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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
October 30, 2009
Jefferson City, Missouri
Volume 12

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

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

JEFF DAVIS,
ROBERT KENNEY,
COMMISSIONERS.

REPORTED BY:
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1 P R O C E E D I N G S

2 JUDGE PRIDGIN: Good morning. We're back
3 on the record in GR-2009-0355. It's my understanding we
4 completed rate design witnesses yesterday and we're on to
5 energy efficiency today, and I want to allow parties the
6 opportunity to give opening statements on that topic if
7 they wish.

8 Is there anything else counsel needs to
9 bring to my attention before we see if we have any opening
10 statements on this topic?

11 MS. SHEMWELL: Judge, Commissioner -- or
12 Chairman Clayton yesterday asked for some information, and
13 Ms. Fred of consumer services is developing some
14 information concerning the total number of complaints over
15 the last, I think since 2002, and will have that available
16 on Monday morning if that's satisfactory.

17 JUDGE PRIDGIN: I think that will be fine.
18 Thank you.

19 MR. POSTON: Judge?

20 JUDGE PRIDGIN: Mr. Poston.

21 MR. POSTON: I had hoped to give my opening
22 on energy efficiency when we introduce our witnesses on
23 Monday, if that's okay.

24 JUDGE PRIDGIN: That's certainly fine.
25 Thank you.

1 Anything else before we go on to energy
2 efficiency? And Mr. Boudreau, I think you reminded me,
3 and I appreciate it, that you thought you would want to
4 give an opening on this topic?

5 MR. BOUDREAU: I would, thank you.

6 JUDGE PRIDGIN: Is there anything else
7 before we move on to openings from MGE on energy
8 efficiency?

9 (No response.)

10 JUDGE PRIDGIN: All Right. Mr. Boudreau,
11 when you're ready, sir.

12 MR. BOUDREAU: Thank you. May it please
13 the Commission?

14 JUDGE PRIDGIN: Mr. Boudreau.

15 MR. BOUDREAU: Subject to the approval of
16 the company's 2006 rate case of -- or subject to the
17 approval in the company's 2006 rate case of straight fixed
18 variable rate design for its residential class of
19 customers, MGE agreed to administer a number of energy
20 efficiency programs consistent with the funding levels
21 authorized in that case by the Commission.

22 Those programs include communication and
23 education regarding energy efficiency, and promotion of a
24 water heater rebate program designed to encourage the
25 installation of energy efficient appliances and,

1 therefore, improve natural gas conservation efforts.

2 They have been overseen by an energy
3 efficiency collaborative comprised of representatives of
4 MGE, Staff, Public Counsel and the Missouri Department of
5 Natural Resources. Since its inception, the program has
6 been expanded to include space heating, natural gas boiler
7 systems, and combination furnace/water heating systems.

8 The results of these energy efficiency
9 programs have been gratifying and are evidence of an
10 increasingly successful conservation initiative.
11 Thousands of energy efficiency kits have been purchased
12 for distribution by senior serving organizations, 470 of
13 which have been installed. Several -- or general
14 information has been made available through print media,
15 bill inserts, radio advertising and on the MGE website.
16 The website traffic in 2007 and 2008 reflects substantial
17 visits made to the energy efficiency and water heater
18 pages.

19 Nearly 560 high energy or high -- excuse
20 me -- high efficiency water heaters have been approved for
21 a total of \$84,800. 13 furnace applications have been
22 approved for a total of \$2,600.

23 In mid September MGE launched the Home
24 Performance with Energy Star Program jointly with KCP&L,
25 which is a program that addresses the entire building

1 envelope. It's a relatively new program, and the company
2 is very excited about this. The company witness David
3 Hendershot's available if you want to ask some questions
4 about the nature and scope of that program.

5 MGE is willing to expand the program to
6 include the new small general service customer class if
7 the Commission adopts a rate design for this class that
8 leaves the company financially indifferent to the volumes
9 of gas consumed, as is the case with straight fixed
10 variable.

11 MGE supports the continuation of an energy
12 efficiency collaborative such as that as was created in
13 Case No. GT-2008-0005, modified only such that it acts as
14 an advisory capacity as opposed to its current consensus
15 capacity.

16 MGE is committed to these energy efficiency
17 programs in the context of a straight fixed variable rate
18 design. Throughout the weeks leading up to the hearing,
19 the company has listened to feedback from the other
20 parties. A number of topics have been discussed. As you
21 know from the prefiled testimony, Missouri Department of
22 Natural Resources has expressed an interest in increasing
23 the level of funding for these programs. The topic of the
24 regulatory asset accounting has been raised.

25 In an effort to be responsive to these and

1 other concerns, and without in any way wanting to approach
2 the -- breach the confidentiality of any settlement
3 discussions that may have taken place to date, MGE wants
4 to offer for the Commission's consideration today an
5 alternative proposal that it hopes will address a number
6 of those concerns in a way that will be well received by
7 the parties and by the Commission. I'll try to touch on
8 the highlights of those.

9 The company's proposal would be that it --
10 that it initially fund an annual amount of \$750,000 per
11 year for its energy efficiency programs. That's as
12 opposed to the \$750,000 that is now funded through rates
13 that are paid by its customers.

14 Secondly, the company's annual funding
15 amount will be deferred and treated as a regulatory asset
16 with a ten-year amortization period. That's another
17 change from the company's position as filed in this case.

18 The company would assign the same
19 short-term interest rate determined in this case to any
20 unspent amounts previously collected in rates on a
21 going-forward basis. That's another change from the
22 company's as-filed case. The company will spend currently
23 unspent energy efficiency funds prior to contributing
24 additional amounts to the residential programs.

25 Finally in terms of new features, the

1 company would propose that on an annual basis the energy
2 efficiency collaborative review the company's annual
3 funding amount for expenditures for its energy efficiency
4 programs. The energy efficiency collaborative or the
5 members, if agreement cannot be reached, may submit a
6 recommendation to the Commission to increase or decrease
7 the company's annual funding amount.

8 Those are all changes from the company's
9 as-filed case. There's some features that are consistent
10 from as-filed. The company continues to suggest the funds
11 be divided proportionately between classes, with the new
12 straight -- or small general service class receiving up to
13 10 percent of the funding, whereas the residential will
14 receive 90 percent.

15 Also, the company's funding and
16 administration of its energy efficiency programs, as I
17 stated earlier, is contingent on the Commission's
18 authorization to continue straight fixed variable rate
19 design for its residential class of customers and to
20 implement that rate design for the newly identified small
21 general service class of customers.

22 And also, as I've noted, the company is
23 supportive of continuing the energy efficiency
24 collaborative, but modified only as indicated.

25 It bears repeating that MGE is enthusiastic

1 about the program that it -- the progress that it has made
2 in these programs since August of 2007, and it looks
3 forward to expanding these programs to the new small
4 general service class of customers under a straight fixed
5 variable rate design.

6 With that, I'll conclude my comments, and I
7 thank the Commission.

8 JUDGE PRIDGIN: Mr. Boudreau, thank you. I
9 believe Mr. Poston expressed a preference to wait until
10 Monday to give opening on energy efficiency. Are there
11 any other parties who wish to give an opening?
12 Ms. Shemwell.

13 MS. SHEMWELL: Good morning, and thank you.
14 May it please the Commission?

15 Staff has long been a supporter of energy
16 efficiency programs, believing that if particularly low
17 income can afford their energy bills, it will assist the
18 company in collecting from those customers and reduce the
19 level of bad debts, among other things.

20 In this particular program, Staff's
21 recommendation is that the program may continue to be
22 funded through rates of 750,000 per year with any surplus
23 earning a reasonable interest; that programs for SGS could
24 be included in that funding, and part of the rates could
25 come from that new small general service class.

1 Staff is not recommending additional
2 funding at this point for either residential or the new
3 SGS program but would welcome additional funding once the
4 success of the programs has been demonstrated.

5 Staff also recommends that the energy
6 efficiency collaborative be reconstituted as an advisory
7 group only, believing that that collaborative group should
8 not be the ones designing the program since they will
9 ultimately be the ones determining the efficiency and
10 effectiveness of the programs. So they recommend that
11 they be advisory, as are a number of the other energy
12 efficiency collaborative groups for other utilities in the
13 state.

14 Staff and stakeholder may still be quite
15 effective as advisors while not directly determining how
16 the company spends the funds, believing that the company
17 likely has the best information about its customer groups
18 and how best to serve them. So Staff agrees with DNR that
19 the collaborative be reconstituted as an advisory group.

20 We have just been reviewing the company's
21 new proposal. We certainly agree with the idea that
22 funding should increase if the programs are shown to be
23 effective. Thank you.

24 JUDGE PRIDGIN: Ms. Shemwell, thank you.
25 Any parties wish opening? Ms. Woods for DNR?

1 MS. WOODS: Thank you, Judge. May it
2 please the Commission?

3 JUDGE PRIDGIN: Ms. Woods.

4 MS. WOODS: My name is Shelley Ann Woods.
5 I'm an Assistant Attorney General representing the
6 Missouri Department of Natural Resources, specifically its
7 Energy Center in this rate case.

8 Missouri ranks 41st in spending by
9 utilities, electric and gas, on energy efficiency. 41st.
10 Missouri has certainly improved from where it was a couple
11 of years ago, but we have a long ways to go.

12 Energy efficiency programs simply represent
13 good energy efficiency policy. Energy efficiency programs
14 are a low cost energy resource, and as we are all
15 painfully aware these days, low cost is becoming
16 increasingly significant and important.

17 There are three subissues listed under
18 energy efficiency. The first is its relationship to
19 energy design, and you have spent most of this week
20 hearing evidence on that issue. While the Department has
21 been researching this area, in other words, an equitable
22 and fair way to ensure that utilities do -- or are able to
23 recover costs that they spend on energy efficiency so that
24 they're not put in an untenable position, in this rate
25 case the Department has not and is not offering specific

1 testimony on that issue. You may, however, be hearing
2 more from the Department in later rate cases.

3 The second subissue is funding, how and how
4 much. And again, in this particular rate case, the
5 Department is not in a position and has not been able to
6 offer testimony on that issue.

7 The Department does have a position on and
8 an opinion on how much. The Department has proposed a
9 formula which is a percentage of the company's annual
10 operating revenues that ramps up from 0.5 percent
11 beginning in calendar year 2010 to 1.0 percent in calendar
12 year 2012. OPC, Staff and the company propose the funding
13 for energy efficiency remain at \$750,000 annually,
14 although we have been advised today that that is currently
15 open to discussion.

16 That \$750,000 for energy efficiency is in
17 addition to \$750,000 for low income weatherization, which
18 is not really an issue in this case. The \$750,000
19 proposed would fund energy efficiency now for both
20 residential customers and the small general service class
21 of customers.

22 OPC, Staff and the company correctly point
23 out that the company has collected approximately
24 \$1 million from its ratepayers the company has not been
25 able to expend on energy efficiency programs. However, as

1 it's, I believe, fairly clear both in the company and the
2 Department's testimony, those energy efficiency programs
3 have just been started, and they are -- really just two
4 programs or two and a half programs have been launched.

5 In Mr. Buchanan's rebuttal testimony,
6 however, he outlines the steps necessary for a truly
7 effective energy efficiency program, which would include
8 hiring an experienced consultant to analyze all of the
9 energy efficiency programs out there and help select a
10 portfolio of programs that would be the most cost
11 effective and best suited for MGE's service territory;
12 developing with the assistance of experienced personnel
13 the programs identified as cost effective and best suited;
14 evaluating the performance of the programs implemented on
15 a regular basis, with reports to the Commission, the
16 Staff, Office of Public Counsel, the Department, and any
17 other interested parties; a continuing analysis of energy
18 efficiency programs that become available to see if they
19 can and should be added to MGE's portfolio of energy
20 efficiency programs.

21 Implementing an energy efficiency program
22 correctly can and will result in expenditure of funds at
23 the levels recommended by the Department. Only by
24 spending a significant amount on energy efficiency can we
25 ever hope to see real energy savings.

1 The third and last subissue that is before
2 you today has to do with -- and will be before you Monday,
3 has to do with the energy efficiency collaborative.
4 The Department supports the continuation of the
5 collaborative but in a different capacity.

6 The Department believes, for the reasons
7 articulated by Staff, that the collaborative should be an
8 advisory body rather than a voting group. The
9 collaborative has provided and can continue to provide
10 assistance, direction and advice to the company on energy
11 efficiency measures and programs.

12 I would briefly like to address the
13 proposal brought before you by the company today. While
14 the Department is definitely interested in that proposal,
15 I do want to again stress that the Department's primary
16 concern is with energy efficiency funding levels and the
17 need to really ramp those up.

18 Thank you.

19 JUDGE PRIDGIN: Ms. Woods, thank you.
20 Anyone else wish opening before Mr. Hendershot takes the
21 stand?

22 (No response.)

23 JUDGE PRIDGIN: All right. If
24 Mr. Hendershot will come forward to be sworn, please.

25 (Witness sworn.)

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

3 MR. BOUDREAU: Thank you.

4 DAVID C. HENDERSHOT testified as follows:

5 DIRECT EXAMINATION BY MR. BOUDREAU:

6 Q. Would you state your name for the record,
7 please, sir.

8 A. David C. Hendershot.

9 Q. Would you spell your last for the court
10 reporter, please.

11 A. H-e-n-d-e-r-s-h-o-t.

12 Q. By whom are you employed and in what
13 capacity?

14 A. Missouri Gas Energy, and I'm manager -
15 credit collections.

16 Q. Are you the same David C. Hendershot that
17 caused to be filed with the Commission prepared direct,
18 rebuttal and surrebuttal testimony which have been marked
19 for identification respectively as Exhibit Nos. 16, 17 and
20 18?

21 A. I am.

22 Q. Was that testimony prepared by you or under
23 your direct supervision?

24 A. Yes, sir.

25 Q. Do you have any corrections you'd like to

1 make to any of your testimony at this time?

2 A. No, sir.

3 Q. If I were to ask you the same questions as
4 are contained in that testimony, would your answers as set
5 forth therein be substantially the same here today?

6 A. Yes, sir.

7 Q. And are your -- is the information you
8 provided true and correct to the best of your information,
9 knowledge and belief?

10 A. Yes, sir.

11 MR. BOUDREAU: With that, I would offer
12 into the record Exhibit No. 16, 17 and 18, and tender the
13 witness for cross-examination.

14 JUDGE PRIDGIN: 16, 17 and 18 have been
15 offered. Any objections?

16 (No response.)

17 JUDGE PRIDGIN: Hearing none, 16, 17 and 18
18 are admitted.

19 (EXHIBIT NOS. 16, 17 AND 18 WERE RECEIVED
20 INTO EVIDENCE.)

21 JUDGE PRIDGIN: Mr. Boudreau, thank you.
22 Mr. Hendershot is ready for cross-examination. Ms. Woods,
23 any questions?

24 MS. WOODS: Yes, your Honor. Thank you.

25 CROSS-EXAMINATION BY MS. WOODS:

1 Q. Good morning, Mr. Hendershot.

2 A. Good morning.

3 Q. When did MGE begin implementing its energy
4 efficiency programs?

5 A. The tariffs I believe were approved in
6 April of 2007. The actual launch of the programs and the
7 approval of the first applications were in August of 2007.

8 Q. And would you agree with me that that was,
9 through no fault of the company, in the midst of or the
10 start of a serious economic downturn in the country?

11 A. I think the downturn was more in 2008 than
12 it was in 2007, but I would agree that in 2008 and 2009
13 there has been a downturn.

14 Q. And would you agree that MGE customers are
15 not spending money on furnaces or water heaters at this
16 point?

17 A. No, I don't know as I would agree with
18 that.

19 Q. Are the -- what are the energy efficiency
20 programs that MGE has implemented?

21 A. Initially we began with hot water heating,
22 high efficiency initiative. That included primarily
23 storage tanks, high efficiency storage tanks, as well as
24 high efficiency tankless systems. It was a new initiative
25 for the company, and we really worked very hard at getting

1 that up and going, and it -- it grew over a period of
2 time, and in late 2008 we expanded the program to include
3 space heat.

4 We've had roughly to date -- I updated
5 really the numbers just prior to coming for my testimony
6 here. We've had right at about 800 applications on the
7 space heat so far. We've had a little over 800
8 applications on water heat, approved water heat. The
9 space heat offering included furnaces, boilers,
10 combination units, thermostats, and we've had over 400
11 thermostats in addition to the 800 furnaces and boiler and
12 combination units. All total, we've had a little over
13 2,000 units currently, totaling just under \$300,000 worth
14 of incentives.

15 So that was really the initial offering in
16 terms of really the high efficiency programs. Since that
17 time, though, we've also had an opportunity to launch our
18 Home Performance with Energy Star. That was really just
19 launched here in the last 30 days, and is a joint
20 partnership, and I believe it's a unique program, with
21 Kansas City Power & Light. I think it's really the
22 only -- it's the only one that I'm aware of at least in
23 the country to where a natural gas local distribution
24 company as well as the local electric company have
25 partnered for Home Performance with Energy Star.

1 So that product offering was really just
2 offered here recently. We've already had about ten
3 approved applications with Home Performance with Energy
4 Star. So the early results are very encouraging. In
5 terms of really the energy efficiency program, this past
6 year we also added a new self-audit piece of software on
7 our website. We've had in excess of 8,000 audits
8 completed since January of this year with the addition of
9 that APOGEE software.

10 Our website is centered, you know, to a
11 large extent in terms of energy education over the life of
12 the program. We've had in excess of 60,000 visits to that
13 website, and we've developed a couple of other websites as
14 well in support of really this initiative and these
15 programs here. Betterheatingnow.com is really our website
16 that's dedicated to the water heating and space heating
17 initiatives. It goes through the details of that program
18 for our customers.

19 The Missouri Gas Energy is more oriented
20 towards education, as I mentioned just a moment ago here.
21 And then there's a third website that is dedicated to the
22 joint initiative with KCPL in terms of Home Performance
23 with Energy Star. So, you know, that is a brief overview
24 of really the initiatives at this point in time.

25 Q. So you have consumer education, correct?

1 A. Yes, ma'am.

2 Q. Furnace, boilers, that type of -- and
3 that's a rebate program, correct?

4 A. It's an incentive program, that is correct.

5 Q. And on the water heater program, that is a
6 bill credit; is that correct?

7 A. The water heater program is a -- is a bill
8 credit, but we've also worked very closely with our -- our
9 vendors and local contractors, and we have been able
10 through the collaborative to be able to do an offering on
11 the water heater at point of sale for the customer as
12 well. That makes it much more convenient for the
13 customer. So we're doing it both ways with regard to the
14 water program.

15 Q. Initially it was a bill credit?

16 A. That is correct.

17 Q. And then recently you added the second
18 option --

19 A. Yes.

20 Q. -- is that correct?

21 A. Yes.

22 Q. And originally or initially it was a \$20
23 credit on the bill for a water heater?

24 A. No. It was \$40 for an approved high
25 efficiency storage tank, and \$200 is the incentive level

1 on qualifying high efficiency tankless systems.

2 Q. But it was not originally a rebate program?

3 A. I'm not sure I understand the question.

4 Q. The water heater program was not originally
5 a rebate program?

6 A. It was a bill credit. It started as
7 strictly bill credits.

8 Q. There are other possible energy efficiency
9 programs that gas utilities can use, are there not?

10 A. I would think so, sure.

11 Q. And MGE has not at this time implemented
12 any other programs other than the ones that you've listed?

13 A. This was a brand-new initiative for the
14 company. The company had never really had an opportunity
15 to really --

16 Q. Mr. Hendershot, I think that's a yes or no
17 question.

18 A. Would you ask the question again?

19 Q. The company has not implemented any other
20 programs than the three or -- that you listed, than the
21 ones you've listed?

22 A. The ones that I outlined here a moment ago
23 briefly.

24 Q. Has the company retained a consultant on
25 energy efficiency issues?

1 A. Yes.

2 Q. Was that consultant retained on a specific
3 issue having to do with the Energy Star program?

4 A. I can think of two consultants that have
5 been retained, both oriented towards -- surrounding the
6 programs.

7 Q. Are you familiar with --

8 A. I'm sorry. Actually, there have been three
9 consultants, if you include Applied Energy Group, which is
10 the facilitator of the Missouri Gas Energy collaborative.
11 So if you include that as a consultant, then there would
12 be three.

13 Q. Are you familiar with the 2006 rate case,
14 MGE rate case?

15 A. Somewhat.

16 Q. Were you involved in providing testimony
17 for that rate case?

18 A. I was.

19 Q. In that case, the company first proposed
20 the straight fixed variable rate in direct, correct?

21 A. I am not familiar really with rate design,
22 and I really am not, you know, prepared to really address
23 any rate design matters. It's not my area of expertise,
24 and I'm not knowledgeable.

25 Q. Are you familiar with the federal stimulus

1 package?

2 A. Just what I've read in the paper as a
3 consumer.

4 Q. Are you familiar with funding levels in
5 other states for energy efficiency programs by utilities,
6 gas utilities in particular?

7 A. In the course of my duties associated with
8 the energy efficiency initiatives, I have reviewed some
9 websites and program offerings on the part of other
10 utilities through the country.

11 Q. Would you agree with me that states that
12 show significant savings in energy use -- also use a
13 percentage funding mechanism or percentage reduction in
14 use to set energy efficiency funding levels?

15 A. I'm not knowledgeable of that. I don't
16 know.

17 Q. Would you agree with me that funds spent by
18 utilities in other states are higher than \$750,000?

19 A. I don't know that either.

20 Q. Would you agree with me that if the company
21 gets the straight fixed variable rate design it has
22 proposed, it needs to have a significant investment in
23 energy efficiency to justify that treatment?

24 A. The company is committed to the energy
25 efficiency programs. We're really excited about really

1 what we've done to date and the prospects of continuing to
2 expand those programs.

3 Q. Mr. Hendershot, I'm not sure that answered
4 my question. Let me try again. Would you agree with me
5 that if the company gets the rate design it has proposed,
6 it needs to have a significant investment in energy
7 efficiency to justify that treatment?

8 A. I -- I think the company, you know, has a
9 significant investment at this point in time in terms of
10 these programs.

11 Q. And that investment is \$750,000 annually?

12 A. That's the current funding level, yes. The
13 company, as Mr. Boudreau stated, you know, is open on an
14 annual basis to review the annual funding amounts and, you
15 know, through the collaborative mechanism consider
16 adjustments to that as needed or appropriate.

17 Q. Are you familiar with Kansas City Power &
18 Light's expenditures for energy efficiency?

19 A. I am not.

20 Q. Would you agree with me that energy
21 efficiency is a low cost energy resource?

22 A. I think it can be. I don't think it
23 necessarily is in all cases.

24 MS. WOODS: Thank you, Mr. Hendershot.

25 THE WITNESS: My pleasure.

1 JUDGE PRIDGIN: Ms. Woods, thank you.

2 Mr. Poston.

3 MR. POSTON: Thank you.

4 CROSS-EXAMINATION BY MR. POSTON:

5 Q. When Mr. Boudreau was asking you questions,
6 I believe I heard you say you were the credit and
7 collections manager?

8 A. I am.

9 Q. Your testimony states you're the manager of
10 business support services. Has that changed?

11 A. It has, and it was a recent change here. I
12 previously was manager of business support services and
13 have been involved with the energy efficiency initiatives
14 for the company since really the inception.

15 Q. And you started with MGE as a credit and
16 collections manager?

17 A. I did in 2000.

18 Q. And you're back at that position again?

19 A. I've gone full circle, sir.

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

21 JUDGE PRIDGIN: Mr. Poston, thank you.

22 Ms. Shemwell.

23 CROSS-EXAMINATION BY MS. SHEMWELL:

24 Q. Good morning, Mr. Hendershot. I'm Lera
25 Shemwell. I represent the Staff in this case.

1 A. Good morning.

2 Q. Good morning. Mr. Hendershot, is this
3 program available in all MGE territories?

4 A. It is to active MGE customers.

5 Q. Have you had success in any particular
6 area, more success?

7 A. Not that I'm aware of. I think it's --
8 it's really been administered and promoted and really all
9 of the applications that I've seen have been really from
10 across our entire geographic trade area.

11 Q. What have you done to assure that low
12 income who may not have access to computers receive
13 information?

14 A. We have promoted it through our contact
15 center. So if a customer calls in and really contacts the
16 company via our call center, that those -- I'm sorry.
17 Excuse me. Those call center representatives are aware of
18 the program offerings and will provide really whatever
19 information is needed by that customer to be able to
20 pursue those opportunities, those programs.

21 Q. Anything else?

22 A. Well, we've done a great deal of promotion
23 of the programs throughout the entire trade area in terms
24 of bill inserts, in terms of advertising, radio spots, you
25 know, a number of different meetings here. So it's not

1 certainly just website oriented. It is really oriented
2 throughout, you know, much of really what the company does
3 with our customer base. We've promoted it aggressively.

4 Q. My question is, then, the 4,000 energy
5 efficiency kits that you describe on page 4 of your, I
6 believe this is rebuttal, 470 have been installed. Why
7 such a small percentage?

8 A. The challenge there, you know, and it's
9 really been something that's been talked about at length
10 within really the collaborative, is that those on the
11 outset, those 4,000 kits, it was deemed that we wanted to
12 make sure that they got actually installed, physically
13 installed. We were concerned, I think, as a collaborative
14 that if we just handed them out, that they might sit in a
15 closet, be given really to a non-customer. Parts of them
16 may be installed. Other parts may not be.

17 And it was important in terms of being
18 prudent, a prudent use of the resources to ensure that
19 they were actually install and correctly installed in the
20 premise, you know, at the residence.

21 We have had a challenge trying to find
22 qualified organizations willing to actually complete
23 those -- those installations. So that's probably been the
24 most formidable challenge in terms of really, you know,
25 distributing these kits. You know, we talked about a

1 number of different options within the collaborative.

2 Q. What's in the kits?

3 A. Rope caulking. There are compact
4 florescent. There is basic insulation, like, around
5 outlet covers. You know, it is -- you know, there's
6 probably about 12 to 15 different simple installed type
7 pieces in these efficiency kits. There's low flow shower
8 head. I can get you a detailed listing of the exact kit
9 if you'd like to see it.

10 Q. That's fine. Thank you. Is there an
11 income limit on who may qualify? Or let me ask, are there
12 limits on how people can qualify to receive the kits?

13 A. Not to my knowledge. We have targeted low
14 income and elderly in terms of these kits, but if there's
15 an income piece of criteria, I'm not aware of it.

16 Q. You discussed the tankless applications for
17 hot water heaters. How do you decide what level of
18 incentive to provide that's going to really interest
19 people, that's going to encourage them to actually
20 install? Let's just take the tankless heater, for
21 example, and I believe you said \$200 was the rebate?

22 A. Uh-huh.

23 Q. You also mentioned point of service. Is
24 that --

25 A. Point of sale.

1 Q. Is that available at the point of sale?

2 A. The -- on the water heating piece, yes.
3 Water heating incentives through really some vendors that
4 we have worked with, you know, we do have a mechanism
5 whereby we can really offer that incentive actually on the
6 invoice at point of sale for that customer.

7 It's a matter of convenience for that
8 customer rather than have to fill out paperwork, send it
9 in, does it qualify, doesn't it qualify, and wait for that
10 bill credit to appear on the bill. We were trying to make
11 this as consumer friendly if you could, if you would, for
12 our -- our customer base.

13 Q. I apologize for asking a compound question.
14 Let me follow up and say, how do you know the level of
15 rebate which will attract interest?

16 A. Initially within the program we looked at a
17 number of different program offerings, you know, for other
18 gas companies, and those incentive levels were actually
19 set as part of the initial program.

20 Since that time, we've had a lot of
21 opportunity to really evaluate the program. Johnson
22 Consulting in December of 2008 completed a -- and it was
23 mandated really as part of really, you know, the program
24 offerings for them to do an assessment at the end of, I
25 think it was either 12 or 15 months, and, you know, and

1 they made recommendations in there in terms of adjustments
2 to incentive levels. There's also been a lot of
3 discussion in terms of incentive levels within the
4 collaborative.

5 Q. Has \$200 proven successful?

6 A. \$200 on the tankless have been generally
7 enough to provide meaningful incentive, in my opinion, you
8 know, and I think that's evidenced by the fact that, of
9 our water heater incentives, the approved water heater
10 incentives, roughly two-thirds of them, just under
11 two-thirds of them have been tankless systems.

12 Q. I'm sorry. This is your direct, and you
13 say, as of March 31, 2009, your space heat program had
14 received 14 applications. That's a very small percentage
15 of your customer base.

16 A. Right.

17 Q. Do you know why such a small percentage?

18 A. Actually, I have good news. Our space
19 heater program -- well, first, you know, before I really
20 address that, if I could really just add to my last
21 response regarding the incentive levels on the water
22 heaters. You know, the opposite side of that coin has
23 really been the storage heats incentive levels, and at a
24 \$40 incentive level, that has not been enough to really
25 move the market and is the reason why, you know, less

1 than, you know, may-- or I'm sorry, probably just over a
2 third of the approved applications have been high
3 efficiency storage units as opposed to tankless systems.

4 With regard to the space heat -- could you
5 repeat the question again? I'm sorry. I've gotten
6 distracted. I've distracted myself.

7 Q. Well, I'm asking why such a low number of
8 applications, 14.

9 A. Right. The good news. Our space heating
10 program was launched here at the end of 2008, very
11 beginning of 2009. It took us a period of several weeks,
12 a couple of months, to really get the website up and
13 running, you know, complete a lot of the promotional
14 materials, put the products in place, really get consensus
15 in terms of the collaborative.

16 We really began in earnest in March, late
17 March or early April. The first approved applications
18 didn't really come in until that period of time, 'til the
19 end of March or first of April.

20 The numbers that Mr. Boudreau, you know,
21 indicated really in his openings I think probably came
22 from the quarterly, the quarterly metrics that are really
23 being provided to the Commission. The last set of those
24 missions was really the second quarter. We have not yet
25 filed the third quarter. So it's really only the numbers

1 through June, and we didn't really start this until April.

2 The program in my estimation has taken off
3 very nicely. We've had a very good response. We have had
4 just under, as I mentioned, 800 approved applications
5 through this last week in terms of --

6 Q. Pardon me. Let me interrupt. 800
7 applications for new furnaces?

8 A. That have been approved, yes, ma'am.

9 Q. You've approved 800 applications?

10 A. Yes, ma'am.

11 Q. Thank you.

12 A. And roughly 400 thermostats.

13 Q. I don't mean to cut you off. I just wanted
14 to understand.

15 A. So you can see the dramatic growth there in
16 a very short period of time since this product's been
17 launched.

18 Q. I have a brochure here.

19 MS. SHEMWELL: Judge, if I may approach?

20 JUDGE PRIDGIN: You may.

21 MS. SHEMWELL: I only have one of these,
22 but I imagine we could have more by Monday.

23 BY MS. SHEMWELL:

24 Q. Mr. Hendershot, will you agree with me this
25 is a brochure, Home Performance with Energy Star program?

1 A. It is.

2 Q. And it has both KCPL and MGE's logos and
3 names at the bottom?

4 A. It does.

5 MS. SHEMWELL: Rather than us going through
6 this, I'd just like to offer this into evidence so that
7 the Commission can see the program and the application.

8 JUDGE PRIDGIN: Show that as Exhibit 102.

9 MS. SHEMWELL: Yes. Would you like to see
10 it?

11 COMMISSIONER DAVIS: Yes, I would.

12 MS. SHEMWELL: I apologize for only having
13 one copy, but we'll get you some on Monday.

14 (EXHIBIT NO. 102 WAS MARKED FOR
15 IDENTIFICATION BY THE REPORTER.)

16 BY MS. SHEMWELL:

17 Q. Mr. Hendershot, who does the home
18 evaluations?

19 A. The assessment is done by an approved
20 contractor or vendor that has been approved through Home
21 Performance with Energy Star and meets the qualifications
22 in terms of the assessments that they do.

23 Q. You mentioned APOGEE -- and for the court
24 reporter I will say it's all in caps, A-P-O-G-E-E -- there
25 have been 8,000 home self audits. Again, I'm going to ask

1 you, why not more?

2 A. We just launched this in January of this
3 year. When we had actually started the program, we
4 provided links to the DOE energy analyzer tools. There's
5 the yardstick and another one, the name of which escapes
6 me. There was really two with DOE.

7 And we migrated to this APOGEE software.
8 It was -- came highly recommended within the industry, and
9 it was, we thought, really much more consumer friendly,
10 much easier really for our customers to, you know, to
11 partake in, and we have promoted it heavily, and so those
12 8,000 audits or, you know, visits to that calculator is
13 really just since January of this year.

14 MS. SHEMWELL: That's all I have. I would
15 like to offer that as Exhibit 102, noting that we will
16 have additional copies for the Commission either later
17 today or Monday.

18 JUDGE PRIDGIN: Thank you. 102 has been
19 offered. Any objections?

20 (No response.)

21 JUDGE PRIDGIN: Hearing none, 102 is
22 admitted.

23 (EXHIBIT NO. 102 WAS RECEIVED INTO
24 EVIDENCE.)

25 JUDGE PRIDGIN: Let me see if we have any

1 Bench questions. Commissioner Davis, any questions?

2 COMMISSIONER DAVIS: I'll pass for right
3 now, Judge.

4 JUDGE PRIDGIN: Commissioner Kenney?

5 COMMISSIONER KENNEY: I do.

6 QUESTIONS BY COMMISSIONER KENNEY:

7 Q. Good morning, Mr. Hendershot. How are you?

8 A. I'm fine. Thank you, sir.

9 Q. Is it MGE's position or is it your argument
10 that they can't administer this program without the SV
11 rate design?

12 A. It's my understanding that the -- the
13 energy efficient program is predicated on the straight
14 fixed variable rate, yes, sir.

15 Q. So I'll ask the question slightly
16 differently. Is the straight fixed variable rate design
17 the only design that would leave MGE financially
18 indifferent? That's the phrase that you used in your
19 testimony.

20 A. I don't know if it is or not. I'm not an
21 expert in rate design, so I'd be hard pressed to testify
22 to those types of questions, sir.

23 Q. Would that be a question better put to
24 Mr. Noack?

25 A. Absolutely.

1 COMMISSIONER KENNEY: All right. Thank
2 you.

3 JUDGE PRIDGIN: Commissioner Kenney, thank
4 you. Commissioner Davis?

5 QUESTIONS BY COMMISSIONER DAVIS:

6 Q. Mr. Hendershot, really quick, DNR is asking
7 for \$4 million, correct?

8 A. That's my understanding.

9 Q. That would be a substantial increase over
10 what we have now?

11 A. Yes, sir.

12 Q. Do you have concerns -- first of all, you
13 weren't able to spend all the money that we gave you,
14 we've given you so far, correct?

15 A. That is correct, although I would say --

16 Q. The demand is catching up?

17 A. Yes, sir.

18 Q. I guess where do you see that -- I mean,
19 based on your experience, and you're the expert in this
20 area, where do you see that demand going for these
21 existing programs? Do you think it could get up to -- do
22 you think we could spend \$2 million a year? Do you think
23 we could spend \$3 million a year?

24 A. I -- you know, in my experience, I can't
25 really put a number on it. What I can say is I do believe

1 that it makes sense, as the company's proposed, that it be
2 continually evaluated in terms of what the programs are,
3 what those offerings are, what the demand is and what the
4 funding levels are. I think that makes a lot of sense.

5 Q. Okay. Turning to the EEC, the
6 collaborative.

7 A. Yes, sir.

8 Q. As I understand it, you -- Staff and the
9 company have agreed to change the nature of the
10 collaborative to basically run over one person if you
11 choose to do so; is that a true statement?

12 A. I don't believe it is. I don't believe the
13 intent here is to run over anyone, sir.

14 Q. Okay. But right now, to get anything done
15 in the collaborative it requires unanimity, correct?

16 A. That is correct, sir.

17 Q. And is it fair to say that unanimity has
18 been difficult to achieve in certain circumstances?

19 A. In some instances, yes, sir.

20 Q. Which is what is prompting this joint
21 recommendation from the Staff and from MGE that the nature
22 of the collaborative be changed?

23 A. You know, I can't speak to the Staff's
24 motivation.

25 Q. Okay. So what is MGE's motivation? Can

1 you speak to MGE's motivation?

2 A. Well, I think at the end of the day in my
3 estimation or my view, you know, it's the company that is
4 ultimately responsible and, you know, and will either
5 succeed or fail in these programs. And I think to the
6 extent that, you know, that the company needs to be in a
7 position to be able to make decisions, maybe hard
8 decisions but nevertheless decisions with really regard to
9 the programs.

10 You know, at the same time, I also believe
11 that the input, the experience, the advice, the counsel of
12 the larger collaborative is extremely valuable.

13 Q. Right. So we need to still have the group?

14 A. That's my opinion, sir.

15 Q. Right. You just are desirous of having
16 some sort of mechanism whereby if you feel strongly, the
17 Staff feels strongly, and everybody else in the group
18 feels strongly except for one person and they appear to be
19 standing in the proverbial, you know, doorway of the
20 courtroom, you want to be able to -- you want to be able
21 to go ahead and do that program; is that fair?

22 A. That's why we suggest that it be advisory
23 in nature.

24 Q. Are there any other alternatives?

25 A. Not that I'm aware of, sir.

1 Q. Well, hypothetically speaking, what if we
2 were to say, you know -- what if we were to keep the
3 collaborative but then allow some mechanism whereby if 75
4 or 80 or 90 or 95 or 99 percent of the collaborative all
5 felt one way about an issue and there was just one lone
6 dissenter, that you could come to this Commission and say,
7 we're all here, we all agree except for this one person.
8 We want to be able to make our case, we'll let that person
9 make their case, and then Commissioners, you decide. Does
10 that sound fair?

11 A. I am not, you know, in a position at my
12 level to be able to make that decision on behalf of the
13 company. It's above my pay grade, sir.

14 Q. Okay. Well, can you identify a person who
15 is employed at MGE that would be above your pay grade that
16 could answer those questions? Would that be Mr. Noack in
17 the back of the room who appears to be chuckling?

18 A. It may be, sir. I don't know.

19 Q. It may be.

20 A. I'm not sure --

21 Q. Should I be like Commissioner Kenney and
22 should I just ask that question of Mr. Noack? Do you
23 think he knows someone who would be above your pay grade
24 who could answer that question?

25 A. He very well may, sir.

1 COMMISSIONER DAVIS: All right. Thank you,
2 Mr. Hendershot.

3 THE WITNESS: My pleasure.

4 JUDGE PRIDGIN: Any recross? Ms. Woods,
5 any recross?

6 MS. WOODS: I just have one quick question.

7 RE-CROSS-EXAMINATION BY MS. WOODS:

8 Q. Mr. Hendershot, wasn't it the collaborative
9 that recommended use of the space heater program to the
10 company?

11 A. It was. I mean, it was discussed at length
12 really within the collaborative in terms of the space
13 heating initiative, absolutely.

14 Q. And that was a benefit provided by the
15 collaborative, correct?

16 A. I believe -- yeah, I believe that, you
17 know, it's been a valuable input.

18 MS. WOODS: Thank you.

19 JUDGE PRIDGIN: Ms. Woods, thank you.
20 Mr. Poston?

21 MR. POSTON: No, thank you.

22 JUDGE PRIDGIN: Ms. Shemwell?

23 RE-CROSS-EXAMINATION MS. SHEMWELL:

24 Q. Mr. Hendershot, can the collaborative come
25 to the Commission today if it would like a decision from

1 the Commission and can't get unanimous?

2 A. My understanding is that it can.

3 Q. Are you aware of any other program that is,
4 for example, by majority vote?

5 A. I'm not sure I understand the question.
6 Any other program?

7 Q. Any other collaboratives? I'm sorry.
8 Collaboratives.

9 A. Within the collaborative?

10 Q. Majority vote of the collaborative, other
11 companies that have that?

12 A. My understanding is that most all of the
13 collaboratives are advisory in nature.

14 Q. Thank you. That's --

15 A. That is my understanding.

16 MS. SHEMWELL: That's all I have. Thank
17 you.

18 JUDGE PRIDGIN: Thank you. Any redirect?

19 MR. BOUDREAU: Yes, please. Just a few
20 questions.

21 REDIRECT EXAMINATION BY MR. BOUDREAU:

22 Q. Mr. Hendershot, I want to take you back to
23 some questions I believe that you received from Ms. Woods
24 for Department of Natural Resources, and I believe that
25 she had asked if there were some other energy efficiency

1 programs that might be out there. I think your indication
2 was that there may be.

3 A. Yes, sir.

4 Q. And she -- I think she also pointed out
5 that there were some that you had -- that the company does
6 not offer, and you acknowledged that was true; is that
7 correct?

8 A. Yeah. I think there's --

9 Q. And you wanted to explain -- I think at
10 that point you attempted to elaborate on that answer in
11 terms of why those -- why there were some programs that
12 hadn't been implemented or offered yet. I want to ask you
13 to go ahead and elaborate on that answer.

14 A. Well, we started very narrowly with these
15 initiatives due to the fact that it was new to the company
16 and we really, you know, were, you know, basically just
17 trying to get it up and running and really get a good
18 foundation from which we could really grow, and we've done
19 that through the product offerings with regard to the
20 space heating as well as Home Performance with Energy Star
21 and what they've done on the education side.

22 As much as we've done, there's probably a
23 lot more that's out there within the industry that that
24 could potentially be examined.

25 Q. And the company's open to examining

1 additional programs?

2 A. Absolutely.

3 Q. I also want to -- Commissioner Davis
4 correctly noted that Staff and the company are -- agree on
5 the concept of the energy efficiency collaborative as an
6 advisory group; is that correct?

7 A. Yes, sir.

8 Q. It's also true that the Department of
9 Natural Resources supports that approach as well; isn't
10 that correct?

11 A. That's my understanding.

12 Q. I also want to ask you, you had some
13 testimony about the Home Performance with Energy Star
14 tariff, and I believe you got some questions from Staff
15 counsel about that?

16 A. Yes, sir.

17 Q. Can you tell me the approximate if not the
18 exact date of the tariff implementing that program?

19 A. I believe it to be August 6th of 2009.

20 Q. Okay. Thank you.

21 MR. BOUDREAU: I don't think I have any
22 further questions. Thank you.

23 JUDGE PRIDGIN: Mr. Boudreau, thank you.

24 Excuse me. Mr. Boudreau, thank you. Mr. Hendershot,

25 thank you very much. You may step down, sir.

1 Anything before Mr. Noack takes the stand?

2 (No response.)

3 JUDGE PRIDGIN: Mr. Noack, if you'd come
4 forward to be sworn please, sir.

5 (Witness sworn.)

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

8 MR. BOUDREAU: Thank you.

9 MICHAEL R. NOACK testified as follows:

10 DIRECT EXAMINATION BY MR. BOUDREAU:

11 Q. Mr. Noack, would you state your name for
12 the record, please.

13 A. Michael R. Noack, N-o-a-c-k.

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

16 A. Missouri Gas Energy. I'm the director of
17 pricing and regulatory affairs.

18 Q. Are you the same Michael Noack who has
19 caused to be filed with the Commission in this case
20 prepared direct, updated direct, rebuttal testimony, and
21 surrebuttal testimony which have been marked for
22 identification respectively as Exhibits 30, 31, 32 and 33?

23 A. I am.

24 Q. Was that testimony prepared by you or under
25 your direct supervision?

1 A. It was.

2 Q. Do you have any corrections that you would
3 like to make to any of your testimony, any of those items
4 of testimony at this time?

5 A. No, I do not.

6 Q. Did you also cause to be prepared and filed
7 with the Commission direct testimony in what I'll refer to
8 as the Accounting Authority Order case that's Case No.
9 GU-2010-0015?

10 A. I did.

11 Q. And that case has been consolidated with
12 this case; is that correct?

13 A. That's my understanding, yes.

14 Q. And that testimony has been marked for
15 identification as Exhibit 93?

16 A. Yes.

17 Q. And was that testimony prepared by you or
18 under your direct supervision?

19 A. It was.

20 Q. Do you have any corrections to make to that
21 testimony at this time?

22 A. No, I do not.

23 Q. If I were to ask you the same questions as
24 are contained in those various items of testimony, would
25 your answers as set forth therein today be substantially

1 the same?

2 A. Yes, it would.

3 Q. And would the information that you have
4 provided the Commission be true and correct to the best of
5 your information, knowledge and belief?

6 A. It would.

7 MR. BOUDREAU: With that, I would offer
8 into the record Exhibits 30, 31, 32 and 33, and
9 additionally 93, and tender the witness for
10 cross-examination.

11 JUDGE PRIDGIN: Mr. Boudreau, thank you.
12 Exhibits 30, 31, 32, 33 and 93 have been offered. Any
13 objections?

14 (No response.)

15 JUDGE PRIDGIN: Hearing none, Exhibits 30,
16 31, 32, 33 and 93 are admitted.

17 (EXHIBIT NOS. 30, 31, 32, 33 AND 93 WERE
18 RECEIVED INTO EVIDENCE.)

19 JUDGE PRIDGIN: Time for cross-examination.
20 Ms. Woods, any questions?

21 MS. WOODS: Yes, your Honor. Thank you.

22 CROSS-EXAMINATION BY MS. WOODS:

23 Q. Good morning, Mr. Noack. As I understand
24 it, the company is tying energy efficiency to obtaining
25 the straight fixed variable rate design; is that correct?

1 A. At the present time it is, yes.

2 Q. Are you familiar with MGE's 2006 rate case?

3 A. I am.

4 Q. Is it accurate that MGE proposed the
5 straight fixed variable rate design in its direct in that
6 case?

7 A. I think we proposed either a weather clause
8 or the straight fixed variable rate design, yes.

9 Q. Is it also accurate to say that the company
10 did not propose energy efficiency programs in its direct?

11 A. I -- I can't remember, Ms. Woods.

12 Q. Would you agree with me that there are
13 other mechanisms to assist utilities in recovering energy
14 efficiency funds spent?

15 A. There are various decoupling mechanisms,
16 yes.

17 Q. And other utilities in the state of
18 Missouri are using a regulatory asset account to recover
19 those funds spent on energy efficiency?

20 A. They may be using a regulatory asset
21 account, yes, but some of them have a straight fixed
22 variable rate design also.

23 MS. WOODS: Thank you. That's all I have.

24 JUDGE PRIDGIN: Ms. Woods, thank you.

25 Mr. Poston?

1 CROSS-EXAMINATION BY MR. POSTON:

2 Q. Good morning.

3 A. Good morning.

4 Q. It's MGE's position that MGE is willing to
5 administer these programs, energy efficiency programs only
6 if given the straight fixed variable, correct?

7 A. That is our position, yes.

8 Q. And isn't it your position that the reason
9 MGE would be willing to administer these programs with the
10 straight fixed variable is because, without a volumetric
11 rate, MGE no longer has an incentive to encourage
12 consumers to use more gas?

13 A. That is correct, yes.

14 Q. And can you please list for me the ways MGE
15 encouraged gas consumption for residential customers
16 before the straight fixed variable that MGE has stopped
17 doing since getting the straight fixed variable in 2007?

18 A. Well, by implementing the energy
19 conservation programs, we use lots of different ways, as
20 Mr. Hendershot explained, to send information to customers
21 via bill inserts, messages on the bills, a newsletter
22 called Home Front to help customers with ideas and ways to
23 lower their gas usage.

24 Q. I think you might have misunderstood my
25 question. I'm asking you to list the ways that you have

1 stopped encouraging consumption since getting the straight
2 fixed variable.

3 A. Those -- those are the ways we've done it
4 is by offering programs and ideas and ways to customers to
5 reduce their gas usage through conservation and energy
6 efficiency programs.

7 Q. So then the only way you encouraged gas
8 consumption before those programs was just not
9 administering those programs?

10 A. Yes. That's probably true, yes.

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

12 JUDGE PRIDGIN: Mr. Poston, thank you.

13 Ms. Shemwell?

14 MS. SHEMWELL: I have no questions. Thank
15 you.

16 JUDGE PRIDGIN: See if we have any Bench
17 questions. Commissioner Kenney?

18 QUESTIONS BY COMMISSIONER KENNEY:

19 Q. Good morning, Mr. Noack. How are you?

20 A. Good morning. Fine.

21 Q. I think this is a variation on Ms. Woods'
22 question. I just want to be clear. Is straight fixed
23 variable rate design the only design that would leave MGE
24 financially indifferent in administering energy efficiency
25 programs?

1 A. No. There are probably other decoupling
2 mechanisms available.

3 Q. So MGE is willing to continue administering
4 these energy efficiency programs only if it receives the
5 straight fixed variable rate design, but it's not unable
6 to if it doesn't receive the straight fixed variable rate
7 design; is that correct?

8 A. That's -- that's true, Commissioner,
9 because if we have all these programs and reduce our
10 usage, we will be hurt financially. We'll never be able
11 to earn a rate of return that we've been authorized.

12 Since -- since we've started with rate
13 cases in 1997, our usage per year has continually gone
14 down, the usage per customer per case has gone down each
15 and every case, and it's primarily because of energy
16 conservation, new appliances, getting better, efficient,
17 things like that.

18 Q. So are you saying that if you have -- if
19 there's a -- if we were to revert back to traditional rate
20 design, MGE would not -- and you continued offering these
21 energy efficiency programs, MGE would not be able to earn
22 its authorized rate of return?

23 A. No, we probably would not, because usage
24 would be below what we've set rates on.

25 Q. Would that be the same answer, would that

1 be the case with or without the energy efficiency
2 programs?

3 A. The programs that we are offering directly
4 to customers, those customers that would take advantage of
5 a furnace rebate, for example, those we could identify
6 specifically. I'm sure there are other customers out
7 there that would be replacing furnaces or appliances,
8 water heaters --

9 Q. Irrespective --

10 A. -- not using our rebate programs, but that
11 would affect our being able to recover those volumes, yes.

12 COMMISSIONER KENNEY: All right. I don't
13 have any other questions. Thank you.

14 JUDGE PRIDGIN: Commissioner Kenney, thank
15 you. Recross, Ms. Woods?

16 MS. WOODS: No, your Honor.

17 JUDGE PRIDGIN: Mr. Poston?

18 MR. POSTON: No.

19 JUDGE PRIDGIN: Ms. Shemwell?

20 MS. SHEMWELL: No, thank you.

21 JUDGE PRIDGIN: Redirect?

22 MR. BOUDREAU: Give me a moment.

23 JUDGE PRIDGIN: Certainly.

24 REDIRECT EXAMINATION BY MR. BOUDREAU:

25 Q. Mr. Noack, in response to a question or

1 series of questions received from Commissioner Kenney,
2 what's the -- can you tell us what the key, the key
3 importance is in terms of the company being willing to
4 continue to offer energy efficiency programs?

5 A. Well, we just have to have the ability to
6 earn our rate of return, and, you know, we'll set our
7 rates based on a level of usage, and if we don't have any
8 chance of obtaining that level of usage, then we'll be
9 back here immediately almost.

10 Q. So what interest of the company and the
11 customers have to be aligned?

12 A. Well, we don't want to -- we want to
13 encourage the customers to conserve and use the efficiency
14 methods that we offer to them, and we can't do that if by
15 doing that we're going to lower the customers' usage and
16 never be able to earn our rate of return.

17 Q. So if --

18 MR. BOUDREAU: I think I'll leave it at
19 that. I think I have no further questions for this
20 witness. Thank you.

21 JUDGE PRIDGIN: All right. Thank you.
22 Commissioner Kenney.

23 FURTHER QUESTIONS BY COMMISSIONER KENNEY:

24 Q. Forgive my for belaboring this issue. I
25 mean, it sounds like what you're saying, though, is that

1 you may or may not -- MGE may or may not be able to earn
2 its rate of return irrespective of whether you offer
3 energy efficiency programs because of natural consumer
4 conservation efforts they would take on their own. So I
5 guess what I'm saying is that the rate design isn't the
6 dispositive factor?

7 A. It is because we will be building -- if we
8 use Ms. Meisenheimer's rate design as an example,
9 45 percent of our revenues will be tied to a volumetric
10 number. We have to sell that many MCFs or CCFs of gas to
11 even have a chance at earning our rate of return. And if
12 customers continue to conserve, if they continue to buy
13 appliances that are more efficient as they have over the
14 last 10, 12 years, that usage is going to continue to go
15 down and we'll be back for a rate case.

16 Q. Okay. So the rate design is dispositive
17 with your ability to earn your rate of return, but it's
18 not dispositive as to whether or not you could efficiently
19 offer energy efficiency programs? Does that make sense?

20 A. No.

21 Q. Did my question make sense?

22 A. I don't understand it.

23 Q. Well, I guess what I'm saying is that
24 customers are going to conserve regardless?

25 A. They will, yes.

1 Q. Irrespective of what rate design this
2 Commission decides, and so --

3 A. But we want to help them do that.

4 Q. Right.

5 A. And the straight fixed variable rate design
6 allows us to do that. It -- we don't have to worry about
7 whether or not they're conserving. We want to help them
8 conserve. We want to promote their conservation efforts.
9 We want to align our interests with theirs in that case.

10 COMMISSIONER KENNEY: All right. I'm
11 finished.

12 JUDGE PRIDGIN: Commissioner Kenney, thank
13 you.

14 COMMISSIONER KENNEY: Thank you.

15 JUDGE PRIDGIN: Recross based on Bench
16 questions?

17 MS. WOODS: Nothing.

18 JUDGE PRIDGIN: Redirect?

19 MR. BOUDREAU: Yes, please.

20 FURTHER REDIRECT EXAMINATION BY MR. BOUDREAU:

21 Q. Again, following up on Commissioner
22 Kenney's questions about earning the company's return,
23 under a straight -- what I'd like you to do is explain
24 under a straight fixed variable rate design why if the
25 fuel component is collected in a -- through the PGA and

1 customers are cutting down on their use of gas, how
2 that -- my question to you is, does that leave the company
3 indifferent to the financial effect of reduced gas usage?

4 A. No, because as in the example I gave,
5 45 percent of our costs are not being collected through a
6 fixed cost factor.

7 Q. I'm asking you -- let's take it from the
8 perspective of straight fixed variable rate design, the
9 existing rate design.

10 A. The opposite.

11 Q. Let's take the opposite side of that.

12 A. With a straight fixed variable rate design,
13 all of our costs are being collected through that straight
14 fixed variable rate, other than the purchased gas that we
15 sold to the customers, and that's being collected through
16 our purchased gas adjustment clause.

17 Q. And the PGA, is that -- does the company
18 earn a return on the PGA or is that just a flow through to
19 the customer?

20 A. That's simply a flow through.

21 Q. As gas usage either increases or decreases,
22 and the trend has been decreasing, under the current rate
23 design, that doesn't really impact the company's earnings;
24 is that correct?

25 A. No, it does not. No.

1 Q. So --

2 A. And to the extent that the customer is able
3 to conserve, use our efficiency methods, et cetera,
4 75 percent of their bill is gas costs, so they save a lot
5 of money.

6 Q. So under straight fixed variable rate
7 design, does the company have any -- have any reason not
8 to encourage energy efficiency?

9 A. No, not at all, because we're getting our
10 costs through the fixed charge.

11 Q. As far as the energy efficiency programs
12 that the company offers, do you think that they have an
13 impact on customers' perceptions about overall energy
14 efficiency efforts on their part?

15 A. Repeat that one more time, Mr. Boudreau.

16 Q. I guess what I'm asking you, do you think
17 that the company's efforts in terms of its energy
18 efficiency programs, do you think that that has an impact
19 on customer awareness of the value of pursuing energy
20 efficiency practices on their part?

21 A. Oh, I believe so, absolutely. I don't live
22 in the Missouri Gas Energy territory, but on the Kansas
23 side, I was aware that Kansas City Power & Light had a
24 program for energy efficient air conditioning, and I took
25 advantage of that program.

1 Q. I want to take you back again to the series
2 of questions and the answers that you had with
3 Commissioner Kenney. Now, again, in the context of the
4 straight fixed variable rate design that's currently in
5 effect for the company, does MGE still have an incentive
6 to be efficient in its operations and to make its earnings
7 targets?

8 A. Oh, absolutely.

9 Q. Could you elaborate on that, please?

10 A. Well, with costs -- I mean, costs continue
11 to increase, payroll, et cetera, and you know, unless
12 we're efficient in our operations, those costs continue to
13 rise and we won't be able to earn our return there. Our
14 plant continues to increase. A lot of that is not due to
15 growth, and we do have a mechanism through this Commission
16 to come in and get relief.

17 But, you know, everything considered, the
18 straight fixed variable rate design is going to collect
19 the level of costs that we are at right now, and so it's
20 in our best interests if we want to, you know, continue to
21 earn this rate of return, to watch what we spend our money
22 on.

23 Q. So it's not a guarantee that the company's
24 going to reach its earnings targets?

25 A. Absolutely not, no.

1 MR. BOUDREAU: I have no further questions.

2 Thank you.

3 JUDGE PRIDGIN: Mr. Boudreau, thank you.

4 Mr. Noack, thank you very much. You may step down, sir.

5 THE WITNESS: Thank you.

6 JUDGE PRIDGIN: This looks to be a pretty
7 convenient time to take a break. Let's resume at roughly
8 10:35. Give us approximately 15 minutes. Dr. Warren will
9 be the next witness; is that correct?

10 MS. SHEMWELL: That is correct. Thank you,
11 Judge.

12 JUDGE PRIDGIN: Anything else from counsel
13 before we go off the record?

14 (No response.)

15 JUDGE PRIDGIN: We'll stand in recess until
16 about 10:35. Thank you.

17 (A RECESS WAS TAKEN.)

18 JUDGE PRIDGIN: We're back on the record.
19 I understand that Dr. Warren from Staff will be the next
20 witness, followed by Anne Ross from Staff and Mr. Buchanan
21 from DNR; is that correct?

22 Dr. Warren, will you come forward to be
23 sworn, please, sir.

24 (Witness sworn.)

25 JUDGE PRIDGIN: Thank you very much, sir.

1 Please have a seat. Ms. Shemwell, when you're ready.

2 MS. SHEMWELL: Thank you.

3 HENRY E. WARREN testified as follows:

4 DIRECT EXAMINATION BY MS. SHEMWELL:

5 Q. Dr. Warren, would you state your full name
6 for the court reporter, please.

7 A. Henry E. Warren, W-a-r-r-e-n.

8 Q. Dr. Warren, where do you work?

9 A. Missouri Public Service Commission.

10 Q. What do you do?

11 A. I'm a regulatory economist.

12 Q. In this case, Dr. Warren, did you
13 contribute to Staff's report on cost of service?

14 A. Yes, I did.

15 Q. And did you attach an affidavit for that
16 portion of your testimony?

17 A. Yes, I did.

18 Q. Did you also contribute to Staff's report
19 on class cost of service and rate design?

20 A. Yes, I did.

21 Q. And you attached an affidavit for that
22 portion of your testimony as well?

23 A. Yes, I did.

24 Q. Did you also prepare rebuttal and
25 surrebuttal testimony in this case?

1 A. Yes.

2 Q. Staff's reports are 39 and 40. The cost of
3 service report is 39 and 40NP and HC. The appendix is 41.
4 Rate design report is Exhibit 42 and 43, both HC and NP.

5 Dr. Warren, your rebuttal is marked
6 Exhibit 66 and your surrebuttal 67. At this time I'd like
7 to ask you, do you have any corrections to your testimony?

8 A. No.

9 Q. Is your testimony true and correct to the
10 best of your knowledge and belief?

11 A. Yes, it is.

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

14 A. Yes, they would.

15 MS. SHEMWELL: Judge, I would like to offer
16 Dr. Warren's rebuttal and surrebuttal into evidence and
17 offer the witness for cross-examination, and that will be
18 No. 66 and 67.

19 JUDGE PRIDGIN: Exhibit 66 and 67 have been
20 offered. Any objections?

21 MR. BOUDREAU: None.

22 JUDGE PRIDGIN: Hearing none, 66 and 67 are
23 admitted.

24 (EXHIBIT NOS. 66 AND 67 WERE RECEIVED INTO
25 EVIDENCE.)

1 JUDGE PRIDGIN: Dr. Warren is ready for
2 cross. Ms. Woods, any questions?

3 CROSS-EXAMINATION BY MS. WOODS:

4 Q. Good morning, Dr. Warren.

5 A. Good morning.

6 Q. Is it true that you have to have
7 significant expenditure of funds on energy efficiency
8 programs before you see real energy savings?

9 A. I think it's -- it's possible to achieve
10 some savings just through publicity, but I imagine there
11 is a correlation between the amount expended and the
12 savings realized.

13 MS. WOODS: Thank you. That's all I have.

14 JUDGE PRIDGIN: Ms. Woods, thank you.

15 Mr. Poston?

16 CROSS-EXAMINATION BY MR. POSTON:

17 Q. Good morning.

18 A. Good morning.

19 Q. There -- would you agree with me there's
20 four parties represented in this room today, Staff, OPC,
21 DNR and the company?

22 A. That's who you see here at the moment, yes.

23 Q. And of these companies -- I'm sorry. Of
24 these parties, in your opinion, who would you say has the
25 most experience in being at the table when energy

1 efficiency programs were designed?

2 A. Just as a result of personal observation
3 and not thorough investigation, I would say that
4 there's -- the experience is -- I would say the experience
5 is fairly equal between the Staff and OPC and DNR taking
6 these -- and I'm talking about these agencies taken as a
7 whole, not any particular person.

8 I've only been interacting with Missouri
9 Gas Energy for probably a little over a year, and I think
10 that's about as long as they've been involved in the
11 energy efficiency process.

12 Q. So you would -- so it's your testimony that
13 MGE has the least experience of these parties?

14 A. From personal observation, yes.

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

16 JUDGE PRIDGIN: Mr. Poston, thank you.

17 Ms. Shemwell? Excuse me. It's a Staff witness. MGE?

18 MR. BOUDREAU: I'm sorry. No questions for
19 this witness.

20 JUDGE PRIDGIN: Thank you. Bench
21 questions. Commissioner Davis?

22 QUESTIONS BY COMMISSIONER DAVIS:

23 Q. Good morning, Mr. Warren.

24 A. Good morning.

25 Q. Mr. Warren, have you -- in your experiences

1 here at the Commission, have you worked with OPC witness
2 Ryan Kind in regard to energy efficiency matters?

3 A. Yes, I have.

4 Q. In your opinion, did you -- did you ever
5 get the impression that Mr. Kind was being unreasonable in
6 any of your dealings with him?

7 A. No.

8 Q. No?

9 COMMISSIONER DAVIS: Thank you. No further
10 questions.

11 JUDGE PRIDGIN: Commissioner Kenney?

12 COMMISSIONER KENNEY: No, thank you.

13 JUDGE PRIDGIN: Thank you. Any recross
14 based on Bench questions? Ms. Woods?

15 MS. WOODS: Nothing, thank you.

16 JUDGE PRIDGIN: Mr. Poston?

17 MR. POSTON: No.

18 JUDGE PRIDGIN: Mr. Boudreau?

19 MR. BOUDREAU: None, thank you.

20 JUDGE PRIDGIN: Ms. Shemwell, any redirect?

21 REDIRECT EXAMINATION BY MS. SHEMWELL:

22 Q. Just a brief follow-up, Dr. Warren. Do you
23 have an impression of MGE's willingness to try programs?

24 A. Yes. They seem very interested in ex-- you
25 know, in looking at various programs.

1 Q. Have you found them receptive to your
2 ideas?

3 A. Yes, I have.

4 MS. SHEMWELL: That's all I have. Thank
5 you.

6 JUDGE PRIDGIN: All right. Thank you.
7 Dr. Warren, thank you very much, sir. You may step down.

8 Moving on to Ms. Ross; is that correct?

9 MS. SHEMWELL: Office of the Public Counsel
10 has requested we call Anne Ross to testify on energy
11 efficiency, and so Staff calls Ms. Ross to the stand.

12 JUDGE PRIDGIN: Ms. Ross, I believe you've
13 previously been sworn; is that correct?

14 THE WITNESS: Yes, that's correct.

15 JUDGE PRIDGIN: You remain under oath.

16 MS. SHEMWELL: I also believe her testimony
17 has been offered and accepted into evidence.

18 JUDGE PRIDGIN: That's what my records
19 show.

20 MS. SHEMWELL: Except for her portions of
21 class cost of service.

22 JUDGE PRIDGIN: Correct.

23 ANNE ROSS testified as follows:

24 DIRECT EXAMINATION BY MS. SHEMWELL:

25 Q. Ms. Ross, did you prepare portions for the

1 Staff's report on cost of service?

2 A. Yes, I did.

3 Q. And also on rate design?

4 A. Yes.

5 Q. If asked the same questions on energy
6 efficiency, would your answers be the same today?

7 A. Yes.

8 Q. Do you have corrections to your testimony?

9 A. I have corrections, but I made them on
10 Wednesday on the record.

11 Q. Thank you. Is your testimony concerning
12 energy efficiency true and correct to the best of your
13 knowledge and belief?

14 A. Yes.

15 MS. SHEMWELL: Judge, I do not need to
16 offer testimony, so I will tender the witness for cross.

17 JUDGE PRIDGIN: All right. Thank you.

18 Ms. Ross is on the stand for cross-examination.

19 Ms. Woods, any questions?

20 MS. WOODS: Nothing for this witness.

21 Thank you.

22 JUDGE PRIDGIN: Mr. Poston?

23 MR. POSTON: Yes, sir. Thank you.

24 CROSS-EXAMINATION BY MR. POSTON:

25 Q. Good morning.

1 A. Good morning.

2 Q. Can you tell me why the Staff was not going
3 to put you up as a witness on this issue?

4 MS. SHEMWELL: Excuse me. That sounds to
5 me like attorney/client privilege.

6 MR. POSTON: I was just trying to get a
7 clarification.

8 BY MR. POSTON:

9 Q. Let me ask, you filed testimony on energy
10 efficiency; is that correct?

11 A. Yes.

12 Q. And Staff -- and I had to request to have
13 you put up here as a witness; is that correct?

14 A. I don't know that.

15 Q. I'd like you to please turn to page 5 of
16 your surrebuttal testimony.

17 A. Okay.

18 JUDGE PRIDGIN: Ms. Ross, I know it's
19 difficult because you're facing the person. If you can
20 try to speak into the microphone. Thank you.

21 BY MR. POSTON:

22 Q. Are you there?

23 A. I am.

24 Q. And you see on line 4 -- or line 3 and 4,
25 you have a question and answer, and you ask, how are the

1 other collaborative groups set up?

2 A. Yes.

3 Q. And you say, with the exception of Atmos
4 Natural Gas collaborative, the stakeholders in energy
5 efficiency collaboratives -- collaborative do not have
6 veto capability in collaborative decisions, rather their
7 role is advisory. Do you see that?

8 A. Yes, I do.

9 Q. Do you wish to make any changes to that
10 testimony or is that still your testimony today?

11 A. That would still be my testimony today.
12 That's my understanding.

13 MR. POSTON: May I approach the witness?

14 JUDGE PRIDGIN: Yes, you may.

15 BY MR. POSTON:

16 Q. Can you please identify the document I've
17 just handed you?

18 A. It's the Stipulation & Agreement in Case
19 No. EO-2005-0263, in the matter of the Empire District
20 Electric Company's application for certificate of public
21 convenience and necessity and approval of an experimental
22 regulatory plan related to generation plant.

23 Q. And if you could please turn to page 25,
24 and down towards the bottom, do you see the section that's
25 titled Customer Programs Collaborative?

1 A. I do.

2 Q. And if you could please read that first
3 sentence to yourself.

4 A. To myself?

5 Q. Yes.

6 A. Okay.

7 Q. Would you agree with me that, according to
8 this, the collaborative for Empire District Electric, all
9 collaborative members would make decisions pertaining to
10 the development, implementation, monitoring and evaluation
11 of Empire's programs?

12 A. I can't see whether it's they all have to
13 agree, but yes, it sounds like everybody's voting.

14 Q. Could you please turn to page 26?

15 A. Okay.

16 Q. And do you see on the first full paragraph
17 about three lines down, could you please just read that
18 sentence that starts "if only"?

19 A. If only one voting CPC member votes against
20 a CPC decision item, that CPC member shall have the
21 opportunity to request that the Commission nullify the
22 CPC's decision on the basis that it is not in the public
23 interest so long as, A, the CPC is notified of this
24 pending request within ten days of the vote, and B, a
25 pleading is filed with the Commission within 30 days of

1 the vote requesting that the Commission annul the CPC's
2 decision.

3 Q. And I made a mistake. I actually wanted
4 you to start with the beginning of that paragraph. If you
5 could please read just those first two sentences up to
6 where you just started.

7 A. Okay. Each CPC member receives one vote.
8 Affirmative votes by a super majority of the CPC are
9 required in order for the CPC to make decisions in areas
10 one, two, four, five and six described below.

11 Q. And then that next sentence, please.

12 A. A super majority is the total number of
13 votes less one.

14 Q. So would you agree, then, that for the
15 Empire collaborative, it's not just an advisory capacity?

16 A. That's the way it sounds to me, yeah.

17 Q. And so is there a reason why your testimony
18 says that all the other collaboratives do not have veto
19 capabilities?

20 A. I made a mistake apparently in that
21 statement.

22 MR. POSTON: If I could please approach
23 again?

24 JUDGE PRIDGIN: You may.

25 BY MR. POSTON:

1 Q. Can you please identify what I've handed
2 you?

3 A. You have handed me the Stipulation &
4 Agreement in Case No. GR-2007-0003, in the matter of Union
5 Electric Company, doing business as AmerenUE, for
6 authority to file tariffs increasing rates for natural gas
7 service provided to customers in the company's Missouri
8 service area.

9 Q. And I've -- there's a Post-It note, kind of
10 a little --

11 A. I see it.

12 Q. If you'd turn to that.

13 A. Okay.

14 Q. And if you could please just to yourself
15 read that paragraph next to that Post-It.

16 A. Okay.

17 Q. Would you agree with me that for that
18 collaborative outlined in that stipulation, that it is not
19 advisory?

20 A. We've had a lot of discussion about that on
21 Staff. This does sound like the language in the -- in the
22 MGE Stip & Agreement. I haven't compared them directly,
23 but the word consensus, so yes, it sounds as though it's
24 voting.

25 MR. POSTON: One more, if I could approach?

1 JUDGE PRIDGIN: Yes.

2 BY MR. POSTON:

3 Q. And could you please identify this
4 document?

5 A. I can. It's the Unanimous Stipulation &
6 Agreement for Case No. GR-2007-0208, in the matter of
7 Laclede Gas Company's tariff to revise natural gas
8 schedules.

9 Q. And there's Post-Its on several pages. If
10 you could just look over the language that's next to those
11 Post-Its. I'll ask you the same questions about this one.

12 A. Just take a second. Some of these
13 sentences are pretty long. Okay. I've done that.

14 Q. And would you agree with me that the
15 program outlined in that document outlines a collaborative
16 that is not just advisory?

17 A. Yes.

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

19 JUDGE PRIDGIN: Mr. Poston, thank you.

20 Mr. Boudreau? I'm sorry. Mr. Boudreau, any questions?

21 MR. BOUDREAU: Excuse me. I was
22 distracted.

23 CROSS-EXAMINATION BY MR. BOUDREAU:

24 Q. Is it still your opinion that the energy
25 efficiency collaborative for MGE should proceed; if it

1 proceeds, it should proceed in an advisory capacity?

2 A. It is.

3 Q. Did you participate in the EEC --

4 A. Yes, I did.

5 Q. -- for MGE?

6 A. Yes.

7 Q. Is there any circumstance when a program or
8 initiative did not go forward because of a vote of only
9 one member of the collaborative?

10 A. I remember that happening one time.

11 Q. And what program was that?

12 A. That was the tanked water heater program.

13 Q. And the proposal there would have been to
14 increase the incentive on that program, the monetary
15 incentive?

16 A. Yes.

17 Q. And who was the party that voted against
18 that?

19 A. It was Mr. Kind.

20 MR. BOUDREAU: No further questions. Thank
21 you.

22 JUDGE PRIDGIN: Mr. Boudreau, thank you.

23 Bench questions, Commissioner Davis?

24 QUESTIONS BY COMMISSIONER DAVIS:

25 Q. Good morning, Ms. Ross.

1 A. Good morning, Commissioner Davis.

2 Q. Smile, Ms. Ross. It's okay. It's okay.

3 A. Okay.

4 Q. Mr. Boudreau was asking you about
5 something, I believe, that had happened with Ms. Kind --
6 Mr. Kind that is sort of the genesis of the Department of
7 Natural Resources, the PSC Staff and the company all
8 saying they want to change the way they do the
9 collaborative process, and can you just give me a little
10 background about -- I mean, what has been so different in
11 the MGE collaborative process compared to the other
12 collaborative processes?

13 A. Well, sir, I'm sorry, but I would have to
14 say this actually was not the genesis of that.

15 Q. Okay.

16 A. I know that some of our legal staff,
17 Mr. Dottheim has been concerned about us being the
18 decision-makers in a process where we also then turn
19 around and evaluate the effects of that decision.

20 Q. Okay.

21 A. And that -- we've been talking about that
22 for --

23 Q. Okay.

24 A. -- quite some time.

25 COMMISSIONER DAVIS: Okay. No further

1 questions. Thank you, Ms. Ross.

2 THE WITNESS: You're welcome.

3 JUDGE PRIDGIN: Commissioner Davis, thank
4 you. Any recross based on Bench questions? Ms. Woods?

5 MS. WOODS: No, thank you.

6 JUDGE PRIDGIN: Mr. Poston?

7 MR. POSTON: No, thank you.

8 JUDGE PRIDGIN: Mr. Boudreau?

9 MR. BOUDREAU: No questions. Thank you.

10 JUDGE PRIDGIN: Redirect from Staff?

11 MS. SHEMWELL: Thank you.

12 REDIRECT EXAMINATION BY MS. SHEMWELL:

13 Q. Ms. Ross, was the Empire case an electric
14 case?

15 A. Yes, I believe that -- the one I just
16 looked at, yes.

17 Q. Do you participate in electric case
18 collaboratives?

19 A. Normally I don't.

20 Q. Do you have detailed knowledge of the
21 Empire collaborative?

22 A. No.

23 Q. Was your answer in your surrebuttal really
24 directed at natural gas collaboratives?

25 A. I -- yes. I tend to think of natural gas

1 collaboratives because that's pretty much the programs I
2 work on.

3 Q. Do other collaboratives require a unanimous
4 vote to move forward on a program or let me say a
5 suggested program?

6 A. That has -- that -- I don't think so. I
7 don't remember a situation happening where -- where this
8 came up, where there was a disagreement about that. It's
9 my understanding that it doesn't require unanimous.

10 Q. Mr. Poston asked you about the AmerenUE gas
11 collaborative. Do you remember votes being taken during
12 those collaborative meetings?

13 A. Not officially. I can remember people
14 saying, well, how does that sound everybody, and we'd talk
15 it over, but no official vote.

16 Q. Do you know if Laclede requires a unanimous
17 vote to move forward with a suggested program?

18 A. I did not think it did, but I don't know
19 that for sure.

20 Q. In response to Commissioner Davis'
21 question, you indicated, I believe, that you don't think
22 that someone who develops a program should also evaluate
23 it. Does the collaborative evaluate the effectiveness of
24 company programs?

25 A. We're doing that in this rate case.

1 Q. And would you say a little more about why a
2 developer should not also be an evaluator of a particular
3 program?

4 A. I just think it's hard to -- that it would
5 be harder to be unbiased. There might be the suspicion
6 that you weren't unbiased even though you actually were.
7 I just -- I think that's a bad idea. We usually avoid
8 that situation when we are coming up with evaluators and
9 programs.

10 Q. Based on your experience with MGE, would
11 you expect that they would be cooperative with an advisory
12 group?

13 A. I don't remember MGE refusing to do
14 anything. I can remember them saying sometimes they
15 didn't think it was such a good idea, it might impact
16 their billing system, but they've been very cooperative.

17 Q. Do you have any other examples you would
18 like to give the Commission?

19 A. About MGE's cooperation?

20 Q. Yes.

21 A. Well, there's just been a lot of
22 cooperation. For example, you were talking about the
23 energy efficiency kits earlier, and that was actually an
24 idea that a Staff member came up with and then worked very
25 closely with MGE on this. There were booths at events,

1 the decision on what to include in the kits, I have -- I
2 found them to be very enthusiastic and agreeable.

3 MS. SHEMWELL: I have no further questions.
4 Thank you, Judge.

5 JUDGE PRIDGIN: Thank you very much. Thank
6 you, Ms. Shemwell. Ms. Ross, thank you very much. You
7 may step down.

8 And Mr. Buchanan is the next witness, and
9 on my list will be the last witness for the day; is that
10 correct? All right. Mr. Buchanan, if you'll come forward
11 to be sworn, please.

12 (Witness sworn.)

13 JUDGE PRIDGIN: Thank you very much, sir.
14 Please have a seat. Ms. Woods, when you're ready.

15 MS. WOODS: Thank you, your Honor.

16 JOHN BUCHANAN testified as follows:

17 DIRECT EXAMINATION BY MS. WOODS:

18 Q. Would you please state your full name and
19 spell your last name for the court reporter.

20 A. Yes. My name is John Buchanan,
21 B-u-c-h-a-n-a-n.

22 Q. By whom are you employed and in what
23 capacity?

24 A. I'm employed by the Missouri Department of
25 Natural Resources Energy Center, and I serve as a senior

1 planner for the Energy Center.

2 Q. For whom are you testifying in this rate
3 case?

4 A. I am testifying on behalf of the Missouri
5 Department of Natural Resources.

6 Q. Are you the same John Buchanan who prepared
7 or caused to be prepared direct testimony marked Exhibit
8 No. 87, rebuttal testimony marked Exhibit No. 88, and
9 surrebuttal testimony marked Exhibit No. 89 in this case?

10 A. Yes, ma'am.

11 Q. And was that testimony prepared by you or
12 under your direct supervision?

13 A. Yes, it was.

14 Q. Do you have any changes or revisions in any
15 of the testimony filed?

16 A. Yes, I do.

17 Q. And what are those, please?

18 A. I have a few changes to first my direct and
19 secondly to my rebuttal testimony.

20 Q. Okay. If you would start with your direct,
21 please.

22 A. Thank you. On my direct testimony filed
23 August 21st of 2009, page 5, line 20, which begins with
24 parentheses 5, parentheses closed. It begins with,
25 require MGE to replace any. I'd like to strike

1 outstanding, replace that with unexpended.

2 On page 5, line 21, where the sentence
3 begins with well as, before the word future I would like
4 to add any.

5 On page 5, on that same line, 21, after the
6 word future, I would like to add the word unexpended.

7 On page 12, line 19, where the sentence
8 begins with funds, and following the acronym MGE, I would
9 like to insert the word as.

10 On page 14, line 9, I would like to strike
11 the word tax that appears at the end of that line. And
12 apparently due to the scanning of my documents into EFIS,
13 there appears to be a little bit of garbling at the top of
14 my testimony on that page 16. Just for clarification, it
15 should appear as line 1, and it appears that it may be
16 unreadable, the number 0003.

17 And then finally, on page 17, on line 3,
18 with regard to the case number cited mid sentence, that
19 should read 0003 as well.

20 Those are my edits to my direct testimony.

21 Q. And then I believe you said in your
22 rebuttal?

23 A. Yes, ma'am. In rebuttal testimony dated
24 September 28th of 2009, I'd like to bring your attention
25 to page 1 under table of contents. Roman numeral IV,

1 please strike the page number identified as 6 and
2 replacing that with page 7.

3 On page 1 again under table of contents,
4 Roman numeral V, please strike the page No. 7 and replace
5 that with 8.

6 On page 14, line 13, in response to the
7 question, after the fourth word following that, I would
8 like to include the word if.

9 On that same page, 14, line 13, where the
10 word authorize appears, I would like to add an S, that it
11 read authorizes.

12 On page 14, line 14, I would like to add a
13 comma following the first word, design.

14 On that same page, 14, line 14, I would
15 like to strike the words, to support.

16 On page 14, line 14, after the word
17 programs, I would like to include, should be funded.

18 And finally on page 15, lines 3 through 4,
19 that should appear in bold.

20 Q. Mr. Buchanan, I'm going to go back to
21 page 14 and ask you to read your answer as corrected,
22 starting at line 13, if you would, please.

23 A. The answer should read in complete, A, it
24 is recommended that if the Commission authorizes the
25 continuation of the SFV residential rate design, MGE's

1 energy efficiency programs should be funded at the
2 prescribed initial target funding levels proposed in EC's
3 direct testimony.

4 Q. Thank you. Do you have any other changes
5 or revisions to your testimony?

6 A. No, ma'am.

7 Q. If I asked you the same questions as appear
8 in your testimony, would your answers as revised be the
9 same?

10 A. Yes, ma'am.

11 Q. Are they true and correct -- are your
12 answers true and correct to the questions asked?

13 A. Yes, ma'am.

14 MS. WOODS: I would like to now move the
15 entry of Exhibit 87, 88 as revised, and 89 into the record
16 in this case.

17 JUDGE PRIDGIN: Ms. Woods, thank you. 87,
18 88, 89 have been offered. Any objections?

19 MR. BOUDREAU: None.

20 JUDGE PRIDGIN: Hearing none, 87, 88, 89
21 are admitted.

22 (EXHIBIT NOS. 87, 88 AND 89 WERE RECEIVED
23 INTO EVIDENCE.)

24 JUDGE PRIDGIN: Ms. Woods?

25 MS. WOODS: And I will tender Mr. Buchanan

1 for cross-examination. Thank you.

2 JUDGE PRIDGIN: Ms. Woods, thank you.

3 Mr. Poston, any questions?

4 MR. POSTON: No questions. Thank you.

5 JUDGE PRIDGIN: Ms. Shemwell?

6 MS. SHEMWELL: Yes, thank you, Judge.

7 CROSS-EXAMINATION BY MS. SHEMWELL:

8 Q. Good morning, Mr. Buchanan.

9 A. Good morning.

10 Q. Did you hear Mr. Hendershot discuss the
11 experts that they already have working with them on energy
12 efficiency?

13 A. Yes, ma'am.

14 Q. Your testimony recommends an expert to
15 recommend a portfolio of products to customers, energy
16 efficiency products, is that the word you would use --

17 A. Yes, ma'am.

18 Q. -- to customers?

19 Why are the current experts insufficient?

20 A. No.

21 Q. They're not?

22 A. The experts with regard to -- are you
23 referring to the consulting support services that we've
24 received as the collaborative? Is that what you're
25 directing this question toward?

1 Q. Yes. Why are they not sufficient?

2 A. Well, it was the timing of the use of the
3 consultants. It was after the fact. In regard to the
4 company's last rate case, I do not recall under direct the
5 company offering energy efficiency programs at that time.
6 It was my understanding and based on my read of testimony
7 filed in that that the company in rebuttal did, in fact,
8 offer a series of energy efficiency program products and
9 services, if you would.

10 I believe in terms of the evolution of that
11 process, that in the absence of direct knowledge about the
12 use of a consultant, at the time the company actually
13 proposed those program measures, that they were designed
14 in-house.

15 I do know from my direct work with the
16 energy efficiency collaborative established under this
17 particular case that we did, in fact, acquire the services
18 of other consultants to address the need to expand and
19 include additional energy efficiency measures to be
20 determined to be cost effective, which I believe is what
21 we accomplished in that process.

22 Q. So why are you advising an additional
23 expert?

24 A. We are basing that on a proposal to address
25 a portfolio of energy services and products that would not

1 be exclusive to a single class of customers. The approach
2 with respect to cost effective and sustainable energy
3 efficiency programs is based on the perception of
4 designing the effort before implementation. Therefore, we
5 are recommending the use of a consultant to explore
6 additional opportunities that may exist and would be
7 applicable to the -- to MGE as it delivers its products
8 into the future.

9 Q. Would use of the energy efficiency
10 collaborative be free? Is there any cost to MGE
11 consulting with the EEC?

12 A. I'm sorry. Would you repeat that question?

13 Q. I guess what I'm trying to ask is, does MGE
14 pay any of the members of the collaborative --

15 A. No, ma'am.

16 Q. -- to participate?

17 But they would pay a consultant?

18 A. Yes, ma'am.

19 Q. Are the current programs available to all
20 classes of MGE customers?

21 A. The current -- the current list of program,
22 energy efficiency program measures are not offered to all
23 class of customers.

24 Q. Are you recommending that the MGE
25 collaborative take an advisory role?

1 A. Yes, ma'am.

2 Q. Does the collaborative evaluate the
3 effectiveness of the programs that MGE is currently
4 offering, formally or informally?

5 A. I would say that we -- again, this is based
6 on individual participation, but I think that the
7 individual members have, in fact, reviewed reports that
8 are regularly submitted by the company that embraces a
9 variety of numbers in terms of participation levels, the
10 amount of funds that are expended and so forth. Yes, I
11 would say that the MGE collaborative members do to that
12 extent evaluate these programs.

13 Q. Have you found MGE to be cooperative with
14 the EEC?

15 A. Yes.

16 Q. If the Commission were to decide that the
17 collaborative should remain a voting collaborative, would
18 you suggest any change to that structure?

19 A. Yes.

20 Q. What would that be?

21 A. If it were to continue as a consensus
22 group, then I think it should be -- additional details
23 should be included in terms of how that collaborative will
24 function. I believe the line of questions earlier focused
25 on the energy efficiency collaborative, whether there

1 you.

2 JUDGE PRIDGIN: Commissioner Davis?

3 QUESTIONS BY COMMISSIONER DAVIS:

4 Q. So Mr. Buchanan, is it fair to infer that
5 you're against the UN Security model of collaboration?

6 A. You'll have to clarify that for me.

7 Q. Well, the United Nations I think requires
8 a -- anyone on the Security Council can veto whatever's in
9 front of it. It only takes one vote. So you're against
10 that model, is that correct, in terms of purposes for the
11 collaboration? I'm not asking you to opine on the United
12 Nations.

13 A. Commissioner Davis, I would say yeah.

14 Q. Okay. Mr. Buchanan, there's a high
15 probability that MGE will be -- will be back in front of
16 this Commission, that these rates will not be in place for
17 longer than three years. So do you think it is
18 technically feasible to spend \$4 million in year one or
19 year two? Do you think that that can be achieved?

20 A. Yes, I do.

21 Q. Okay. Do you think it will be achieved?

22 A. I think that's yet to be determined.

23 COMMISSIONER DAVIS: Okay. No further
24 questions. Thank you.

25 JUDGE PRIDGIN: Commissioner Davis, thank

1 you. Any recross based on Bench questions?

2 MS. SHEMWELL: No, thank you.

3 JUDGE PRIDGIN: Redirect?

4 MS. WOODS: Nothing. Thank you, your
5 Honor.

6 JUDGE PRIDGIN: Mr. Buchanan, thank you
7 very much. You may step down.

8 THE WITNESS: Thank you.

9 JUDGE PRIDGIN: According to my schedule,
10 that's the last witness scheduled for today. I believe
11 what the Chairman discussed yesterday, he wants Ms. Fred
12 from the consumer services department available for
13 cross-examination Monday, and I see Mr. Kind would be also
14 testifying Monday on energy efficiency.

15 Is there -- and then if there are any
16 expense witnesses left to be heard, those would be heard
17 next week. It's my intent to start with Ms. Fred at
18 nine o'clock Monday morning. Is there anything further
19 from counsel before we go into recess? Mr. Poston.

20 MR. POSTON: Mr. Trippensee, Russell
21 Trippensee is also testifying on Monday.

22 JUDGE PRIDGIN: On energy efficiency?

23 MR. POSTON: On energy efficiency.

24 JUDGE PRIDGIN: Thank you. And I think you
25 told me that earlier, and I think I wrote it down

1 somewhere else. Thank you for letting me know. You'll
2 probably have to remind me, Mr. Poston, you're entitled to
3 an opening on energy efficiency as well.

4 MS. SHEMWELL: Judge, have you dismissed
5 Mr. Johnstone?

6 JUDGE PRIDGIN: I believe I have, yes.

7 MS. SHEMWELL: Okay. Thank you.

8 JUDGE PRIDGIN: You're welcome. Is there
9 anything else from counsel before we adjourn for the day?

10 (No response.)

11 JUDGE PRIDGIN: All right. Hearing
12 nothing, we will stand in recess until nine o'clock Monday
13 morning. Thank you very much. We're off the record.

14 WHEREUPON, the hearing of this case was
15 recessed until November 2, 2009.

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C E R T I F I C A T E

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Kellene K. Feddersen, Certified

Shorthand Reporter with the firm of Midwest Litigation Services, do hereby certify that I was personally present at the proceedings had in the above-entitled cause at the time and place set forth in the caption sheet thereof; that I then and there took down in Stenotype the proceedings had; and that the foregoing is a full, true and correct transcript of such Stenotype notes so made at such time and place.

Given at my office in the City of Jefferson, County of Cole, State of Missouri.

Kellene K. Feddersen, RPR, CSR, CCR