6 A. Yes.

7 Q. And where is bad debt collected?

8 A. I have no idea.

9 Q. You don't know if it's a non-gas cost
10 or --

11 A. No idea.

12 Q. Between the territories, you studied
13 both Kansas City and Springfield; is that right?

14 A. I believe that's correct. I have -- I
15 have, if I'm not mistaken, all of the zip codes that
16 the company serves, yes.

17 Q. And did you separate the two territories
18 in terms of low income customers, their usage, or did
19 you combine it all?

20 A. The zip codes were all combined in the
21 study. All the -- all of the zip codes were looked
22 at at the same time, although weather would vary from
23 one area to another.

24 Q. Yes, and so were you able to consider
25 the difference in the temperatures between the two

1 territories in your study, or did you?

2 A. I'm not sure I would put it that way.

3 The -- for each zip code there was an assigned
4 heating degree days that corresponded to the heating
5 degree days for that zip code. And so in that sense,
6 I made a particular zip code's usage dependent upon
7 that particular zip code's heating degree days.

8 Q. So you studied 181 zip codes?

9 A. Correct.

10 Q. And for each zip code you had weather?

11 A. I had a different heating-degree-day
12 variable for -- for each zip code, yes.

13 Q. So you had 181 heating-degree-day
14 variables that you used in your study?

15 A. Yes. Yes.

16 Q. Why did you choose the particular
17 two-year period that you chose?

18 A. Well, it was covered by the census data.
19 The census is done in the early -- well, in this case
20 it was done in early 2000 and the questions were
21 asked about 1999. So the period from October of '88
22 through September of 2000 contain that entire year
23 1999, and it also introduces a little bit more
24 variation to the data which helps find some of the
25 effects that I was -- I was trying to look at.

1 Q. Would you agree with me that December
2 2000 was a particularly cold month in Missouri?

3 A. I can't tell you about the individual
4 months. I -- I can't remember.

5 Q. So you didn't specifically exclude
6 December 2000 --

7 A. Oh, no, no, it was included in there.

8 Q. -- in your study? Actually, you end in
9 September of 2000 --

10 A. I'm sorry. 2000 -- yes, September of
11 2000 was the last month. I'm sorry. That's right.

12 MS. SHEMWELL: Okay. That's all I have
13 for this witness, thank you.

14 JUDGE JONES: Any questions from the
15 Office of Public Counsel?

16 MR. POSTON: Yes, thank you.

17 CROSS-EXAMINATION BY MR. POSTON:

18 Q. Good morning.

19 A. Good morning.

20 Q. I'd like to talk about your study. How
21 do you define low income for purposes of your study?

22 A. I didn't have a specific cutoff. It was
23 just the incomes were at the lower end of the scale.

24 Q. Below -- below the average?

25 A. Well, certainly below the average, yes.

1 Q. Would you agree that measures relative
2 to the Federal Poverty Guidelines are common measures
3 of low income?

4 A. Well, those are used in many different
5 studies that refer to low income people, yes.

6 Q. And generally, they would use a measure
7 of 125 or 150 percent of the Federal Poverty
8 Guidelines?

9 A. That -- that's the typical usage, yes.

10 Q. And that's -- that's what's used to
11 determine LIHEAP eligibility and receipts; is that
12 correct?

13 A. I'm not -- I don't know.

14 Q. Do you know what the federal poverty
15 level for either a family of three or four was in
16 1999?

17 A. No, I do not.

18 Q. And that's the time frame of your study;
19 is that correct?

20 A. Correct, 1999 was entirely within the
21 study period.

22 MR. POSTON: Okay. I'd like to approach
23 the witness.

24 JUDGE JONES: You may.

25 BY MR. POSTON:

1 Q. Does the document I just handed you --
2 if you could take a moment just to look that over.

3 A. Okay.

4 Q. And does this appear to be the 1999
5 poverty guidelines as they appear on the U.S.
6 Department of Health and Human Services' website?

7 A. That's what it looks like, yes.

8 Q. And does the website where this was
9 printed from appear at the bottom?

10 A. Yes, it does.

11 Q. Could you please just read that website?

12 A. You want the url?

13 Q. Yes, please.

14 A. Http colon double backslash aspe dot hhs
15 dot gov backslash poverty backslash 99 poverty dot
16 htm.

17 Q. And I'd like to also turn to figure 1 of
18 your testimony. I believe that's part of schedule
19 PBT 2?

20 A. I have that.

21 Q. So on the poverty guidelines I gave you,
22 what is the Federal Poverty Guideline in 1999 for a
23 family of three?

24 A. For a family of three under the 48
25 contiguous states in DC heading, it is \$13,880.

1 Q. Okay. And then if we look at your
2 figure 1, would you agree that none of the zip codes
3 in your study illustrated in this figure had an
4 average income level at \$13,880?

5 A. I would agree the lowest one appears to
6 be about 20,000.

7 Q. So what is the Federal Poverty Guideline
8 according to that website for a family of four?

9 A. \$16,700.

10 Q. And that's also below your lowest zip
11 code point; is that correct?

12 A. Correct.

13 Q. So if we take the 150 percent Federal
14 Poverty Guideline as we discussed earlier and assume
15 that, doing the math for a family of three, is
16 \$20,820, would you agree that only one of your data
17 points shown in figure 1 correspond to an annual
18 average income less than or equal to \$20,820?

19 A. That's correct.

20 Q. And that data point reflects lower-than-
21 average use compared to the overall average for the
22 data in figure 1?

23 A. That one data point does, yes, it does.

24 Q. And assume that 150 percent of the
25 Federal Poverty Guidelines for a family of four

1 according to the 16,700 figure would correspond to
2 a -- to \$25,050.

3 A. Sounds right.

4 Q. Would you agree that only a few of your
5 data points shown in figure 1 correspond to an annual
6 average income less than or equal to 25,000?

7 A. That appears to be correct.

8 Q. And those data points generally reflect
9 lower-than-average use compared to the overall
10 average for the data in figure 1?

11 A. It depends on exactly where that \$25,000
12 figure is, but I see a few below and at least one
13 above. It's hard to tell by this graph since it's
14 done in increments of \$20,000.

15 Q. And would you agree looking at figure 1
16 and figure 2 on your schedule PBT-2 that it was --
17 zip codes with average incomes above the \$30,000 per
18 year level that drove the average CCF for the first
19 decile --

20 A. Decile, yes.

21 Q. -- decile shown in figure 2 to over
22 85 CCF?

23 A. Could you repeat that now?

24 Q. Would you agree in looking at figure 1
25 and figure 2 that it was zip codes with average

1 incomes above about 30,000 per year that drove the
2 average CCF to over 85 CCF?

3 A. The lowest 18 zip codes would be
4 included -- or approximately 18 zip codes would be
5 included in that lower point on figure 2, and since
6 the average in those lowest income, 18 or so zip
7 codes, looks like it's about 32,500, maybe 33,000.

8 I can't tell you what the highest one
9 was in that 18-zip code level, so I'm not sure how
10 high it goes. But certainly, if I stopped at the
11 lowest point at 20,000, it would be below average.
12 I'm not sure what would happen if I did 5 percent
13 instead of 10 percent.

14 So I guess the answer would be yes,
15 because as you move from that very lowest point into
16 the higher points, that you are including higher
17 income levels and that's where you see some of those
18 higher usage triangles up there on figure 1.

19 Q. Okay. And looking at your figure 1 and
20 also your figure 3 which is shown on page 7 of 16 in
21 your schedule PBT-2 --

22 A. Yes.

23 Q. -- would you agree that the annual model
24 estimates shown for incomes of about 20,000 which
25 range from about 70 CCF to 90 CCF, differ

1 significantly from the approximately 50 CCF shown in
2 figure 1 with a zip code with an income of
3 approximately 20,000?

4 A. I would agree with that but you have to
5 be careful when you're looking at figure 3. Figure 3
6 holds all other variables besides income and usage
7 constant, and they're held constant at the means of
8 those other variables.

9 Q. Okay.

10 A. So you can't directly compare figure 3
11 with figure 1. Figure 1 holds nothing constant, it's
12 just the raw data.

13 Q. Okay. Would you agree that the low
14 income consumers as a group are more likely to be
15 disconnected part of the year?

16 A. That wouldn't surprise me if the data
17 showed that.

18 Q. The average CCF value using your study
19 used the total usage reported by MGE divided by the
20 total bills for the same period, correct?

21 A. It depends on which chart. In some
22 cases it was the total usage for each zip code
23 divided by that zip code's number of bills. Others
24 were based on a slightly different averaging process.

25 Q. So which -- which of the charts would

1 have been an accurate statement then?

2 A. I'm sorry. Could you repeat the
3 statement again?

4 Q. The average CCF values -- values used in
5 your study use the total usage reported by MGE
6 divided by the total bills for the same period?

7 A. Yes, that's true for each zip code.
8 Now, when I did the deciles, I looked at the total
9 usage -- I didn't average across the zip codes. I
10 looked at the total usage within the decile, divided
11 by the total bills within the decile.

12 Q. Okay.

13 A. So that's -- that's a difference between
14 when I looked at the deciles.

15 Q. Would it be fair to say that low income
16 consumers disproportionately reside in lower income
17 zip codes?

18 A. Yes. Lower income zip codes would have
19 a higher proportion of low income consumers than high
20 income zip codes would.

21 Q. Would excluding disconnected customers
22 tend to raise the average use per zip code?

23 A. I don't know. It depends on what their
24 usage would have been.

25 Q. I believe on page 3 of your testimony,

1 you discuss factors traditionally considered in the
2 Commission's final rate determinations, and your
3 factors include effects on low income, rate
4 affordability and gradualism; is that correct?

5 A. Yes, towards the bottom of the page,
6 yes, that's correct.

7 Q. Would you please elaborate on the
8 concept of gradualism; explain, define that, please?

9 A. As I understood now, this is the
10 Commission's usage of the term and I'm assuming that
11 what they -- what they refer to is when there is a
12 large shift in a particular rate that may be called
13 for perhaps by a cost of service study or some other
14 source of evidence, you may not want to make the
15 entire move to that new rate right away for -- often
16 for reasons of rate impact and that sort of thing.

17 Q. Is that an important consideration?

18 A. It's one of the ones that the Commission
19 considers and I believe it's a good thing to
20 consider.

21 Q. And is it important within a class to
22 consider it?

23 A. For the same reasons. It should be one
24 of the many factors examined, yes.

25 Q. Would you agree that lower income

1 consumers tend to live in smaller homes or
2 apartments?

3 A. Yes.

4 Q. And does MGE have 100 percent saturation
5 in each zip code, meaning do they serve every
6 resident in every zip code?

7 A. I don't believe so.

8 MR. POSTON: That's all I have. Thank
9 you.

10 JUDGE JONES: Any questions from Midwest
11 Gas Users Association?

12 MR. CONRAD: No, sir, thank you.

13 JUDGE JONES: Mr. Finnegan, any
14 questions?

15 MR. FINNEGAN: No questions.

16 JUDGE JONES: And doesn't look like
17 Mr. Keevil is here.

18 QUESTIONS BY JUDGE JONES:

19 Q. I just want to ask Mr. Thompson, what's
20 the conclusion of your study?

21 A. The conclusion is that in the -- in the
22 MGE service territory, low income consumers defined
23 by me as the ones toward the lower end of the scale
24 without any reference to official poverty statistics.

25 Q. What's the scale?

1 A. The scale -- of the income scale, the
2 lower end of the income scale.

3 Q. What is the income scale, zero to two
4 billion, what is the income scale?

5 A. Well, the range of incomes here -- if I
6 could refer to a work paper, I could tell you the
7 actual range. Okay. Let's see. Average income,
8 the -- I'm reporting these from the monthly study.
9 The maximum was 121,128 and that was the average
10 income in a particular zip code, so there would be
11 some people with higher incomes in that zip code.

12 Q. So these are averages in each zip code?

13 A. These are averages across -- across
14 people within the zip code as reported by the census,
15 right.

16 Q. Okay.

17 A. The lowest was \$20,096.

18 Q. And you say it was reported by the
19 census?

20 A. Correct.

21 Q. What census? Was there some mailing
22 that went out or --

23 A. Well, this was the standard data that
24 was collected through the 2000 U.S. Census. They do
25 a short form which most of us fill out and then they

1 do what they call a one-in-100 sample where they go
2 in and they get much more detailed information on
3 that particular household. And that is, I believe,
4 where the income data comes from.

5 Q. Do you think that participation in
6 surveys goes down with income going down? In other
7 words, poor people really don't give a crap about a
8 census and they don't participate?

9 A. I think that's probably true.

10 Q. So you're probably missing some low end
11 numbers?

12 A. Could be.

13 Q. Okay. So your conclusion is, is that --
14 is what again? That income, as income goes down,
15 what happens?

16 A. Well, at lower income levels, customers
17 consume at or above the average amount of gas --

18 Q. At lower income levels, customers
19 consume at or above?

20 A. At or slightly above the amount of gas
21 that's -- the average across all customers.

22 Q. So lower income consumers consume on
23 average more gas than persons who make more money?

24 A. The relationship is actually U-shaped.
25 When you get into the higher income levels they go up

1 above the average too. It's the middle income levels
2 that consume the low average amount.

3 Q. The least?

4 A. It's not a linear relationship.

5 Q. Right.

6 A. It's a U-shaped one.

7 Q. Now, this is -- we're talking about
8 statistics, right?

9 A. Correct.

10 Q. There's a standard deviation involved in
11 your study, then, right?

12 A. Correct.

13 Q. What is that?

14 A. Standard deviation of?

15 Q. Make it -- well, let me back up and I'm
16 not speaking for the Commission. I am trying to
17 flesh out the record because they aren't here and I
18 realize that I'm supposed to be five heads right now
19 so I'm trying to ask the questions that five other
20 people might have asked.

21 I know from studying statistics in
22 school that they really don't mean a lot unless
23 you've got the whole world of what you're talking
24 about. In other words, we can get the average income
25 of everyone in this room because we can get the

1 incomes of everyone in this room. But if five people
2 were missing and they were to be included in that
3 study, then it's thrown off and we have to do
4 something to account for that.

5 How did you account for the people who
6 aren't included in that -- in the census?

7 A. I did not. I used census data as it was
8 reported by the Census Bureau.

9 Q. Okay. Now, how does -- how does your
10 study, then, relate to MGE's position; do you know?
11 What does it say? What does it -- how does it
12 support the goals that they're trying to reach in
13 this rate case?

14 A. The point of my testimony is just to
15 elaborate on this income consumption relationship.
16 How MGE wants to use it is up to MGE.

17 Q. Okay. Now, at some point consumption at
18 the low end is gonna level off. I mean, you have to
19 use a minimal amount of gas. No matter how high the
20 price, no matter what your habits are, you're gonna
21 have to heat your home at some minimal level, you're
22 gonna have to cook or take a shower at least once a
23 week maybe. Does your study account for that? Is
24 there a leveling off or does it say as your income
25 goes lower and lower and lower and lower -- I mean, I

1 don't --

2 A. As your income goes lower and lower
3 from, let's say, the middle income range --

4 Q. Right.

5 A. -- the study shows that people use a bit
6 more. And that, I could attribute to the -- although
7 people live in smaller homes as their income falls,
8 on average -- again, those homes are older, less
9 well-insulated, have an older heating plant, so that
10 the inefficiency of the housing stock starts to
11 overwhelm the effect of having fewer rooms in the
12 house.

13 So did I build in a minimum level? No,
14 I did not. Again, I did not use individual customer
15 data in this study.

16 JUDGE JONES: Okay. All right. I don't
17 have any more questions. Thank you. Redirect?

18 MS. SHEMWELL: Thank you, Judge.

19 JUDGE JONES: Wait a minute.

20 MS. SHEMWELL: Recross?

21 JUDGE JONES: Oh, I'm sorry. Yes,
22 recross.

23 MS. SHEMWELL: Thank you.

24 RE CROSS-EXAMINATION BY MS. SHEMWELL:

25 Q. Mr. Thompson, the judge was asking you

1 about people using a minimum level for space heating.
2 Would those who use the least amount of natural gas
3 probably not use it for space heating but for other
4 purposes? I'm thinking of cooking, for example.

5 A. It would be very clear from -- from data
6 that you would have a big dropoff. I mean, when you
7 use it to heat, that's going to be even maybe
8 90 percent of your gas use so that a heating customer
9 is going to have many times more CCF's per month than
10 a nonheating customer who just uses it to cook or
11 heat water, for example.

12 Q. Have you mentioned all of the reasons
13 you believe that low income customers may use more
14 gas?

15 A. Well, one -- one other variable I used
16 in one or more of my models was the unemployment rate
17 for a zip code --

18 Q. Uh-huh.

19 A. -- on the theory that if more people are
20 unemployed in a zip code, that means on average more
21 people are gonna be home during the day and
22 therefore, they won't be turning their thermostat
23 down as many people do when the entire house is
24 empty. And that variable did turn out to be a
25 significant explanatory variable, significant in the

1 statistical sense of higher unemployment rate in the
2 zip code leads to higher consumption in that zip
3 code.

4 Q. Does the same, then, hold true for the
5 area with lots of elderly or did you study that?

6 A. The -- I didn't look at age
7 distributions. I did look at the proportion of
8 people -- and this is not a model that was reported
9 here, but I did look at the proportion of people that
10 received Social Security income and it has a similar
11 kind of thing, the higher -- the higher you -- the
12 higher proportion of Social Security income
13 recipients in a zip code, the lower the average
14 income in that area tends to be.

15 So perhaps indirectly I picked that up,
16 but I certainly did not include a variable concerning
17 the age of the householder.

18 Q. Social Security recipients, where do
19 they fall on the scale of income, low to high? Does
20 that make a difference?

21 A. It would be the proportion of Social
22 Security income recipients within the zip code. That
23 would have been the variable I used. So if you have
24 a zip code that has a lot of elderly people in it, it
25 would be higher, and I think that generally -- well,

1 that's -- that's really all I can say.

2 MS. SHEMWELL: That's all I have. Thank
3 you.

4 JUDGE JONES: Any recross? Commissioner
5 Murray, did you have any questions?

6 QUESTIONS BY COMMISSIONER MURRAY:

7 Q. Well, I apologize for just getting in
8 here. We've been in an agenda meeting. And I also
9 apologize for the fact that I haven't had a chance to
10 review your testimony yet. So can you just basically
11 tell me the purpose of your testimony and from the
12 conclusions you have drawn about income and usage,
13 what is it you're trying to say?

14 A. First of all, the purpose of my study
15 was to look at this income consumption relationship.
16 And on page 3, we've talked about this a couple of
17 times before you came in, I listed a number of
18 factors that the Commission has used in the past for
19 making a determination about rate design issues.

20 I guess the basic point here is that
21 since low-income consumers in my study appear to use
22 about the same or slightly more than average amounts
23 of natural gas, that perhaps the low-income effect is
24 not a very important one in this particular case.

25 That is, when considering all the

1 different factors that go into rate design, the
2 impact on low-income customers doesn't seem to be
3 that big a deal in this particular case because they
4 consume very close to or above the average.

5 Q. In terms of the fixed charge?

6 A. That's correct.

7 COMMISSIONER MURRAY: Okay. All right.

8 Thank you.

9 THE WITNESS: Okay.

10 JUDGE JONES: Does Staff have any
11 questions?

12 MS. SHEMWELL: No, thank you.

13 JUDGE JONES: Any recross from the
14 Office of Public Counsel?

15 MR. POSTON: No, thank you.

16 JUDGE JONES: And any redirect from
17 Missouri Gas Energy?

18 MR. BOUDREAU: Yes, just a couple of
19 questions, thank you.

20 JUDGE JONES: Go ahead.

21 REDIRECT EXAMINATION BY MR. BOUDREAU:

22 Q. Sir, do you recall a couple of questions
23 you received from Judge Jones about your use of -- I
24 believe it was the 2000 census income -- or 2000
25 census data, do you recall that?

1 A. Yes.

2 Q. Do you believe in your -- is it your
3 view that it's reasonable to rely on that census data
4 for the purpose to which you've applied it?

5 A. I do.

6 Q. And would -- in your view, would experts
7 in your field rely on census data for similar uses,
8 including the use to which you've put it?

9 A. It's used all the time.

10 MR. BOUDREAU: Okay. That's all the
11 questions I have. Thank you.

12 JUDGE JONES: Okay. Thank you,
13 Mr. Thompson. You may step down.

14 MR. BOUDREAU: As a matter of order, is
15 Mr. Thompson excused at this point?

16 JUDGE JONES: Yes, you are excused.

17 MR. BOUDREAU: Very good. Thank you.

18 MS. SHEMWELL: Judge, perhaps this would
19 be a good time to take a five-minute break. Might we
20 do that?

21 JUDGE JONES: Sure, we can take a
22 five-minute break, literally five minutes.

23 MS. SHEMWELL: Yes, sir.

24 (A RECESS WAS TAKEN.)

25 (EXHIBIT NOS. 11, 12, 13 AND 14 WERE

1 MARKED FOR IDENTIFICATION BY THE COURT REPORTER.)

2 JUDGE JONES: Okay. Let's go back on
3 the record. At this time MGE is calling their next
4 witness.

5 MR. BOUDREAU: I'd like to call Russell
6 Feingold to the stand, please.

7 (THE WITNESS WAS SWORN.)

8 JUDGE JONES: Thank you, sir.

9 DIRECT EXAMINATION BY MR. BOUDREAU:

10 Q. Good morning. Could you state your name
11 for the record, please, sir?

12 A. Russell A. Feingold, F-e-i-n-g-o-l-d.

13 Q. Can you tell me by whom you are employed
14 and in what capacity?

15 A. I'm employed by Navigant Consulting,
16 Inc. as a managing director of the firm's energy
17 practice.

18 Q. Are you here presenting testimony today
19 on behalf of Missouri Gas Energy?

20 A. Yes, I am.

21 Q. In that -- in that regard, have you
22 caused to be prepared and filed with this Commission
23 four pieces of prepared testimony including direct,
24 updated test year direct testimony, rebuttal
25 testimony and surrebuttal testimony marked for

1 identification, respectively, as 11, 12, 13 and
2 14?

3 A. Yes, I have.

4 Q. Has that testimony been prepared by you
5 or under your direct supervision?

6 A. Yes, it has.

7 Q. Do you have any corrections to make to
8 any of your testimony at this time?

9 A. Yes, I do. Starting with Exhibit 11,
10 which is my direct testimony, the first correction
11 appears at page 6 of that document, line 12. The
12 word "oceanographic" should read "oceanic,"
13 o-c-e-a-n-i-c.

14 The next correction is on page 15,
15 lines 4, 5 and 6. There are a series of numbers on
16 those lines which I am going to correct. The first
17 number which is shown as "\$1,506,308" should be
18 corrected to "\$1,627,949."

19 The second number on that same line,
20 line 4, should be corrected to read "\$595,661."

21 On line 5, the number that first appears
22 in the parenthetical should be corrected to
23 "\$544,695."

24 The second number on that line should be
25 corrected to read "\$50,966."

1 And on line 6, the number should be
2 corrected to read "\$118,820."

3 The next correction appears on page 19,
4 line 6. There is a phrase on that line that reads
5 "basic service charges," plural. "Charges" should be
6 singular, so the s should be stricken from that word.

7 The next change appears on page 40,
8 lines 5 and 6. On line 5 the word "months," plural
9 should be "month," singular, so the s should be
10 stricken.

11 And on line 6, the words "and lowest"
12 should be stricken, and the words "and August comma
13 respectively, period," should be stricken, and a
14 period should be placed after the word "January."

15 The final correction in Exhibit No. 11
16 is on page 42, line 8. The reference to "page 3"
17 should be changed to "page 4."

18 The next correction appears in my
19 updated testimony which has been marked as
20 Exhibit 12. There is one change in that document
21 that appears on page 2, line 14. The number that
22 appears on that page should be corrected to read
23 "\$199,657."

24 MS. SHEMWELL: Excuse me. What piece of
25 testimony are you in?

1 THE WITNESS: That is my updated test
2 year testimony, Exhibit 12.

3 MS. SHEMWELL: Thank you.

4 THE WITNESS: The next two changes --
5 BY MR. BOUDREAU:

6 Q. If I could ask the witness, could you
7 direct your correction again --

8 A. Yes.

9 Q. -- so that Ms. Shemwell has that
10 correctly?

11 A. Yes, the correction to Exhibit 12 is at
12 page 2, line 14. The number in that line should be
13 changed to read "\$199,657."

14 Q. Thank you. Go ahead and proceed.

15 A. The next two corrections appear in my
16 rebuttal testimony which has been marked as
17 Exhibit 13. The first of those two corrections
18 appears on page 6, line 15. The word "oceanographic"
19 should be changed to read "oceanic," o-c-e-a-n-i-c.

20 And the second correction appears on
21 page 23, line 3. The next-to-last word in that
22 sentence should read "normal," so the i should be
23 changed to an o in that word.

24 The final change appears in my
25 surrebuttal testimony which has been marked as

1 Exhibit 14. The correction appears on page 8,
2 line 21, which is the last line on that page. The
3 word "impacting" should be changed to read "impact,"
4 so i-n-g should be stricken.

5 Q. Does that complete your corrections,
6 sir?

7 A. Yes, it does.

8 Q. Now, with the corrections that you've
9 just indicated, if I were to ask you the questions
10 contained in those four items of testimony that have
11 been marked as exhibits, if I were to ask you those
12 questions today, would your answers be substantially
13 the same?

14 A. They would.

15 Q. And would they be correct -- true and
16 correct to the best of your information, knowledge
17 and belief?

18 A. Yes.

19 MR. BOUDREAU: With that, I'd like to
20 offer Exhibits 11, 12, 13, 14 and tender the witness
21 for cross-examination.

22 JUDGE JONES: Any objections to those
23 exhibits?

24 (NO RESPONSE.)

25 JUDGE JONES: Exhibit 11, 12, 13 and 14

1 are admitted into the record.

2 (EXHIBIT NOS. 11, 12, 13 AND 14 WERE
3 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
4 RECORD.)

5 JUDGE JONES: Cross-examination from
6 Staff?

7 CROSS-EXAMINATION BY MS. SHEMWELL:

8 Q. Good morning, Mr. Feingold. I'm Lera
9 Shemwell representing the Staff.

10 A. Good morning.

11 Q. How are you this morning?

12 A. So far, so good.

13 Q. I just wondered, Mr. Feingold, how much
14 have you paid for your efforts in the MGE case, how
15 much have you been paid?

16 MR. BOUDREAU: If I might, Mr. Feingold,
17 I think it's a -- it's a legitimate question, but if
18 you're concerned about that being -- this is being
19 broadcast in the public forum. I don't know if the
20 witness has reservations about making that
21 information public.

22 THE WITNESS: I am concerned about the
23 competitive sensitivity of that. Secondly, I don't
24 have that number at my fingertips, since I'm not the
25 one that sends out bills to the company. I would

1 have to research that to provide you with a
2 definitive answer.

3 BY MS. SHEMWELL:

4 Q. Would you care to give us a ballpark?

5 JUDGE JONES: Is that something you
6 don't want broadcast?

7 THE WITNESS: I'm concerned about that,
8 Judge.

9 MR. BOUDREAU: I was wondering if
10 perhaps --

11 JUDGE JONES: We're on mute now, go
12 ahead and answer the question.

13 (REPORTER'S NOTE: At this point, an
14 in-camera session was held, which is contained in
15 Volume 6, pages 372 through 373 of the transcript.)

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1 (CROSS-EXAMINATION) BY MS. SHEMWELL:

2 Q. MGE's a monopoly?

3 A. Yes, it is.

4 Q. So if someone in their certified
5 territory -- or certificated territory wants natural
6 gas, they have to get it from MGE?

7 A. That is correct.

8 Q. On page 21, you discuss the risks.

9 A. Is that Exhibit 11?

10 Q. It is, sir.

11 COMMISSIONER MURRAY: Judge, are we back
12 on?

13 JUDGE JONES: Yes, we're back on.

14 BY MS. SHEMWELL:

15 Q. Page 21, sir?

16 MR. BOUDREAU: If I might at this point,
17 are we done with any inquiry to his billing rates?

18 JUDGE JONES: We're off -- we're off
19 mute, everyone can hear us now.

20 BY MS. SHEMWELL:

21 Q. Are you there, sir?

22 A. I am.

23 Q. You list a number of risks. You have
24 made two proposals, correct?

25 A. Yes, a primary proposal and an alternate

1 proposal.

2 Q. Which proposal goes furthest to
3 eliminate these risks?

4 A. I believe that the company's primary
5 proposal is more effective in addressing these
6 issues.

7 Q. And which is the primary proposal?

8 A. The primary proposal is the one that
9 proposes a straight fixed variable rate design for
10 the residential class. It also includes a
11 disproportionate increase in the monthly customer
12 charge for the small general service class and leaves
13 the rate structure for the other classes unchanged.

14 MS. SHEMWELL: That's all I have. Thank
15 you.

16 JUDGE JONES: Any cross-examination from
17 the Office of Public Counsel?

18 MR. POSTON: Yes, thank you.

19 JUDGE JONES: Go right ahead.

20 CROSS-EXAMINATION BY MR. POSTON:

21 Q. Good morning, Mr. Feingold.

22 A. Good morning, Mr. Poston.

23 Q. Have you ever been employed by a gas
24 utility?

25 A. No, I have not.

1 Q. Have you ever been employed by a state
2 utility commission or a state consumer advocate?

3 A. No.

4 Q. Could you briefly explain how your firm
5 was hired to do this work for MGE?

6 A. Well, I can talk generally about the
7 process. I think if you want specifics, you'd have
8 to address those questions to the employees of the
9 company that retained Navigant Consulting, but as I
10 understand it, we were interviewed by telephone and
11 were asked about our credentials, our experience, our
12 capabilities in utility ratemaking.

13 We were asked about our capabilities to
14 perform a cost of service study for the company, our
15 capabilities to be able to address some of the
16 chronic problems that exist at the company, vis-a-vis
17 rate design solutions to address those problems, and
18 we then provided a letter proposal to the company
19 that they used to evaluate our proposed scope of
20 work, our approach, our staffing, and then subsequent
21 to that submission, we were retained by the company.

22 Q. In the interview did they ask you what
23 type of rate design -- rate designs you had proposed
24 in the past?

25 A. I'm not sure if they asked that specific

1 question. They certainly knew where I had testified
2 before because I had provided a curriculum vitae
3 which included the proceedings that I testified in,
4 and so I presume that, and based on the fact that I
5 do a fair amount of speaking before NARUC with the
6 American Gas Association and other trade
7 associations, and I teach at the American Gas
8 Association rate course, that they were able to do
9 their own assessment of what my beliefs are in this
10 area.

11 Q. And did someone at MGE review your
12 testimony before it was filed?

13 A. Yes.

14 Q. And who -- who reviewed it, do you know?

15 A. Well, it was legal counsel for the
16 company, and I believe at a minimum, two individuals
17 in the company who are witnesses in this case,
18 Mr. Hack and Mr. Noack.

19 Q. And did they make any changes to your
20 testimony?

21 A. I believe they had a discussion with me
22 on suggested changes, and based on discussions of
23 those changes, there was agreement where appropriate
24 to make those changes in the final testimony that was
25 filed.

1 Q. And just generally, what type of changes
2 did they ask you to make?

3 A. In some cases it was wording changes, in
4 other cases it was factual changes where I had
5 misstated a particular situation of the company.

6 Q. Have you ever proposed a straight fixed
7 variable rate design in any other proceeding?

8 A. Not yet.

9 Q. So this is -- this is the first?

10 A. This is the first for me personally.
11 Conceptually, it's very close to the types of
12 approaches that I've used in prior cases in moving
13 towards cost -- cost-based rates.

14 Q. Have you ever proposed a traditional
15 rate design similar to what MGE is operating under
16 today?

17 A. I've proposed multipart rates, yes.

18 Q. Weather has always been variable; is
19 that correct?

20 A. Yes.

21 Q. And it's always been a business risk for
22 LDCs, correct?

23 A. Yes.

24 Q. And on page 22 of your direct testimony
25 you discuss high and volatile natural gas prices.

1 Isn't the price of gas down today from what it was
2 this time last year?

3 A. Yes, it is and we're all glad of that.

4 Q. Can you explain what -- what are the
5 historic reasons why rate design contains a fixed and
6 a volumetric rate element?

7 A. Well, I think if we go all the way back
8 to the beginning of the natural gas distribution
9 industry, there was a desire on the part of
10 distribution companies and regulators to essentially
11 kick-start the industry by allowing customers who
12 sign on for service to experience lower rates on a
13 unit cost basis as they use more gas. That was way
14 back at that time, the approach that was used to try
15 to get customers incented to start using natural gas
16 for the first time.

17 FERC, over the years, has -- has moved
18 from fixed prices to variable prices to try to affect
19 market conditions, to try to affect customer
20 behavior, but at the same time FERC has made those
21 changes over the years without, I think, full regard
22 for the underlying costs associated with providing
23 those services.

24 So over time, we -- we saw this
25 evolution of multipart rates and sometimes the

1 volumetric rate would be higher. At other times the
2 volumetric rate would be lower, and I think right now
3 with --

4 MR. POSTON: That's -- I was asking
5 historically. Now he's getting into --

6 THE WITNESS: Well, I'm trying to
7 provide the perspective of how we got to where we are
8 in --

9 JUDGE JONES: I don't know if you were
10 here yesterday, but I just want you to answer the
11 question and let your counsel be responsible for
12 fleshing your answer out if need be.

13 THE WITNESS: I understand.

14 JUDGE JONES: Okay.

15 BY MR. POSTON:

16 Q. On page 24 of your direct testimony, you
17 testify that MGE's fixed costs do not vary in the
18 short-term with changes in temperature and
19 consumption. Are there fixed costs that vary in the
20 long-term with changes in temperature and
21 consumption?

22 A. Well, certainly, over time as more
23 customers are connected to the distribution system
24 and as more gas is moved in that delivery system,
25 there is requirements to add pipe in the ground to

1 increase the capacity of mains, to add new services,
2 new meters and the like.

3 Q. Now, on page 26 you say, "In cold
4 weather, earnings are higher, while in warm weather
5 earnings are lower." Isn't it true that in cold
6 weather there is more need for MGE service?

7 A. In cold weather the investment that MGE
8 has made to provide delivery service doesn't
9 change --

10 Q. It's -- is there more of a need for
11 their service? That's -- it's a yes or no question.

12 A. There is more gas that moves through the
13 system, yes.

14 Q. And isn't this consistent with other
15 industries where during times of high demand,
16 earnings are -- earnings are higher, and if demand is
17 lower, earnings are lower?

18 A. I can -- I can see the similarities.
19 I'm not sure there's a one-to-one relationship.

20 Q. Is a goal of utility regulation to mimic
21 a competitive market?

22 A. I think that's one of the goals, yes.

23 Q. Would you agree that gas usage declines
24 generally during periods of warmer weather?

25 A. I would agree with that.

1 Q. Would an increase in the customer base
2 help offset a decline in usage?

3 A. It -- it could, depending on the
4 magnitude of that -- of that change.

5 Q. Do you know whether MGE's sales customer
6 base has been increasing, decreasing or staying the
7 same?

8 A. My recollection is that it is -- been
9 increasing at a rather slow rate or low rate over
10 time.

11 Q. On page 28 of your testimony you
12 highlight an American Gas Association analysis that
13 you include in your schedules and you say on your --
14 on page 28 that usage has been --

15 MR. BOUDREAU: I'm sorry. Is this 28 of
16 his direct?

17 MR. POSTON: Yes.

18 MR. BOUDREAU: Okay. Thank you.

19 BY MR. POSTON:

20 Q. You say, "Usage has been declining
21 1 percent per year since 1980"; is that correct?

22 A. You're referring to the footnote on
23 page 28?

24 Q. Yes.

25 A. Yes, I see that.

1 Q. And the analysis that you study, or that
2 you refer to is an analysis by the American Gas
3 Association; is that correct?

4 A. Yes, it is.

5 Q. And that's -- and that association is an
6 advocate for LDCs; is that correct?

7 A. Yes.

8 Q. And then on page 28 you say, "MGE's
9 customers during that period have shown a material
10 reduction in gas consumption." Have you presented
11 data for MGE or its predecessors going back to 1980?

12 A. No. The data that I presented for MGE
13 started in 1996.

14 Q. Now, also on page 28 you say,
15 "A material reduction in gas consumption for MGE --
16 MGE's customers is caused primarily by increased
17 efficiency of gas appliances, reduced appliance
18 saturation in homes with natural gas and tighter,
19 more efficient homes"; is that correct?

20 A. Yes.

21 Q. And what data have you provided to
22 support this claim as the primary cause for reduction
23 in gas consumption?

24 A. Well, the data that I provided of the
25 AGA study and the presumption is that the company was

1 part of that study since it's part of the gas
2 distribution industry, and based on my experience
3 with customer use characteristics, I didn't believe
4 that there was anything that was materially different
5 that I saw in my work with MGE that would suggest
6 their patterns would be any different.

7 Q. So you haven't provided any data, then,
8 to show that this is the primary cause versus weather
9 as the primary cause for, say, declines in usage, at
10 least for MGE over the last ten years?

11 A. No, because I'm trying to make the
12 distinction between a decline in use per customer and
13 variations in use per customer which is more
14 weather-driven. If we look at the trends that appear
15 in the schedules where I have provided company data,
16 it's clear that there is a declining use that
17 transcends the weather variability of colder and
18 warmer-than-normal weather, and that's what I was
19 trying to capture here.

20 Q. Okay. Let's turn to those schedules.
21 I'd like to start with your schedule RAF 7.

22 A. I have it.

23 Q. And I'd like to look at page 1 of 4.

24 A. Yes.

25 Q. Do the years 1996, 1997 and 2001

1 indicate the highest usage per customer?

2 A. Which years now? I'm sorry.

3 Q. '96, '97 and 2001.

4 A. The highest actual consumption, yes.

5 Q. And these years all show over 1,000

6 CCF's per customer, correct?

7 A. Yes.

8 Q. And turning to RAF 8, 1 of 2, looking at

9 these same years, 1996, '97 and 2001, they show the

10 highest upward variance from the normal heating

11 degree day with over 300 heating degree days above

12 normal; is that correct?

13 A. That's correct.

14 Q. And likewise, on schedule RAF 7, the

15 years 1999, 2000, 2002, 2004 and 2005, all have a

16 lower usage level below 900 CCF's per customer,

17 correct?

18 A. That's correct.

19 Q. And looking back again at schedule RAF 8,

20 these same low usage years indicate heating degree

21 days that were all more than 300 heating degree days

22 below the normal; is that correct?

23 A. Yes.

24 Q. So generally speaking, the years that

25 were warmer-than-normal usage was lower than normal,

1 and likewise, the years were -- that were
2 colder-than-normal usage was higher than normal?

3 A. That's right.

4 Q. I'd like to turn to your straight fixed
5 variable proposal briefly. What would you consider
6 to be a typical low-volume user, meaning for what
7 purpose does a low-volume user use gas?

8 A. Well, a low-volume gas user could be a
9 customer that uses gas for space heating, for water
10 heating, for cooking that in the summertime is not
11 using heating so they are at a lower use than they
12 would be at other times of the year.

13 Q. So compared to -- okay. Well, then,
14 tell me what would be a high-volume residential user.

15 A. Well, a high-volume residential user
16 would be a customer that in winter months is using
17 heating so they're using more than -- than in -- than
18 they use in the summer months.

19 Q. What would you consider to be the lowest
20 volume user, for what purpose would that person use
21 gas service?

22 A. Probably would be a customer that just
23 has natural gas cooking.

24 Q. And then -- and moving up, then, what
25 would be the next purpose that would use -- the next

1 highest volumes?

2 A. The next purpose that could be added in
3 could be natural gas water heating.

4 Q. And I mean, generally, cooking, water
5 heating, then, space heating above that, I guess?

6 A. I would agree with that.

7 Q. Would you agree that a straight fixed
8 variable rate design would shift responsibility for
9 MGE's residential revenue requirement from
10 large-volume users to low-volume users?

11 A. Yes, and appropriately so.

12 Q. Does the rate design proposed by MGE or
13 the Staff make any annual or monthly adjustments to
14 reflect a change in the number of customers from the
15 test year levels?

16 A. Through the straight fixed variable rate
17 design?

18 Q. Or your weather normalization adjustment
19 rate design, either one.

20 A. No.

21 Q. Under your weather normalization
22 proposal, would a customer see a reduction in their
23 non-gas bill if they were to install a more energy
24 efficient furnace?

25 A. Could I have that reread, please?

1 Q. Under your weather normalization
2 adjustment proposal, would a customer see a reduction
3 in their non-gas bill -- non-gas portion of their
4 bill if they were to install a more energy efficient
5 furnace?

6 A. No, they wouldn't and again, that's
7 appropriate that that occurs that way.

8 Q. Will a customer under the weather
9 normalization adjustment see any savings on the
10 non-gas cost portion of their bill if they implement
11 energy efficiency or conservation practices?

12 A. Under which proposal now?

13 Q. The weather normalization adjustment.

14 A. No, they will not. They will see the
15 savings through the commodity.

16 MR. POSTON: That's all I have. Thank
17 you.

18 JUDGE JONES: Mr. Finnegan, no
19 questions?

20 MR. FINNEGAN: No questions.

21 JUDGE JONES: Any questions from the
22 bench?

23 COMMISSIONER MURRAY: Maybe just one or
24 two.

25 QUESTIONS BY COMMISSIONER MURRAY:

1 Q. Good morning.

2 A. Good morning.

3 Q. The rate design proposal that MGE wants
4 us to consider here is -- would it be considered a
5 rate design that is -- provides an incentive for
6 conservation, in your opinion?

7 A. Yes, and if I can explain that answer?

8 Q. Yes, please.

9 A. In my opinion, any gas distribution
10 utility has what I would characterize as a throughput
11 incentive. And by that I mean, by virtue of the fact
12 that rates have a volumetric component to them for
13 most gas distribution utilities, there is a natural
14 incentive for the company to try to maximize the
15 amount of gas that flows on its system driven by the
16 way that they recover revenues through their rate
17 design.

18 So in other words, to the extent that
19 there's a volumetric component, there's an incentive
20 to maximize throughput and that's what I mean by this
21 throughput incentive. There's been a lot of --

22 Q. On the other hand, there would be a
23 disincentive to encourage less usage; is that
24 correct?

25 A. That's exactly right. And that has been

1 the -- the threshold concept that has been discussed
2 before groups like NARUC, the American Gas
3 Association, other industry organizations, whenever
4 the issue of energy conservation or energy efficiency
5 has been raised as a necessary initiative to be
6 pursued by gas utilities and their regulators.

7 By removing that throughput incentive,
8 the company no longer is driven to maximize
9 throughput and they can, then, in a more balanced
10 way -- and really, what we're talking about is the
11 interest of the company being better aligned with the
12 interest of the customers, they can offer energy
13 efficiency and conservation programs and not be
14 concerned about the financial consequences of doing
15 that as they would have had with volumetric rates.

16 Q. And is this a trend that is occurring in
17 other states?

18 A. Well, I believe it is, Commissioner.
19 And I think the trend is really in a number of areas.
20 There are more and more states that are considering
21 rate designs as the company has proposed in this
22 proceeding or other types of automatic adjustment
23 mechanisms that can address this throughput incentive
24 concern that is in the industry.

25 Q. And have you been involved in testifying

1 in other cases recently in which other state
2 commissions considered these type of rate proposals?

3 A. Yes, I have.

4 Q. And would you care to elaborate on other
5 states that have -- that you have been personally
6 involved with who have gone -- taken a move toward
7 removing the throughput incentive?

8 A. Yes. I think the one that comes to mind
9 immediately is Indiana. In Indiana the Indiana
10 Utility Regulatory Commission recently approved a
11 revenue decoupling mechanism for Veteran Energy which
12 is the utility that serves the southern Indiana area
13 in conjunction with the utility offering of
14 conservation and energy efficiency programs, that
15 would provide the tools and the capabilities for
16 customers to better manage their gas consumption.

17 Q. Okay. And have you been involved at all
18 in these other conservation and energy efficiency
19 programs that have been studied or submitted?

20 A. Commissioner, I have been involved in
21 the ratemaking parts of that process. Colleagues of
22 mine within my firm have been involved in actually
23 conceiving of the energy conservation, energy
24 efficiency programs themselves that in many cases go
25 hand-in-hand with the ratemaking changes.

1 Q. So you've not really studied those; you
2 wouldn't consider yourself an expert in those areas,
3 I assume?

4 A. No, I wouldn't. I know that the company
5 does have another witness that will be presented that
6 will discuss the programs that are being offered in
7 this proceeding.

8 Q. And in your opinion, is it at least
9 advisable that conservation and energy efficiency
10 programs be coordinated with a change in rate design
11 such as we are considering here?

12 A. Well, I think in recent times we're
13 seeing this, but I have to point out that in other
14 jurisdictions where a straight fixed variable has
15 been approved or where revenue decoupling mechanisms
16 have been approved, they have not been driven by
17 energy conservation and energy efficiency interests.

18 They have been driven more by regulatory
19 considerations, by the same kinds of drivers that
20 we're seeing in the company's case, financial
21 concerns, concerns with variability and customers'
22 bills. So states like Maryland, Georgia, where they
23 have decoupling and straight fixed variable
24 ratemaking mechanisms, they were not premised on
25 conservation measures.

1 Now, by the same token, over time,
2 because of the high price of natural gas, many of
3 these states have chosen to pursue energy efficiency
4 and conservation efforts as well, and the ratemaking
5 mechanisms are in place to allow the utilities to
6 confidently go forward and do that. In other
7 jurisdictions like here, we're trying to make these
8 changes in concert with the offering of these
9 programs.

10 Q. Okay. So in your opinion, if a state is
11 particularly concerned about improving energy
12 efficiency and conservation efforts within the state,
13 would that state look favorably upon a rate design
14 such as the one being proposed here?

15 A. I believe they would. And I believe
16 that states like that are being influenced by broader
17 industry moves that are going, including things like
18 the recently issued national action plan for energy
19 efficiency that was endorsed by -- not endorsed but
20 actually was co-chaired by Diane Munns who was the --
21 one of the commissioners in the Iowa Commission.

22 And in that document, it's very clear
23 that one of the primary recommendations in that
24 action plan is to have state commissions investigate
25 the appropriateness of making changes in ratemaking

1 to reflect the types of rate design that we're
2 talking about here in this proceeding.

3 COMMISSIONER MURRAY: Thank you very
4 much.

5 THE WITNESS: Thank you.

6 COMMISSIONER GAW: No questions.

7 QUESTIONS BY JUDGE JONES:

8 Q. I just want to be -- I just want to
9 understand this throughput incentive. Isn't that
10 driven by demand?

11 A. It is, Judge, and -- but it's also
12 driven by the financial realities of setting rates
13 for a utility and giving them the tools to recover
14 their cost through volumetric rates. So -- so it's
15 almost a natural consequence of recovering fixed
16 costs through volumetric rates that a utility or any
17 business would want to maximize their throughput.
18 And maximizing throughput is obviously not consistent
19 with trying to provide initiatives and programs and
20 tools to customers to reduce throughput.

21 Q. And Commissioner Murray asked you about
22 conservation efforts. Doesn't conservation lie more
23 with the consumer than it does with the -- with the
24 company?

25 A. Well, it does, but I also think that any

1 program in addition to natural actions that the
2 customer takes is going to be an added benefit. And
3 I think through the rate design that the company is
4 proposing in this proceeding, one of the things that
5 we're trying to do is to better align the interests
6 of the company and the customers, and to the extent
7 that the company no longer has that throughput
8 incentive out there, I believe that they have a
9 greater likelihood of offering programs in
10 conjunction with the actions that customers are
11 already taking to save energy.

12 Q. So do you agree, then, that if demand --
13 if demand goes down through conservation and the
14 company is unable to recover the cost that it seeks
15 through this new rate design, then it would be worse
16 off?

17 A. Well, I think so, and I think that is
18 painfully illustrated in some of the schedules I have
19 that show the margin losses that the company has
20 experienced over the last five years or so as a
21 result of actions like that.

22 JUDGE JONES: Okay. Do we have any more
23 questions?

24 COMMISSIONER MURRAY: I do, please.

25 QUESTIONS BY COMMISSIONER MURRAY:

1 Q. I just want to clarify a couple of
2 things. The fixed costs that are being proposed to
3 be recovered through a fixed charge, the purpose of
4 that, as I understand it, is that the company has
5 certain charges that are there. They are fixed
6 regardless of the volume that is sold; is that
7 correct?

8 A. That's correct. And you know, the
9 primary example of that would be whether a bill is
10 sent out to a customer that has zero usage on it or
11 ten units of consumption, that cost is still incurred
12 to send out that bill.

13 Q. And if the rate design, as it is
14 currently in place, with that rate design, in a
15 period of low usage when you have exceptionally warm
16 weather, for example, the company experiences those
17 fixed costs but is unable to recover all of those
18 fixed costs through volumetric rates because the
19 volume is down significantly; is that correct?

20 A. That's exactly right. Under traditional
21 ratemaking in a rate case like this one, one of the
22 objectives is to set a volume level for the company
23 by class that would be used to set the level of those
24 volumetric rates.

25 So to the extent that we are up here

1 with setting that level of volume, and the volume
2 that materializes is down here, the math is very
3 clear, we're short on revenue relative to what was
4 expected in the test year.

5 Q. And the company is like any business
6 interested in making a profit; is that correct?

7 A. Well, they're interested in making a
8 profit that has been approved by the Commission --

9 Q. Certainly.

10 A. -- as being reasonable.

11 Q. And in order to do that, if -- if
12 encouraging conservation detracts from being able to
13 make that profit, the company would have little, if
14 any incentive to encourage conservation; is that
15 correct?

16 A. I believe that -- that is true. And --
17 and the alternative or the only course of action that
18 the company has if they don't have the proper
19 ratemaking tools is to come back in and file another
20 rate case, because that volume level was not set
21 where it actually occurred.

22 COMMISSIONER MURRAY: Thank you.

23 THE WITNESS: Okay.

24 JUDGE JONES: Any recross from Staff?

25 MS. SHEMWELL: Thank you.

1 RE CROSS-EXAMINATION BY MS. SHEMWELL:

2 Q. Mr. Feingold, you've had a number of
3 questions from Commissioner Murray and Judge Jones
4 about the company's incentive to encourage or
5 discourage conservation. Has MGE proposed any
6 conservation programs in this case?

7 A. Yes. It's my understanding that they
8 have.

9 Q. What are those?

10 A. I believe there are two programs. I
11 don't know the specifics of them. I think
12 Mr. Hendershot would be better prepared to discuss
13 those, but I believe its value -- the value of those
14 programs are in excess of -- or around three quarters
15 of a million dollars.

16 Q. Are you aware, does MGE propose to
17 publicize those in any way or do you know how they
18 intend to get the information to customers?

19 A. Well, I presume there's gonna be an
20 education process. Again, I'm not the best witness
21 to ask about the specifics of MGE's proposal, but I
22 would anticipate that there would be that process.

23 Q. Is that also Mr. Hendershot that we
24 should ask about that?

25 A. That's my understanding.

1 MS. SHEMWELL: Thank you, sir. That's
2 all I have.

3 JUDGE JONES: Recross from the Office of
4 Public Counsel?

5 MR. POSTON: Yes, thank you.

6 RECROSS-EXAMINATION BY MR. POSTON:

7 Q. Commissioner Murray asked you questions
8 about other state commissions and similar rate --
9 rate design proposals along those lines, do you
10 recall?

11 A. Yes, I do.

12 MR. POSTON: I'd like to approach the
13 witness.

14 JUDGE JONES: You may.

15 BY MR. POSTON:

16 Q. Would you please look over and identify
17 what I have handed you?

18 A. I have.

19 Q. And could you please identify this?

20 A. It is a company response to a data
21 request submitted by the Staff of the Commission.

22 Q. And what does the data request ask?

23 A. "Is MGE aware of any states that allow
24 companies to collect all margin costs through a
25 fixed, comma, monthly, in parens, customer, closed

1 parens, charge and any companies with such a rate
2 design? If so, please list the states that allow it
3 and the companies that collect all margin costs
4 through a fixed, comma, monthly customer charge."

5 Q. And in the response -- who filed that
6 response?

7 A. The company.

8 Q. Which -- I believe there's an individual
9 named Mr. Noack, I believe. On the front -- the
10 first page?

11 A. Well, it doesn't say "filed by," it says
12 "Requested from Mr. Noack."

13 Q. Okay. Okay. And the answer -- in the
14 first paragraph of the answer it identifies two
15 companies; is that correct, that have a straight
16 fixed variable rate design?

17 A. Did you say the first paragraph?

18 Q. Yes.

19 MR. BOUDREAU: I think -- I think at
20 this point I'm going to object to the line of
21 questions because I -- unless I'm misunderstanding
22 his testimony, he was not responsible for preparing
23 the answer to it, so he's being cross-examined on
24 something apparently that somebody else has said and
25 I think that's inappropriate cross-examination, so...

1 MR. POSTON: Well, this is an MGE
2 response, he's testifying on behalf of MGE, and it
3 directly follows questions from Commissioner Murray
4 about what other states are doing and whether other
5 states had considered this type of proposal.

6 JUDGE JONES: Objection overruled.

7 BY MR. POSTON:

8 Q. In that first paragraph there are two
9 companies named as having been approved to use a
10 straight fixed variable rate structure; is that
11 correct?

12 A. Correct.

13 Q. And those are Northern States Power
14 Company in North Dakota and Atlanta Gas Light in
15 Georgia; is that correct?

16 A. Yes.

17 Q. And then down on the third paragraph of
18 the response, it states, "There are two other gas
19 utilities that have filed for regulatory approval of
20 gas tariffs for their residential service customers
21 that approximates that straight fixed variable rate
22 structures"; is that correct?

23 A. Yes.

24 Q. And the two utilities identified are
25 Semco, S-e-m-c-o, Energy Gas Company in Michigan,

1 correct?

2 A. Correct.

3 Q. And Kansas Gas Service in Kansas; is
4 that correct?

5 A. That's correct.

6 MR. POSTON: I'd like to approach again,
7 please.

8 JUDGE JONES: You may.

9 BY MR. POSTON:

10 Q. Would you please review that document
11 and when you're done, please identify it?

12 A. It appears to be a settlement agreement
13 that was filed by Semco Energy Gas Company in its
14 most recent rate proceeding before the Michigan
15 Public Service Commission.

16 Q. And I've tabbed a page. Well, first,
17 what is the date of that?

18 A. The date of the cover letter is
19 December 29th, 2006.

20 Q. And so that indicates that's the day it
21 was filed with that Commission, the Michigan
22 Commission?

23 A. I'm making that assumption, yes.

24 Q. And I have a tabbed page and on there
25 there's some highlighted language. And if you could

1 take a moment to read through that.

2 A. Okay.

3 Q. And based on what you have just read,
4 would you agree that in that case the parties have
5 settled on rate design and their settlement did not
6 go with the straight fixed variable, it had gone with
7 a customer charge and a volumetric rate?

8 A. I would agree that the -- that the
9 parties in the case settled the issue of rate design
10 and did not accept or did not agree on the original
11 proposal which was straight fixed variable, and they
12 settled on a rate design that is two-part, fixed and
13 volumetric.

14 Q. And that -- according to that, that was
15 the proposal of that Commission's Staff; is that
16 correct?

17 MR. BOUDREAU: I think I'm gonna object
18 to it on the grounds of relevance.

19 JUDGE JONES: How is this relevant?
20 You're kind of losing me here.

21 MR. POSTON: Well, which part is
22 relevant, whether --

23 JUDGE JONES: You're showing another
24 state did something and --

25 MR. POSTON: Well, he's testified as to

1 what other states are doing and I'm showing that
2 other states that have looked at the straight fixed
3 variable rate design are not adopting it.

4 JUDGE JONES: Okay.

5 MR. POSTON: And I will acknowledge that
6 in this one, you know, this was just filed. And so
7 this is a settlement proposal -- or is a settlement
8 and that state commission has not ruled on that
9 settlement.

10 JUDGE JONES: So that doesn't even go to
11 show what you're trying to prove.

12 MR. POSTON: No, what I'm trying to show
13 on this one that the parties, at least in that case
14 that considered straight fixed variable, they have
15 settled on something that is not straight fixed
16 variable.

17 JUDGE JONES: Let me ask you this: Are
18 you gonna have any other states that you want to
19 discuss?

20 MR. POSTON: I've got one more -- of the
21 two that MGE identified that were also considered
22 straight fixed variable, I just wanted to focus on
23 those two and I've got one more. And Kansas actually
24 did issue an order on the issue -- on the issue.

25 JUDGE JONES: Objection overruled, but

1 don't stay on this document too long. It does what
2 it did. They offered a settlement, right?

3 MR. POSTON: Okay. I'll move on to the
4 next.

5 JUDGE JONES: Okay.

6 BY MR. POSTON:

7 Q. If you could take a moment to review
8 that and I've -- I've tabbed the pages that may speed
9 you along.

10 A. Well, you just want me to read the
11 tabbed pages or the other parts of the settlement
12 that --

13 Q. Well, first I'm gonna ask you to please
14 identify what -- what that document is.

15 A. Yes, this document appears to be an
16 order issued by the State Corporation Commission of
17 the State of Kansas approving a stipulated settlement
18 agreement in Kansas Gas Services' most recent general
19 rate case.

20 Q. And that's the company that was
21 identified by Mr. Noack in the response to that data
22 request, correct?

23 A. Yes.

24 Q. And on page -- if you would turn back to
25 the actual stipulated settlement agreement that was

1 approved, on page 3, it addresses rate design and it
2 says, "The rates and rate design resulting from the
3 increase are set forth in Exhibit A," correct?

4 A. Where is that highlighted on this page?

5 Q. Are you on page 3 of the stipulated
6 agreement?

7 A. Yes, I was just looking at the yellow
8 highlighted; is it something other than that?

9 Q. That may be the order. I'm looking at
10 the stipulation.

11 A. I have that. Page 3?

12 Q. Okay. Yes. Basically, what I'm asking
13 is, it references the Exhibit A as the rate design
14 settlement.

15 A. I see that.

16 Q. If you could turn to Exhibit A, would
17 you agree that the -- what was proposed by these
18 parties and what was eventually adopted by the Kansas
19 Commission is not a straight fixed variable rate
20 design; is that correct?

21 A. I would agree with that.

22 Q. And there's actually a customer charge
23 and a volumetric rate; is that correct?

24 A. That is correct.

25 MR. POSTON: Thank you. That's all I

1 have.

2 JUDGE JONES: Mr. Poston, any other
3 questions other than redirect? We'll move on to
4 redirect, then.

5 MR. BOUDREAU: Thank you.

6 REDIRECT EXAMINATION BY MR. BOUDREAU:

7 Q. Mr. Feingold, on the topic that you just
8 covered with Mr. Poston, and specifically the Kansas
9 Gas Service circumstance --

10 A. Yes.

11 Q. -- would you agree -- or do you know
12 whether -- do you know whether Kansas Gas Service has
13 a weather clause?

14 A. I believe they do.

15 Q. Does MGE have a weather clause in place?

16 A. No, they do not.

17 Q. More broadly on the topic that you just
18 covered with Mr. Poston, are there companies that
19 have implemented variations of rate design that have
20 severed or tended to sever the connection between
21 throughput and revenues that, in essence, have the
22 same effect or general effect or trend as a straight
23 fixed variable rate design would have?

24 A. Oh, yes. And, in fact, there's a
25 growing interest in the area of revenue decoupling

1 mechanisms which, by their very name, decouple or
2 break the link between a gas utility's sales volumes
3 and its revenue and ultimately earnings, which
4 directly addresses the throughput incentive that we
5 talked about earlier just as straight fixed variable
6 does.

7 Q. I want to circle back. I think you
8 received a couple of questions, I believe, from
9 Mr. Poston about your schedules RAF 7, and I believe
10 you touched on schedule RAF 8. Do you recall
11 those --

12 A. Yes, I do.

13 Q. -- that line of questions? And I
14 believe your testimony was that schedule RAF 8 showed
15 that -- in essence, that there were years when
16 heating degree days exceeded the 30-year normal and
17 heating degree days -- in the years in which heating
18 degree days came in below 30 degree -- or 30-year
19 normal; is that correct?

20 A. That's correct.

21 Q. Okay. And I want to direct your
22 attention to your schedule RAF 7, and I want to ask
23 you if that -- if that schedule is really a
24 comparison as to the -- to the 30-year normal -- I
25 mean, in other words, what's the relationship between

1 those two grids?

2 A. Well, the relationship, as I described
3 in my testimony, is that the weather patterns on
4 schedule RAF 8 are one of the factors that drive the
5 consumption patterns in schedule RAF 7. And while,
6 as we discussed in cross-examination, the upward and
7 downward movements of use per customer vary with
8 weather, there are other factors, as I describe in my
9 testimony, including declining use per customer due
10 to customers taking energy efficiency and
11 conservation actions that drive the trend that
12 appears on schedule RAF 7.

13 I mean, I don't think there's any way to
14 question that if we look at the bars on schedule RAF
15 7, there is a downward trend over time, and in fact,
16 the Commission, in its previous cases, MGE cases,
17 tried, unfortunately, unsuccessfully, to reflect that
18 downward trend by virtue of the lying above the bars
19 that reflects the consumption that was set in each of
20 MGE's prior rate cases, that as I talked about
21 earlier, those numbers are always above the actual
22 consumption experience.

23 Q. And so in that -- I think you kind of
24 lead me to my following question. Let's take a look
25 at the year 2001 which, if you look at your schedule

1 RAF 8, that shows that heating degree days in 2001
2 were above the 30-year normal, correct?

3 A. That's correct.

4 Q. But even in that year, referring to
5 schedule RAF 7, actual usage did not meet really
6 what -- what is the expected usage as the -- as MGE's
7 rates were set; is that correct?

8 A. That's correct. The actual usage was
9 1,011 CCF per customer, yet the rates, and the
10 volumetric portion of the rate most specifically, was
11 set on a higher volume number of 1,035 CCF.

12 Q. And so, I guess, was there any year
13 between 1996 and 2005 in which colder weather
14 resulted in higher than assumed usage?

15 A. No.

16 Q. I want to go to a line of questions that
17 you received from Mr. Poston about -- I think it was
18 page -- referring to page 28 of your direct testimony
19 and specifically your reliance on information
20 generated by the American Gas Association. Do you
21 recall those -- that line of questioning?

22 A. I do.

23 Q. Is the information that you utilized as
24 generated by the AGA, is that information that's
25 typically relied on by people in your field examining

1 these issues?

2 A. Yes.

3 Q. And do you consider it reasonable to
4 rely on the data generated by the American Gas
5 Association?

6 A. I do. And in fact, in many instances, I
7 myself have personally participated in those studies
8 and know that the raw data comes directly from the
9 utilities that -- that are being reported in the
10 information.

11 Q. Thank you. I think you were also asked
12 by Mr. Poston to elaborate a little bit on the
13 genesis of the traditional combination of fixed and
14 volumetric rate elements in a rate structure. Do you
15 recall that?

16 A. I do.

17 Q. And you gave a little bit of background
18 about the history of it and I wanted to ask you if
19 you could -- I believe your testimony was that under
20 the circumstances that it came about to generate a
21 particular result, and I believe it was to incent
22 customers to actually use the product --

23 A. That's correct.

24 Q. -- in the early stages. And with that
25 as kind a context for your discussion, I wonder if

1 you could bring that discussion more current in terms
2 of what are the current trends and how these impacted
3 the consideration of this -- this more traditional
4 rate design.

5 A. Yes. In more recent times, we now have
6 a much more mature gas distribution utility industry,
7 and now the focus has changed on driving demand for
8 the business, and now we are looking at being able to
9 operate the business efficiently, effectively, be
10 financially responsible on how the business is being
11 run and understand the needs of customers as it
12 relates to their bills.

13 And now with the increases in gas prices
14 that we've seen in recent times, there has been a
15 fundamental refocusing on energy conservation and
16 energy efficiency initiatives, and in looking at ways
17 to encourage companies and customers to pursue energy
18 efficiency and conservation initiatives.

19 There has been a focus on the pricing or
20 the rate design of these distribution companies and
21 what can be done to make changes to that rate design
22 to better align the interests of the company with the
23 customers. And that is what has given rise to the
24 straight fixed variable concept in recent times and
25 the decoupling -- revenue decoupling mechanisms that

1 we talked about earlier.

2 Q. And do you believe it's appropriate that
3 this Commission consider the rate design proposals of
4 the various parties against the more current trends
5 in the industry and the practicalities that we deal
6 with now?

7 A. Yes, I do. I believe that's the proper
8 context at this time.

9 MR. BOUDREAU: That's all the questions
10 I have for this witness. Thank you.

11 JUDGE JONES: Thank you, Mr. Feingold.
12 You may step down.

13 THE WITNESS: Thank you.

14 JUDGE JONES: I'm not sure you should be
15 excused though, I'll have to let you know. Okay.
16 Let's move on to Staff's witness, please.

17 MS. SHEMWELL: I'd like to make a brief
18 statement, first, please.

19 JUDGE JONES: Yes.

20 MS. SHEMWELL: Thank you.

21 JUDGE JONES: You can make a brief
22 statement.

23 MS. SHEMWELL: May it please the
24 Commission. I'm Lera Shemwell representing the
25 Staff. Staff is, in fact, proposing a change in rate

1 design in this case. Staff believes that the
2 decoupling of fixed costs from fuel costs is an idea
3 whose time has come for a number of reasons.

4 It does provide revenue stability for
5 the company. It provides some less volatility in
6 consumers' bills, and consumers, with the rising
7 price of gas, have become interested in reduced
8 volatility in their bills and greater predictability.

9 With the increase of cost in natural
10 gas, aligning the interest of the company with those
11 of the customer in conserving is an important step.
12 Besides encouraging conservation, this, again,
13 assists customers in predicting what their bills are
14 going to be because it levels out the costs
15 throughout the year and it's not dependent on a cold
16 winter for the company's costs. So the customers
17 will pay the company's fixed costs throughout the
18 year instead of just in the winter and reduces the
19 addition of margin cost to the cost of gas in a cold
20 winter.

21 It could also result -- conservation
22 could result in a decrease in the price of natural
23 gas to MGE's customers if they have to purchase less
24 gas. They conceivably have fewer contracts for
25 delivery of natural gas and would be in a better

1 position with lower usage to expect that natural gas
2 prices would go down.

3 MGE has proposed some conservation
4 programs and Staff encourages the Commission to
5 express its expectation that MGE will, in fact,
6 encourage conservation because it's in the best
7 interest of the company and of the customers. Thank
8 you. Staff will call Anne Ross.

9 (THE WITNESS WAS SWORN.)

10 JUDGE JONES: Thank you. You may be
11 seated.

12 (EXHIBIT NOS. 105 AND 106 WERE MARKED
13 FOR IDENTIFICATION BY THE COURT REPORTER.)
14 DIRECT EXAMINATION BY MS. SHEMWELL:

15 Q. Ms. Ross, would you spell your name for
16 the court reporter, please?

17 A. Yeah, my first name is Anne, A-n-n-e,
18 and my last name is Ross, R-o-s-s.

19 Q. Ms. Ross, have you prepared testimony in
20 this case, your direct testimony that has been
21 numbered Exhibit 105?

22 A. Yes.

23 Q. And rebuttal testimony -- or I'm sorry.
24 Surrebuttal testimony that has been numbered
25 Exhibit 106; is that correct?

1 A. I think my rebuttal would be 106.

2 Q. So 105 and 106?

3 A. Yes.

4 JUDGE JONES: You may to need to speak

5 into the microphone.

6 THE WITNESS: I'm sorry.

7 JUDGE JONES: And as far as I see, you

8 have direct and surrebuttal; is that correct?

9 THE WITNESS: No. I had rebuttal in

10 this case as well.

11 JUDGE JONES: In addition to the

12 surrebuttal?

13 THE WITNESS: Yes.

14 MS. SHEMWELL: We'll need to mark it --

15 I think we've marked rebuttal and the surrebuttal,

16 so --

17 JUDGE JONES: Well, direct is 105,

18 surrebuttal is 106, we'll label rebuttal 105A, or

19 105.5, how about that?

20 MS. SHEMWELL: Point 5? Perfect. Thank

21 you.

22 (EXHIBIT NO. 105.5 WAS MARKED FOR

23 IDENTIFICATION BY THE COURT REPORTER.)

24 BY MS. SHEMWELL:

25 Q. Have you prepared this testimony?

1 A. Yes, I have.

2 Q. Do you have corrections to your
3 testimony?

4 A. I do. I have corrections to my -- a
5 correction to my surrebuttal testimony. On page 10,
6 line 22, I make the statement, "from natural gas to
7 electric." That should read, "from electric to
8 natural gas."

9 Q. Any other corrections?

10 A. No, that's -- that's the only
11 correction.

12 Q. If I were to ask you the same questions
13 today, would your answers be substantially the same?

14 A. Yes.

15 Q. Is your testimony true and correct to
16 the best of your knowledge and belief?

17 A. Yes.

18 Q. I would like to offer Exhibits 105,
19 105.5 and 106 into evidence, your Honor.

20 JUDGE JONES: Any objections to those
21 exhibits?

22 (NO RESPONSE.)

23 JUDGE JONES: Okay. Exhibits 105, 105.5
24 and 106 are admitted into the record.

25 (EXHIBIT NOS. 105, 105.5 AND 106 WERE

1 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
2 RECORD.)

3 MS. SHEMWELL: Thank you. I tender the
4 witness for cross.

5 JUDGE JONES: Thank you. Missouri Gas
6 Energy, cross-examination?

7 CROSS-EXAMINATION BY MR. BOUDREAU:

8 Q. More in the nature of clarification, you
9 were a little bit quick for me. You made one
10 correction, could you direct me to that again and
11 enlighten me again? I'm sorry.

12 A. Yes. It's on page 10 of my surrebuttal.

13 Q. Surrebuttal.

14 A. It's on line 22 where I'm talking about
15 the company's proposed conservation program.

16 Q. Yes.

17 A. I said, "from natural gas to electric."
18 I should have said, "from electric to natural gas."

19 MR. BOUDREAU: Very good. Thank you.

20 That's all the questions I have. Thank you.

21 JUDGE JONES: Any cross-examination from
22 the Office of Public Counsel?

23 MR. POSTON: Yes, thank you.

24 CROSS-EXAMINATION BY MR. POSTON:

25 Q. Good morning.

1 A. Good morning.

2 Q. Déjà vu. You testified that under the
3 traditional rate design, the customer charge covers
4 the meter, regulator service line and ongoing
5 expenses for meter reading and customer service; is
6 that correct?

7 A. Yes, in general that's how it's
8 designed.

9 Q. And when it comes to those costs, would
10 you agree that each customer pays their fair share
11 under traditional rate design?

12 A. If that was designed correctly, yes.

13 Q. Does the customer charge cover any other
14 costs in addition to those I just listed?

15 A. That's hard to say. Everyone comes in
16 to one of these proceedings with their own idea of
17 what a customer charge should be, so I would expect
18 that some people would say that the customer charge
19 you arrive at is -- you know, is picking up costs
20 other than those direct costs. Others would say
21 you're not even picking up the direct costs.

22 Q. So what costs under traditional rate
23 design are not included in the customer charge?

24 A. Oh, the costs rights-of-way, mains,
25 measuring and regulating, administrative in general,

1 general plant, return, of course, on general plant.

2 It would help to have a uniform system of accounts in
3 front of me, but those are probably the main ones.

4 Q. Okay. And it's your belief that
5 customers are not paying -- paying what they should
6 for these other costs because everyone should pay the
7 same; is that correct?

8 A. It's my belief that low use residential
9 customers are not paying what they should for these
10 costs.

11 Q. Because you believe everyone should pay
12 the same amount for the costs?

13 A. Yes, all the -- all the residential
14 customers, yes.

15 Q. Have you or anyone at the Staff
16 performed a cost study, the results of which show
17 that the costs not included in the customer charge
18 are identical for each and every customer?

19 A. Not a formal cost study. I have talked
20 to our gas safety personnel that go out and actually
21 look at the -- at the company's equipment, I guess,
22 their rate base. And they confirmed that a
23 residential customer -- going up to the meter,
24 residential customers tend to have the same equipment
25 on them.

1 Q. And -- but that's -- that's not -- I'm
2 talking about the -- I mean, the customer charge
3 covers the meter, right?

4 A. Yes.

5 Q. Okay. I'm talking about those other
6 costs that you identified that were not included in
7 the customer charge.

8 A. Okay. Would you repeat your question,
9 then?

10 Q. Have you or anyone at the Staff
11 performed a cost study, the results of which show
12 that the cost not included in the customer charge are
13 identical for each and every customer?

14 A. No. Well, we've had numerous
15 conversations. I have not performed a cost study.

16 Q. Have you reviewed the cost study of
17 Mr. Tom Solt related to this case regarding customer
18 charges within the residential class?

19 A. No.

20 Q. Did you perform any study to determine
21 why the current size distribution mains were placed
22 into the ground rather than smaller sized mains?

23 A. No.

24 Q. Have you done any studies or provided
25 any testimony on the impact that your rate design

1 proposal would have on low-income customers?

2 A. I -- I am sure I mentioned that
3 somewhere. I haven't performed any studies -- well,
4 I take that back. We did do some -- some studies
5 showing the difference in cost for -- the difference
6 in what a low-use customer would pay under our rate
7 design proposal versus a traditional rate design
8 proposal.

9 Q. Have you determined how many low income
10 consumers would get an increase in their bill under
11 your rate design proposal?

12 A. No.

13 Q. Then you really don't know the impact
14 that your proposal could have on the low-income
15 community, do you?

16 A. I guess I haven't been thinking of it in
17 terms of the low-income community. I mainly think
18 about low income, individual low-income customers and
19 yes, I've thought about that. But no, as far as the
20 aggregate community, I have not.

21 Q. So then, you didn't make any attempts to
22 determine the number of low-income consumers that
23 might drop off the system due to the increased bill
24 under your revenue decoupling proposal?

25 A. No, I did not.

1 Q. In the Atmos case, I questioned you on
2 your similar rate design proposal and asked if --
3 asked you if under the current method of designing
4 rates, rates are normalized for weather so that in
5 the long-term, the weather impact on usage will level
6 out and offer no benefits on either the customer or
7 the company?

8 A. Yes.

9 Q. And you agree -- do you agree with that
10 still?

11 A. Yes, I do.

12 Q. And you first recommended your delivery
13 charge revenue decoupling type proposal in the Atmos
14 case, correct?

15 A. Yes, that's correct.

16 Q. And before your recommendation in this
17 case, did you research in-depth other rate designs
18 being used around the country?

19 A. It depends on what you mean by in-depth.
20 I read about a lot of other rate designs in the
21 country. I didn't research specific ones, you know,
22 as far as every little detail goes.

23 Q. What -- what did you read? What did you
24 research?

25 A. Oh, I looked at Regulatory Journal

1 articles, I looked at -- you would ask. I read
2 everything that came across my desk on it. I looked
3 at some of the -- some of the NARUC information on
4 it, I looked at some AGA information on it. Just --
5 it's hard to -- to pick up a regulatory magazine or
6 look at the proceedings from a regulatory gathering
7 without seeing discussion about decoupling revenues.

8 Q. So is it correct, then, that your
9 research was more of a general nature into what was
10 going on around the country rather than researching
11 individual examples that are being used in specific
12 states?

13 A. Yes, I didn't research them deeply.

14 Q. Do you know how many other Commission
15 staffs have proposed a straight fixed variable?

16 A. I do not.

17 Q. Are you aware of Dr. Proctor's testimony
18 in Case Number GR-2002-356 where it's --

19 MR. BOUDREAU: I'm gonna object to
20 cross-examine on the testimony of a witness in a
21 completely different case. I just don't think it's a
22 proper line of cross-examination. It's basically
23 incorporating by some sort of general reference what
24 somebody somewhere else said and I'm gonna object on
25 that grounds.

1 JUDGE JONES: Ask the question. Let's
2 hear what the question is. Ask the question.

3 MR. POSTON: I'm first asking if she's
4 aware of Dr. Proctor's testimony.

5 JUDGE JONES: And assuming she is,
6 what's the question?

7 MR. POSTON: Well, I'm gonna ask if, to
8 the extent that Dr. Proctor had an opinion that's
9 different from Staff's opinion in this case, whether
10 she believes she has better knowledge on the subject
11 than Dr. Proctor.

12 JUDGE JONES: Well, the objection's
13 sustained.

14 BY MR. POSTON:

15 Q. You state on page 5 of your direct that
16 your rate design would provide MGE an opportunity to
17 earn their revenue requirement minimal and no less,
18 correct?

19 A. On page 5 of my direct?

20 Q. Yes. Well, let me ask this: I don't
21 know if you necessarily need to get there. Do you
22 agree with that statement, that your rate design will
23 provide MGE an opportunity to earn their revenue
24 requirement, no more no less?

25 A. Yeah, they'll be able to collect the

1 revenue requirement.

2 Q. And does your proposal contain any sort
3 of adjustment mechanism to factor in changes in
4 customer numbers?

5 A. No, it does not.

6 Q. In your direct you state that under the
7 traditional rate design, everyone loses; is that
8 right?

9 A. Yes, I did state that.

10 Q. In a cold winter where the company
11 overcollects its cost of service, the company gets to
12 keep those excess earnings; is that correct?

13 A. Yes, that's correct, unless the
14 Commission Staff files a complaint case because of
15 the level of earnings.

16 Q. But even then the company wouldn't have
17 to give those excess earnings back?

18 A. No, it's my understanding that they
19 wouldn't.

20 Q. And in your testimony you also say
21 that -- say, "Customers will object to paying a fixed
22 charge rather than the variable amount that they're
23 used to paying."

24 A. Yes, some customers will.

25 Q. And you follow that by saying,

1 "Intensive consumer education will need to be
2 conducted."

3 A. Yes.

4 Q. Have you proposed any education
5 programs, tools or any ideas?

6 A. I think -- where was that in my
7 testimony because I --

8 Q. Page 13.

9 A. Of my rebuttal?

10 Q. I believe direct.

11 A. See, my direct here only has four pages.
12 That's because -- okay. I see which one. I've got
13 my revenue requirement direct. Wait, I have -- I
14 have it -- my copy. I'm sorry. That's what was
15 puzzling me. Okay. Page 13.

16 Okay. No, I haven't proposed anything
17 specific.

18 BY MR. POSTON:

19 Q. And on page 14 you say, "A customer's
20 incentive to conserve will not be decreased because
21 the gas cost portion will continue to be sensitive to
22 change"; is that correct?

23 A. That is correct.

24 Q. And if a customer today, under the
25 current rates -- rate design, cuts back on their

1 usage, would you agree that they would see a
2 reduction in their gas and their non-gas portion of
3 their bill?

4 A. Yes, I agree.

5 Q. If a customer today pays all gas costs
6 and 45 percent of non-gas costs through volumetric
7 rates, would you agree that these are two separate
8 incentives to the consumer to conserve?

9 A. Could you repeat that question?

10 Q. If a customer today pays all gas costs
11 and 45 percent of non-gas costs through volumetric
12 rates, would you agree these are two separate
13 incentives to the customer to conserve?

14 A. No. I think the customer's bill is the
15 incentive and those are both parts of their bill, if
16 I understand your question.

17 Q. Would you agree that a 45 percent --
18 collecting 45 percent of the non-gas cost portion of
19 the bill to a volumetric rate is an incentive to
20 conserve for a consumer?

21 A. Yes.

22 Q. And would you agree that that is a
23 separate incentive -- separate incentive --
24 incentive, sorry, from the gas portion of the bill?

25 A. Yes, it's a separate piece of the

1 incentive.

2 Q. Okay. Thank you. And does MGE offer a
3 plan where customers concerned with bill volatility
4 can level their payments to where they pay roughly
5 the same amount each month?

6 A. I'm sure they do.

7 MR. POSTON: That's all I have. Thank
8 you.

9 JUDGE JONES: Commissioner Murray, do
10 you have questions for Ms. Ross?

11 COMMISSIONER MURRAY: Yes, I do. Thank
12 you.

13 QUESTIONS BY COMMISSIONER MURRAY:

14 Q. Good morning -- or good afternoon. I
15 think it's barely afternoon.

16 A. Oh, my gosh.

17 Q. I have a few questions for you.

18 Mr. Poston was asking you some questions about
19 low-income consumers earlier.

20 A. Yes.

21 Q. And wouldn't it -- isn't it intuitive
22 that low-income customers drive more of the company's
23 fixed costs because of the likelihood of low-income
24 customers being more behind in their bills or
25 creating more collection problems than other

1 customers, or do you have any way of knowing that?

2 A. Yeah, I don't -- I don't know that.

3 Q. Okay. Wouldn't low-income customers
4 benefit from the rate design proposal here through
5 the weatherization proposals that are also a part of
6 this case?

7 A. Low-income customers could benefit in
8 one of two ways: First, if they're an above-average
9 user, they could see a decrease, they would see a
10 decrease in their bill. And second, if -- if,
11 indeed, the company becomes an active partner in
12 weatherization and conservation measures, the
13 long-term consumer would benefit from that.

14 Q. And you were asked also questions about
15 45 percent of the non-gas costs being included in
16 volumetric rates being an incentive for conservation;
17 do you recall that?

18 A. Yes, I do.

19 Q. And wouldn't that only be an incentive
20 if the customer actually were very aware of what the
21 components of his or her bill were and actually
22 thought through this process of which parts are
23 volumetric, which parts are fixed -- or which parts
24 are actually gas costs and which parts are non-gas
25 costs?

1 A. Yes. As I stated, I think the customer
2 looks at his total bill.

3 Q. Okay. So basically, your -- your
4 testimony is that the incentive comes from the --
5 lowering the cost of the total bill in the customer's
6 mind?

7 A. The incentive to --

8 Q. The incentive to conserve is the
9 incentive to lower the bill overall?

10 A. Yes, yes.

11 COMMISSIONER MURRAY: I think that's all
12 I have. Thank you.

13 THE WITNESS: You're welcome.

14 JUDGE JONES: Are you ready?

15 COMMISSIONER GAW: Sure. Unless
16 Commissioner Appling has some questions, I can wait
17 until he's done.

18 QUESTIONS BY JUDGE JONES:

19 Q. I want to slip one question in.

20 A. Yes.

21 Q. If I'm an MGE customer, in the
22 summertime I have an electric stove, I don't use gas,
23 take all of my showers at the YMCA because I don't
24 use any gas at home at all.

25 A. Okay.

1 Q. Under the new -- under the proposed rate
2 design, will my costs go up?

3 A. Yes.

4 Q. Okay.

5 A. Well, wait, may I qualify that?

6 Q. Sure.

7 A. Under the proposed rate design, your
8 bill would go up in the summer.

9 Q. Right.

10 A. It may or may not go up in the winter,
11 depending on -- if you use no gas it would go up.

12 Q. Just in the summer?

13 A. Just -- yes, in the summer.

14 Q. My bill would increase?

15 A. Yes.

16 JUDGE JONES: Okay. Commissioner
17 Appling?

18 COMMISSIONER APPLING: Well, I was
19 hoping it was gonna go down in the wintertime too, so
20 I'll just continue to work out at the YMCA. Try to
21 save a little water and gas. But anyway, Anne, I
22 don't think I have any questions. I'm still trying
23 to play catch-up from yesterday. But are you up
24 again sometime before this case is over?

25 THE WITNESS: I think I'm up tomorrow

1 for another issue. I'm not sure which one.

2 COMMISSIONER APPLING: Okay. I will
3 talk to you then. I'll turn you over to Commissioner
4 Gaw.

5 COMMISSIONER MURRAY: Could I, before
6 you, just ask one quick follow-up to --

7 COMMISSIONER GAW: You go right ahead.

8 COMMISSIONER MURRAY: Give you a minute
9 to think.

10 COMMISSIONER GAW: I'm okay.

11 QUESTIONS BY COMMISSIONER MURRAY:

12 Q. I just wanted to ask, if there were a
13 customer who were in the judge's hypothetical there
14 that used no gas, why would that customer even be
15 connected to the natural gas?

16 A. I don't know why they would. I don't
17 know why they'd remain connected. I think that's
18 what you're asking.

19 Q. Yes.

20 A. Yes.

21 Q. But there is a cost to being connected
22 if a customer chooses to be connected. Even if the
23 customer has no intention of using any gas, there is
24 a cost for being connected; is that correct?

25 A. Oh, yes. And it's the same cost as the

1 cost of a space heater for being connected.

2 COMMISSIONER MURRAY: Okay. Thank you.

3 THE WITNESS: You're welcome.

4 JUDGE JONES: Commissioner Gaw?

5 QUESTIONS BY COMMISSIONER GAW:

6 Q. Hello, Ms. Ross.

7 A. Commissioner Gaw.

8 Q. On one of my favorite topics. Would you
9 describe for me the conservation and efficiency
10 programs that are -- that Staff is proposing in this
11 case?

12 A. Well, we have -- actually, MGE proposed
13 the programs, and we agree that we think they would
14 be valuable. There's --

15 Q. So -- so to answer my question, Staff
16 has proposed no programs in this case?

17 A. No. We propose that the company propose
18 programs.

19 Q. So Staff did not come up with a list of
20 conservation and efficiency programs to go along with
21 its new rate design mechanism --

22 A. We did not.

23 Q. -- for the customer? Does Staff feel
24 that conservation and efficiency programs were not
25 important as a part of this case?

1 A. No, we didn't feel that way at all.

2 Q. Then explain to me why, then, that the
3 Staff did not spend the time to come up with such a
4 plan and proposal?

5 A. There's a couple reasons: In the last
6 MGE case, we came away with the impression that we
7 couldn't make the company do things the company
8 didn't want to do, and that was -- I'm speaking
9 specifically of some adjustments that we wanted to
10 make to that --

11 Q. So is the idea to only propose things
12 that you believe the company likes --

13 A. No.

14 Q. -- is that the new great approach from
15 the Staff's standpoint?

16 A. No, I don't believe it is.

17 Q. Does the Staff believe that the company
18 likes this idea of having this new rate design that's
19 been proposed by Staff?

20 A. Yes, I think the company would be in
21 favor of this rate design.

22 Q. So in this case, at least in regard to
23 the rate design, that's certainly true, isn't it?

24 A. What is certainly true?

25 Q. If Staff made a proposal that the

1 company loves on rate design?

2 A. Well, yes, we didn't make it because the
3 company would love it. I mean --

4 Q. But you didn't make any proposals on
5 conservation because you didn't think the company
6 would like that?

7 A. No, no, that's not --

8 Q. Well, I'm -- I'm just trying to
9 understand. You said earlier that the company -- you
10 felt like the company wouldn't go along with -- if
11 the company wouldn't go along with something on
12 conservation, there was no need in proposing it.

13 A. We --

14 Q. Is that what you said or did I
15 misunderstand?

16 A. I didn't come -- I didn't come in with a
17 specific program because --

18 Q. Or programs?

19 A. Or programs because frankly, I believe
20 that the -- the company has the best knowledge of
21 their customers, the best knowledge of what they can
22 do. Because I didn't come in and propose a specific
23 program doesn't mean that we weren't talking with the
24 company about conservation programs.

25 Q. Did the -- did the Staff talk with other

1 entities that have traditionally been engaged in
2 proposing conservation and efficiency programs in
3 anticipation of testimony in this case?

4 A. Could you -- I'm sorry. I don't quite
5 understand that question.

6 Q. Are you familiar with any agencies of
7 the state, for instance, that have traditionally been
8 involved in proposing and working with conservation
9 and efficiency programs?

10 A. Oh, the Department of Natural Resources.

11 Q. Yes.

12 A. Yes.

13 Q. For one?

14 A. Yes, for one.

15 Q. Did you -- did you have -- did you or
16 did Staff have conversations with the Department of
17 Natural Resources in regard to possible conservation
18 or efficiency programs that could be put together
19 with this decoupling mechanism in regard to
20 developing testimony for this case?

21 A. Not specifically about this case.

22 Q. Okay.

23 A. We've --

24 Q. Was there -- so -- so in regard to -- in
25 regard to the programs that MGE is proposing --

1 A. Yes.

2 Q. Why don't you give me a brief
3 description of what those are.

4 A. Okay. There's a \$45,000 energy
5 audit/education program, and I believe that MGE's
6 proposal was that they would use a -- and I'm not
7 sure I'll remember the exact -- I think it was the
8 Department of Energy program or an Energy Star
9 program, that they could use that, that there was an
10 audit program available that they could use.

11 Q. What would that do? What does this
12 program do?

13 A. I think a customer would -- would use a
14 computer, or I'm not sure how else they could -- they
15 would access it, and put in particulars about their
16 home. It would calculate -- I think they'd put in
17 their zip code and it came up with an estimate of
18 heating degree days for the area, their bills would
19 go in, their monthly bills.

20 And then the program would analyze that
21 or they'd talk -- they would put in information about
22 the type of equipment they had in their house. Just
23 all of the things that drive usage that can be
24 quantified. All that would go in. The program would
25 suggest some areas that a customer could look at. I

1 think that the -- the site where the program is also
2 contains some information about the actual practical
3 aspects of doing conservation, how you do things.
4 Okay. That was the -- and then they also were going
5 to do consumer education.

6 Q. What kind of education?

7 A. I suppose written education. I -- I
8 believe that they would train their personnel, the
9 ones that answer the phone when the customer calls
10 in, they would -- to talk to the customer about it.

11 Q. And this is a -- this program, is that
12 an additional amount of money over and above this
13 \$45,000 that's being spent?

14 A. No, that was --

15 Q. That's included in that --

16 A. Yes.

17 Q. -- \$45,000?

18 A. Yes.

19 Q. What else --

20 A. Well --

21 Q. What else is there --

22 A. Well, now, on the audit --

23 Q. Let me ask you this: Would that \$45,000
24 come -- being built into rates?

25 A. That was the company's proposal.

1 Q. So -- so this \$45,000?

2 A. Yes, \$45,000.

3 Q. And all of that's coming out of rates,

4 all of that \$45,000?

5 A. That was the company's proposal.

6 Q. Is Staff in agreement with that

7 proposal?

8 A. Yes.

9 Q. What else is in this program?

10 A. \$705,000 that would go toward a water

11 heater program -- a water heater rebate program.

12 Q. A water heater rebate program for gas

13 water heaters?

14 A. For people that wanted to put in gas

15 water heaters, yes, or replace a gas water heater.

16 Q. I see. Or convert an electric water

17 heater to a gas water heater?

18 A. Yes.

19 Q. So it's a -- and that is the ratepayer

20 money or shareholder money going into that?

21 A. Ratepayer money.

22 Q. So we're gonna have ratepayers put in

23 money to help encourage people to switch from

24 electric to gas?

25 A. I don't consider that --

1 Q. You don't think that's one of the
2 consequences of that program?

3 A. I don't know how strong that incentive
4 would be for them to switch from electric to gas.

5 Q. Is it not an incentive?

6 A. Well, it depends on the -- on the rebate
7 programs that the electric company is offering. It
8 could be an incentive. It may not --

9 Q. So in other words -- but it is, in part,
10 is it not, an effort to encourage less electric use
11 and more gas usage?

12 A. No.

13 Q. It's not a judgment about whether it's a
14 good or bad thing. You don't think that that does
15 that when you -- when you put a rebate in for a gas
16 water heater to encourage people to switch off of
17 electric and go to gas?

18 A. No, not necessarily.

19 Q. For their water heater?

20 A. But, remember --

21 Q. Just answer my question.

22 A. Okay.

23 Q. If I put in a rebate program for a gas
24 water heater, is that not intended, in part, to
25 provide an incentive for people to switch from an

1 electric water heater if they have it, to a gas water
2 heater; does that not provide an incentive to do
3 that?

4 A. Yes.

5 Q. Okay. Now, what else is there in this
6 conservation program?

7 A. That was their proposal --

8 Q. All right.

9 A. -- the water heater program.

10 Q. It's an additional amount the ratepayers
11 would be paying to fund this program, correct?

12 A. Yes, sir.

13 Q. All right. Now, this -- let me ask you
14 this: How much money does MGE believe they would
15 have gained in additional revenues with this rate
16 design since their last rate case if this rate design
17 had been in effect?

18 A. Sir, I don't know that -- that number.

19 Q. Who would know that?

20 A. Pardon me?

21 Q. Who would?

22 A. Probably Mike Noack would know that.

23 Q. On Staff, who would know that on Staff,
24 who's made that analysis for Staff?

25 A. I do not know.

1 Q. You haven't made it?

2 A. No, I haven't.

3 Q. Does Staff not see this as an
4 opportunity to, in proposing this -- this rate
5 design, to move also at the same time to more
6 aggressive conservation and efficiency measures?

7 A. Absolutely.

8 Q. Then why does -- did the Staff not make
9 such a proposal?

10 A. Like I said, we were talking with the
11 company about proposals. I was hoping that we
12 wouldn't have to come up with these programs in a
13 hearing. I was hoping that we could all sit down and
14 talk about it.

15 Q. I understand. But Ms. Ross --

16 A. And that didn't happen.

17 Q. -- this is your opportunity now --

18 A. Yes.

19 Q. -- it seems to me. So -- and I'm
20 waiting because I don't know -- I'm looking for an
21 answer to end this hearing, if we go to this rate
22 design --

23 A. Okay.

24 Q. -- exactly what kind of a significant
25 conservation and efficiency program will be coupled

1 with this decoupling proposal?

2 A. Okay. Let me tell you.

3 Q. Besides this program that I'm hearing
4 about from the company.

5 A. May I talk about the program that you're
6 hearing about just a little bit?

7 Q. I've just heard about it. I'd like to
8 hear about the proposal that is -- that is a serious
9 proposal on a conservation and efficiency program.

10 A. I'm sorry.

11 Q. And I --

12 A. We do not have --

13 Q. -- and I'm waiting to hear about that.

14 A. We do not have another serious proposal.

15 Q. Is it true that electric rates for
16 customers tend to be higher in the summertime in the
17 MGE territory than they do in the winter?

18 A. Yes, electric bills would be higher,
19 yes.

20 Q. And it also tends to be the case that
21 currently gas bills are lower in the summertime and
22 higher in the winter; is that correct?

23 A. Yes, that's correct.

24 Q. And this proposal would increase the gas
25 rates in the summer to some extent?

1 A. Yes, it would.

2 Q. And lower them some in the wintertime?

3 A. Yes.

4 Q. So we're shifting an additional burden
5 over onto ratepayers in the summer?

6 A. Yes, they will be paying a little more
7 in the summer.

8 Q. And they're already paying significant
9 bills, some of them, significant bills in the
10 summertime for electric?

11 A. Yes, that's correct.

12 Q. Does Staff believe that its proposal
13 here to change rate design is something that -- that
14 should be applied to electric as well?

15 A. No. And it's my understanding that the
16 cost structure of an electric company is very
17 different from the cost structure of a natural gas
18 company.

19 Q. Well, let's just explore that, then.

20 A. Well, we can't explore it very much
21 because I honestly -- I haven't worked on an electric
22 case in a long time.

23 Q. Maybe someone else with Staff?

24 A. Maybe --

25 Q. Who else would that be?

1 A. Dan, one of your guys? Or -- but --

2 Q. Well, let's just talk about electric for
3 a little bit.

4 A. Okay, let's --

5 Q. So we've got -- we've got a gas LDC and
6 the LDC that we have, customers are paying for the
7 service that the local distribution company provides,
8 correct?

9 A. That's correct.

10 Q. They're also providing for the
11 transportation of that gas to the city gate?

12 A. Through the PGA, yes.

13 Q. And they're paying for some amount
14 that's the cost of the gas, and let's not get too
15 specific about that, because we could spend a lot of
16 time on it, but they're paying for some amount for
17 the cost of the gas?

18 A. Yes, yes.

19 Q. Now, theoretically, although not always
20 actually, theoretically, the LDC is supposed to make
21 its money from the portion that deals with rates that
22 are for its function in delivering the gas from the
23 city gate to the customer?

24 A. Yes, that's correct.

25 Q. And those things would include the lines

1 that go from the city gate to the -- to the customer,
2 correct?

3 A. Yes.

4 Q. To include the services that are
5 provided by the LDC in collecting the bills, sending
6 the bills out, correct?

7 A. Yes.

8 Q. Providing the oversight on what it takes
9 to run that system?

10 A. Yes, through A and G.

11 Q. What is A and G?

12 A. I'm sorry, administrative and general
13 expense.

14 Q. Okay. Now, if we look at an electric
15 company, there's a little -- there's a -- there's a
16 difference because an electric company in Missouri is
17 vertically integrated generally, correct?

18 A. Yes.

19 Q. You -- if generation were the same thing
20 as getting gas out of a well, in this case the
21 electric company owns that?

22 A. Yes.

23 Q. The electric company also owns the
24 transmission system which, if we were comparing that
25 to gas, would be perhaps like the lines that are --

1 that are delivering the gas from well to the city
2 gate?

3 A. Yeah, I believe they purchase power too;
4 but in general, yes, they're vertically integrated
5 that --

6 Q. Yes, but the transmission -- I'm just
7 drawing some correlations and it's very loose, but
8 there's -- you could look at it that way, couldn't
9 you, the transmission system of the electric
10 transmitting the generated -- the generated
11 electricity to this -- to the distribution system --

12 A. Yes.

13 Q. -- or electric?

14 A. Yes.

15 Q. Could be like the transmission system
16 and the gas system delivering it to the city gate?

17 A. Yeah, like the transmission system, say
18 between the nuclear reactor and the big lines, yeah,
19 that would be similar to the pipeline.

20 Q. In fact, it's -- it's maybe by chance
21 and maybe by -- by design that the names of those
22 systems do correlate, transmission lines,
23 transmission pipes or lines and gas transmission
24 lines and electric?

25 A. Yes.

1 Q. Distribution lines in -- and electric
2 distribution lines in gas?

3 A. Okay.

4 Q. Is that --

5 A. Yes.

6 Q. Okay. So if we are looking at the --
7 the electric system, we could potentially look at --
8 we are, I guess, we're moving toward a system now,
9 according to what the legislature wants us to do,
10 where there's a fuel adjustment clause possible to be
11 implemented in electric, correct?

12 A. I have heard of the fuel adjustment
13 clause, yes.

14 Q. It could be looked at similarly to a PGA
15 gas, correct?

16 A. I do not know. I honestly don't know,
17 Commissioner Gaw.

18 Q. Well, you know what the PGA does?

19 A. I know what the PGA does. I don't know
20 what the fuel adjustment clause does.

21 Q. Well, if the fuel adjustment clause was
22 a measure of floating of the energy cost, it would
23 be -- could be similar to the -- to the floating of
24 the gas cost, could it not?

25 A. When you describe it that way, it sounds

1 like they would be similar.

2 Q. Okay. So let's just talk about if we
3 could -- if we could get to the point where the Staff
4 could identify the distribution system of the
5 electric, similar to what they can do with the
6 distribution system of -- of the gas system, would it
7 be possible theoretically, would it not, for us to
8 identify the fixed charges for electric in the same
9 way that we identify fixed charges for gas?

10 A. They could be identified, yes.

11 Q. So why would not Staff, if they could be
12 identified, if they're making a -- if they believed
13 this is the appropriate way of handling these
14 customer charges for gas, also be proposing something
15 similar for electric?

16 A. Sir, I'm sorry. I -- I don't know.

17 Q. Do you think that that's the direction
18 Staff is headed in?

19 A. I don't know.

20 Q. It's true, is it not, that Staff has
21 changed its position in regard to what's appropriate
22 on what -- how should -- how things should be handled
23 in a customer charge for gas; isn't that correct?

24 A. We prefer to say that it's evolved, but
25 yes.

1 Q. You have changed, have you not?

2 A. It has --

3 Q. The Staff has changed its position?

4 A. Yes.

5 Q. And it's changed its position from --

6 what's the most recent case that it's changed its

7 position? You have for the first -- you have

8 proposed the same rate design concept in the Atmos

9 case --

10 A. In Atmos.

11 Q. -- correct? And -- but within the last

12 couple of years, at least, the Staff opposed this

13 type of a rate design, did they not, specifically in

14 testimony?

15 A. Which case are you talking about,

16 Commissioner Gaw? That would help a lot.

17 Q. I'm -- I'm asking you. Well, I'm

18 assuming -- you tell me. Have you not looked at

19 Staff's positions in the past in regard to rate

20 design on this -- for gas in customer charges?

21 A. I've -- I've worked on most of the cases

22 in the past.

23 Q. We had this conversation in the last

24 case on Atmos, did we not?

25 A. We did.

1 Q. And have you not had any opportunity
2 since that question and answer that we -- period that
3 we had the last time to look at Staff's previous
4 positions on this issue?

5 A. I've -- yes, I have gone back and looked
6 at a couple of cases.

7 Q. What cases did you look at?

8 A. In preparation for this case, I went
9 back and looked at the previous MGE case, I went back
10 and looked at the -- the Laclede case, not the
11 very -- not the one right before this, but the one
12 before that where we set up the weather mitigation
13 rate design.

14 Q. And in -- in either of those cases did
15 Staff propose this type of rate design --

16 A. No.

17 Q. -- that you're proposing in this case?

18 A. No, we did not.

19 Q. Did they propose a different rate
20 design?

21 A. Different than?

22 Q. Than what you're proposing in this case?

23 A. Yes.

24 Q. What kind of a rate design was proposed
25 in those cases?

1 A. Traditional rate design.

2 Q. Which is?

3 A. A customer charge, a relatively low
4 customer charge and a volumetric rate that collects
5 the rest of the revenues.

6 Q. Did you testify on the rate design in
7 those cases?

8 A. No, I did not.

9 Q. Who did?

10 A. In the Laclede case I think Mike Proctor
11 might have been our only witness. I believe I did
12 the cost of service on that one, but I think he was
13 the rate design person. In the -- the last MGE case,
14 I'm thinking that maybe Dan Beck did rate design on
15 that.

16 Q. Was there a proposal in either one of
17 those cases to move to this type of a rate design by
18 any of the parties?

19 A. In the MGE case, there was. They've
20 proposed this in the last few cases.

21 Q. And in -- in the -- in those cases where
22 that was proposed, Staff opposed that position, did
23 they not?

24 A. Yes.

25 Q. So in between that last case and those

1 cases and this -- this one, Staff changed its
2 position?

3 A. Yes, it did.

4 Q. And who advocated for changing that
5 position within Staff?

6 A. I guess I would say our division
7 directors --

8 Q. Who are?

9 A. -- are advocates of this position.

10 Q. And who are they?

11 A. Bob Schallenberg and Warren Wood.

12 Q. And were they advocates of this position
13 in the previous cases where this position was not
14 taken?

15 A. Sir, I don't know.

16 Q. Were you told that this is the position
17 to take in your testimony?

18 A. I was not told to take this position in
19 my testimony.

20 Q. So you decided --

21 A. If I had --

22 Q. -- you decided on your own to take this
23 position?

24 A. No. No. If I --

25 Q. So how did you -- so how did you come to

1 take this position?

2 A. I asked to take this position.

3 Q. And they -- they said yes, we think you
4 should, no, we want to analyze it, what happened?

5 A. Okay.

6 MS. SHEMWELL: May I interrupt just a
7 moment? Commissioner Gaw, we're happy to bring in
8 Mr. Schallenberg if you would like us to do so to
9 discuss the policy.

10 COMMISSIONER GAW: Okay. Will you bring
11 Dr. Proctor in too?

12 MS. SHEMWELL: We can check and see if
13 he's available, certainly.

14 BY COMMISSIONER GAW:

15 Q. Was Dr. Proctor consulted in regard to
16 this change?

17 A. I -- I don't know.

18 Q. Did you consult him?

19 A. I talked to Mike about this at one
20 point.

21 Q. So you did consult him?

22 A. I guess, yeah. It was -- it was more of
23 a -- just a conversation but, yeah.

24 But going back -- your question a minute
25 ago was how this came about, and it just -- it began

1 with discussions among the Staff about the cost
2 structure and the revenue recovery and how -- how
3 those two were different, were very different.

4 And then the more we talked about it,
5 the more it became clear that there was an unfair
6 subsidy going to in the residential class, that -- it
7 became clear that utilities did not have an incentive
8 to -- to assist customers with conservation. In
9 fact, there was a disincentive.

10 Q. In fact, isn't it true, Ms. Ross, that
11 the proposals that have been out around the country
12 for moving to this rate design have nearly always,
13 nearly always included the idea that this would allow
14 the implementation of a significant conservation and
15 efficiency program?

16 A. I don't know if I can agree that they've
17 almost always. A lot of them do. Some of them
18 don't.

19 Q. All right. Go ahead and let's go
20 through and list all of those.

21 JUDGE JONES: Well, before you do that,
22 why don't you -- before you do that, why don't you
23 take a lunch break to gather that list and then we
24 can start up at 1:30.

25 MS. SHEMWELL: Thank you, Judge.

1 JUDGE JONES: With that, then, we'll
2 stand in intermission until 1:30.

3 (A RECESS WAS TAKEN.)

4 JUDGE JONES: Okay. We're back on the
5 record with Case Number GR-2006-0422 and continuing
6 with questions from Commissioner Gaw of Staff's
7 witness, Anne Ross.

8 COMMISSIONER GAW: Can I have the court
9 reporter read back to me the last question?

10 JUDGE JONES: Can you read the last
11 question?

12 THE COURT REPORTER: I have to get into
13 a different file.

14 COMMISSIONER GAW: Oh, I'm sorry.

15 JUDGE JONES: It had something to do
16 with this. You wanted a list of -- do you remember,
17 Anne?

18 THE WITNESS: Well, I was actually gonna
19 have -- ask you a couple questions on that list. I
20 don't --

21 JUDGE JONES: What was the list?

22 THE WITNESS: Well, I'm not sure. It
23 was -- it was -- I believe it was decoupling
24 proposals that didn't include --

25 JUDGE JONES: Yeah.

1 THE WITNESS: -- conservation or -- and
2 that was -- I wanted to get that clarified, what that
3 was --

4 BY COMMISSIONER GAW:

5 Q. Why don't you talk to me about the rate
6 decoupling proposals that you know of in other states
7 that have included conservation programs.

8 A. Okay. I'm not -- which piece of that do
9 you want me to talk about, the type of rate
10 decoupling they're asking for or --

11 Q. I'm interested in the conservation
12 program.

13 A. In the conservation programs? From
14 my -- from my reading, I've -- it seems like -- there
15 are several different levels of conservation plans
16 the companies asked for. Companies that haven't had
17 conservation plans before tend to come in asking for
18 simpler -- simpler ones.

19 Sometimes they're building on the
20 conservation plan. They may do some conservation
21 activities and suggest that they increase those. I
22 was reading last night about conservation programs in
23 other states, and it seems to me -- the impression I
24 was getting from my reading was that other states
25 have had these programs a lot longer. They're a lot

1 more established.

2 I'd be reading through the programs and
3 I'd be thinking, this is great, and then I'd look and
4 they had \$54 million one time that they could use.
5 They have universal service funds. I think that the
6 conservation programs just run the gamut, depending
7 on the size of the utility, whether they're offering
8 programs now, the amount of money they have. Did I
9 answer your question?

10 Q. No.

11 A. Okay.

12 Q. But you did give me general background.
13 So you -- as far as listing off the specific
14 conservation programs that may be a part of any
15 decoupling proposals in other states, you can't
16 really give me specifics?

17 A. I can't give you specifics that would
18 add up to one conservation program. I -- there --

19 Q. Or programs, I mean -- or elements of
20 programs?

21 A. Oh, that I can do, yes.

22 Q. Okay. Go ahead.

23 A. Okay. Almost all of them include an
24 education component. Hang on. I have some notes,
25 actually. Okay. Some of them do the education

1 onsite when they do usually an energy audit. There
2 isn't always an energy audit included with that,
3 though. Sometimes it's just the value of sitting
4 down face-to-face with the customer.

5 I saw that some of them were using --
6 were making videos for the contractors in their
7 territory to, you know, to teach them about efficient
8 planning. Some of them have, of course, the on-line
9 audits, some of them send out bill inserts, newspaper
10 ads.

11 Q. Can we talk about something besides
12 education for a little while? Tell me what else is
13 out there.

14 A. Okay. Okay.

15 Q. Tell me about specific programs that
16 actually -- that are actually oriented toward
17 producing more efficiency or more efforts at
18 conservation.

19 A. Okay. We have one in the state that's
20 real good and that's the AmerenUE program.

21 Q. What is that program?

22 A. The one I'm specifically talking about
23 provides rebates for furnace replacement.

24 Q. Okay. And these are furnace -- so these
25 are rebates for furnaces that are inefficient

1 furnaces, or does it -- do they have to qualify as
2 being so old or --

3 A. They don't have to qualify. The average
4 age of a furnace that they're replacing, I believe,
5 is 25 years.

6 Q. The new furnaces, do they have to meet
7 certain standards?

8 A. Yes. They have to be 90 percent
9 efficient or above. And it may just be Energy Star,
10 they may just have to be Energy Star.

11 Q. Does it matter whether they're electric
12 or gas?

13 A. Yes. This is funded through their --
14 their gas section from their gas customers, so these
15 are gas furnaces.

16 Q. Is there any reason why it would have to
17 be an electric or gas furnace for it to conserve
18 energy?

19 A. No, no. I --

20 Q. Are there Energy Star furnaces that are
21 electric?

22 A. Yeah. No, I believe as long as you
23 replace what you had with an efficient furnace, that
24 that would -- that would increase -- that would be a
25 conservation measure.

1 Q. Okay. All right. And what is it
2 that -- what is it that you believe has been
3 successful about that program?

4 A. There's been a great demand and we've
5 actually, in the last -- and Barb's involved in this,
6 in the last meeting we shifted some money from some
7 of the other measures because originally it included
8 low-cost measures like showerheads, water heater
9 wraps, one other small thing, thermostats,
10 programmable thermostats, furnaces -- I guess and
11 furnaces. Well, the furnace part of that program has
12 been just wildly successful, very successful.

13 Q. Why -- why do you say that?

14 A. Because the money gets spent quickly.

15 Q. So in other words, consumers are using
16 it?

17 A. Yes, they are.

18 Q. Okay. So that -- and that also assumes
19 that -- that there are more efficient furnaces being
20 deployed, correct?

21 A. Yes, yes.

22 Q. And perhaps to any data to show that
23 there are more efficient furnaces being deployed than
24 would have otherwise been deployed in the area?

25 A. No, I don't believe there is. And, now,

1 that -- that program is very, very similar in
2 structure to the program that MGE is proposing. And
3 in fact, when I talked to someone from the Ameren
4 Company that's very active in this efficiency
5 program, he said that he would be more than happy to
6 work with MGE to -- on program structure if --

7 Q. To do a furnace program?

8 A. To do -- to do a water heater program.

9 Q. Well, would they be willing to work with
10 them to do a furnace program?

11 A. Well, I'm sure they'd be willing to work
12 with them -- although, now, one thing he did tell me
13 as well when we were talking was that the customers
14 are calling -- he said, "You know what the customers
15 are wanting, we're getting calls and they want water
16 heaters."

17 Q. So they could do a furnace and a water
18 heater program?

19 A. You could, you could.

20 Q. And if this rate structure were
21 approved, if these are the -- MGE customers, they
22 wouldn't care whether the water heater was electric
23 or gas, would they? I'm talking about MGE. It
24 wouldn't matter to the bottom line, would it?

25 A. No, it -- the only --

1 Q. If they don't make any more money on
2 additional usage, what difference would it make?

3 A. The only way it would make a difference
4 is if all they had was a gas water heater, everything
5 else, you know, was electric and the person went to
6 electric, I mean, obviously, they drive off -- they
7 fall off the MGE system. That's not real likely.
8 Most people -- a majority of people use the same fuel
9 to water-heat as they do to space-heat.

10 Q. Uh-huh. Are there other types of
11 appliances that are Energy Star-rated?
12 Refrigerators, freezers?

13 A. Oh, yeah, electric appliances, yes,
14 there are. Refrigerators, I think that's a -- that's
15 a big one. Lights, that's a significant source of --
16 or use of energy in your home.

17 Q. Okay.

18 A. And it seems like there are -- there are
19 a lot more electric programs out there than there are
20 gas programs.

21 Q. Now, if we look at this program, how
22 much money has been put in the Ameren program?

23 A. 55,000 a year for this piece.

24 Q. All right. Give me an idea about
25 customer totals for Ameren Gas compared to MGE.

1 A. Okay.

2 Q. Looking for relative sizes.

3 A. You mean how many customers they have?

4 Q. Compare the two.

5 A. Okay. MGE has about 500,000 and I think

6 AmerenUE has about 50,000.

7 Q. Okay. So roughly ten times more MGE

8 customers?

9 A. If -- if -- if that 50,000 is correct,

10 yes.

11 Q. Okay. Now, let's talk about the Kansas

12 City program for a little while.

13 A. Okay. The MGE program?

14 Q. Yes, the one that Kansas City, Missouri

15 is running, their weatherization program.

16 A. Oh, okay.

17 Q. Are you familiar with it?

18 A. Yes, I am.

19 Q. All right. How does it work, generally?

20 A. Okay. Their weatherization program is

21 run by the City of Kansas City and Bob Jackson is in

22 charge of all that. It receives money from the

23 Department of Energy, from the utilities. I believe

24 that MGE puts money into that program that can be

25 used in that program.

1 Customers -- Kansas City is interesting
2 because rather than using Federal Poverty Guideline
3 cutoff, they use a percentage of median income
4 cutoff. And I was talking to Bob yesterday and he
5 said that was 60 percent. So if your income is
6 60 percent of the area median, then it -- then you
7 can qualify.

8 Q. 60 percent?

9 A. Of the median income in the area.

10 Q. Do you know how that translates into a
11 poverty index?

12 A. No, I don't. Some things I've heard
13 about using that type of measure is that it is --
14 it does tend to track poverty better than the
15 Federal Poverty Guidelines because the Federal
16 Poverty Guidelines, at 100 percent poverty you're
17 really, really poor. It isn't like above 100
18 percent --

19 Q. I'm just trying to get an idea of what
20 that number looks like in comparison so I'd have
21 an idea. Do you know what number is, the percent
22 of ...

23 A. No, I'd have to call back Bob and ask
24 him.

25 Q. Okay. All right. Now, tell me

1 generally how the program works.

2 A. Okay. Excuse me.

3 Q. I know there's specifics in the record
4 already, I just want to know generally, just
5 generally.

6 A. A customer calls the City of Kansas
7 City, you know, and says they want to sign up. They
8 get an application, they fill it out if they're
9 eligible. Then they get put on the waiting list.
10 Kansas City doesn't have a large waiting list, so
11 fairly soon somebody goes to their home.

12 Now, if the home can be -- there's two
13 reasons they might walk away from a home. One is if
14 it's just in such bad shape that any measures they
15 put in wouldn't be cost-effective. Another is, is if
16 the home would not be safe. For example, if they
17 sealed up the home, okay, if they made it, sealed up
18 the envelope, I guess, and that would cause danger
19 because of other appliances in the home or the
20 household, they may walk away from one of those.

21 Q. Okay. All right. I don't need quite
22 that level of detail.

23 A. Okay.

24 Q. Just give me general -- the general rule
25 and we'll deal with the exceptions later.

1 A. Okay. Then they've decided -- they
2 run -- excuse me, they send somebody out there to do
3 a blower door test and they do a NEET audit, N-E-E-T.

4 Q. Which stands for what?

5 A. Oh, I knew you were gonna ask. I can
6 find out.

7 Q. Well, generally --

8 A. National Energy Efficiency something, I
9 would say.

10 Q. What does it do?

11 A. It's -- it determines which investments
12 are cost-effective and which will not be.

13 Q. Okay. And what's the cost of doing one
14 of those audits generally, do you know?

15 A. Bob said yesterday it was about \$525.

16 Q. Okay. For a residence?

17 A. Yes, for a residence.

18 Q. Okay.

19 A. Then if they can make the repairs, they
20 go in, they make the repairs, they do some onsite
21 education about the repairs that are, you know, the
22 things that have been done and other things that the
23 household can do. Excuse me. And then they're done.

24 Q. Okay. Who picks up the bill on that --
25 for the \$525 charge?

1 A. That -- that will come from the DOE
2 funds or from the funds that MGE has contributed.

3 Q. Okay. Now, will they do this for
4 someone who doesn't qualify under the income
5 guidelines?

6 A. Yes. Mr. Jackson was here yesterday and
7 he was saying that -- it was my understanding that
8 they did, if they had the personnel, you know, the
9 excess capacity.

10 Q. Do they -- does that entity or
11 individual, rather, that doesn't qualify have to pay
12 the audit amount?

13 A. I think they pay part of it, I believe.

14 Q. Do you know?

15 A. No, I don't know the specifics of what
16 they have to pay. Let me look at my notes just in
17 case I wrote something down. No, I didn't. Wait a
18 minute. No, I'm sorry. I don't -- I don't see the
19 specifics.

20 Q. Okay.

21 A. They --

22 Q. Now, in regard to -- to this program, do
23 you -- do you know approximately how many -- how many
24 residences are done per year?

25 A. The Kansas City weatherization program?

1 Q. Yes.

2 A. Oh, he said yesterday.

3 Q. That's all right. It's in the record.

4 A. Somebody -- okay.

5 Q. And that's based upon current level

6 funding, right?

7 A. Yes.

8 Q. And you don't know how much increase

9 there would be if Kansas City's proposal is adopted,

10 do you?

11 A. The \$100,000 increase in weatherization

12 funding, is that what you --

13 Q. Whatever Kansas City is proposing.

14 A. Okay. Well, the average per household

15 is about 2,600 so that would do 35 new houses, I

16 guess.

17 Q. 35. Are you familiar with the

18 pay-as-you-save program?

19 A. I am.

20 Q. What is it?

21 A. It's a program in which I believe a

22 third-party lender lends money to utility customers

23 to make energy efficiency investments, and the

24 investments have to clear some kind of hurdle rate in

25 terms of when they pay back and just basically their

1 cost effectiveness and how long it takes them to pay
2 back. Then they --

3 Q. The payback is tied to the property, is
4 it not?

5 A. Yes, yeah.

6 Q. It actually becomes -- can become a lien
7 on the property, do you know?

8 A. I believe that if someone else buys the
9 property, they will have to continue paying for that
10 in their utility bill.

11 Q. Right. Okay. Now, has there been a
12 program like that implemented in the State of
13 Missouri?

14 A. No.

15 Q. There is a program similar, though, is
16 there not, that's been implemented by at least one
17 utility where there are loans made available for --

18 A. The Laclede program --

19 Q. Okay.

20 A. -- has the potential. Although they --
21 no, I guess they would be collecting their money with
22 their -- along with their utility bill.

23 Q. Do you want to describe that program?

24 A. Yes. They -- there's \$50,000 of funding
25 in that program. It's used to -- okay. Their

1 regular program, they'll earn up to \$10,000, the
2 customer has to come up with some up-front money to
3 make these -- and then they pay through their utility
4 bill.

5 This \$50,000 is supposed to be used
6 to -- to pay for the up-front costs and to pay part
7 of the interest so that the customer doesn't have as
8 high of an interest rate. And the intent is to help
9 people that might have problems borrowing just
10 because of their income, not because of their money
11 behaviors in the past but just because they don't
12 have a lot of income.

13 Q. Do you know whether or not any of the
14 PACE program contemplate the setting up of a fund
15 that would be used similar to a revolving fund for
16 purposes of loaning money for improvements in the
17 efficiencies of residences or perhaps businesses?

18 A. Specifically the PACE program, no, I
19 don't.

20 Q. You don't know the answer?

21 A. I don't.

22 Q. Have you ever thought about the
23 possibility of setting up a revolving fund that could
24 be used for that purpose?

25 A. Oh, yeah, yeah. In fact, I -- I looked

1 at the possibility of using -- there are some funds
2 over there in the treasurer's office, and the name of
3 them, of course, is just escaping me, where they take
4 them and now they make low-interest loans to
5 businesses.

6 Now, most of those funds are committed.
7 They're actually -- you know, there are programs
8 written up and some of those aren't even being funded
9 now because the funds are committed elsewhere.
10 But -- now, with gas companies there's a special
11 problem with PACE-type programs and that is the
12 seasonality of their revenues.

13 Q. The seasonality of their revenues would
14 be changed, would it not, if you went to this new
15 proposal that Staff has put on the table?

16 A. Yes and no. The seasonality of their
17 margin revenues would be changed, what they're paying
18 for their gas wouldn't. But it's a problem because
19 gas customers don't need gas necessarily in the
20 summer.

21 So I believe that gas companies have
22 some resistance to repaying their loans, whereas, an
23 electric customer pretty much has to stay on all year
24 if they can. They need their lights and...

25 Q. Oh, you're concerned that the customers

1 may disconnect?

2 A. Yeah, yeah.

3 Q. They're likely -- aren't they more
4 likely to disconnect in the summer if you raise their
5 rates?

6 A. They might.

7 Q. That's a danger to Staff's proposal?

8 A. Yes.

9 Q. I want to go back to the revolving fund.
10 This -- this -- this concept of having a revolving
11 fund, if there were money placed into a revolving
12 fund, it could be utilized for the purposes of
13 providing loans for improving weatherizing or
14 improving the efficiency of appliances within --
15 within homes, would it not?

16 A. Yes, yes. And that would be a good
17 state -- all-state type of proposal, I think.

18 Q. It could work for an individual utility
19 as well, though, could it not?

20 A. It could.

21 Q. All right. Have you thought about --
22 first of all, do you think that there is a -- there
23 is a benefit to conserving the amount of natural gas
24 that's used?

25 A. Yes.

1 Q. Is there a benefit -- tell me what you
2 think -- how you view those benefits.

3 A. Okay. I think there are societal
4 benefits. I think, of course, it will decrease the
5 pollution a little bit. I have read several studies
6 that say that a decrease in the amount of natural gas
7 used in the Midwest, for instance, could decrease the
8 price, could result in decreasing the price.

9 Q. Because you're lessening demand?

10 A. Yes. There are benefits for the state.
11 Money that we pay in our PGA goes out-of-state to the
12 producers and the pipelines. That's money that would
13 most likely stay in our state. Setting up these --
14 this type of programs creates jobs. It increases
15 property values for people that have had these
16 efficiency investments made. That's what I can think
17 of right now for the state.

18 Q. Do you think that those individuals who
19 are -- who are contributing to conserving the use of
20 gas are providing benefits to the state, then?

21 A. Yes.

22 Q. They're providing benefits, then, to --
23 to other ratepayers as well, other consumers?

24 A. Yes. I mean, not just other ratepayers
25 but the type of benefits I was talking about a minute

1 ago, they'd be providing benefits to everybody.

2 Q. If they -- if they decrease demand and
3 the price went down somewhat, that would be a
4 benefit, would it not?

5 A. Oh, absolutely.

6 Q. If they decreased the amount of capacity
7 necessary to be used on -- for the transmission of
8 gas over interstate pipelines, that could be a
9 benefit to other consumers as well, could it not?

10 A. Yes.

11 Q. Do you think it might be appropriate to
12 provide that those consumers that are not conserving
13 contribute more since they are, I assume, in
14 opposition, then, for adding to the burden to the
15 other ratepayers?

16 A. No, I don't.

17 Q. You don't agree that they're adding to
18 the burden of other ratepayers if they're utilizing
19 more?

20 A. Well, I agree that they are.

21 Q. Okay.

22 A. I don't agree that they should be
23 punished for that.

24 Q. So you don't believe that if they're
25 adding to the cost of service that they should pay

1 more? Isn't that the whole concept of what you're
2 saying as far as moving to a new class cost of
3 service or cost of service, excuse me?

4 A. Okay. Maybe I misspoke, then.
5 Customers that are conserving are using less gas.
6 They --

7 Q. They're also, you've already testified,
8 providing additional benefits to other consumers?

9 A. Yes, yes, but they --

10 Q. So shouldn't --

11 A. -- aren't lessening the utility's cost
12 to serve them by using less gas. That's why I might
13 have misunderstood your question, though.

14 Q. Are they not potentially decreasing the
15 amount of the price that other consumers are paying
16 because of their decreased use in gas?

17 A. Yes.

18 Q. Okay. Now, if there were -- was a rate
19 design that provided an upfront notice to consumers,
20 that if they did certain things or were a part of
21 certain conservation programs, that they would pay a
22 lesser rate, is it possible that that might provide
23 additional incentive for consumers to be a part of a
24 conservation or efficiency program?

25 A. Yes. I -- I -- I -- I'm afraid there

1 are consumers that would be unable to conserve that
2 would be -- would be harmed by a program like that.

3 Q. All right. Now, you're talking about
4 low-income consumers?

5 A. Low-income consumers, elderly consumers
6 that physically can't make those -- those
7 investments.

8 Q. Because -- because they don't have the
9 financial resources?

10 A. Because they don't have the financial
11 resources, because they don't have the other
12 resources. Maybe they don't have somebody that can
13 get up and, you know, a family member or something
14 that can get up and put in more insulation or do that
15 kind of thing. They may just not have the
16 opportunity, I guess.

17 Q. If there was a program that provided
18 resources for those who could not, with their own
19 resources, put in those improvements, would that not
20 assist in their accomplishing that goal?

21 A. Oh, yes.

22 Q. And could there be, perhaps, a program
23 developed that allowed for a time frame for
24 individuals to sign up for such a program, and if so,
25 they potentially could qualify for lower rates?

1 A. Yes, but we have to remember the
2 renters. We would have to deal with the renter
3 problem.

4 Q. You would, wouldn't you?

5 A. Yes.

6 Q. Because you have this landlord issue out
7 there.

8 A. Uh-huh.

9 Q. And has Staff examined the possibilities
10 of dealing with the issue of moving landlords toward
11 improving their properties and making them more
12 efficient?

13 A. We've talked about it in, for example, I
14 sat in on a lot of the energy affordability task
15 force meetings. That was talked about.

16 Q. Has Staff come up with proposals in
17 working through that that might be of assistance in
18 accomplishing that goal of getting landlords to sign
19 up for such programs?

20 A. No, we have not proposed anything.

21 Q. I'm not talking about in this case now.
22 I'm talking about whether there was any resulting
23 recommendations as a result of Staff's being part of
24 those studies, round tables and other things that
25 might have occurred, if you know.

1 A. I don't believe there was in the
2 long-term energy affordability task force report. I
3 believe the problem was mentioned but not the
4 solution.

5 Q. You're sure?

6 A. No.

7 Q. Who would know the answer to that
8 question?

9 A. I would if I could look at the long-term
10 energy affordability task force report. I'm not
11 sure. Mike, you were in on those and --

12 COMMISSIONER GAW: Your Honor, I'm
13 getting too far afield here.

14 THE WITNESS: But I would like to bring
15 up one thing as long as we're talking about renters,
16 and that is Bob Jackson's program in Kansas City --
17 BY COMMISSIONER GAW:

18 Q. Yes.

19 A. -- has been successful, it's my
20 understanding, in dealing with landlords.

21 Q. And tell me how.

22 A. I'm not sure. I believe he makes them
23 sign -- they have to sign some kind of an agreement
24 that they won't raise the rent or take other actions
25 that would take the benefits of the conservation or

1 efficiency measures away from the -- from their
2 tenants.

3 Q. Okay. So you think there are some
4 models out there, including some that we've been
5 talking -- we are talking about in this case where
6 there -- there have been at least some avenues
7 explored and perhaps successfully so, to help deal
8 with getting landlords to make improvements on the
9 property?

10 A. Yes. Yes, some of those are in terms of
11 money. You know, they've got funds through, say,
12 universal service funds or through state funds rather
13 than just getting them from the ratepayers, the funds
14 from the ratepayers.

15 Q. DNR isn't a party in this case, are
16 they?

17 A. No, they're not.

18 Q. Have you been involved in cases where
19 DNR has been a party?

20 A. Yes, I have.

21 Q. Has DNR often in those cases taken
22 positions to promote efficiency and conservation
23 programs?

24 A. Oh, yes.

25 Q. And when they're not involved in cases,

1 who is it that takes up that torch?

2 A. Well, we tried to take up that torch.

3 Q. We've already established that Staff
4 hasn't proposed any programs in this case, correct?

5 A. We haven't proposed any specifics in
6 this case. Commissioner Gaw, to follow up on that --

7 Q. No, that's okay. I want to know, is
8 Warren Wood available?

9 A. I believe he is.

10 JUDGE JONES: Now, wait.

11 COMMISSIONER GAW: Not at the moment.

12 I'm just asking if he's available.

13 MS. SHEMWELL: He's in the office today.

14 COMMISSIONER GAW: Is he available the
15 rest of the week?

16 MS. SHEMWELL: That I don't know. He's
17 been traveling to the AmerenUE hearings.

18 COMMISSIONER GAW: And so have some of
19 the rest of us. Let's see, perhaps you could check
20 on his availability at the end of the week.

21 MS. SHEMWELL: Mr. Imhoff has gone to do
22 that.

23 COMMISSIONER GAW: You don't have to do
24 that right now. I just --

25 MS. SHEMWELL: That's okay. He knows

1 where Warren is at the moment.

2 COMMISSIONER GAW: I believe that's all
3 I have right now.

4 JUDGE JONES: Commissioner Murray?

5 COMMISSIONER MURRAY: Unless -- have --

6 COMMISSIONER APPLING: No questions.

7 QUESTIONS BY COMMISSIONER MURRAY:

8 Q. I just have a couple more questions,
9 Ms. Ross.

10 A. Sure.

11 Q. I was looking back over the testimony of
12 Mr. Jackson in this case and a part of what he
13 recommends is that MGE increase its annual
14 contribution to the city's weatherization program by
15 at least another \$250,000 for an annual total
16 contribution of \$617,000. Did you read that or --

17 A. Yes.

18 Q. -- notice that in his testimony?
19 What -- what is the Staff's position on that or did
20 you take one?

21 A. We didn't take one. You can -- you could
22 always use more money in weatherization, but ...

23 Q. I wasn't here for all of the questions
24 that Commissioner Gaw asked you and he may have
25 covered this already, but I -- in light of the fact

1 that the rate design being proposed here would
2 provide the company some relief from the risk of not
3 being able to recover all of their fixed costs, would
4 it not be a good time to implement something like
5 increased funding for weatherization? I mean, would
6 that not -- would this not be the most appropriate
7 time to do something like that?

8 A. I think this would be a great time to do
9 that kind of thing.

10 Q. And then --

11 A. In fact, Commissioner Murray, before we
12 go -- may I expand on that just a little bit?

13 Q. Sure.

14 A. Okay. I think -- I believe that it
15 would be useful to have a more coordinated effort
16 throughout the state.

17 Q. Throughout the state with all of the
18 utilities, you're saying?

19 A. Yes, so that a customer in St. Joe got
20 the same thing as a customer in Portageville, for
21 instance. I was thinking this morning, and this is
22 just my opinion, but -- that this would be an
23 excellent time to -- to start all the utilities doing
24 energy audits so that we could learn what -- what was
25 needed in the state.

1 Q. You mean the utilities funding energy
2 audits themselves or putting that in rates or...

3 A. However. I don't have an opinion on
4 that. But if -- if -- we've got like four of the
5 utility cases, the gas companies in now, and if we
6 could get audits started in all their territories,
7 we'd have a much better idea of what their customers
8 need.

9 Q. And you're talking about individual
10 audits of residences to determine what would be the
11 most energy-efficient changes --

12 A. Yes.

13 Q. -- they could make?

14 A. Yes. And then -- and I hope I'm not out
15 of line here, but it would be nice if -- if the
16 Commission -- and I don't know how you would do this,
17 maybe through a rule or something -- could develop a
18 set of standards for the state.

19 Q. And are you aware of any regulated
20 utilities in the State of Missouri that are currently
21 doing energy audits for residential properties?

22 A. Yes. Ameren does an on-line residential
23 audit --

24 Q. What do you mean on-line?

25 A. -- you go on-line to the computer, get

1 into a program. I believe it fills in your bills for
2 the last 12 months.

3 Q. Okay. That's not actually going to the
4 property and looking at -- for leaks or anything like
5 that, right?

6 A. No, no, I don't believe. There is a
7 proposal in the Atmos case too to do some energy
8 audits. Those would be subsidized by the company.
9 I'm trying to think. Empire probably does because I
10 believe that Aquila did energy audits and those might
11 have been on line as well.

12 Q. You're not actually aware of any that
13 are ongoing that are onsite?

14 A. No.

15 Q. Energy audits?

16 A. No.

17 Q. Are you aware of any municipals in the
18 state that do that?

19 A. No, I'm not.

20 Q. Or any co-ops that do that?

21 A. I'm not aware of any.

22 Q. Have you looked at other states in terms
23 of any programs that do involve utilities doing that
24 type of auditing?

25 A. Usually it's -- it's not the utility

1 actually doing it. They usually use their community
2 action agencies because those are the -- that's the
3 personnel that does the low-income weatherization
4 program so they're trained. Yes, some other states,
5 I believe New York is one. I read a couple more last
6 night that actually train personnel all over the
7 state. It's a state-wide effort to do these audits.
8 And they -- some of them have pretty involved
9 programs.

10 Q. And do you know if that was something
11 that was set up through the Public Service Commission
12 or was that something that was done by some other
13 state agency?

14 A. In New York it would have been done by
15 NYSERDA, the New York -- oh, I can't think of the
16 rest. They have an energy policy for the state and
17 it involves a lot of agencies and a lot of, you know,
18 the utility companies. And so I don't know that
19 those programs were specifically ordered by their
20 Public Service Commission body.

21 Q. All right. I believe you said here a
22 few minutes ago that you thought it would be
23 beneficial for us to develop some kind of a statewide
24 policy that all of our utilities could participate
25 in, in terms of bringing more conservation, more

1 energy efficiency into the state?

2 A. Yes, I think it would be real useful
3 with the educational aspect of -- if we had a
4 consistent message that we were sending out all over
5 the state.

6 Q. In that we have a lot of rate cases
7 before us right now, and we seem to go through the
8 rate cases without really accomplishing a great deal
9 in terms of new direction for energy efficiency or
10 conservation, do you have a suggestion as to how we
11 might go about that? Would it be through
12 establishing roundtables, would it be through a
13 proposed rulemaking process?

14 A. It seems like a proposed rulemaking
15 would be more of an action plan than a roundtable.
16 Like Bob said yesterday, "There's been talk, we've
17 sat down and talked, but sometimes nothing comes of
18 it."

19 Q. Okay. And if we did a rulemaking that
20 cost -- that had costs attached to it, that would
21 create the necessity to figure out how to -- if a
22 utility were incurring costs as a result of it, how
23 that utility could recover those costs --

24 A. Yes.

25 Q. -- is that correct?

1 A. Yes.

2 COMMISSIONER MURRAY: Okay. I think
3 that's all this time. Thank you.

4 THE WITNESS: You're welcome.

5 JUDGE JONES: We'll move on to recross
6 from Missouri Gas Energy.

7 MR. BOUDREAU: Yes, thank you. Just a
8 few questions.

9 RE CROSS-EXAMINATION BY MR. BOUDREAU:

10 Q. You've been up there a long time so I'll
11 try to keep this brief. I'm gonna go back and forth
12 a little bit on some of the questions that were asked
13 of you by some of the Commissioners.

14 A. Okay.

15 Q. I think in response to some questions
16 from Commissioner Gaw, you mentioned that MGE
17 currently contributes to Kansas City's low-income
18 weatherization program?

19 A. Yes.

20 Q. And do you know how much that amount is
21 currently?

22 A. It's around 350, \$375,000.

23 Q. And that's just for the Kansas City
24 area?

25 A. Yeah, that's just for the Kansas City

1 area.

2 Q. So there's more money involved maybe for
3 a broader service area?

4 A. Uh-huh, yes.

5 Q. Could you expand on your answer, then,
6 in that regard?

7 A. There's \$500,000 that goes to low-income
8 weatherization.

9 Q. And that's not necessarily limited to
10 just their service territory, then, or --

11 A. Yes. It goes -- the money is earmarked
12 for MGE customers.

13 Q. Okay. Okay. So in other words, in the
14 Joplin or Joplin area or...

15 A. Yes, it could be used in St. Joe,
16 Joplin.

17 Q. St. Joe, Joplin. Okay. I'm with you.
18 So \$500,000, but not just limited to the Kansas City
19 area?

20 A. Right.

21 Q. Okay. Thank you. And is that amount
22 currently included in MGE's -- in MGE's rates?

23 A. I believe that it is.

24 Q. And I assume that if that's the case,
25 then the commission would have approved that program

1 at some point in the past?

2 A. Yes, yes, if I'm correct.

3 Q. I think Commissioner Murray, then, in
4 asking you about that, asked if it weren't a good
5 time to look about -- look into increased funding of
6 that program; is that right?

7 A. I believe so.

8 Q. And you agreed?

9 A. Oh, yeah.

10 Q. I think if my recollection is right, you
11 agreed with that.

12 A. Yes.

13 Q. And I think you've made a proposal in
14 that regard in this case, haven't you, to increase
15 the funding for the weatherization?

16 A. Well, MGE made a proposal to increase
17 the funding by \$100,000 and we support that.

18 Q. Okay. Okay. So there is currently in
19 this case a proposal to increase funding for that
20 program?

21 A. Yes, to \$600,000.

22 Q. Okay. Thank you. I believe
23 Commissioner Gaw asked you a few -- or asked you
24 whether there weren't benefits that are derived from
25 conserving natural gas?

1 A. Yes.

2 Q. Or cutting back on natural gas usage; do
3 you recall that?

4 A. Uh-huh.

5 Q. And I believe that you agreed that there
6 were.

7 A. Oh, yes.

8 Q. Would you agree with me that the
9 straight fixed variable rate design proposal that the
10 Staff is proposing in this is consistent in large
11 part with what the company's proposing is consistent
12 with the objective of conserving natural gas use in
13 that it eliminates the volumetric rate element that
14 directly links MGE's financial performance to
15 increase the sales of natural gas?

16 A. Could you repeat your question?

17 Q. Yes. One of the -- would you agree that
18 the straight fixed variable rate design proposal that
19 Staff has made, and that is, in my understanding,
20 largely consistent with the company's proposal in
21 this case, is consistent with the objective of
22 conserving natural gas use in that it eliminates the
23 volumetric rate element that directly links Missouri
24 Gas Energy's financial performance to increased sales
25 of natural gas?

1 A. As long as the company takes the reins
2 and runs with it, yes, it is.

3 Q. Again, in response to some questions I
4 think that you received from Commissioner Gaw, you
5 had mentioned that Staff's proposal in this case for
6 a straight fixed variable rate design for residential
7 class is -- is an evolving process for the Staff; is
8 that correct?

9 A. Yes.

10 Q. Related -- related to where I want to
11 take this, you mentioned that you participated in the
12 energy affordability task force; is that correct?

13 A. Yes.

14 Q. Is that the same thing as the Missouri
15 energy task force or is that a different item?

16 A. That's a different item. This -- the
17 energy affordability task force, I believe, was in
18 2004/2005.

19 Q. So you're familiar with that process?

20 A. Yes, I attended most of the meetings.

21 Q. Okay. And that's where I was going with
22 that. And my question is, in the sense that your
23 testimony was, that this is an evolutionary process.
24 The Staff is looking at some different approaches
25 that you've taken into consideration, your experience

1 in the process that took place with the affordability
2 task force and the energy task force; is that
3 correct? I mean, those are things that you've been
4 aware of that have played some part in this; is that
5 correct?

6 A. I don't know, could you rephrase the
7 question because I'm not sure?

8 Q. Yes, I will. You were asked some
9 questions by Commissioner Gaw, I believe, as to, you
10 know, what sorts of things cause the -- cause the
11 Staff to look at this as a -- as a rate design
12 proposal generally and probably specifically in this
13 case.

14 A. Yes.

15 Q. And what I'm asking you is, you know,
16 your participation and your -- and the Staff's
17 awareness of the energy affordability task force
18 discussions and the energy task force discussions,
19 did they -- I assume they played some part in this
20 overall evaluation?

21 A. They did. We had utility personnel on
22 the energy affordability task force, so the
23 disincentive subject definitely came up.

24 Q. Uh-huh. Are you also familiar with the
25 final report that was filed in Case Number

1 GW-2004-0452 and that was an inquiry into
2 affordable -- well, maybe this is what you're talking
3 about.

4 A. That is.

5 Q. Inquiry into affordable heating; is that
6 what you were just talking about?

7 A. I think so.

8 Q. It's entitled, "Final report of the
9 Missouri Public Service Commission's cold weather
10 rule and long-term energy affordability task force."

11 A. Oh, yes, that is. That's the task
12 force.

13 Q. Okay. Okay. That helps me. Thank you.
14 So those were two things that were taken into account
15 at any rate?

16 A. The --

17 Q. Those two task force processes?

18 A. Yes, we were -- we were aware of those.

19 Q. Okay. I wanted to ask you, were you
20 also aware that the -- in 2001 the Attorney General
21 filed -- or sent recommendations to Governor Holden
22 concerning energy use?

23 In other words, were you aware that part
24 of the recommendation from Attorney General Nixon to
25 Governor Holden was to allow the industry to recover

1 fixed distribution costs on a monthly basis rather
2 than through volumetric charges; did that play any
3 part?

4 A. No, I personally wasn't aware of that.

5 Q. All right. I want to visit with you a
6 little bit about your testimony in an exchange with
7 Commissioner Gaw about AmerenUE's program --

8 A. Yes.

9 Q. -- for furnaces, I believe; is that
10 correct?

11 A. Uh-huh, yes.

12 Q. Has that program -- I take it that
13 program has been approved by the Commission as well?

14 A. Yes.

15 Q. And that was funded, I think you said,
16 to the tune of about 55,000 -- or 50 -- yeah, 55,000
17 per year; isn't that the figure you gave?

18 A. Yes.

19 Q. Do you know whether or not that came out
20 of the context of a -- of an AmerenUE rate case for
21 its gas properties? Do you know --

22 A. Yeah, I believe it did. I think it was
23 the result of a settlement.

24 Q. Okay. Also, I think, in response to a
25 question that you got from Commissioner Gaw, I

1 believe that one of the things that you were talking
2 about, or at least he was inquiring about, is whether
3 the Staff had made itself familiar with, I think it
4 was Department of Natural Resource's energy
5 department recommendations or programs; do you recall
6 that?

7 A. Yes, I do.

8 Q. And I believe your testimony was not
9 specifically for purposes of this case but generally.
10 Could you -- could you expand on that a little bit,
11 please?

12 A. Well, they've been intervening in the
13 cases, I believe because of a lack of personnel.
14 They haven't intervened in the last two or three gas
15 cases. I see that they've started again in some
16 future cases, but -- and so when they -- when they
17 did intervene, they would propose programs, we would
18 all sit down afterwards and discuss the programs, how
19 they could be set up. That's -- that's what I was
20 talking about.

21 Q. Thank you. I appreciate that. I
22 believe also at one point you wanted to -- to -- let
23 me back up. There were some questions, I think,
24 related to MGE's proposal in this case for the
25 natural gas conservation aspect of its proposal which

1 deals with water heaters --

2 A. Yes.

3 Q. -- do you recall that? And I believe
4 that there was something that you wanted to say about
5 that program but you didn't have an opportunity to
6 and I wanted to give you that opportunity to finish
7 that thought.

8 MR. POSTON: Judge, let me object for a
9 moment. It seems to be more like redirect than
10 recross. I'm just gonna object on the grounds this
11 isn't proper cross-examination and Ms. Shemwell can
12 surely rehabilitate this witness, you know, through
13 redirect.

14 JUDGE JONES: The objection's sustained.
15 BY MR. BOUDREAU:

16 Q. One last question, Ms. Ross. I think
17 that early on in your testimony in response to some
18 questions from Commissioner Murray, you stated, in
19 essence, that rather than parsing out -- looking at
20 various aspects of the customer's bill, that the
21 proper way to look at it in terms of what impacts the
22 customer and what matters to them is to look at the
23 total bill. You don't just look at -- you don't just
24 look at the fixed element, you don't just look at the
25 volumetric element, you don't just look at the PGA

1 portion of the product cost; is that correct?

2 A. Yes.

3 Q. I think your testimony was you look at
4 the entire bill?

5 A. Yes.

6 Q. With respect to looking at the entire
7 bill, would you agree with me that it would be easier
8 for customers to understand if the straight fixed
9 variable rate proposal is adopted and the bill is
10 essentially reduced from three various elements to
11 two rate elements, do you think that will make it
12 easier for the customer to understand?

13 MR. POSTON: Your Honor, same objection.

14 MR. BOUDREAU: I think that's legitimate
15 cross-examination.

16 JUDGE JONES: In all honesty,
17 Mr. Boudreau, I don't see Ms. Ross saying anything
18 new that she hasn't said before lunch and since then.
19 We're just going around in circles. Go ahead and ask
20 your question. It's your last question, I take it?

21 MR. BOUDREAU: That was my last
22 question.

23 JUDGE JONES: So reask it and answer it
24 so we can go on to somebody else.

25 BY MR. BOUDREAU:

1 Q. Do you remember the question? Do you
2 want me to reask it?

3 A. No.

4 Q. Okay. I want to go back to some of your
5 earlier testimony with an exchange that you had with
6 Commissioner Murray. And I believe your testimony
7 was that rather than look at specific rate elements
8 necessarily in isolation in terms of customer impact,
9 it was more proper just to look at the -- look at the
10 bill from a total bill perspective.

11 And my question to you is, do you think
12 from the perspective of the customer being able to
13 look at the bill and understand it, that a straight
14 fixed variable rate design proposal will assist in
15 that regard in the sense that there will be fewer
16 rate elements that they have to figure out when
17 they're looking at their bill, there will just
18 essentially be two components to the bill?

19 A. I do. I was thinking more of when
20 customers called in to the Commission or to the
21 company. I believe that it would be easier for them
22 to understand that they were paying for a delivery
23 service and that they were paying a fixed cost for
24 that than to explain the customer charge and the
25 margin rate and the PGA rate and the different

1 components.

2 MR. BOUDREAU: Okay. Thank you. That's
3 all I have.

4 JUDGE JONES: Any recross from the
5 Office of Public Counsel?

6 MR. POSTON: No, thank you.

7 JUDGE JONES: Any redirect from Staff?

8 MS. SHEMWELL: Thank you.

9 (EXHIBIT NO. 106.5 WAS MARKED FOR
10 IDENTIFICATION BY THE COURT REPORTER.)

11 REDIRECT EXAMINATION BY MS. SHEMWELL:

12 Q. Ms. Ross, you were just talking to
13 Mr. Boudreau about the bills. Mr. Poston, I believe,
14 posed a question asking you about the percentage of a
15 customer's bill that is gas costs and suggested that
16 45 percent, I believe, was non-gas cost. How much of
17 a typical customer's bill is gas costs?

18 A. Actually, I don't -- the 45 and 55 was
19 the customer charge versus commodity charge in the
20 margin piece. I think about yesterday, I believe,
21 that a company witness said 76 percent of a
22 customer's bill -- what a customer pays is gas cost.

23 Q. So if a customer conserves and uses less
24 gas, what's the impact on the bill?

25 A. Well, it will be whatever impact that is

1 on the 25 percent that's -- that is the margin piece
2 of the bill.

3 Q. If they conserve and use less gas --

4 A. Yes.

5 Q. -- it's going to impact the margin?

6 A. Yeah, it will impact that piece of the
7 bill -- well, it will impact both pieces actually,
8 I'm sorry.

9 Q. That's under the current rate design; is
10 that correct?

11 A. Yes.

12 Q. Under your proposed rate design, if they
13 use less, what portion of the bill is affected?

14 A. The gas cost portion. And let me say,
15 under our rate design, they may be paying less right
16 off the bat because if they're -- if they're using
17 more than the average, the residential average, their
18 annual bill will go down to the annual bill of an
19 average customer.

20 Q. Do you know whether or not a typical
21 residential customer uses some level of gas with or
22 without conservation measures?

23 A. Do you mean a space-heating customer or
24 a specific type or -- I don't --

25 Q. Is a typical customer a space-heating

1 customer?

2 A. Yes, I would say that our typical
3 customer is a space-heating customer. Not all
4 customers are space heaters, but...

5 Q. I'd like to try to clarify the two types
6 of energy audits just very briefly for the record.
7 First of all, let me ask, MGE's proposed conservation
8 programs, correct?

9 A. Yes.

10 Q. What was your involvement, if any, in
11 developing those programs?

12 A. Well, we talked a little bit about
13 conservation before the case was even filed. I'm on
14 the -- let me think of which task force it would have
15 been, the energy affordability task force, I guess.
16 And there's a representative from MGE on that task
17 force. Not the energy affordability, the
18 weatherization advisory policy committee, okay. And
19 there's also a member of MGE's Staff that's on that
20 and Bob Jackson's on that.

21 And we were talking after a meeting, and
22 as a result of our discussion, I went to Kansas City
23 and sat down and talked with Bob and with Pam
24 Levetzow about conservation programs, just in general
25 about what we might do. This was before the case was

1 filed.

2 Q. Let me interrupt just briefly and ask
3 who Pam Levetzow is and can you spell that last name
4 for the court reporter?

5 A. No, I'm not sure that I can.

6 Q. Who is she?

7 A. I think it's L-e-b-o-w-i-t-z.

8 Q. And who is she?

9 A. That's a good question too. She's --
10 she's probably in charge of their customer service
11 department.

12 Q. Who's "their"?

13 A. MGE.

14 Q. So you met with her in Kansas City and
15 Bob Jackson?

16 A. Yes.

17 Q. And what did you discuss?

18 A. We just discussed their weatherization
19 program, how it was -- how it was -- how it was
20 going.

21 Q. How is it going?

22 A. I think it's going well.

23 Q. And that takes me to the idea of the two
24 different energy audits. MGE has proposed a
25 particular type of audit in this case and you've

1 described that as one that occurs over the internet;
2 is that correct?

3 A. Yes.

4 Q. And a customer sits down and inputs
5 information, correct?

6 A. Yes.

7 Q. But Bob Jackson does a different type of
8 energy audit, right?

9 A. Yes. The weatherization program has a
10 walk-through audit. It has a blower door test, the
11 works.

12 Q. And that's a more expensive audit?

13 A. Oh, yeah.

14 Q. Do you consider the energy audit
15 proposal to be a serious proposal?

16 A. MGE's?

17 Q. Yes.

18 A. I do and something that I haven't
19 mentioned yet is that there's a chance that they'll
20 be able to partner with Kansas City Power & Light on
21 their energy audit.

22 Q. And what would the value of that be?

23 A. Well, it would save some money. The
24 cost probably per utility would be less. They'd be
25 able to pull in information, not only their gas bill

1 but about their electric bill. It would just be a
2 more complete look at the customers' energy use.

3 Q. And then would that information tell
4 you -- define the customers' needs?

5 A. Yeah, it would give you an idea as to
6 what the customers' needs are.

7 Q. In this case has MGE proposed an
8 education program?

9 A. Yes.

10 Q. Do you consider that a serious program?

11 A. I do.

12 Q. What was your input on that program?

13 A. Well, I talked to Rob a little bit about
14 it, Rob Hack. I guess that was my input on that
15 program.

16 Q. Why do you consider it to be a serious
17 program?

18 A. I'm having trouble with the word
19 "serious." What --

20 Q. Valuable program?

21 A. Oh, I think education is valuable any
22 time. I think it's probably the way to get the most
23 bang for the buck. I think just in -- just reading
24 MGE's materials that was in their rebuttal filing, I
25 think, I learned that I could go down to my basement

1 and drain my water heater. I haven't done it, but I
2 know now how to do it and that I could.

3 I think that there are measures out
4 there that customers don't know about. I think there
5 are measures that they know about but they don't know
6 what they cost. Technology is improving. I'm sure
7 it's hard for customers to keep up with that and the
8 company would know more about that than the average
9 Joe.

10 Q. And there's been a water heater program.
11 Do you consider that a valuable program?

12 A. I do.

13 Q. Why would you target hot water heaters
14 as opposed to other appliances?

15 A. Well, with natural gas you're a little
16 limited in your choice of appliances. There are
17 furnaces and hot water heaters. Those are the two
18 big ones.

19 Q. When you say "the two big ones," what
20 does that mean?

21 A. I'm sorry. The two big energy --
22 natural gas energy users in a home, a typical home.

23 Q. So as compared to a gas stove?

24 A. Yes.

25 Q. These are the two largest?

1 A. Yes, yes. I do believe that while the
2 program starts out targeting water heaters, I would
3 like to see it have enough flexibility so that in the
4 future, either if the water heater market got
5 saturated or if -- if better uses could be found for
6 the money, say, a furnace program, I'd -- I'd -- I'd
7 like to see the program have enough flexibility to
8 accommodate that.

9 Q. Do you know the cost of a water
10 heater -- energy efficient water heater versus the
11 cost of an energy efficient furnace?

12 A. Well, I just bought an energy efficient
13 water heater because my pipes broke and it was
14 about -- a 40-gallon was about \$350.

15 Q. Is that gas or electric?

16 A. That's gas. I bought -- last year, a
17 couple of years ago I bought a furnace and it was
18 about \$2,000, \$2,500, somewhere in there, and it was
19 also an efficient one.

20 Q. Do you consider weatherization a
21 conservation measure?

22 A. Yes.

23 Q. And we've discussed that there's about
24 600,000; is that correct, in Kansas City?

25 A. There will be if MGE's proposal to add

1 100,000 is accepted.

2 Q. When you were visiting with Commissioner
3 Murray, you said, "When Bob said" something
4 yesterday. Were you referring to Mr. Jackson?

5 A. Oh, yes, yes, I was.

6 Q. You indicated to Mr. Poston that you had
7 not considered the low-income customer group as a
8 whole. Before you made this proposal, did you
9 consider the impact on the individual low-income
10 customer?

11 A. Yes.

12 Q. Do you have an opinion as to how the
13 new -- or your proposed rate design would affect
14 low-income customers?

15 A. Yes. I don't think you can characterize
16 them as all high-usage or all low-usage. For a
17 low-income customer that uses more than the average,
18 they will immediately pay less on the margin on an
19 annual basis. If this means that there are more
20 conservation activities going on, they would benefit
21 through that if they, you know, signed up for that
22 kind of program.

23 If the low-income customer is using less
24 than the average, then they'll immediately start
25 paying more to the tune of, I don't know, ten, \$12 a

1 month more. My thoughts on that are that it -- in
2 some ways it would be easier to target a program
3 toward low-income customers if the margin piece of
4 their bill was more predictable. You would do a
5 year-round program without customers -- without the
6 program providing more in the summer than their
7 customer charge bill would be. I think it will
8 affect them -- them different ways. The rate
9 increase itself will affect low-income customers.

10 Q. When you do rate design, is fairness to
11 the various groups one of your considerations?

12 A. Yes.

13 Q. And is specific fairness to low-income
14 part of that?

15 A. I think just fairness to the general
16 body of ratepayers or residential ratepayers. There
17 are people that are -- that are classified as
18 low-income, okay, according to government standards,
19 125 percent of the Federal Poverty Guidelines, 150
20 percent.

21 In my opinion, there are people that are
22 not classified in that way as low-income that are
23 also low-income, that are struggling with their
24 bills. So I don't think that you can just look at
25 the -- at the people that are, you know, for example,

1 getting LIHEAP or getting weatherization services. I
2 think that there's a large body of customers that we
3 don't see that are struggling with their bills.

4 Q. I'd like to talk about the margin costs.
5 Can MGE design its system specifically for low-use
6 customers?

7 A. It would be unwise to do that.

8 Q. Can a low-use customer become a high-use
9 customer?

10 A. Yes, yes.

11 Q. Do --

12 A. Or -- I was just gonna say a residential
13 customer might be cooking on a gas stove today, might
14 decide in five or ten years to put in a gas furnace,
15 water heater which would throw them up into the ranks
16 of high users.

17 Q. Or might decide tomorrow?

18 A. Or might decide tomorrow.

19 Q. Would the fact that they already have a
20 gas line to their home impact that decision?

21 A. Yes, I would -- I would guess that it
22 would, although if -- if -- if they wanted a gas
23 line to their home, it's my understanding that all
24 they would have to do is call the company and ask
25 that one be put in if they're in MGE's service

1 territory.

2 Q. Who pays for that?

3 A. The ratepayers pay for that.

4 Q. Under your proposal -- we were talking
5 about the change in policy, Ms. Ross, and I
6 understand that you wanted to do this testimony.
7 Why?

8 A. Well, like I said, we started talking
9 about it and at first -- my first reaction was what
10 will this do to the low-use customers.

11 Q. Low-use or low-income?

12 A. Low-use. Low-use. I was -- in some
13 ways I was equating it with low-income. Once we had
14 more conversations, conversations about the equipment
15 that's actually on various level-of-use customers,
16 residential customers, I -- I became a believer in
17 the fairness of a delivery charge mechanism of
18 revenue recovery.

19 Once I started looking at who the
20 low-use customers were, I became less convinced that
21 they were low-income. They might have gas fireplace
22 logs, they might be running a line to their barbecue
23 grill, they might be heating a pool. You know,
24 they're not necessarily people that are -- have just
25 turned their furnaces way, way, way, way down.

1 So at that point my concerns about it
2 treating low-income customers unfairly were
3 addressed. And just the more we talked about it the
4 more I became a believer that it was -- that it was
5 fair and that it was a good rate design because of
6 its effects on conservation decisions by the company,
7 that it could be a good rate design.

8 MS. SHEMWELL: Just a second, please.
9 That's all I have. Thank you, Judge. And if we
10 might, this might be a good time to correct the
11 numbering of Ms. Ross's testimony.

12 JUDGE JONES: Correct or just add? You
13 just want to add the direct of -- on rate of return,
14 right?

15 MS. SHEMWELL: We want to add the direct
16 on revenue requirement.

17 JUDGE JONES: Revenue requirement.
18 Okay. Let's add that quickly and then take a
19 bathroom break.

20 MS. SHEMWELL: Okay. If I could just go
21 through this for the court reporter: Direct
22 testimony in rate design is 105, rebuttal testimony
23 of rate design is 105.5, surrebuttal testimony on
24 rate design of Ms. Ross is Exhibit 106 and Ms. Ross's
25 direct on revenue requirement is 106.5. Thank you,

1 your Honor.

2 JUDGE JONES: And is there any objection
3 to 106.5?

4 (NO RESPONSE.)

5 JUDGE JONES: It's admitted into the
6 record.

7 (EXHIBIT NO. 106.5 WAS RECEIVED INTO
8 EVIDENCE AND MADE A PART OF THE RECORD.)

9 JUDGE JONES: At this time we're gonna
10 take a break just long enough to use the restroom,
11 so if you don't have to go to the bathroom, don't
12 leave. And we'll come back with Ms. Meisenheimer's
13 testimony, and then after that we'll -- I'm assuming
14 the Chair will be back -- we'll go to Mr. Hack. So
15 we're off the record for a moment.

16 (A RECESS WAS TAKEN.)

17 JUDGE JONES: Okay. We're back on the
18 record with Case Number GR-2006-0422. On the stand
19 is Barb Meisenheimer. OPC, your witness.

20 MR. POSTON: Thank you. Would you like
21 an opening?

22 JUDGE JONES: Oh, yes. I'm sorry.
23 Yes, go ahead and do an opening on this issue.
24 Sorry.

25 MR. POSTON: All right. Sorry. Thank

1 you.

2 We believe the rate design issue
3 requires a policy decision and we believe the
4 Commission made it clear two years ago when MGE was
5 asking for its last rate design change that these
6 proposals to move charges into the fixed rate element
7 is not good public policy.

8 We also believe that it is a bad
9 policy to take conservation incentives away from
10 consumers. The best signal the Commission could
11 send to the public to show that Missouri -- that the
12 Missouri PSC wants to promote conservation is to keep
13 usage a factor and keep the traditional rate design.

14 The Commission wants to explore new
15 ideas of rate design, do so in generic docket before
16 signing on to a change that isn't being followed
17 anywhere but for two LDCs nationwide. And even those
18 examples have not been in place long enough to tell
19 us the long-term success or failure of a straight
20 fixed variable rate design.

21 If exploring new rate design is
22 something the Commission wants to do, we ask that you
23 take the time to look at all -- all of the successes
24 and failures in other states. Mr. Murray testified
25 yesterday on a wide variety of rate designs being

1 used around the country and where are those proposals
2 here, or where are the explanations as to how those
3 rate designs were considered but found to be wrong
4 for Missouri?

5 The other reasons the Commission should
6 reject the straight fixed variable rate design in
7 addition to it being poor for conservation is, it
8 would shift cost to low-volume users including
9 low-income users, contrary to MGE's claims low-income
10 consumers tend to be low-volume users. And
11 Ms. Meisenheimer, who's about to take the stand,
12 would be happy to explain to the Commission her
13 findings and the findings of others on this income
14 consumption association.

15 Another reason the Commission should
16 reject the straight fixed variable rate design is it
17 will lessen MGE's incentives to operate efficiently
18 to lessen their cost because it will guarantee a rate
19 of return rather than providing an opportunity to
20 earn a rate of return as required by law.

21 That's all I have for an opening.
22 Ms. Meisenheimer is here to answer your questions, so
23 we'd call Barbara Meisenheimer.

24 JUDGE JONES: Ms. Meisenheimer, will you
25 raise your right hand?

1 (THE WITNESS WAS SWORN.)

2 JUDGE JONES: Thank you.

3 DIRECT EXAMINATION BY MR. POSTON:

4 Q. Please state your name.

5 A. Barbara Meisenheimer.

6 Q. By whom are you employed and in what
7 capacity?

8 A. I'm employed as chief economist by the
9 Office of Missouri Public Counsel.

10 Q. Are you the same Barbara Meisenheimer
11 who caused to be filed testimony that has been marked
12 as Exhibits 201, direct testimony; 202, rebuttal
13 testimony; and 203, surrebuttal testimony?

14 A. Yes, I am.

15 Q. Do you have -- do you have any
16 corrections or changes to that testimony?

17 A. No, I don't.

18 Q. If I were to ask you the same questions
19 appearing in your testimony today, would your answers
20 be the same?

21 A. Yes, they would, as modified by later
22 filings of my testimony.

23 Q. Could you explain that, please?

24 A. In direct testimony, I offered a cost
25 study which, in rebuttal testimony I indicated I

1 would not use the means allocator method because the
2 Commission had rejected that method previously. And
3 so I -- we didn't intend to rehash that, so I'd point
4 that out in my rebuttal.

5 Q. And that's an issue that's been settled
6 as far as you know?

7 A. Cost of service has been settled.

8 MR. POSTON: All right. Judge, I'd
9 offer Exhibits 201, 202 and 203 into the record and
10 tender Ms. Meisenheimer for cross-examination.

11 JUDGE JONES: Thank you. Any objection?

12 (NO RESPONSE.)

13 JUDGE JONES: Exhibits 201, 202 and 203
14 are admitted into the record.

15 (EXHIBIT NOS. 201, 202 AND 203 WERE
16 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
17 RECORD.)

18 JUDGE JONES: At this time we'll have
19 cross-examination from the Staff of the Commission.

20 MS. SHEMWELL: Thank you, Judge.

21 CROSS-EXAMINATION BY MS. SHEMWELL:

22 Q. Good afternoon, Ms. Meisenheimer.

23 A. Good afternoon.

24 Q. How are you?

25 A. I'm fine. How are you doing?

1 Q. I'm fine, thank you. Could we turn to
2 page 6 of your rebuttal, please? You have a chart on
3 that page, or table as you call it, table 1. Are you
4 there?

5 A. Yes, I am.

6 Q. And on the left-hand column it says,
7 "Average monthly CCF," correct?

8 A. Yes.

9 Q. How many customers are in the average
10 monthly CCF use of 25? How many customers fall
11 within that range?

12 A. This table doesn't provide that
13 information, and the reason is because the table was
14 derived just to show at various usage levels what
15 would the cost be for the customer.

16 Q. So your answer is you don't know how
17 many of MGE's customers use 25 CCF's per month?

18 A. That's true.

19 Q. These customers don't heat with gas,
20 though; is that likely?

21 A. At that low a level, yes, it's probably
22 likely -- likely.

23 Q. They're probably more likely to have to
24 use gas for cooking or hot water heating?

25 A. Probably, yes.

1 Q. Or a pool heater as was mentioned
2 earlier?

3 A. I'm not familiar with pool heaters. We
4 don't have a pool.

5 Q. Do you know how many customers fall
6 within the average monthly CCF usage of 125 CCF's?

7 A. No. As I said, this table was not based
8 on --

9 MS. SHEMWELL: That's okay, thank you.
10 I'm moving to strike as nonresponsive.

11 JUDGE JONES: Well, you're not gonna ask
12 her how many customers are in a different CCS
13 level -- CCF level, are you?

14 MS. SHEMWELL: I've asked her if she
15 knows how many are at 25 and how many are at line 25.
16 I'm not going through each one if that's your
17 question.

18 JUDGE JONES: That's my question. Your
19 answer is no?

20 MS. SHEMWELL: No.

21 JUDGE JONES: Then you can strike
22 everything after no; she doesn't know.

23 BY MS. SHEMWELL:

24 Q. Do you know the point at which customers
25 are likely to be space-heater -- use space heating

1 fired by natural gas, whether that's at 100 or 125?

2 A. No, I don't.

3 Q. Would you agree with me that the
4 customers that use 25 CCF's per month and the
5 customers that use 125 have the same size residential
6 meters and regulators?

7 A. Yes.

8 Q. The cost of the purchased gas makes up
9 70 to 80 percent of the entire residential bill, the
10 cost of the gas itself?

11 MR. POSTON: Is that a question?

12 JUDGE JONES: Is that a question or is
13 that a statement?

14 MS. SHEMWELL: It was a question.

15 JUDGE JONES: It sounded like a
16 statement. Why don't you rephrase it as a question.

17 BY MS. SHEMWELL:

18 Q. Does the cost of natural gas make up 70
19 to 80 percent of the entire residential bill?

20 A. In some cases it -- it can. I wouldn't
21 dispute that it could.

22 Q. Does it generally?

23 A. Generally, I don't -- I don't know that
24 I'd go quite that high, but...

25 Q. Do you have a percentage, then?

1 A. I've -- I've heard numbers lower than
2 that, and depending on the price of gas, I don't
3 know, I might go down to 65. And once again, I don't
4 have a calculation in front of me that I'd performed
5 for this case.

6 Q. So have you done any calculations that
7 would show the price point at which residential
8 customers begin to conserve?

9 A. No. I don't think there would
10 necessarily be a particular level or threshold.

11 Q. Do you know that or is that your
12 opinion?

13 A. That's my opinion based on my economic
14 background, yes.

15 Q. At what price do you think customers
16 actually initiate conservation measures such as
17 installing insulation?

18 A. I don't know that there's a particular
19 threshold level. I think it depends on economics
20 related to that customer.

21 Q. Do you know whether or not the higher
22 the cost of natural gas, the greater the incentive is
23 for customers to conserve?

24 A. I would agree with that.

25 Q. Low-income customers tend to live in

1 residential housing stock that has poor or below
2 average insulation, right?

3 A. I would agree with that, that they live
4 in generally less efficient housing.

5 Q. And that they tend to live in older
6 homes with perhaps less efficient furnaces and water
7 heaters?

8 A. Broad brush. I wouldn't disagree with
9 that.

10 Q. Well, do low-income customers tend to
11 live in rental homes or apartments?

12 A. I would say they disproportionately live
13 in rental -- rental units.

14 Q. Does that vary between MGE's Kansas City
15 area and their southern Missouri area, do you know?

16 A. I don't know.

17 Q. Would you agree with me that low-income
18 landlords are not really typically motivated to
19 replace inefficient gas furnaces and water heaters?

20 A. At constant rent, I would agree.

21 Q. Nor are they motivated to add insulation
22 to their rental units?

23 A. At rent-constant, I'd agree.

24 Q. I think part of the assumption that I'm
25 going on is that the landlord is not paying for

1 utilities as part of the rent under those
2 circumstances. Would your answer be different if the
3 landlord is paying for utilities as part of the rent?

4 A. Oh, if they are paying for utilities as
5 part of the rent? I think they would have more
6 incentive than for the housing unit to be more
7 efficient.

8 Q. Under the current rate design, MGE
9 recovers its fixed cost and volumetric charges as
10 well as the monthly customer charge?

11 A. Define "fixed" for me, please.

12 Q. Fixed costs. I'm talking about non-gas
13 costs.

14 A. So you're talking about their -- I don't
15 know that I would agree that all their costs are
16 fixed. All their non-gas costs are fixed. So that's
17 why I was trying to --

18 Q. Let me rephrase.

19 A. Okay.

20 Q. Under today's rate design, MGE recovers
21 its non-gas cost in both a monthly charge and a
22 volumetric charge?

23 A. I agree.

24 Q. And would you also agree that there's an
25 incentive for MGE there for it to sell as much gas as

1 it possibly can?

2 A. Within the boundaries of the reliability
3 of their system, yes.

4 Q. And selling more gas would benefit MGE's
5 shareholders?

6 A. I'd agree with that in terms of
7 generating additional non-gas revenue.

8 Q. Because they don't make any money off of
9 the price of the natural gas, right?

10 A. That's what the PGA is supposed to do.

11 Q. Is that a yes?

12 A. I haven't spent enough time working on
13 PGA cases to say whether I believe that it's
14 perfectly --

15 Q. So is your answer that you don't really
16 know?

17 A. I don't know.

18 Q. MGE has proposed additional low-income
19 weatherization funding, right?

20 A. Yes.

21 Q. And that would benefit low-income
22 residential customers, right?

23 A. Yes.

24 Q. Ms. Ross described Mr. Jackson's
25 determination of who's a low-income customer

1 differently than the federal level; are you familiar
2 with that?

3 A. I think the federal level has more
4 flexibility than simply 150 percent of the poverty
5 level, and that's why there's the difference.

6 Q. Was that a yes?

7 A. I don't -- ask me the question again.

8 Q. Well, I was saying that Mr. Jackson
9 determines who is low-income and therefore qualifies
10 for weatherization in a different way than the
11 federal program does.

12 A. I -- I wouldn't agree with that.

13 Q. Let's turn to page 16 of your rebuttal,
14 please.

15 A. And could I clarify? I said I would not
16 agree with that. I said --

17 Q. Does that mean you do not agree?

18 A. I do not agree.

19 Q. Thank you. Page 16 of your rebuttal,
20 are you there?

21 A. Yes, I am.

22 Q. I'm looking at line 12 and I'm going to
23 read this. Tell me if you agree that I have read it
24 correctly. "Once rates are set, comma, by efficiency
25 or luck, a company has an opportunity to earn a

1 return above that incorporated in the revenue
2 requirement. Likewise, by inefficiency or luck, a
3 company faces the potential to earn a return below
4 that incorporated in the revenue requirement." Have
5 I read that correctly?

6 A. Yes.

7 Q. Do those sentences describe your
8 preferred rate design?

9 A. No. They are a statement from an
10 economic perspective regarding the -- what occurs in
11 competitive markets.

12 Q. That's the effect of your -- of the
13 current rate design or the impact of that on a
14 company? It's by efficiency or luck that they can
15 earn a return above that incorporated in --
16 incorporated in their revenue requirement?

17 A. Yes.

18 Q. Do you have an opinion as to whether or
19 not efficiency or luck is the primary factor?

20 A. I --

21 MR. POSTON: Your Honor, could you ask
22 her to explain primary factor in what? I don't know
23 if that was a complete sentence.

24 MS. SHEMWELL: Well, she's directing it
25 to opportunity to earn a return above that

1 incorporated in the revenue requirements, so it
2 specifically refers -- I'm just referring to her
3 testimony there.

4 THE WITNESS: In a particular year, I
5 don't know.

6 BY MS. SHEMWELL:

7 Q. Is weather included in luck?

8 A. Certainly.

9 Q. If you had a business, Ms. Meisenheimer,
10 just hypothetically, I think I know that you do but
11 let's just take a hypothetical, would you rather rely
12 on efficiency or luck to make a profit?

13 A. I would strive for efficiency in order
14 to protect against bad luck.

15 Q. Page 22 of your rebuttal, if we could
16 turn to that, please.

17 A. I'm there.

18 Q. And the very first line says, "I do
19 agree that the current rate structure does increase
20 the possibility of higher recovery of non-gas costs
21 in colder-than-normal winters." Have I read that
22 correctly?

23 A. Yes, you did.

24 Q. So that under normal or
25 colder-than-normal weather conditions, customers will

1 pay higher levels of non-gas costs?

2 A. Yes.

3 Q. That would mean, then, that the

4 customers' bill during the coldest weather is going

5 to be higher for both gas costs and non-gas costs?

6 A. Yes.

7 Q. Those two will work together under the

8 current rate design?

9 A. Yes.

10 Q. And customers pay the majority into the

11 current rate design of their non-gas margin cost

12 during the winter months even if it's a normal

13 winter?

14 A. Yes.

15 Q. You agree that conservation is

16 important --

17 A. Can I -- can I back up just a minute?

18 Q. I'm sure your attorney can --

19 A. Well, I want to correct something I said

20 that --

21 Q. Okay.

22 A. I didn't want to answer your question

23 incorrectly.

24 Q. Okay.

25 A. This company recovers 55 percent or,

1 you know, their -- their customer charge was set to
2 recover 55 percent. So I don't know if I'd go all
3 the way to the majority with respect to your last
4 question, but a large proportion I would say yes.

5 Q. Do you consider 55 percent not a
6 majority; is that what your --

7 A. I was saying the non-gas recovery
8 through volumetric is only 45 percent.

9 Q. And 55 percent through the monthly
10 charge?

11 A. Yes.

12 Q. Do you agree that there's a need to
13 promote conservation in MGE's territory?

14 A. Yes.

15 Q. Statewide?

16 A. Yes.

17 Q. Nationally?

18 A. Sure.

19 MS. SHEMWELL: That's all I have. Thank
20 you.

21 JUDGE JONES: Cross from MGE?

22 MR. BOUDREAU: Yes, thank you.

23 CROSS-EXAMINATION BY MR. BOUDREAU:

24 Q. Good afternoon, Ms. Meisenheimer.

25 A. Good afternoon.

1 Q. I wanted to ask, now, your proposal now,
2 just so that I'm sure that I understand it, is
3 that -- as far as rate design, is for the company to
4 maintain or for the Commission to decide that the
5 company maintain the current 55/45 ratio of the fixed
6 and volumetric rate elements; is that right?

7 A. I -- I indicated that that would be a
8 maximum that the Commission could reasonably adopt,
9 yes.

10 Q. Were you aware of a letter that
11 contained recommendations that were sent by -- that
12 was sent by Attorney General Jeremiah W. Nixon to
13 then Governor Holden in February 2001 concerning an
14 investigation that the Attorney General's Office
15 conducted into natural gas prices and the ratemaking
16 process?

17 A. I may have reviewed that document. I'm
18 not sure. If you want me to look at it, I'm happy
19 to.

20 Q. No, I just wanted to ask you if you were
21 aware that one of the recommendations contained in
22 that letter was that the industry ought to be allowed
23 to recover its fixed distribution costs on a monthly
24 basis rather than through volumetric charges? Were
25 you aware of that?

1 A. No. If you have the document I'll be
2 happy --

3 Q. I'm just --

4 A. -- to see whether I agree with that.

5 Q. I'm just asking you if you're aware of
6 that. Is your answer no?

7 A. My -- my answer is no.

8 Q. Okay. Thank you. Would you disagree
9 with the observation that the current rate design
10 structure for MGE requires customers to pay a
11 substantial portion of fixed costs during high
12 heating bill months?

13 A. I would not disagree with that.

14 Q. As far as the ratemaking process goes
15 generally, would you agree with me that the objective
16 of the process is to anticipate costs and revenues
17 during the period the rates would be in effect, a
18 general proposition?

19 A. I -- I mean, it's my understanding that
20 a company is allowed to recover costs that are
21 incurred relative to that which is used and useful.

22 Q. Well, let me circle back around, then.
23 Are you -- are you disagreeing with the idea that the
24 objective of this process that we're engaged in is to
25 anticipate costs and revenues during the period the

1 rates will actually be in effect?

2 A. I don't -- I don't disagree with that,
3 that -- the hesitation that I have is, I think that
4 when you -- when you have a rate case, one of the
5 things that you take into account are gonna be
6 changes which are known and measurable, so ...

7 Q. Okay. Well, let me -- let me handle it
8 this way: Let me direct your attention to page 16 of
9 your rebuttal testimony.

10 A. Okay.

11 Q. And there aren't any lines, but about
12 the middle of that paragraph that overlaps from the
13 prior page, there's a sentence in the middle that
14 starts, "However"; do you see that?

15 A. Page 16 of my rebuttal. My copy has
16 line numbers.

17 Q. Okay. Well, let me tell you what I did,
18 is I counted from --

19 A. Is it, "However, the ratemaking process
20 only reflects the anticipated cost in revenues to a
21 snapshot in time"; is that --

22 Q. That's what I was gonna refer you to.

23 A. Okay.

24 Q. Okay. So that is your testimony?

25 A. Yes.

1 Q. Okay. Have you disputed the evidence
2 contained in Mr. Feingold's direct testimony
3 demonstrating that the average use per MGE
4 residential customer used as a baseline in the rate
5 setting process has fallen from about -- well, fallen
6 from 1,112 CCF per year in 1997 to 903 CCF in the
7 year 2005? And I'll refer you specifically to his
8 schedule RAF 7.

9 A. I didn't put anything in this record to
10 dispute it. I haven't verified it either.

11 Q. Okay. Fair enough. Have you put
12 anything in your testimony to dispute the evidence
13 contained in Mr. Feingold's direct testimony showing
14 that the American Gas Association's forecast that
15 residential natural gas consumption will continue to
16 decline from the period 2010 to 2020?

17 A. Again, I haven't put anything in to
18 dispute it or to confirm it.

19 Q. Fair enough. Would you agree with me
20 that under a traditional volumetric reliant rate
21 structure for the residential class, if residential
22 consumption for MGE falls below the level assumed in
23 the rate setting process, then, all other things
24 being equal, MGE will not achieve its
25 Commission-authorized earnings level?

1 A. I agree it will -- it will not
2 necessarily recover the amount approved as the target
3 by the Commission. I agree.

4 Q. Thank you. Let me ask you this: Under
5 the current rate design structure for MGE, what
6 financial incentive does the company have to
7 encourage its customers to reduce natural gas usage?

8 A. I don't think that it does have an
9 incentive except for maybe goodwill with the
10 Commission.

11 Q. Well, I was asking you about financial
12 incentive. That was my question.

13 A. Oh. Only to the extent goodwill
14 produces financial gain.

15 Q. Would you agree that under your latest
16 residential rate design proposal, because 45 percent
17 of the company's fixed cost of doing business is tied
18 to the volumetric rate element, that is, gas
19 throughput, that MGE's financial performance is tied
20 to the use of more rather than less natural gas on
21 the part of its residential customers?

22 A. As opposed to something like a straight
23 fixed variable proposal?

24 Q. I'm just asking you about -- about the
25 existing rate structure and the one that I understand

1 that you are suggesting would be acceptable in this
2 case.

3 A. I'm sorry. Can I have you repeat the
4 question?

5 Q. Yes. Would you agree with me that under
6 your latest residential rate design proposal, because
7 45 percent of the company's fixed costs of doing
8 business is tied to the volumetric rate element, that
9 is, gas throughput, that MGE's financial performance
10 is tied to the use of more rather than less natural
11 gas on the part of its residential customers?

12 A. Yes, as it is today.

13 Q. And as you're -- and as you're
14 recommending today?

15 A. Yes.

16 Q. Okay. Thank you. Let me ask you if you
17 would disagree with this statement: The volumetric
18 component of regulating natural gas distribution
19 provides no real incentive for conservation of a
20 nonrenewable natural resource.

21 A. The volumetric --

22 Q. The statement is: The volumetric
23 component of regulating natural gas -- natural gas
24 distribution provides no real incentive for
25 conservation of a nonrenewable natural resource.

1 A. No incentive for the company? Is that
2 what you mean?

3 Q. Yes. Well, no -- yes, I think that's
4 right.

5 A. Okay. I would -- I think I would
6 generally agree that the company would not have an
7 incentive, yes.

8 Q. Okay. We're going back and forth about
9 this a little bit. Let me ask you this: Does your
10 recommendation -- well, let me rephrase. Would you
11 agree with me that your recommendation in this case
12 as far as proposed rate design for MGE does not
13 represent one that removes disincentives for MGE to
14 pursue programs aimed at reducing natural gas usage?

15 A. I think I'd agree with that.

16 Q. Do you know whether or not that was one
17 of the recommendations contained in the final report
18 of the -- or in the final report that was filed in
19 Case Number GW-2004-0452?

20 A. I don't know -- I don't recognize the
21 case number. If you can describe the activity for
22 me, I may be familiar with it.

23 Q. The caption for that docket, that case
24 that was established by the Commission is: In the
25 Matter of Commission Inquiry Into Affordable Heating

1 Energy For Customers of Regulated Missouri Utilities
2 and Possible Changes to the Cold Weather Rule.

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

4 Q. Do you know whether or not the Office of
5 the Public Counsel was part of that task force?

6 A. The energy affordability task force?

7 Q. I believe that's correct, yes.

8 A. Yes, I participated in some of the
9 initial meetings, and then an attorney for our office
10 participated in the later meetings.

11 Q. Okay. Can you tell me which attorney
12 that was?

13 A. I believe it was Ruth O'Neill.

14 Q. You were a witness in the recent Atmos
15 Energy Gas Company rate case; isn't that correct?

16 A. That's true.

17 Q. And Staff in that case is suggesting a
18 straight fixed variable rate design for the
19 residential class customers for that company as well;
20 isn't that correct?

21 A. Yes.

22 Q. And Public Counsel has opposed that
23 rate -- the rate design in that case as it has in
24 this case?

25 A. Yes.

1 Q. Now, I believe that one of the reasons
2 that you gave for opposing a straight fixed variable
3 rate design for Atmos is your belief based on the
4 Staff's audit in that case, that Atmos is alleged to
5 be or was alleged by Staff to be overearning to the
6 tune of, I think it was \$1.2 million; do you recall
7 that?

8 A. Yes.

9 Q. So -- so that was one of the bases of
10 your opposition?

11 A. Yes, it was.

12 Q. Okay. Would you agree with me that no
13 party in this case has filed testimony suggesting a
14 negative revenue requirement for MGE?

15 A. I would agree.

16 Q. And --

17 A. One --

18 Q. And in fact, the record in this case is
19 uncontradicted in the sense that it suggests some
20 level of revenue deficiency; isn't that correct?

21 A. Yes.

22 Q. In fact, there's nothing in this -- in
23 the record in this case contradicting MGE's showing
24 of a consistent history of underearnings since 1999;
25 would you agree with me?

1 A. All I can talk about is, in this case, I
2 know that both the Staff and the company have put in
3 evidence showing that they are -- that the company is
4 underearning.

5 Q. Okay. Have you reviewed any evidence in
6 this case concerning MGE's allegation that it has
7 been underearning since at least 1999 consistently?

8 A. I mean, I -- I have reviewed the
9 testimony. I haven't gone back and done any research
10 to verify whether I agree with those -- that or not.

11 Q. Well, I'm not asking you whether you
12 agree with that, but there's nothing in the record in
13 this case that contradicts that, is there, to your
14 knowledge?

15 A. I didn't put anything in the record.

16 Q. Okay. So you didn't dispute it and to
17 your knowledge, has your office disputed it in any
18 fashion other than through your testimony?

19 A. That would have been another witness's
20 area from my office.

21 Q. Okay.

22 A. But I have not.

23 Q. When you say "another witness,"
24 Mr. Trippensee?

25 A. Well, actually, then, we have two, I

1 believe we also have Ted.

2 Q. Okay. Thank you for that.

3 A. Robertson.

4 Q. I believe you also testified in the
5 Atmos case that the straight fixed variable rate
6 design was not justified because Atmos had no
7 meaningful conservation program, at least that was my
8 take on your testimony?

9 A. Yes.

10 Q. Okay. You would agree with me that MGE
11 has had a low-income weatherization program in place
12 for some number of years?

13 A. Yes.

14 Q. In fact, MGE is supporting an increase
15 in funding for that program from the current \$500,000
16 level to \$620,000 -- \$620,000 annually; is that your
17 understanding?

18 A. To 620 or to 600,000?

19 Q. Well, let me put it this way: At least
20 600,000.

21 A. I would agree with at least 600,000 and
22 we have supported the company in that recommendation.

23 Q. I believe you're right. And in this
24 case, MGE has also proposed to initiate a natural gas
25 conservation program as well to be funded at the

1 level of about \$750,000; is that correct?

2 A. By ratepayers, yes.

3 Q. I believe in the Atmos hearing you also
4 testified that the approval of a North Dakota gas
5 utility, I think it was Northern States Power, that
6 the approval of a straight fixed variable rate design
7 for that company was linked to that company's
8 acceptance of a lower rate of return; do you recall
9 that?

10 A. I remember testifying about that and
11 what I testified to is that there were two
12 alternatives brought to that Commission, one of which
13 had a higher return and did not have the delivery
14 type or the straight fixed variable type customer
15 charge. The other had it and a lower return.

16 Q. I believe you're correct. I believe
17 that one of the points that you identified in that
18 case is an objection -- as an objection to the
19 straight fixed variable rate design is -- was the
20 issue of risk. That topic came up in your testimony
21 as well, didn't it?

22 A. Yes.

23 Q. And you are aware in this case MGE has
24 proposed a 25-basis-point reduction to its
25 recommended return amounting to about a million -- a

1 little bit over a \$1 million revenue requirement
2 reduction annually if the Commission adopts this
3 straight fixed variable proposal in this case; is
4 that correct?

5 A. I -- I've reviewed that testimony. I
6 know that the company has made a recommendation to
7 reduce based on that factor. I don't remember the
8 exact number.

9 Q. Okay. Sticking with the -- your
10 testimony in the Atmos case, you also testified that
11 Staff and Atmos did not present, in your view,
12 reliable cost of service studies to support a change
13 to the straight fixed variable rate design; isn't
14 that correct?

15 A. Yes.

16 Q. And in this case, you're aware that MGE
17 presented a detailed cost study?

18 A. MGE did present a detailed cost study,
19 yes.

20 Q. Okay. And you're aware that MGE witness
21 Russell Feingold expressly relied on the findings
22 contained in that cost of service study as a basis
23 for his straight fixed variable rate design proposal
24 to the Commission?

25 A. He said that in his testimony.

1 Q. Okay. Thank you. Now, another issue, I
2 think, in the Atmos rate case was rate consolidation
3 as between a number of districts that that company
4 operates?

5 A. Yes.

6 Q. And that's not an issue in this case?

7 A. No.

8 Q. We're not talking about district
9 consolidation in this case, are we?

10 A. No.

11 Q. I want to return to your table showing
12 customer impacts in your rebuttal testimony. It's
13 the same table that Ms. Shemwell was referring to
14 earlier. And I believe your testimony was that this
15 was compiled by you to illustrate customer impacts?

16 A. The range of customer impacts that would
17 occur.

18 Q. Okay. Thank you.

19 A. On page 6?

20 Q. Yeah, I have it marked as page 6.

21 A. Okay.

22 Q. Are you there now?

23 A. Yes.

24 Q. Now, looking at your -- at your
25 tabulation, it appears to me that the break-even

1 point based on your assumptions and your calculations
2 is at about the level of 75 CCF average monthly use;
3 is that correct?

4 A. Yes.

5 Q. I want to come back to this but I want
6 to refer you to another portion of your testimony
7 first. I want to direct you to page 14 of your
8 rebuttal. I'll see if I can maybe give you a better
9 indicator for -- at the very top of the page, you
10 finished answering the question just with the word
11 "no."

12 A. Yeah, I'm on that page, I'm sorry.

13 Q. I'm sorry. I thought you were still
14 looking. In -- and so the next question starts,
15 "Please respond." So we're on the same page?

16 A. Yes.

17 Q. Okay. Thank you. I believe you state
18 there that, "Without requiring specific company
19 actions that will result in actual customer savings,
20 the customers' incentive to conserve actually
21 diminishes under the Staff and company's primary
22 proposals." Do you see that? That's at the end of
23 the first paragraph of that full Q and A.

24 A. Yes.

25 Q. Okay. Looking at your tabulation of

1 customer impact, there will be some customer savings,
2 and your analysis illustrates that, doesn't --
3 doesn't it? And specifically, I'm looking at average
4 monthly usage in the category of 100 CCF or greater.

5 A. I'm not sure I make the connection. Can
6 you ask me the question --

7 Q. Well, let me -- let me -- let me
8 approach it this way: Looking at your tabulation, at
9 a fixed customer charge of 21.45, and I'm just taking
10 your number, a client of yours or of your office's
11 would be using an average of -- that uses an average
12 of, let's say, 100 CCF per month actually saves,
13 under the straight fixed variable approach, to
14 setting rates; would you agree with me?

15 A. I agree -- I agree they pay less but on
16 the other part of my testimony that you reference,
17 I'm talking about an incentive to conservation
18 diminishing.

19 Q. Okay. Okay. I appreciate -- I
20 appreciate that. But coming back to the table.

21 A. Okay.

22 Q. And I'll drop that link to the extent
23 that I've made an incorrect link.

24 A. Okay.

25 Q. Looking at your tabulation, there are,

1 for the average monthly use by a customer of 100 CCF
2 or greater, you're actually -- this table illustrates
3 a savings?

4 A. Yes, I don't disagree with that. Yes.

5 Q. Okay. Now, if you were an MGE customer
6 at the -- let's say the 125 CCF per month average
7 category, wouldn't you like the results that you've
8 calculated here in this table?

9 A. If I --

10 Q. I mean, if you were a -- if you were a
11 customer in the 125 CCF block, wouldn't you like this
12 result?

13 MR. POSTON: Objection, calls for
14 speculation.

15 MR. BOUDREAU: Let me ask it
16 differently.

17 JUDGE JONES: Objection sustained.

18 BY MR. BOUDREAU:

19 Q. Let me ask it differently: Is there any
20 reason why a customer in the 125 CCF block would
21 dislike the result that you've illustrated?

22 A. Well, if in later months, different
23 months they -- well, this is an average month.

24 Q. This is an average CCF.

25 A. Only at some later point in time they

1 move to a lower portion of the table.

2 Q. Okay. I understand that. But what
3 you're talking about is that they move to a different
4 block or of lesser use -- lesser average usage; is
5 that what you're saying?

6 A. Yes, yes.

7 Q. Now, on the following page, page 7, I
8 think you've taken issue with Mr. Feingold's analysis
9 of customer impacts that are contained in his
10 schedule RAF 11; isn't that right? The second Q and
11 A on that page.

12 A. Page -- page 2 of schedule RAF 11, yes.

13 Q. Okay. And your criticism is that -- as
14 I understand it, is that Mr. Feingold, in his
15 analysis of customer impact, has included commodity
16 revenues in his analysis?

17 A. Yes.

18 Q. Okay. So do I take it from that that
19 it's your view that the customers will only be
20 concerned about the amount of the delivery charge on
21 their bill and not the total bill?

22 A. No. I think certainly customers are
23 concerned about their total bill, but it masks the
24 percent increase in the -- in what is proposed in
25 terms of the revenue that this company gets. This

1 same company could file later for an increase in gas
2 rates, for example, and that would then affect the
3 bill. So I think it's misleading to compare non-gas
4 costs to gas costs plus gas -- or non-gas costs and
5 gas costs.

6 Q. Well, I guess my question is, is -- it
7 just goes to the question of don't you think the
8 customer is more important -- more interested in the
9 total impact of the bill than just various rate
10 elements? I mean, aren't they kind of bottom line --
11 isn't it kind of bottom-line analysis, how much am I
12 paying every month?

13 A. I think many customers are -- are
14 concerned about the bottom line. One of the points
15 that has concerned me regularly about these rate
16 cases is that they don't -- they look at one element
17 in isolation of what the bill could do, say, for
18 example, the following winter. They don't take into
19 account that the customer may also face a gas -- a
20 commodity cost increase.

21 Q. So I take it you would not agree with
22 me, then, that the Commission should examine the
23 impact of the company's rate proposal on a customer's
24 total bill, and that is looking at both the delivery
25 and the gas commodity charges together?

1 A. I think that for these purposes, it's
2 best to look at the non-gas costs independently.

3 Q. I want to direct you now to a couple
4 pages later, I believe by my marking, page 9, and it
5 contains the first -- are you there, by the way?

6 A. Yes.

7 Q. Okay. First -- first question and
8 answer, I believe you offer the observation that
9 customers who use more should pay more as part -- as
10 part of your answer there?

11 A. I believe that's true.

12 Q. Okay. Well, that was gonna be my
13 question. You -- that's your testimony, you
14 obviously believe that to be true. This
15 recommendation, though, is not derivative of your
16 cost study or any other cost study because it's an
17 intraclass observation; isn't that correct? And
18 we're talking about customers within the residential
19 class who use more should pay more; would you agree
20 with that?

21 A. It is -- that -- that is -- I would
22 agree that's the subject that -- that I think we're
23 addressing here now since we've settled cost of
24 service.

25 Q. Okay. Fair enough. Let me ask you

1 this: Has Public Counsel undertaken any efforts to
2 survey its statutory client? And by that I mean
3 MGE's customers in this case to determine what -- if
4 those who, say, are in the 250-CCF average monthly
5 usage category think that they should be subsidizing
6 those who use 75 CCF per month or less? I mean, has
7 there been any effort on Public Counsel to figure out
8 what its purported client actually feels about this?

9 A. I -- I would take exception to the
10 record "subsidy," but other than that, we generally
11 get input through consumers from a number of -- a
12 number of ways. Customers call us directly, we
13 attend public hearings. I didn't actually attend
14 them myself in this case.

15 Q. Okay.

16 A. We get information.

17 Q. Was there any active effort to go out
18 and -- and do some sort of systematic investigation
19 or -- or discussion with MGE's clients in these
20 various categories that you've illustrated to figure
21 out whether customers that fit into one category kind
22 of, whether they like what you're proposing in terms
23 of maintaining the two-part rate design?

24 A. No.

25 Q. I believe it's fair to say that you

1 believe there's a linear correlation between income
2 and natural gas usage; that is, natural gas usage
3 increases as income increases, right?

4 A. I -- I believe it's positive. I don't
5 think it's necessarily linear.

6 Q. Oh, okay. Have you -- have you
7 performed any study that establishes that correlation
8 for MGE's customers?

9 A. I have reviewed a great deal of
10 information from a number of sources that have
11 reported a positive correlation. Whether it was
12 through the derivation of the numbers that I did or
13 what they may report separately in tables that are
14 developed such as the -- I don't know how much you
15 want me to go on. I'll stop if you're ready.

16 Q. I think I understand what you're saying.
17 I think you addressed that in your surrebuttal
18 testimony?

19 A. I -- yes.

20 Q. Okay. But I want to circle back to my
21 question. Have you performed any study that
22 establishes a correlation, that correlation that you
23 believe exists between usage and income for MGE's
24 customers or -- best of all would be MGE's customers
25 but even MGE's service territory?

1 A. Only to the extent that it's
2 incorporated in -- in the data sets.

3 Q. Okay. I'll come back around to that,
4 then.

5 A. I mean, it's not MGE-specific, if that's
6 what you'd like. It's not MGE-specific.

7 Q. That is the question I was asking and
8 thank you for that.

9 As far as your belief that there's a
10 positive correlation between income and usage, is it
11 fair to say that this is an assumption that underlies
12 your evaluation of the policy implications for the
13 appropriate design for MGE's residential customers?

14 A. Yes, and I might qualify that you've
15 used the word "income." I assume you're talking
16 about low-income or are you --

17 Q. I wasn't limiting it that way. I --
18 I -- I -- my understanding was that -- that based on
19 your -- my earlier question and your earlier answer
20 that you believe that there was a positive
21 correlation between usage and income. I believe that
22 was your testimony, but ...

23 A. Yes. I mean, you've presented a study
24 in this case that isolates the impact of income as a
25 single factor, not all the other things that might go

1 along with different levels of income. So --

2 Q. Let me come back around. So was I wrong
3 in remembering your testimony just a few questions
4 ago? I thought your -- I thought your testimony was
5 that you believed that there are -- I asked you if
6 there was a linear relationship and you said not
7 linear, but positive as between income and usage?

8 A. I was talking about levels of income and
9 the use of consumption, but those levels of income
10 have an impact on other factors or there are other
11 factors that are related to being low-income rather
12 than just simply the low-income level.

13 Say, for example, in the study that --
14 that you have sponsored in this case, Dr. Thompson
15 looked at other things besides just income as a
16 factor. He looked at say, for example, a housing
17 unit.

18 Q. Well, I understand what Dr. Thompson --
19 what I'm asking you is what your belief is, and my
20 question was -- in fact, I'll read it.

21 A. Low -- I can probably summarize it --

22 Q. Please.

23 A. -- as income -- as income for households
24 increase, I believe they tend to use more natural
25 gas.

1 Q. Okay. Thank you. So given that --
2 well, let me -- let me put it this way: Would you
3 agree with me, then, that that belief of yours is an
4 assumption that underlies your evaluation of the
5 policy implications for the appropriate rate design
6 for MGE's residential customers?

7 A. That's a part of it, certainly.

8 Q. Okay. And would you also agree with me
9 that if your assumption is wrong, then the basis of
10 your policy analysis is flawed?

11 A. That -- that portion would be flawed.

12 Q. Okay. One of your criticisms of
13 Dr. Thompson's study, it seems to me, is that his
14 choice of zip codes in terms of the usage indicator
15 throughout MGE's service area has a tendency to
16 average income data to some extent, and consequently,
17 it hides the income usage effects at an individual
18 level; is that a fair statement?

19 A. That's a fair statement.

20 Q. And you've referred to a number of
21 studies regarding articles about your view of a --
22 I'm gonna misstate this, but a positive correlation
23 between income and usage?

24 A. Household income and --

25 Q. Household -- household income.

1 A. -- income and other characteristics.

2 Q. Okay. Thank you. I want to direct your
3 attention specifically now to your surrebuttal
4 testimony at pages 10 and -- make sure I get this
5 right, 10 and 11.

6 A. Okay.

7 Q. You make some reference on that page to,
8 I believe a LIHEAP home energy notebook; is that
9 correct?

10 A. Yes, that's one of the things that's
11 referenced.

12 Q. Okay. And that's an analysis of total
13 energy bills, that is, combined gas and electric;
14 would you agree with me?

15 A. I'm -- if you have a copy of it I'll be
16 happy to look at it to verify that --

17 Q. Well, you -- you referred to it so I'm
18 asking you: Do you know whether or not it deals with
19 natural gas usage exclusively or a combination of gas
20 and --

21 A. I've looked at a number of things in
22 this case and I can't remember whether they provide a
23 breakdown for this than just total.

24 Q. So you don't know? You don't know
25 whether or not what you've testified to is a natural

1 gas-specific sort of analysis or a combined energy
2 analysis?

3 A. Well, I agree that there's an energy
4 analysis; what I'm saying is I don't know whether --
5 I can't remember whether they provide a more
6 disaggregated gas only.

7 Q. Well, would you agree with me if it --
8 if it aggregates gas and electric usage, it would
9 have a tendency to mask the characteristics of
10 natural gas only usage?

11 A. I don't know what you mean by "mask."

12 Q. Well, in one of your critiques of
13 Dr. Thompson's study is that he uses zip codes and
14 you've just testified that that would have a tendency
15 to sort of mask individual usage.

16 And I'm asking whether, if the study
17 that you're apparently relying on or the analysis
18 that you're relying on is an aggregation of gas and
19 electric use, if that wouldn't have a masking effect
20 on energy usage characteristics of just a natural gas
21 customer or customers.

22 A. I wouldn't disagree with that.

23 Q. Okay. Also in -- at page 29 on that --
24 on page 10, it refers to that -- or at least it
25 refers to that LIHEAP home energy notebook as dealing

1 with Midwest households; do you see that?

2 A. Are you on page ten?

3 Q. Page 10 down near the bottom.

4 A. Yes.

5 Q. I'm sorry. Are you --

6 A. Yes.

7 Q. Okay. So this would -- this would

8 suggest that it's a regional aggregation of data?

9 A. That there -- well, there -- they --

10 many of them are regional aggregations of data, yes.

11 Q. Okay. But -- well, let me just get

12 right to the point. It doesn't deal just with MGE

13 service territory?

14 A. I agree and I think I said that earlier.

15 Q. Okay. So it's possible, then, a

16 regional aggregation of energy usage characteristics

17 could mask the actual use of MGE -- of natural gas in

18 just MGE's service territory --

19 A. It could.

20 Q. -- would you agree with that?

21 A. It could, I would agree with that.

22 Q. You also refer to a U.S. Department of

23 Labor report on page 11, and I'll direct to you lines

24 6 and 7.

25 A. Yeah, the Bureau of Labor statistics,

1 yes.

2 Q. Yes. Is that -- that is based on data
3 from all states, isn't it?

4 A. Yes.

5 Q. I mean, it's a -- it's a U.S. Labor --
6 Department of Labor report. I would assume it's a
7 nationwide sort of analysis.

8 A. I -- I believe some of it is also broken
9 down to a more disaggregated level.

10 Q. Okay. Well, would you agree with me
11 that aggregating usage data from the entire U.S.
12 could mask the actual natural gas usage
13 characteristics in the service area of MGE?

14 A. I would agree.

15 Q. You also reference an article by
16 Mr. Colton in Electric Journal -- or Electricity
17 Journal, rather?

18 A. Yes.

19 Q. And it seems obvious but that just deals
20 with electric usage, right?

21 A. Well, actually, I think his article
22 spoke more generally about energy.

23 Q. So it would be natural gas --

24 A. It may have appeared there but it would
25 also -- I believe that he also discussed specifically

1 natural gas as well as energy -- or electricity.

2 Q. So both energy sources?

3 A. Yes.

4 Q. And so going back to my earlier
5 question, would you agree with me that aggregating
6 both electric and natural gas usage would have a
7 tendency to mask natural gas-only usage
8 characteristics?

9 A. To the extent that he did that in the
10 paper.

11 Q. Okay. But you didn't review it to
12 determine whether or not that's the case?

13 A. Yes, I've reviewed it. You asked me
14 "if" and I said yes, to the extent that he did it,
15 but I believe that he did actually break it down by
16 natural gas versus electricity.

17 Q. Do you know whether that analysis was
18 regional in nature or nationwide in nature?

19 A. This one, he specifically provides
20 information broken down by region as well as
21 nationally.

22 Q. And again, regional analysis will have a
23 tendency to mask more territory -- or service
24 territory-specific characteristics?

25 A. Yes, I've agreed -- I've agreed to that

1 a couple of times now.

2 Q. Now, to get to your analysis that you
3 refer to on page 11, and you mention, I think, that
4 your calculations review data that -- that -- I think
5 your phrase is, "That includes Missouri"?

6 A. Yes.

7 Q. And I take it from that, that it
8 includes data from throughout Missouri, not just
9 MGE's service area?

10 A. Yes.

11 Q. And I take it it also includes data from
12 other -- some other states?

13 A. Yes, would you like me to list them?

14 Q. No, no. It just includes data from some
15 other states?

16 A. Yes.

17 Q. And was that data on energy consumption
18 generally or natural gas usage specifically?

19 A. It has measures of both included in the
20 full data set. I focused on consumption of natural
21 gas.

22 Q. Okay. You have agreed in your
23 surrebuttal testimony on page 4 that low-income
24 consumers tend to live in less energy efficient
25 housing; isn't that correct?

1 A. Yes.

2 Q. So just to wrap up, your testimony in
3 this case is that your office opposes MGE's straight
4 fixed variable rate design proposal, right?

5 A. Yes.

6 Q. Your office opposes Staff's straight
7 fixed variable rate design proposal?

8 A. Which they call delivery charge, yes.

9 Q. You also oppose MGE's alternative
10 weather normalization adjustment proposal; is that
11 correct?

12 A. Yes.

13 Q. And your office opposes moving away from
14 the current template of a combination of fixed and
15 volumetric rate elements, fair?

16 A. That's true.

17 Q. And you oppose moving away from the
18 55/45 fixed-to-volumetric rate element ratio to a
19 higher proportion of fixed revenue?

20 A. That's true.

21 Q. And I gather from the statement of
22 position that your office filed, that you also oppose
23 the seasonal disconnect language, tariff language
24 that's been proposed by the company?

25 A. Yes, we do.

1 Q. Okay. What specific proposal has your
2 office made in this case that will address MGE's
3 inability to earn its Commission-authorized rate of
4 return?

5 A. Well, in part, we're not opposing an
6 increase in the revenue requirement for this company
7 with an increase of the customer charge maintaining
8 the 55 percent. It will not disadvantage you in
9 terms of recovering a lower proportion of cost
10 through the fixed component.

11 MR. BOUDREAU: I think that -- excuse
12 me. May I approach the witness, please?

13 JUDGE JONES: Yes.

14 BY MR. BOUDREAU:

15 Q. Ms. Meisenheimer, I've just handed you a
16 document. I'd just ask you to take a few moments to
17 review that and familiarize yourself with it.

18 A. Yeah, I am familiar with this. We've
19 had discussions about this in our office.

20 Q. Okay. And what -- what is the document
21 I've just handed you just for the Commission's
22 benefit?

23 A. It's the "Final report of the Missouri
24 Public Service Commission's cold weather rule and
25 long-term energy affordability task force in case

1 GW-2004-0452."

2 Q. Okay. I'd like you to turn to page 2 of
3 that report.

4 A. To page 2 or 26?

5 Q. Actually, I'll get to -- I'll get to 26
6 but initially page 2, but thank you for asking.
7 Second full paragraph.

8 A. Okay.

9 Q. And I'm just gonna ask you, it reflects
10 there that the task force members supported all the
11 recommendations in the report supported by all the
12 members of the task force?

13 A. Yes, and that was one of the reasons
14 that I pointed out earlier that I only attended the
15 early meetings, I did not attend the other ones. I
16 didn't --

17 Q. But it states that, "The task force
18 members note that the recommendations in this report
19 were supported by all of its members." That's what
20 it states, first sentence of that, first line?

21 A. Yes, I don't -- I don't disagree with
22 that.

23 Q. Further states that, "If a middle ground
24 could not be found on a recommendation, it did not
25 become a recommendation of the task force," just

1 to -- just to gild the lily?

2 A. I agree with that, yes.

3 Q. Okay. I wanted -- and the Office of the
4 Public Counsel was part of that task force; would you
5 agree with me?

6 A. I tried to point out that the member
7 that acted as our task force member was Ruth O'Neill
8 by the end of the process.

9 Q. Let me ask you to turn to page 3, and
10 just review the first full paragraph under that
11 section, and then I'll come back to that question.

12 A. Was there -- I'm sorry.

13 Q. That first paragraph reflects that the
14 task force was comprised of a number of agencies,
15 entities, including the Office of the Public Counsel;
16 isn't that correct?

17 A. That's true.

18 Q. I mean, it doesn't specify individuals
19 in the Office of the Public Counsel, it refers to
20 Office of the Public Counsel?

21 A. That's true.

22 Q. Okay. Now I'll ask you to turn to
23 page 26. You've probably seen this one coming from
24 some distance. There's a series of recommendations --

25 A. Yes.

1 Q. -- that start on that page, and I'd
2 like you to take a look at and read recommendation
3 No. 5.

4 A. No. 5 says, "In corporate rate designs
5 that remove disincentives for utilities to pursue
6 programs aimed at reducing usage."

7 Q. Okay. And just for the heck of it,
8 No. 6.

9 A. "Examine seasonal-penalty reconnect fee,
10 late-payment charges."

11 Q. Okay. So those are recommendations of
12 the task force, and those were uniform recommendations
13 by the task force members; isn't that correct?

14 A. Yes.

15 MR. BOUDREAU: May I approach the
16 witness again, please?

17 JUDGE JONES: Yes.

18 BY MR. BOUDREAU:

19 Q. Ms. Meisenheimer, I've just handed you a
20 document. I'll ask you to just take a minute or two
21 to review that.

22 A. I don't recall seeing this before or
23 reading the contents of it.

24 Q. Okay. When does -- what does that
25 document appear to be to you?

1 A. Looks like a letter to Governor Holden.
2 The last page, it's signed, "Sincerely, Jeremy
3 Nixon" -- "Jeremiah" --

4 Q. Jeremiah?

5 A. Sorry. "Jeremiah Nixon." That will be
6 bad if he becomes Governor, won't it? "The Attorney
7 General."

8 Q. Have you reviewed it enough to know what
9 the topic of the letter is about?

10 A. Did you want me to read these yellow
11 highlighted portions if that's a --

12 Q. Not particularly. No, I'll get -- I'll
13 get to one that I'll direct your attention to, but
14 just generally, what -- what the topic of the letter
15 appears to have been about.

16 Let me ask it this way: Does it
17 appear to be the results of an investigation that his
18 office compiled based on a request from the
19 Governor's Office to look into high natural gas
20 rates.

21 A. Well, I haven't read it thoroughly
22 enough to know exactly if that's what it is, but
23 it does appear to deal with the price of natural gas
24 commodity.

25 Q. Okay. Would you look at the first

1 paragraph in the letter and just read that?

2 MR. POSTON: Judge, I'm gonna object to
3 relevancy. I don't see the relevance of what the
4 Attorney General, what his opinion is on -- on really
5 anything in this matter.

6 JUDGE JONES: Is that a letter from the
7 Attorney General?

8 MR. BOUDREAU: It's from the Attorney
9 General to the -- to then Governor Holden.

10 JUDGE JONES: The Attorney General's
11 opinion does not matter in this hearing today. I
12 just wanted to say that. Objection sustained.

13 MR. BOUDREAU: Thank you. Just one more
14 moment. I think I'm about ready to wrap up. I have
15 no further questions of this witness. Thank you.
16 Thank you, Ms. Meisenheimer.

17 JUDGE JONES: Questions from the bench?
18 Commissioner Murray?

19 COMMISSIONER MURRAY: Oh, maybe just
20 one.

21 QUESTIONS BY COMMISSIONER MURRAY:

22 Q. Good afternoon, Ms. Meisenheimer.

23 A. Good afternoon.

24 Q. With the current rate design that is in
25 effect and the one that you are proposing today, if

1 the volume sold were in excess of the level that was
2 anticipated in setting the rates, if that happened,
3 the customer would actually pay MGE more than its
4 non-gas costs; is that correct?

5 A. That's correct.

6 Q. And if it were reversed, if the volume
7 sold were to be less than the level that was
8 anticipated in setting the rates, the customer would
9 pay MGE less than its non-gas cost?

10 A. Yes.

11 Q. So we're really kind of -- we're not
12 necessarily setting the rates accurately when we put
13 these non-gas costs into the volumetric portion of
14 the rates; would you agree with that?

15 A. You set a target that the company can
16 recover under normal weather conditions.

17 Q. And it's not -- it's usually probably
18 not right on; would you agree with that?

19 A. I'd agree with that.

20 Q. Okay. Whereas, if we set the rate
21 design as Staff and the company are recommending
22 here, is it not true that we at least would be far
23 more accurate in recovering the appropriate amount of
24 a non-gas cost?

25 A. Appropriate amount, I think, also

1 depends somewhat on the customer. If the customer
2 conserves, the customer reduces their --

3 Q. Well, just a second. I'm looking at
4 overall, I'm saying the overall non-gas costs that
5 are incurred --

6 A. You would not recover the 30-year
7 average if you use 30-year normal weather.

8 Q. I don't think I understand what you
9 just said. Maybe you should rephrase that or restate
10 it.

11 A. You set rates to recover, given
12 generally 30-year normal weather, what amount of
13 rates will recover revenue requirement on an annual
14 basis. So then going forward, if the weather is
15 colder than that or not as cold, if it's -- the
16 temperature is warmer, the company won't hit that
17 target level.

18 So I would agree that you -- if you,
19 you know, set that delivery charge or the straight
20 fixed variable at that level, you would recover
21 that 30-year base average amount theoretically, if
22 your customer -- if your customer numbers didn't change.

23 COMMISSIONER MURRAY: Okay. And then I
24 understand you have some problems with the treatment
25 of various customers within the rate design, and I think

1 I know what it is you've said about that, so thank you.

2 THE WITNESS: Okay. Thank you.

3 JUDGE JONES: Commissioner Gaw?

4 QUESTIONS BY COMMISSIONER GAW:

5 Q. Just to follow up on what Commissioner
6 Murray just said, why don't you go ahead and tell me
7 basically, under the -- in light of the questions
8 that -- that you've answered, why is it that you want
9 to keep this current rate design?

10 A. There are a number of reasons. A
11 primary reason is that the customer under this rate
12 design has some control over what their bill is.
13 They can reduce usage to reduce the cost that they
14 pay.

15 And I'd like to also point out that part
16 of our concern with this rate design is coupling it
17 with a recovery mechanism that allows for what has
18 been termed seasonal disconnects.

19 The company's -- I understand the Staff
20 has now changed its position from 12-month to
21 seven-month, but customers have a greatly reduced
22 ability to control the non-gas portion of their bill
23 and -- so that's one of the reasons that we oppose
24 it.

25 No. 2, it shifts additional risk away

1 from the company and onto the customer. And in
2 exchange for that, if you're going to reduce the risk
3 that the company faces, we're looking for something
4 meaningful in return, whether -- or we believe that
5 that would include things such as the meaningful
6 reduction in the rate of return, which Russ
7 Trippensee has testified on in this case.

8 I also think it should be coupled with a
9 effective conservation effort if you're going to do
10 that, and that that be a conservation effort that is
11 cost-effective for customers in -- I should say
12 cost-effective to ratepayers, those who pay for
13 the -- for the program.

14 Q. There's been quite a bit of
15 generalization here about low-income ratepayers.
16 You've testified to it, I heard Ms. Ross testify to
17 it earlier. Do you have any data on either direction
18 showing that low-income ratepayers tend to have more
19 than average gas usage?

20 A. There are a number of information
21 sources through government agencies which, in fact,
22 present data that illustrates that the general
23 relationship is that as customers' income levels go
24 up or as household income levels go up, they tend to
25 use more natural gas.

1 And that has been something which the
2 energy information administration which is part of
3 the Department of Energy has reported fairly
4 consistently, Bureau of Labor statistics. I mean, I
5 could point out a glitch or two, but as a rule and
6 overall, and I believe predominantly, that
7 relationship is illustrated.

8 Now, certainly, that data is primarily
9 gathered and presented in a -- in a -- in aggregate
10 form that it doesn't necessarily correspond just to
11 MGE's service territory, but I think that it is
12 certainly as good an indicator as that study that
13 Dr. Thompson brought in and the company is sponsoring
14 in this -- in this case.

15 I don't think Dr. Thompson's study,
16 while it may have some value for certain things, I
17 don't think that it goes down to the level of the
18 individual customer in a way that's meaningful to
19 determine the relationship or the impact on a
20 low-income household of this type of a rate design
21 proposal. I think his testimony or his study's not
22 representative of that relationship.

23 Q. Okay. What -- I'm trying to understand
24 what you testified to earlier. I thought I heard
25 you say something to the effect that you thought

1 that lower-income ratepayers tended to live in
2 older, more inefficient houses and that that
3 somehow indicated that their usage was higher than
4 average. Did I misunderstand you, or what you were
5 trying to say there?

6 A. I agree that with respect to that
7 factor, they tend to live in less efficient housing,
8 whether it be because it's older or windows get
9 broken out and you can't afford to replace the
10 window, things like that.

11 But low-income customers tend to live
12 in smaller houses. And in total, all of those
13 impacts -- and things are related, you can't look
14 at income as just a unique element of a household
15 and say this is enough to explain their gas
16 consumption.

17 You have to look at all those things
18 that impact it, and being low-income goes hand-in-
19 hand with other household characteristics that tend
20 to increase gas usage. And in total, those things
21 all blended together result in low-income houses --
22 low-income households tending to use more.

23 And just -- you know, as a -- this is a
24 conclusion, the Department of Energy has a web page
25 and on there they have one section where they

1 specifically talk about residential. That's all
2 they're talking about there.

3 The conclusion that they draw is on
4 household income. "The percentage of residents --
5 residences that use natural gas varied little by
6 household income. However, higher-income households
7 consume more natural gas than lower-income households."

8 I mean, that's a general overview, but
9 I -- in reviewing the data at a more detailed level,
10 I found that to be true regionally for the region
11 that includes Missouri, and that's for years and years.

12 Q. Now, Ms. Meisenheimer, I may just not be
13 following you well. I understood what you just now
14 said, to say that the more income a family has, the
15 more gas usage they tend to have --

16 A. Yes.

17 Q. -- is that correct? But I thought just
18 before that you said that lower income households
19 tend to use more energy. And I don't know if I
20 misunderstood you or if you said --

21 A. Maybe I said --

22 Q. -- or if you said something different.

23 A. I may have said something incorrectly.
24 I would not have said -- or I would not have meant to
25 say that if I did say that.

1 Q. So what is the case just on -- in
2 relation to low-income housing?

3 A. My understanding is that that
4 electricity similar to natural gas or energy, if you
5 will, as a broader category, that it holds true that
6 lower income households tend to use less.

7 Q. Okay. I want to -- I don't know if you
8 can do this or not. If you can't, just say it. But
9 I assume that it would be the case that when you take
10 apart these numbers and instead of looking at them
11 all lumped together, you start looking at them
12 individually, that the housing situation of
13 low-income families varies from one family to
14 another. That you can't just generalize that they
15 all live in this average number that you've been
16 discussing?

17 A. Yes.

18 Q. Now, I don't know if you're familiar
19 with the housing availability to those who qualify
20 for housing assistance or not, are you? Are you
21 familiar with Section 8 assistance, or other types of
22 housing assistance for those who are -- who have
23 lower incomes?

24 A. I have -- I have some knowledge of that.

25 Q. And if you don't, it's okay. I'm

1 just -- I'm really just trying to seek some
2 information here. Do you know if there are any
3 requirements under the -- under the low --
4 lower-income assistance or housing in regard to
5 efficiency standards? Do you know?

6 A. I don't know, I'm sorry.

7 Q. Did you do any work in regard to the
8 issue of the amount of revenue that this rate design
9 would be worth to the utility as opposed to if it had
10 been implemented since the last rate case as opposed
11 to the rate design that's currently in existence?
12 Did you do any work on that?

13 A. No, I don't -- if I were to have a
14 distribution of customers' usage for all of their
15 customers, I could do something like that. I don't
16 have that. I did do a calculation that I think
17 Mr. Poston referred to, trying to -- trying to get at
18 what is the dollar value of the disconnect issue, the
19 seasonal disconnect.

20 Q. I see.

21 A. So if --

22 Q. But overall, you have not done that
23 analysis; is that correct?

24 A. No, I haven't.

25 Q. Now, go ahead, if you would, and tell me

1 about the disconnect issue. How much did you say
2 that was -- the value of that was?

3 A. Okay. That -- that is an issue coming
4 up later at the hearing. I'll be happy to talk about
5 it now if you'd like me to.

6 Q. Well, we can wait. That's okay.

7 COMMISSIONER GAW: I think that's all,
8 Judge. Thank you.

9 QUESTIONS BY JUDGE JONES:

10 Q. I just have one question for you: If
11 either of the alternatives, rate designs are adopted,
12 do you know if OPC has a position with regard to
13 return on equity?

14 A. Russ Trippensee would have been our
15 witness on that issue.

16 JUDGE JONES: And now we move on to
17 recross, starting -- let's start with MGE.

18 MR. BOUDREAU: Very good. Thank you.

19 RECROSS-EXAMINATION BY MR. BOUDREAU:

20 Q. Just a couple of questions. Going back
21 to a series of questions or a couple of questions,
22 perhaps, that Commissioner Murray asked you about how
23 the current rate structure -- how customer -- how
24 customers' bills are affected if the assumed usage
25 either comes in short of the built-in assumption or

1 above the built-in assumption; do you recall that?

2 A. Yes.

3 Q. And I guess my question is, in the
4 unlikely event that usage was on the higher -- was
5 higher than normal, this rate design or the straight
6 fixed variable rate design would protect customers
7 from paying too much; wouldn't you agree?

8 A. I would agree that they would pay less
9 than they would under a traditional rate design.

10 Q. So would you agree with me that the risk
11 to the average customer of overpaying for non-gas
12 costs would be gone under that -- under the straight
13 fixed variable rate design proposal?

14 A. I'm not comfortable with the
15 characterization of overpaying, but I would agree
16 that they would not pay as much if it were a
17 colder-than-normal winter, if that's what you're
18 asking. Yes, I would agree with that.

19 MR. BOUDREAU: I think that's fair.
20 Thank you. I have no further questions, thank you.

21 JUDGE JONES: Thank you. And from the
22 Staff of the Commission?

23 MS. SHEMWELL: Thank you, Judge.

24 RE-CROSS-EXAMINATION BY MS. SHEMWELL:

25 Q. Ms. Meisenheimer, you were discussing

1 customers controlling their bills with Commissioner
2 Gaw. We had agreed earlier that the gas portion of
3 customers' bills is somewhere between 65 and 75 or 80
4 percent with you tending to believe the lower
5 percentage; is that right?

6 A. Those -- those were numbers we talked
7 about, yes.

8 Q. And you suggested 65 percent
9 specifically?

10 A. Well, I said as low as.

11 Q. Okay. So it could be higher?

12 A. Somewhere in the range.

13 Q. And you said that customers can reduce
14 their -- or have greater control over their bill, but
15 isn't the bottom line that customers can reduce their
16 bill by reducing their gas usage?

17 A. They can reduce -- currently, they can
18 reduce their bill by either reducing gas usage, use
19 of the commodity -- well, actually, when they reduce
20 use of the quantity as well, they save on it in terms
21 of the volumetric non-gas recovery that would be
22 generated from them.

23 Q. Under either proposal they would save by
24 reducing their use of natural gas?

25 A. Yes.

1 Q. Did you make a proposal for energy
2 efficiency or conservation in your testimony in this
3 case?

4 A. In this case, no. Would you like me to
5 talk about past cases?

6 MS. SHEMWELL: No, thank you. That's
7 all I have, Judge.

8 JUDGE JONES: Now we move on to
9 redirect.

10 MR. POSTON: Thank you.

11 REDIRECT EXAMINATION BY MR. POSTON:

12 Q. First, turn to your table one of your
13 testimony. I believe it's rebuttal, on page 6. And
14 Ms. Shemwell asked you questions about this table.
15 What is it that this table is intending to show?

16 A. This table is intended to show a range
17 of impacts that could occur on specific customers in
18 terms of how much additional or how much less they
19 might pay in terms of the non-gas recovery. And that
20 range on -- on the next page, I explain that I found
21 that that range is, in fact, consistent with a sample
22 of data that was taken from actual customers, and
23 that data was provided by MGE to the Staff in
24 response to a data request.

25 Q. And the average monthly CCF in the

1 left-hand column, to your knowledge, are there
2 customers on MGE's system across this range?

3 A. Yes, there are. In fact, there are MGE
4 customers that go beyond the end points of that range
5 shown. So the -- you know, one of the primary things
6 that I wanted to show with that table is that, in
7 fact, the impact on customers, as you can see in one
8 of the columns that says, "Flat charge at the current
9 revenue," if you're a customer that, in fact, has
10 usage 25 or below, you, in fact, are gonna pay an
11 additional \$7 a month or -- no, 6 to \$7 a month. So
12 what I was trying to illustrate is that this proposal
13 can have significant impact on low-use customers.

14 Q. And did you read the testimony of
15 Dr. Thompson?

16 A. I did.

17 Q. Do you recall what a low-income consumer
18 at \$20,000 annual household salary used in monthly
19 CCF?

20 A. On page 3 of 16, schedule PBT-2 of his
21 testimony, you will find a table, and in that
22 table --

23 MR. BOUDREAU: You know, I think I'm --
24 at this point I'm gonna object. I'm not sure that I
25 recall that this was -- was an item about which

1 Ms. Meisenheimer was cross-examined. And my
2 recollection may be foggy on that, but I don't know
3 that she was cross-examined on Phil Thompson's study.

4 MR. POSTON: She was cross -- she was
5 cross-examined on the average monthly CCF usage, and
6 I'm showing that according to MGE's witnesses'
7 testimony where low-income people fall on
8 Ms. Meisenheimer's table.

9 JUDGE JONES: Yeah, but was she
10 cross-examined about that today?

11 MR. POSTON: She was cross-examined
12 specifically about this table, yes.

13 JUDGE JONES: Okay. I can't recall
14 either. I'm gonna take your certainty as a benefit
15 of the doubt and overrule the objection.

16 MR. POSTON: I'll be more certain more
17 often, then. Thank you.

18 BY MR. POSTON:

19 Q. My question was, do you recall what a
20 low-income consumer at 20,000 annual salary used in
21 monthly CCF according to Dr. Thompson?

22 A. Well, that would have been about 50 --
23 50.

24 Q. And where does that fall in your table?

25 A. At the -- at the lower range, and that

1 would be among those customers who would pay more.

2 Q. Okay. So what would those -- so in that
3 zip code that Dr. Thompson identified, what would
4 those customers pay, how much more?

5 A. Well, they would -- they would pay --
6 the percent is about 18 percent more. And I might
7 point out that even lower use -- you know, if
8 low-income users use even a lower amount, the impact
9 would be even greater on them. This is just the
10 lowest income zip code that he had. It's -- and he
11 testified that it was, in fact, higher than both 150
12 percent of the federal poverty level for either a
13 family of three or four.

14 MR. BOUDREAU: I'm gonna object that at
15 this point it's just additional surrebuttal and a
16 critique of his report. It's going -- I think at
17 this point it's clearly going beyond the scope of the
18 cross-examination. This is just additional
19 surrebuttal at this point. It's not validating her
20 point. She's just critiquing his report.

21 MR. POSTON: I'm moving on if --

22 JUDGE JONES: Okay. Objection is
23 sustained.

24 BY MR. POSTON:

25 Q. There were several questions about the

1 income consumption issue, I believe from Mr. Boudreau
2 and from Commissioner Gaw. And specifically, I
3 believe you were asked about the basis of your
4 position and I believe you were asked specifically
5 about Mr. Colton's article. I'd like to ask you a
6 question about that article.

7 MR. POSTON: May I approach the witness?

8 JUDGE JONES: Yes, you may.

9 MR. POSTON: I have an exhibit I'd like
10 to have marked, please.

11 JUDGE JONES: Let's mark that as 201.5.

12 (EXHIBIT NO. 201.5 WAS MARKED FOR
13 IDENTIFICATION BY THE COURT REPORTER.)

14 BY MR. POSTON:

15 Q. Ms. Meisenheimer, can you please
16 identify this document?

17 A. Yes, this is an article by Roger Colton.
18 It's the one that I referenced in my testimony. It's
19 from the Electricity Journal.

20 Q. And is this an accurate copy of that
21 article?

22 A. Yes, it appears to be.

23 Q. And you were asked questions about, I
24 believe, whether this article addressed natural gas
25 or electricity. Does this article address natural

1 gas -- natural gas?

2 A. Yes, it does. It addresses natural gas
3 and electricity broken down, and then also
4 addresses -- addresses all fuels. It also breaks it
5 down by region.

6 Q. And for -- for our region, what does
7 this study suggest regarding the income consumption
8 association?

9 A. On page 71, it indicates that
10 consumption of natural gas in the Midwest regional
11 income households use less than the average household
12 and certainly less than non-low-income households.
13 Expenditures mirror that result.

14 Also on page 73, there's actually a
15 breakdown for natural gas for our region, the
16 Midwest, that breaks it down even further by income
17 into income ranges, brackets of income, less than
18 5,000, 5,000 to 9,999.

19 And it shows that increasingly, as
20 income rises, usage rises for natural gas, and that's
21 consistent with the study that I did in terms of the
22 results.

23 Q. And what is the relevance of this to
24 this case, the issues in this case?

25 A. I think that it is compelling evidence

1 that, in fact, low-income users tend to use lower
2 amounts of natural gas than average households, and I
3 think it is a better indication of the impact of this
4 proposed rate design on low-income households showing
5 that they, in fact, will likely pay more than is the
6 study that MGE sponsored from Dr. Thompson that
7 aggregates things, blends them up to the zip code
8 level.

9 Q. More under what? More, if what? If a
10 particular rate design is adopted?

11 A. Yes. I think that -- I think that the
12 information that I've presented and is supported in
13 the material I referenced from Roger Colton indicates
14 that the straight fixed variable rate design proposal
15 is gonna be harmful to low-income consumers,
16 countering that claim by MGE that it won't be harmful
17 to low-income consumers and in contrast to the study
18 provided by Dr. Thompson which doesn't get at
19 individual household characteristics.

20 MR. POSTON: Your Honor, I offer
21 Exhibit 201.5 into the record.

22 JUDGE JONES: Any objection?

23 MR. BOUDREAU: None.

24 JUDGE JONES: 201.5 is entered into the
25 record.

1 (EXHIBIT NO. 201.5 WAS RECEIVED INTO
2 EVIDENCE AND MADE A PART OF THE RECORD.)

3 MR. POSTON: That's all I have. Thank
4 you.

5 JUDGE JONES: Okay. The only thing
6 we have left today -- that we're gonna do today, I
7 should say, is questions of Mr. Hack of the
8 Chairman, and he won't be able to be down here for
9 another ten minutes, so we'll take a really long
10 break.

11 (A RECESS WAS TAKEN.)

12 JUDGE JONES: We are back on the record
13 in Case Number GR-2006-0422. We have Mr. Robert
14 Hack on the stand. And Mr. Hack, you remain under
15 oath.

16 THE WITNESS: I understand.

17 JUDGE JONES: All right.

18 QUESTIONS BY CHAIRMAN DAVIS:

19 Q. Mr. Hack, I apologize for missing your
20 earlier testimony, but you can rest assured that I
21 have read your direct testimony and your surrebuttal
22 testimony and that I will read the transcript along
23 with everything else your learned counsel filed.

24 A. Thank you.

25 Q. Now, you were testifying as to matters

1 of, quote, policy; is that correct?

2 A. Yes, sir.

3 Q. And could you just briefly recount for
4 me what policy you were -- I mean, what is your --
5 what is your definition of policy, just so I
6 understand it?

7 A. Policy, broadly, from both the operation
8 and management of the company perspective,
9 philosophy, how we make decisions, whose interests we
10 try and keep in mind when we make decisions,
11 basically customers', employees' and shareholders',
12 policy from a ratemaking perspective, what is the
13 purpose of the ratemaking process, how has the
14 ratemaking process treated Missouri Gas Energy from a
15 financial perspective on an earnings perspective, and
16 both broadly and specifically what challenges has MGE
17 experienced as a result of the ratemaking practice
18 and policy as it's been practiced upon MGE and the
19 earnings struggles that we have experienced and
20 continue to experience, broadly. There's a number of
21 matters related to customer service --

22 Q. Okay. And can you refresh for my
23 recollection, okay, and I'm not sure, what does --
24 what does a business year run for MGE? Is it a
25 calendar year, a fiscal year?

1 A. Our fiscal years run on a calendar year,
2 so we operate financially along a calendar year
3 basis.

4 Q. Okay. And so what did -- what did MGE
5 earn -- what was -- what ROE did MGE earn effectively
6 in 2006?

7 A. I haven't -- I can tell you two things,
8 two answers.

9 Q. Okay.

10 A. One is that we don't calculate an ROE
11 for MGE; we calculate an overall rate of return.

12 Q. Okay.

13 A. Two, our numbers aren't yet closed for
14 calendar year '06. I can tell you for calendar year
15 '05 the overall rate of return was, I believe, 7.49
16 percent.

17 For calendar year '06, that number will
18 be considerably lower. We missed our revenue target
19 by at least \$14 million due to weather being
20 77 percent of the 30-year normal and the impact of
21 that warm weather on our volumetric revenue streams.

22 Q. Gotcha. So if you didn't hit your mark
23 at all in 2006, it's not due to anything that this
24 Commission's done or anything that you've done; it's
25 primarily due to weather; is that correct?

1 A. Well, it's -- it's -- it's due to a
2 combination of weather, how the Commission has
3 measured weather, normal weather for our rates in the
4 past, and our heavy reliance on volumetric revenues
5 which is through our Commission-approved rate
6 structure.

7 Q. Okay. Now, in this case, you've come in
8 with an -- with an ROE recommendation of 11.75.
9 However, if we adopt your straight fixed variable
10 rate design proposal, then you're willing to accept
11 11.5; is that more or less correct?

12 A. The testimony of Mr. Hanley is that the
13 required ROE, absent any protection from the weather,
14 is 11.75 and that drops by 25 basis points with the
15 straight fixed variable rate design to 11 and a half
16 percent.

17 Q. Now, it said in your testimony that --
18 do you have your testimony in front of you?

19 A. Yes, sir.

20 Q. Okay. Page 2, lines 14 through 17.
21 Could you just recite those lines for me?

22 A. This is the direct testimony?

23 Q. Uh-huh, your direct testimony.

24 A. "First, I will explain the fundamental
25 business model my team continues to implement at MGE

1 which is to be a low-cost provider of quality
2 customer service while striving to appropriately
3 balance the interests of our primary stakeholder
4 groups, employees, customers and shareholders." Is
5 that where you want me to stop?

6 Q. Yep, that's where I -- that's where I
7 want you to stop. Okay. Now, my understanding of a
8 straight fixed variable rate design is that
9 essentially, you want to charge people more for using
10 less gas even if it's a fraction of a cent less; is
11 that a fair characterization?

12 A. No.

13 Q. But isn't that, in effect, what happens
14 with a straight fixed variable rate design for
15 customers who don't use their allotted natural gas?

16 A. No.

17 Q. Don't they -- don't they, in fact, end
18 up paying a higher -- a little bit higher rate at the
19 end?

20 A. No. The customer -- we provide delivery
21 service. We provide a service that is available on
22 demand. We provide facilities that are available
23 year-round. The customer, under the straight fixed
24 variable rate design, assume a \$25 a month delivery
25 service fee, will pay that \$25 for our delivery

1 service whether they use one CCF of gas or 100 CCF of
2 gas during that month.

3 In addition to that \$25 monthly service
4 fee, they will pay us for the units of gas that they
5 use, the actual commodity, that one CCF or the 100
6 CCF.

7 Q. Correct.

8 A. By way of some explanation, that
9 customer who uses one CCF, we still need to be
10 prepared to answer that customer's phone call,
11 whether he uses one or 100. We still need to be
12 prepared to respond to a leak call that that customer
13 may make, whether he uses one CCF or 100 CCF.

14 Our employee base does not increase in
15 the wintertime when the weather gets colder and
16 decrease in the summertime when the weather gets
17 warmer. Our employee base does not increase if it's
18 colder than normal in the wintertime, nor does it
19 decrease if it's warmer than normal in the
20 summertime. We do not buy buildings or sell
21 buildings depending on the weather and the volumes we
22 use.

23 Q. Okay.

24 A. My salary does not change with the
25 weather.

1 Q. Uh-huh. All right. Have you -- have
2 you had the opportunity to review Staff's filings in
3 this case?

4 A. Most of them quickly, yes.

5 Q. Okay. So have you -- have you reviewed
6 their rate design proposal?

7 A. Yes.

8 Q. And what is -- what is your opinion as
9 to their rate design proposal?

10 A. For the residential class, their rate
11 design proposal is our rate design proposal. It is
12 the same.

13 Q. Okay. Okay. So how -- how does your
14 rate design proposal differ, then, for commercial and
15 industrial users?

16 A. Differ from the residential proposal or
17 from what it is today?

18 Q. Well, is yours -- are you and Staff
19 proposing the same thing across the board?

20 A. The -- on the residential, the answer is
21 yes. On the small general service which is about --

22 Q. Right.

23 A. -- 50,000 customers, I think we have
24 some mild disagreement --

25 Q. Okay.

1 A. -- but we've really focused the rate
2 design issue on the residential class. The large
3 volume service rate design which is our very biggest
4 customers is a settled issue so there's no dispute
5 among any party as to that. And then LGS, I think
6 the rate design is basically not an issue.

7 Q. Uh-huh.

8 A. Does that get close to an answer?

9 Q. Yes. Okay. I guess I'm just -- I'm
10 gonna have to go back and reread some of this
11 testimony but when you say the word straight fixed,
12 what -- are there differences in what you have
13 proposed in this case and the traditional straight
14 fixed variable rate design advocated by the American
15 Gas Association?

16 A. I -- I do not believe that what we have
17 proposed in this case differs from what the AGA would
18 call a straight fixed variable, but I -- I have
19 not -- I don't recall reading anything recently.
20 Our -- if I can digress perhaps a little bit.

21 Q. Uh-huh.

22 A. This term straight fixed variable is
23 designed to say that the -- all fixed costs, those
24 costs that do not vary in the short-run with volumes
25 delivered, are recovered by way of a fixed rate

1 element.

2 Q. Uh-huh.

3 A. And for MGE, that is essentially every
4 single cost except for the gas commodity. So we
5 would recover all of our fixed costs by way of a
6 fixed monthly charge, and then the variable gas
7 commodity cost would be recovered as it is today
8 through the PGA.

9 Q. All right. So there's -- there's no way
10 that the rate would be summarily adjusted at a
11 later -- at a later date to the -- to the potential
12 detriment of any consumers?

13 A. Absolutely not. Only if we went through
14 a full rate process just like we are today.

15 Q. Okay. Obviously, getting that --
16 doesn't that -- I'm trying to think of how to phrase
17 this question here. Okay. Hypothetically speaking,
18 if the -- if the Commission were to grant either --
19 either your proposal or Staff's proposal with regard
20 to, you know, increasing the monthly service charge,
21 you know, you've got an expert witness who's
22 testified that that's only worth roughly 25 basis
23 points. Do you agree with that testimony?

24 A. Yes, I do. And the reason for that in a
25 layman's terms is all of the proxy companies that are

1 examined through the DCF approach have some form of
2 usage mitigation rate design, be it a weather clause,
3 be it a full complete revenue decoupling mechanism or
4 be it a straight fixed variable rate design. And as
5 a result of that, the -- the amount of adjustment for
6 the straight fixed variable rate design, which is
7 admittedly more beneficial to the company than a
8 weather clause, is not a huge amount.

9 The -- one -- another way to look at it
10 as well, Commissioner, is the risk that is reduced on
11 the customer's side of the equation. The Attorney
12 General, five or six years ago, after gas price
13 spikes occurred in the winter of 2000/2001, looked at
14 bill impacts and looked at contributing factors to
15 bill impacts during the winter season, and one of his
16 recommendations was that volumetric cost recovery
17 fixed -- recovery of fixed cost by volumetric units
18 tended to expose customers to higher prices during
19 peak periods when they were already struggling to pay
20 their bills. Certainly not a fan of LDCs, either.

21 Q. So are you saying we should give the
22 Attorney General an opportunity to come in here and
23 further clarify that position on rebuttal, see if
24 he's had a change of heart?

25 A. Certainly the Attorney General has --

1 Q. Would you give me -- would you give me
2 that advice and not just -- not just quote it from
3 your testimony?

4 A. The Attorney General has had every
5 opportunity to intervene here and has chosen to do so
6 in some cases and has elected not to intervene in
7 this case.

8 Q. Okay. Now, refresh for my recollection,
9 Mr. Hack, if -- you know, the end of the cold weather
10 season ends, someone either voluntarily disconnects
11 from the system -- a residential customer, we're
12 talking residential customer, if a residential
13 customer disconnects from the system in, say, April.
14 Either you disconnected him for nonpayment or he
15 voluntarily disconnects himself because he may not,
16 you know, for whatever reason. Then when he comes
17 back in, say, November and says, "Hey, I want to get
18 hooked up again," what costs does he incur?

19 A. We have proposed in this case as a
20 disincentive to voluntary seasonal disconnection as a
21 way to avoid paying fixed costs that don't go away
22 when a customer is disconnected, a tariff approach
23 that would only apply in the case of voluntary
24 disconnections and reconnections at the same premise
25 within, I believe it's seven months.

1 And in those circumstances, that
2 customer would pay to get reconnected at the same
3 premise, the -- whatever the basic monthly service
4 charge is times the number of months that customer
5 was off the system plus the standard reconnect fee.
6 And our view of that is that all of our employees,
7 all of our facilities, all of our costs remain in
8 place on demand to serve that customer, and allowing
9 that customer to simply disconnect to avoid paying
10 those costs simply shifts those costs to other
11 customers.

12 I truly don't believe that will be a
13 huge issue. I don't think we have a substantial
14 seasonal disconnect occurrence today. It's intended
15 to try and inhibit the -- that from occurring in the
16 future. We would certainly be more than willing to,
17 you know, track those occurrences and see what --
18 what the experience is as we go through this process
19 to see, one, whether it's a problem that needs a
20 solution or, two, if the solution that we've devised
21 makes any sense, which we believe it does.

22 Q. Mr. Hack, does MGE subscribe to any of
23 the reports that are produced by Research Regulatory
24 Associates or, you know, any of the other national
25 subscription services that track rate case decisions?

1 A. We are not subscribers. We have -- it's
2 a fairly expensive service and we've purchased it on
3 an ad hoc basis in the past. Mr. Hanley, I believe,
4 is either -- either a subscriber or a contributor to
5 that publication, and he has provided us, I think in
6 this record, a listing of the authorized returns that
7 have been awarded over -- over the past period of
8 time.

9 Q. And do you recall what those returns
10 were for -- for just straight gas LDCs and can you
11 recall the time period over that -- over that?

12 A. I'm going by memory, but my recollection
13 is that for the first three quarters of this calendar
14 year, there were roughly --

15 Q. This calendar year being --

16 A. I'm sorry. The calendar year 2006.

17 Q. Uh-huh.

18 A. That the average ROE awards were roughly
19 ten and a half percent on a common equity ratio of
20 something around 45 to 50 percent.

21 Q. And so with your rate design proposal,
22 you're 100 basis points riskier than the national
23 average?

24 A. Commissioner, I am in no way a -- an
25 expert on return on equity.

1 Q. Okay. I'm not asking you to be an expert
2 on return on equity; I'm asking you to be an expert
3 on policy.

4 A. And -- and what I can tell you is -- is
5 I have to rely on Mr. Hanley for that and --

6 Q. Okay. So you're just gonna rely on
7 Mr. Hanley's testimony there?

8 A. Yes, sir.

9 Q. Okay. Going back to the issue of the
10 seasonal disconnect policy.

11 A. Yes.

12 Q. If someone is completely disconnected
13 from the system for a period of months, other
14 than the physical act of carrying over any bad
15 debt associated with the bill that -- where you
16 terminated a customer and -- are there any savings
17 that you would be realizing from not carrying that
18 customer on your books for that period of up to seven
19 months?

20 A. The only savings I can imagine as I sit
21 here today is the issuance of the bill.

22 Q. Okay. So you don't have to print the
23 bill, you don't have to mail the bill, you don't have
24 to physically process the bill when it comes back --

25 A. Correct.

1 Q. -- on a per capita basis?

2 A. Correct.

3 Q. So any idea, can you -- can you quantify
4 that amount for us about, you know, what does it cost
5 to process one customer bill?

6 A. And obviously, you have postage.

7 Q. Postage. I'm sure you probably get a
8 bulk discount from the U.S. Postal Service?

9 A. Yes, I'm not sure what the rate is. The
10 remittance processing, we use a third party, United
11 Missouri Bank. I believe, and I could be wrong, that
12 that's a 50-cent per item fee. There's cost of
13 paper, cost of an envelope, you know, the machine's
14 gonna run regardless. Tops, I'm guessing a buck and
15 a half.

16 Q. Okay. Buck and a half. Okay.
17 Mr. Hack, how long have you been with MGE again?

18 A. Ten years last September 23rd.

19 Q. Okay. During your ten years of
20 employment at MGE or even predating that employment,
21 during your time here -- well, I don't know if you
22 can speak to anything here, but -- that might have
23 happened here, but are you aware of any time during
24 the past ten years or otherwise where MGE violated
25 the Federal Natural Gas Safety Standards?

1 A. No, sir.

2 Q. So you're not aware of any occurrences
3 where MGE violated -- you know what Natural Gas
4 Safety Standards I'm referring to, correct?

5 A. I am assuming they are the Commission
6 chapter 40, chapter 30, whatever those gas safety
7 standards are.

8 Q. Uh-huh, right.

9 A. We have --

10 Q. And those things have been pretty much
11 in place, the same as they've always been since the
12 Commission was founded, correct, to the best of your
13 knowledge?

14 A. No.

15 Q. No?

16 A. They were significantly rewritten in
17 1990.

18 Q. What about -- were the -- were the
19 penalty amounts rewritten in 1990?

20 A. In the statute, no.

21 Q. No?

22 A. No.

23 Q. So the penalty amounts have not been
24 rewritten, to the best of your knowledge, since the
25 Commission was founded; is that correct?

1 A. I am not aware of any changes, but I've
2 not looked at it either.

3 Q. And MGE has -- are you aware of any
4 alleged violations of those gas safety standards?

5 A. With respect to MGE?

6 Q. With respect to MGE.

7 A. There have been a few. One in 1996.
8 There have been a few dockets, a few dockets.

9 Q. Was Triumph Foods one of those dockets?

10 A. No.

11 Q. No. So we never even -- this Commission
12 never even looked at Triumph Foods to see whether
13 there was a violation of the Natural Gas Safety
14 Standards?

15 A. I know there were conversations with
16 your Staff. What you-all as Commissioners have done,
17 I've not been privy to.

18 Q. Okay. So are you aware if they ever
19 came out and looked or anything?

20 A. There were conversations. I believe
21 there was a site visit, but I'm digging into my
22 memory banks. I don't recall specifically.

23 Q. Are you aware of any other gas
24 distribution utilities in this state being fined for
25 violating those gas safety standards?

1 A. I have seen complaints periodically,
2 yes, sir. It's not -- it's not something that occurs
3 regularly.

4 Q. So in any given year, it's more likely
5 than not that you're probably not even gonna have
6 one; is that a fair statement?

7 A. I certainly hope so. I certainly hope
8 so. We make --

9 Q. In the last ten years since you've been
10 at MGE, could you guess how many even alleged -- you
11 know, even dockets were opened up to investigate
12 those things statewide?

13 A. A handful.

14 Q. A handful?

15 A. For MGE.

16 Q. For MGE?

17 A. Yes.

18 Q. And in any of those cases, was MGE
19 ever -- ever found guilty or did Staff, you know, get
20 a Commission decision to go pursue penalties in
21 circuit court?

22 A. No.

23 Q. No?

24 A. No.

25 Q. Okay. Have you or anyone else employed

1 for MGE ever lobbied the Missouri legislature to
2 prevent increasing the fines for -- relating to those
3 Federal Natural Gas Safety Standards?

4 A. I recall doing so some years ago in
5 probably the early 2000's. In recent years I don't
6 believe so.

7 Q. In recent years you don't -- "I don't
8 believe so" is not an unequivocal no.

9 A. I can only tell you what I have
10 knowledge of and I do not believe that we have
11 lobbied against those proposals. I can't --

12 Q. You do not believe but you don't know
13 for certainty?

14 A. I can't tell you for certain as I sit
15 here today, yes or no. I can tell you that the --
16 it's my understanding that the Missouri gas safety
17 regs are among the most detailed and rigorous in the
18 nation. And you know, we are very cognizant of our
19 obligation to comply with those requirements and
20 we're also very nervous about not complying with
21 those requirements.

22 Q. So what is -- under the -- under the
23 state statutes right now, isn't the maximum fine per
24 occurrence something like \$2,000?

25 A. \$2,000 each day in the case of a

1 continuing violation constituting a separate and
2 distinct \$2,000.

3 Q. It's your -- it's your opinion based on
4 your years of experience -- experience in the
5 business that an explosion only constitutes one day
6 of violation; is that -- is that fair to say?

7 A. It depends -- I certainly hope so,
8 Chairman.

9 Q. So for it to be -- for it to be -- for
10 it to be more than one day, it would have to be an
11 explosion that would last for longer than 24 hours or
12 stretch into two days; is that a fair statement?

13 A. It's theoretically possible that the
14 proximate cause of the escaping commodity occurred
15 over more than one day.

16 Q. Uh-huh. What was -- what was MGE
17 Southern Union's rationale for opposing enhanced
18 penalties for violating those safety regulations?

19 A. Back in -- when I recall doing it
20 personally in the early 2000's, it had really to do
21 with the fact that our gas safety expenditures, the
22 replacements were a significant earnings drag on
23 us. That has since been solved with the
24 infrastructure system replacement surcharge
25 legislation.

1 In recent years, again, I don't recall
2 us opposing that legislation. I do know that my view
3 is that from a safety perspective, our belief is that
4 it's -- that it's really probably more effective to
5 focus on third-party damages and those kinds of
6 things. But again, I have not had occasion to -- to,
7 quote, lobby anybody on that.

8 Q. Would you know if anyone else associated
9 with MGE was -- was lobbying against --

10 A. I --

11 Q. -- enhanced gas safety penalties in
12 front of the legislature?

13 A. I should know.

14 Q. You should know?

15 A. I should know, yes.

16 Q. Should know. So hypothetically
17 speaking, let's say someone that works for a gas
18 distribution utility tries to force ten-pound gas
19 through a five-pound line and blows up a few houses.
20 Do you think a \$2,000 penalty is sufficient in a case
21 like that?

22 A. The --

23 Q. You can answer yes or no.

24 A. No.

25 Q. No. Okay. So if an explosion resulted

1 in the loss of life, do you think a \$2,000 penalty
2 would be sufficient in that case if the Commission --
3 if the Commission were to find that the state of the
4 standards had been -- or the regulations had been
5 violated?

6 A. I don't know.

7 Q. You don't know. But if they -- if they
8 blew up six houses, then that -- probably that \$2,000
9 fine would be sufficient but one person losing their
10 life might not be?

11 A. My understanding of the purpose of
12 penalties is not to replace or be -- any sort of
13 reparations. The civil legal process serves that
14 purpose and is, you know, a hefty incentive on top of
15 our relationship with the Commission and our -- our
16 desire to avoid penalties of whatever magnitude to
17 comply with all the gas safety regulations.

18 Q. So penalties aren't a deterrent; is that
19 what you're saying?

20 A. They are a part of the consequences of a
21 violation, among other consequences. They're not --
22 they have a deterrent effect just like those other --
23 other items and --

24 Q. In comparison, a \$2,000 penalty on a
25 per-occurrence basis isn't much of a concern, you're

1 more concerned about the civil liability associated
2 with whatever claim might be out there; is that
3 correct?

4 A. We're concerned with both.

5 Q. Okay.

6 A. We're concerned with both.

7 Q. And so far in the last ten years,
8 would you say that the Commission has been judicious
9 in determining whether utilities have violated those
10 safety regulations or not?

11 A. Yes, sir.

12 Q. Okay. That was a statement with
13 emphasis so do you believe that strongly?

14 A. Yes.

15 Q. Okay.

16 A. And I hope that continues into the
17 future.

18 Q. So there's -- you have no reason to
19 think that if those penalties were enhanced by the
20 legislature this year, that the Commission would
21 continue to do anything but, you know, enforce them
22 the same way as they have in the past; is that a fair
23 statement?

24 A. I have no reason as I sit here today
25 to think there would be a difference. I do hear

1 things occasionally that there are desires that
2 things be done differently on the gas safety side
3 and, you know, I can't point to anything today
4 that says things are going to change, but that
5 certainly is a possibility.

6 Q. And do you have -- do you have any
7 objections to that?

8 A. If it means that the change would move
9 to an injudicious application of the gas safety
10 regulations and the penalty-seeking authority, then,
11 yeah, I would have a problem with that.

12 Q. Okay. And what constitutes your -- what
13 constitutes your definition of injudicious?

14 A. I would have to know the circumstance
15 of the future item in order to be able to -- to
16 judge it, Chairman. I don't -- like I said, I
17 don't have any reason to believe today as I sit here,
18 that it will change, but change is always a
19 possibility.

20 Q. Okay. And you don't recall the Senate
21 Committee substitute for Senate Bills Nos. 1031
22 and 846 from the 2006 legislative session, do you?

23 A. I don't.

24 Q. You don't. Do you remember some -- do
25 you remember a bill being filed last year in the

1 Missouri legislature that increased the maximum
2 penalty for violating any order of the Public Service
3 Commission relating to those Federal Natural Gas
4 Safety Standards?

5 A. I believe it was discussed, yes.

6 Q. Okay. Did MGE take any action on that
7 bill?

8 A. I don't remember doing so, Chairman.

9 Q. You don't remember. Well, could you
10 refresh your recollection and let us know one way or
11 the other?

12 A. Sure.

13 CHAIRMAN DAVIS: Thank you, Judge. No
14 further questions at this time.

15 JUDGE JONES: Okay. Let me ask first,
16 is there a need for recross and redirect?

17 MR. FRANSON: From the Staff's
18 viewpoint, yes. I have one area I wanted to go
19 into.

20 JUDGE JONES: We'll do that tomorrow.

21 MR. FRANSON: Okay.

22 JUDGE JONES: And we'll do that first
23 thing in the morning. And you may, from Staff's
24 recross, develop some redirect. At this point we're
25 adjourned.

1 (WHEREUPON, the hearing of this case was
2 recessed until January 10, 2007, at 9:30 a.m.)

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1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)
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6 I, PAMELA FICK, RMR, RPR, CSR, CCR #447,
7 within and for the State of Missouri, do hereby
8 certify that the witnesses whose testimony appear in
9 the foregoing hearing was duly sworn by me; that
10 the testimony of said witnesses were taken by me to
11 the best of my ability and thereafter reduced to
12 typewriting under my direction; that I am neither
13 counsel for, related to, nor employed by any of the
14 parties to the action to which this hearing was
15 conducted, and further that I am not a relative or
16 employee of any attorney or counsel employed by the
17 parties thereto, nor financially or otherwise
18 interested in the outcome of the action.
19

20 _____
21 PAMELA FICK, RMR, RPR, CSR, CCR #447
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