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6 TRANSCRIPT OF PROCEEDINGS
7 Hearing
8 July 19, 2006
9 Jefferson City, Missouri
Volume 1

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12 In the Matter of Proposed)
Amendments to Commission Rule) Case No. GX-2006-0434
13 4 CSR 240-13.055)

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15 COLLEEN M. DALE, Presiding,
CHIEF REGULATORY LAW JUDGE.

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17 JEFF DAVIS, Chairman,
STEVE GAW,
18 ROBERT M. CLAYTON,
COMMISSIONERS.

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23 REPORTED BY:

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

2 JUDGE DALE: Good morning, everyone. My
3 name is Colleen Dale, and I'll be the presiding officer in
4 this matter. We are here today, and it is Wednesday,
5 July 19th, 2006, in the matter of proposed amendment to
6 Commission Rule 4 CSR 240-13.055, Case No. GX-2006-0434.
7 We are here today to take comments on this rule, known as
8 the Cold Weather Rule. There have been proposed
9 amendments to that. We will take comments and/or
10 testimony.

11 Parties have filed written comments. Be
12 advised that your written comments, comments today and
13 testimony are all given equal weight. As counsel make any
14 statement for their clients, please do not simply
15 reiterate written comments. We will read those, and as
16 I've indicated, we will give them equal weight with live
17 testimony and comments taken here today.

18 With that, I would like counsel to make
19 their entries of appearance, starting with Staff.

20 MS. SYLER: Good morning. My name is
21 Shelley Syler, and I am representing PSC Staff in this
22 matter. Our address is 200 Madison Street, P.O. Box 360,
23 Jefferson City, Missouri 65102, and we will be calling
24 three witnesses to testify today.

25 JUDGE DALE: Thank you.

1 MR. POSTON: Marc Poston appearing for the
2 Office of the Public Counsel, P.O. Box 2230, Jefferson
3 City, Missouri 65102, and we have one witness available.
4 I will be making a few comments, and we have a witness
5 available, if necessary.

6 MR. COFFMAN: My name is John B. Coffman.
7 You need my address?

8 JUDGE DALE: Does the court reporter need
9 it?

10 THE REPORTER: No.

11 MR. COFFMAN: I'm appearing today on behalf
12 of AARP.

13 JUDGE DALE: Thank you.

14 MR. COOPER: Dean Cooper from the law firm
15 of Brydon, Swearngen & England, P.C., appearing on behalf
16 of Missouri Gas Energy, a Division of Southern Union
17 Company.

18 JUDGE DALE: Thank you. Mr. Fischer?

19 MR. FISCHER: James M. Fischer, Fischer &
20 Dority, PC, appearing today on behalf of Atmos Energy
21 Corporation and Southern Missouri Gas Company, LP, doing
22 business as Southern Missouri Natural Gas.

23 JUDGE DALE: Thank you. I'm going to make
24 my standard reminder about speaking into the microphone to
25 you.

1 MR. FISCHER: I'm sorry.

2 JUDGE DALE: That's okay. You don't need
3 to repeat yourself. But if everyone could, if you're
4 seated at your table, please remember to speak into the
5 microphone so that our listeners in Germany and on the
6 ninth floor can hear. Thank you.

7 Mr. Pendergast?

8 MR. PENDERGAST: Thank you. Michael C.
9 Pendergast, appearing on behalf of Laclede Gas Company.
10 Business address is 720 Olive Street, St. Louis, Missouri
11 63101. I do not intend to call a witness today, but
12 Mr. James Fowler, our controller, is here today to answer
13 questions should the Commission have some of him.

14 JUDGE DALE: Thank you. With that, I
15 suppose we'll just go onto the first testimony. I think
16 Commissioners will arrive soon. Ms. Syler?

17 MS. SYLER: Thank you, your Honor. We will
18 call Gay Fred, the consumer services manager for the
19 Public Service Commission to start.

20 JUDGE DALE: Thank you.

21 MS. FRED: Good morning, your Honor.

22 (Witness sworn.)

23 JUDGE DALE: Thank you. Please proceed.

24 GAY FRED testified as follows:

25 MS. FRED: I am here on behalf of the

1 consumer services as part of the Missouri Public Service
2 Commission Staff to represent our recommendation, our
3 approval for the amendment that is proposed currently to
4 the Cold Weather Rule. We agree generally with all terms
5 from 14a through E. I will not speak to the remaining.
6 That will be up to other Staff witnesses who will also
7 testify to those particular elements.

8 I can tell you that it appears that these
9 amendments would go a long way to assist the Missourians
10 in this state during this cold weather period time frame
11 as identified. My only comment is that the proposed
12 amendment notes that this time frame will be from
13 December 1st through March 31st. Our recommendation would
14 be that that date be changed from November 1st to
15 March 31st to be consistent with the current Cold Weather
16 Rule in place today.

17 Other than that, I have no other comments
18 to make regarding the amendment.

19 JUDGE DALE: Okay. Hold on just a second.
20 Thank you, Ms. Fred. That's all for now.

21 MS. FRED: Thank you.

22 MS. SYLER: Staff calls as our second
23 witness David Sommerer, who is manager of the procurement
24 analysis department for the Public Service Commission.

25 JUDGE DALE: Mr. Sommerer, would you please

1 raise your right hand.

2 (Witness sworn.)

3 JUDGE DALE: Thank you. Please proceed.

4 DAVID SOMMERER testified as follows:

5 MR. SOMMERER: I don't have any prepared
6 written comments this morning, but I am the witness for
7 Staff who has submitted an affidavit saying that we are in
8 a high price environment for natural gas. This has
9 continued for quite some time, and even though current
10 prices have been fairly moderate and have, in fact,
11 decreased, they still are \$5 for this summer. If you look
12 at the futures market, prices continue to be around \$10.

13 Although the futures market isn't a good
14 predictor of what gas prices eventually will be, it is
15 something that the industry looks at in terms of how it
16 will hedge gas supply. If you're buying gas for the
17 winter right now, you have to look at those prices. There
18 aren't any special places in the United States where you
19 can find a niche gas supply that's a national market.

20 And so the local distribution companies in
21 Missouri all operate under a purchased gas adjustment
22 clause, which means we're exposed to price increases that
23 we see nationally. They're basically passed on to
24 consumers. If you're trying to hedge gas right now, you
25 are looking at about a \$9 hedge price for the winter.

1 When I was preparing the affidavit a couple
2 of months ago, I looked at various forecasts, weather
3 forecasts, hurricane forecasts, future prices, and
4 concluded that natural gas prices could very well be
5 significantly higher than in years past and create a
6 hardship for consumers.

7 If you have any further questions, I'm
8 available for those.

9 JUDGE DALE: Can you speak to the
10 effectiveness of the Accounting Authority Order, or is
11 that a different witness?

12 MR. SOMMERER: That's Mr. Rackers.

13 JUDGE DALE: Thank you. Are there any
14 questions from the Bench?

15 COMMISSIONER GAW: Not at this time.

16 JUDGE DALE: Okay. Thank you.

17 MR. SOMMERER: Thank you.

18 MS. SYLER: Staff calls as their third
19 witness Steve Rackers, a Regulatory Auditor 5.

20 JUDGE DALE: Mr. Rackers, will you raise
21 your right hand.

22 (Witness sworn.)

23 JUDGE DALE: Thank you. Please proceed.

24 STEVE RACKERS testified as follows:

25 MR. RACKERS: I'm here to testify about

1 Sections 14F and G of the proposed amendment. The Staff
2 supports the recovery mechanism in the proposed amendment,
3 and that is recovery of the cost of the rule and only that
4 cost. The company's proposal does not even examine the
5 cost of the rule. It proposes a new ratemaking mechanism,
6 a total change in the way bad debts are recovered in
7 rates, and it does this outside of a rate case.

8 That's all the comments I have, but I'm
9 prepared to answer your questions.

10 JUDGE DALE: Several parties have raised
11 questions concerning the sufficiency of the Accounting
12 Authority Order to allow recovery of all of the costs
13 associated with compliance with this rule. Do you have
14 specific -- a specific response to that of how the
15 Accounting Authority Order works to allow them full
16 recovery, or does it not?

17 MR. RACKERS: I believe the Accounting
18 Authority Order proposed in this rule would allow full
19 recovery. It allows deferral of the cost of the rule and
20 subsequent recovery in a future rate case, and it makes no
21 limitations on those costs or their recovery, except that
22 the costs have to be reasonably incurred, and that's it.

23 JUDGE DALE: How can we be assured that
24 they are afforded an opportunity for recovery and that
25 those costs won't be allowed, disallowed in that

1 subsequent rate case? What protections are there for the
2 companies?

3 MR. RACKERS: Those issues and the
4 reasonableness of those costs will be considered in the
5 next rate case. There will be a full airing of whether
6 those costs are reasonable and whether they were incurred
7 to propose this rule.

8 JUDGE DALE: Okay. Thank you. Are there
9 any questions from the Bench?

10 COMMISSIONER GAW: Not right now.

11 JUDGE DALE: Thank you, Mr. Rackers. The
12 next party is AARP.

13 MR. COFFMAN: I have some things to hand
14 out. If it may please the Commission, my name is John
15 Coffman. I'm here today on behalf of AARP, who believes
16 that the subject matter of this rule is of extreme
17 importance and applauds the Commission for addressing this
18 in a serious fashion and applauds them for what they have
19 done with the emergency rule prior to last winter, and
20 again, now proposing some similar changes be adopted on a
21 permanent basis.

22 We think that the risk of a high level of
23 disconnections and a very risky level of danger to the
24 public health and safety mandates this rule, particularly
25 in light of the volatile and rather high level of natural

1 gas prices over the last few years. It appears to be
2 something that goes beyond just a one-year emergency.

3 Seniors -- by the way, AARP has over
4 755,000 members in Missouri, many of whom do struggle with
5 their utility bills, and we know this from surveys and
6 from what they have told the organization is important to
7 them. We know that, through various studies, that older
8 Missourians often have to make difficult decisions in
9 extreme winter weather regarding whether to pay for
10 heating their home or whether to pay for food or
11 medications.

12 So that's the perspective that we're coming
13 here, and I know that Jackie Hutchinson will be up here
14 soon, and she has quite a bit of experience and
15 qualifications in this level. As far as I know, she has
16 testified and been a part of every cold weather rulemaking
17 that this Commission has done.

18 She also alerted me to a study of the
19 National Energy Directors Association, which does a
20 state-by-state survey of these type of regulations, and I
21 think it's just recently come out the 2006 version, and I
22 had copies printed. If the Commission would like to
23 receive those into the record, I'd be happy to --

24 JUDGE DALE: Yes, please. Mr. Coffman,
25 have you submitted this through EFIS?

1 MR. COFFMAN: I have not. I believe it
2 just became available.

3 JUDGE DALE: Could you please do so within
4 the next couple days?

5 MR. COFFMAN: I would attempt to do so,
6 yes. And I assume that you don't need comments that have
7 already been filed to be handed out. If anyone wants a
8 copy, I have AARP's basic comments in support of the rule
9 signed by John McDonald, the state director.

10 And while we're handing out things, I have
11 another handout, and I'll just -- this is the only other
12 thing I have, but I'll hand it out. This is a study by
13 Roger Colton studying the level of winter payments in the
14 state of Iowa where they have a rather blanket moratorium
15 for LIHEAP-eligible customers, and that study was done in
16 February of 2002.

17 (SUPPLEMENTAL EXHIBIT NOS. 1 AND 2 WERE
18 MARKED FOR IDENTIFICATION BY THE REPORTER.)

19 MR. COFFMAN: The first supplemental
20 Exhibit 1 would then be the National Energy Assistance
21 Directors Association Resource Guide for 2006, I'm
22 assuming, and supplemental Exhibit No. 2 would be the Iowa
23 study.

24 I think that it's important for the
25 Commission to understand what other states have done, and

1 there's just a variety of other approaches that you'll see
2 other states having taken, but one thing I think you would
3 also conclude after surveying what's out there in other
4 states is that Missouri is not ahead of the pack by any
5 means in providing more protections for the most
6 vulnerable customers.

7 I think that Missouri is probably behind
8 the curve as far as being protective of customers during
9 the wintertime, as far as those states that have severe
10 winter and with regard to states that are adjacent to
11 Missouri. I think I could give just a couple of examples
12 to emphasize that, and one would be the State of Iowa,
13 which has a moratorium for throughout, not just a daily
14 moratorium in Missouri, based on what the temperature may
15 be the next day, but actually those who are
16 LIHEAP-eligible, who have applied for LIHEAP and have
17 shown that they would qualify, are not permitted to be
18 disconnected throughout the cold weather period.

19 And that may seem extreme, but in the -- if
20 you look at Exhibit 2, you'll see that a fairly careful
21 analysis of the incremental differences before and after
22 the moratorium have not shown any significant payment
23 problems. Sure, there's a high level of uncollectibles
24 during the wintertime, and there are a significant number
25 of disconnections in April when the period is over, but

1 the moratorium itself has not led to a real significant
2 difference in what was already there.

3 And I think it's important for the
4 Commission to understand going into these rules that we
5 have already for many, many years recognized that
6 uncollectible expense, bad debt for the utility is already
7 incorporated in everyone's utility bill. We understand
8 that's something that's already there, and the changes
9 that you're considering really only affect, if any change,
10 some incremental difference in that, that level.

11 And I don't think that the reasonable
12 changes that you have proposed here are a cause for any
13 significant change. We're talking about a more reasonable
14 amount of payment going forward, a 50 percent payment of
15 past arrears to be reconnected or avoid disconnection, and
16 that is still a fairly significant amount, 50 percent. If
17 you look at the state of Illinois, they require only a 10
18 percent of arrears payment to be connected.

19 So I'll just leave it at that, and
20 hopefully the resources I've provided you will give you a
21 better sense of that, and Jackie Hutchinson, I think, will
22 also be addressing that.

23 I'll just briefly touch on the issues that
24 have come up since the rule was proposed. AARP supports
25 the Staff in saying that this provision should be like

1 every other provision of the Cold Weather Rule, applied
2 from November 1 instead of December 1. I think that's
3 probably just a carryover from the emergency rule, which
4 last year went into effect December 1.

5 The issue that the Missouri utilities have
6 raised regarding whether tariffs would be permissible as
7 to verifying incomes, on that issue we would defer to the
8 Office of Public Counsel on what verification is
9 appropriate.

10 The issue of whether this is intended to
11 apply every year or whether this is just a
12 once-in-a-lifetime opportunity, that's a difficult issue,
13 but certainly don't think that it makes sense that this
14 rule would apply only during this 2006-2007 winter or only
15 once in a lifetime to a particular customer.

16 We've entered an actual situation where the
17 gas prices are so severe that I think it's reasonable to
18 assume that people, if they have a problem one year, might
19 have another problem in a couple of years or so, and we
20 certainly believe that this should be an ongoing policy,
21 as we interpret the rule as proposed that this would be
22 every cold weather period this would be available. So we
23 support the rule as written.

24 I know other states have struggled with
25 that and sometimes tried to strike some compromise as to

1 how often that would be around. The AARP believes that
2 making this only a once-in-a-lifetime option is not
3 reasonable.

4 AARP is not opposed to the AAO that has
5 been proposed here. Now, we don't believe that this is
6 legally required or necessary, although it does -- the
7 situation of a government regulation does meet, I think,
8 the traditional standard of what an Accounting Authority
9 Order could be used for and may be material, and so we
10 are -- given the importance of this rule, we're not
11 opposed.

12 I know the Office of the Public Counsel is
13 opposing any AAO, and we understand that position, but
14 reluctantly, we would concede and agree that the
15 Accounting Authority Order would at least be appropriate
16 in this situation, probably not to every regulation or to
17 every even regulation of this type.

18 And we would ask that if you do go ahead
19 with the Accounting Authority Order, that you make it
20 clear that it's limited, that it's just a stopgap measure
21 between now and the next rate case that each of these
22 utilities would have, and that it's not an ongoing rolling
23 thing.

24 And we are opposed to the Missouri utility
25 idea that was put out there in initial comments which

1 talked about a tracker that would be an ongoing rule. It
2 doesn't seem appropriate, doesn't seem to be tied just to
3 this rule. It's a general uncollectible expense tracker
4 that would apparently go on for all time and cover things
5 far beyond this rule.

6 Again, we're willing to agree or not object
7 to some stopgap measure that just covers the -- whatever
8 incremental change there may be as a result of this rule
9 between now and the next rate case, and I think that would
10 be reasonable. Beyond that, not opposed.

11 Other information that -- I'm not going to
12 offer in the record, but there is a lot of good research
13 that was done by AARP, the National Consumer Law Center,
14 and Roger Colton, and that was incorporated in the amici
15 brief filed this month in support of the Commission's
16 Emergency Cold Weather Rule at the Court of Appeals, and
17 you might take a look at that in your -- if you have an
18 interest, collection of studies that both emphasize the
19 importance and the need, as well as the strong support
20 that the Commission does have for using rulemaking
21 authority to address a matter of serious public health and
22 safety.

23 That would conclude my comments. Again,
24 thank you.

25 JUDGE DALE: Mr. Coffman, I have a question

1 from Chairman Davis, who asks -- and this may be addressed
2 in one of your handouts -- but he asked for a list of the
3 states that have more generous protections than Missouri
4 and to explain the cost recovery mechanisms those states
5 use.

6 MR. COFFMAN: I think that this National
7 Energy Directors report is fairly thorough, and as to
8 whether a particular state is more generous than Missouri
9 may depend on how you weigh different provisions. I mean,
10 there are a variety of different types of protections.
11 Some states may have better moratorium protections and yet
12 have higher requirements as far as what you have to pay to
13 get onto a plan. But it is broken down there in a few
14 categories, a state-by-state survey.

15 Now, of course, that doesn't give you all
16 the regulations and I found that sometimes there are
17 subtleties once you start looking at the regulations or
18 discussing these regulations with the people who implement
19 them about how they're in effect. So it's again a good
20 variety, but I hope that what would give the Commission a
21 sense of what's out there.

22 JUDGE DALE: Does this have the cost
23 recovery mechanisms in it?

24 MR. COFFMAN: I'm not sure that it does,
25 and in the research that we did with regard to the appeal

1 of the Emergency Cold Weather Rule, we did not find any
2 state that had adopted something that could be
3 characterized as a revenue neutrality concept. There are
4 one or two instances where a deferral mechanism had been
5 adopted, but I can't -- I can't off the top of my head
6 tell you where those were.

7 In most case -- I mean, these protections
8 are not always in regulations. There are just as many
9 that are statutory or simply done by some generic order
10 based on different legal requirements and authority in
11 different states. But generally, these costs are
12 calculated in a rate case in the normal course of
13 uncollectible expense.

14 Of course, now we have several states that
15 have a different mode of regulation than cost of service
16 regulation, and there you would have some deregulation
17 form approach. But I think there would be a wealth of
18 information based on that one handout, which I do have to
19 credit Jackie Hutchinson for finding yesterday, which is a
20 fresh report.

21 JUDGE DALE: Thank you. Are there other
22 questions from the Bench?

23 COMMISSIONER GAW: No.

24 COMMISSIONER CLAYTON: No. Is he going to
25 stick around?

1 MR. COFFMAN: I'm not leaving.

2 JUDGE DALE: Thank you. Ms. Hutchinson, do
3 you wish to testify or provide comments?

4 MS. HUTCHINSON: Could you explain to me
5 what the difference is?

6 JUDGE DALE: As to what weight we give it,
7 there is none. We do have a statutory requirement to have
8 some testimony, so Staff is required to provide someone
9 who will testify, but beyond that --

10 MS. HUTCHINSON: I'll testify, then.

11 JUDGE DALE: Okay.

12 (Witness sworn.)

13 JUDGE DALE: Thank you. Please proceed.

14 JACKIE HUTCHINSON testified as follows:

15 MS. HUTCHINSON: I am Jackie Hutchinson,
16 and I'm with the Human Development Corporation in St.
17 Louis. I have been there for 27 years or so, and as John
18 mentioned, I have provided testimony in every Cold Weather
19 Rule proceeding that we've had. I'd like to start by sort
20 of setting the stage for why we need to make some
21 revisions to our Cold Weather Rule and talk a little bit
22 about the income situation and the plight of the families
23 in Missouri.

24 And I'm going to be reading just a little
25 bit from a summary of the findings from Roger Colton's

1 report "On The Brink," and it talks about the home energy
2 affordability gap. And this is -- these findings are
3 specifically done on a state-by-state basis, so this --
4 this is specifically findings from the state of Missouri.

5 The 2000 -- April 2006 report is done based
6 on the winter of 2005, and so this -- it does not include
7 the past winter. That report has not been released for
8 the past winter, but this is findings from On The Brink.

9 Finding No. 1, home energy is crippling
10 financial -- is a crippling financial burden for
11 low-income Missouri households. Missouri households with
12 incomes of below 50 percent of the federal poverty level
13 paid 39.8 percent of their annual income for their home
14 energy bills. And that is compared to an average person
15 living at the state's median income would pay right about
16 4 to 6 percent.

17 Finding No. 2, the number of households
18 facing these energy burdens is staggering. According to
19 the 2000 census, more than 113,000 Missouri households
20 live with incomes at or below 50 percent of the federal
21 poverty guideline, and 68,000 live with incomes between
22 50 and 74 percent of poverty guideline. People who are
23 living between 50 and 74 percent of the poverty guideline
24 have an energy burden of 16 percent, and people living
25 between 100 and 124 percent of poverty have an energy

1 burden of 11 percent.

2 And for those who need to clarify what
3 energy burden is, that is the percentage of their total
4 monthly income that they spend for utilities, for gas and
5 electric utilities.

6 COMMISSIONER CLAYTON: Ms. Hutchinson, can
7 I ask just a clarifying question? Your reference to the
8 energy burden, is that year-round expenditures for heating
9 and cooling or is it just heating?

10 MS. HUTCHINSON: It is year-round.

11 COMMISSIONER CLAYTON: So you're including
12 heating costs, cooling costs, all energy usage per
13 household?

14 MS. HUTCHINSON: That is correct.

15 COMMISSIONER CLAYTON: Okay. Thank you.

16 MS. HUTCHINSON: Finding No. 3, the home
17 energy affordability gap, that is the difference between
18 the amount of money that is available in assistance,
19 LIHEAP assistance and other federal assistance, in
20 Missouri in 2005 was \$324.1 million. I'm sorry. Billion
21 dollars. No, it's million. Excuse me. It's
22 \$354 million. And that means that along with all of the
23 State monies and the federal monies and all of the monies
24 that the State had in 2005 for energy assistance, there
25 was that much gap in what a person was able to afford and

1 the assistance that was provided for them.

2 As a result of that, in Missouri our
3 income guideline is 125 percent of poverty, where in most
4 other states it's at least 150, and in some as much as
5 185 percent. So we have a large percentage of low-income
6 wage earners we refer to as the working poor, who receive
7 no federal assistance and who rely heavily on Cold Weather
8 Rule protections in order to maintain their services
9 throughout the winter.

10 The other findings -- and I'm going to just
11 go ahead and skip, and it has to do with the total amount
12 of breakdown of how much was summer bill and how much is
13 water heating and all of that, and I can enter these, and
14 if anyone wants me to go into those, I can do that later.

15 JUDGE DALE: Can you please have them filed
16 in the case so that everyone can see them?

17 MS. HUTCHINSON: I will.

18 JUDGE DALE: Thank you.

19 MS. HUTCHINSON: I will.

20 And the other thing I want to talk just
21 briefly about is Missouri's ranking in 51 states. So the
22 states are then ranked based on their ability to provide
23 assistance, and the lower number, the lower ranking is
24 worse off, so -- and not better off. So average dollar
25 amount by which actual home energy bills exceeds

1 affordability in Missouri, Missouri ranked 6 out of the 51
2 states, and that is a not good ranking.

3 Average total home energy burden for
4 households below 50 percent of poverty, Missouri ranks 7,
5 and that's with the 39.8 percent. Percentage of
6 individuals below 100 percent of poverty, Missouri's rank
7 is No. 28, and combined heating and cooling affordability
8 gap covered by federal assistance, Missouri ranks 4. So
9 we are ranking very poorly in conjunction with most states
10 in all areas.

11 Before I get into my actual comments about
12 the provisions of the rule, I want to just read a quote
13 from the study that John passed out, and in the key
14 findings and recommendations it says that utility consumer
15 protections vary considerably by state. Some states have
16 recognized the threats to health and safety that result
17 from loss of utility service and have adopted legislation
18 and regulation that provides relatively strong protections
19 for vulnerable customers. Other states lag far behind.

20 And I submit to you that we are one of the
21 states that is lagging far behind. I attended a peer
22 advocates meeting in March and talked about our Emergency
23 Cold Weather Rule and the need to have that, and was
24 pretty much laughed at by advocates from other states who
25 could not believe that in this day we were needing to file

1 an emergency rule to protect the health and safety of the
2 folk in Missouri, and were not at all impressed with where
3 we've -- where we've come, even with strong advocacy in
4 this state. So I wanted to just leave you with that.

5 So on to my recommendations. I agree with
6 others that the terms of the Cold Weather Rule provisions
7 should be November 1 through March 31st. And one other
8 reason for having it coincide with those dates is that it
9 would create a nightmare in processing LIHEAP applications
10 and other assistance applications if we had a rule that
11 sort of changed courses in the middle of the winter. That
12 is always a problem with us processing applications. So I
13 would ask that that correction be made so that it would
14 coincide with the start of the rule.

15 I am totally in favor of restoring families
16 for 50 percent of their bill, and quite frankly, I wish
17 that we could use a lower number. Illinois -- as John
18 mentioned, Illinois uses 10 percent, and Kentucky uses
19 \$200, a flat \$200 will restore service, and the remaining
20 balance is then rolled into a payment plan. None of the
21 states that have more liberal plans than Missouri have
22 experienced any recordable increase in bad debts, and
23 there -- that can be attributed to the rule.

24 Now, there may be -- there may be some
25 extreme cases, I should say, where there -- where there

1 is, but in general, the states are not experiencing --
2 they are not reporting an increase in bad debt that is
3 attributable to the Cold Weather Rule.

4 Now, in this state, I don't think we have
5 any evidence that we've attributed any of the increase in
6 bad debt that the utilities are reporting to the Cold
7 Weather Rule. We've not done the research. No research
8 has been presented that shows that their increases would
9 have been any more or any less had we had different
10 protections, and there's no there's no validity in the
11 statistics that is relevant, the 90 percent or the
12 87 percent or whatever the statistics that the utilities
13 have presented. There's no research that ties that back
14 to the Cold Weather Rule.

15 And so even though they're saying it is
16 residential increases, I would like to see them present
17 the data that shows that the Cold Weather Rule has
18 actually caused the bad debt to increase. I submit that
19 their -- they don't have any evidence that that is the
20 case, and that we should -- we should disregard that data.

21 I think it's really important that we
22 address the issue of whether or not this is going to be a
23 one-time arrangement for a family or is it going to be
24 ongoing. In 2002, we had to come for an emergency rule
25 because families had accrued such enormous amounts of

1 utility bills because of the extremely high cost and the
2 extreme winter, and we had to do that again last year.
3 And if we don't leave this clause out that the utilities
4 are proposing that says that this is a one-time deal for
5 families, we will be back again in two years asking for
6 another emergency rule.

7 Unless income increases and families are
8 able to afford utilities, I don't see -- based on the
9 statistics that we've given on affordability, I don't see
10 this problem going away, and I don't see restoring folk
11 for 50 percent of the bill as any gift to that family. It
12 is a protection to their health and safety. They still
13 have to come up with the 50 percent, and they have an
14 obligation to pay the remainder of the bill.

15 And I -- I don't see this, the need for
16 that protection going away, and I don't see the provision
17 of that protection increasing the bad debt of the
18 utilities, and at least that has not been the case. It
19 has not been shown in other states, and I'd like to see
20 this state do the research and come up with the data that
21 says that that is the case.

22 I am not going to make comment on the cost
23 recovery system. I don't feel that I have the
24 qualifications to oppose or support that.

25 I am -- I do want to make the comment that

1 the uncollectible expense tracker that the utilities have
2 proposed, I wish they had taken time to sit down and have
3 a conversation with us advocates about that so that we
4 could at least understand it. I don't feel like I
5 understand it well enough to comment on it. So I will not
6 support -- support that provision because I have no
7 understanding of what they are talking about.

8 Lastly, the utility companies have proposed
9 that they can file tariffs to establish maximum income
10 levels at 150 percent of poverty, and I am
11 opposed -- generally opposed to that. Not opposed to the
12 concept, but opposed to the 150 percent of poverty, and I
13 am concerned about how those incomes will be determined.
14 So if -- you know, I'd hate to see utilities get in the
15 business of trying to determine who's at 150 percent and
16 who's at 125 percent.

17 I think that that would be a costly
18 proposition for the rest of the ratepayers, and I think if
19 they are going to move in that direction, then it should
20 be some kind of self declaration with the utilities
21 required to do some spot checks and report under the
22 guidance of the Commission what those findings are. But I
23 do not -- I don't think that it is necessary to create a
24 bureaucracy to determine income, and I think it will be
25 cumbersome to do so and counterproductive to the intent of

1 the rule. And I think that's -- those are my comments.

2 JUDGE DALE: Thank you, Ms. Hutchinson.

3 Are there any questions from the Bench?

4 COMMISSIONER GAW: Ms. Hutchinson, good
5 morning.

6 MS. HUTCHINSON: Good morning.

7 COMMISSIONER GAW: Tell me what it is that
8 you think ought to be in the provisions of the rule. You
9 say that the 50 percent is troubling you. Tell me what
10 you think should be there.

11 MS. HUTCHINSON: Wow, that's -- you know,
12 last year I proposed that it be 50 percent of the bill or
13 \$500, with the \$500 maximum. And what is troubling to me
14 is the ability of the working poor to come up with large
15 amounts of money if they don't qualify for assistance.

16 And so, you know, I think if we look at the
17 people who are applying for energy assistance and they
18 qualify for, you know, for assistance, we may be able to
19 package enough money to come up with 1,000 or \$1,200 to
20 get them on, but if a person -- I was most troubled last
21 winter by the people who didn't qualify, and we denied
22 more people last winter than we've ever denied before for
23 assistance.

24 And there were people who were working,
25 some of them working two jobs, and just were not able to

1 come up with the dollars that they needed, and the -- the
2 provision that kept it at \$500 allowed many of those
3 families to have heat. They just could not have done --
4 many -- talked to many families that were waiting on an
5 income tax return that doesn't come until January to --
6 you know, to get their heat restored.

7 And, you know, we were saved by the mild
8 winter, quite frankly, because had we had an extremely
9 cold December, I believe we would have had a lot more risk
10 to health and safety. So I think I -- on the other hand,
11 you know, I don't want families to get so far behind that,
12 you know, that they'll never catch up.

13 So we need a combination of, you know, more
14 state dollars and more LIHEAP dollars, which we did get
15 quite a bit of LIHEAP money, and good sound regulation
16 that -- that protects those families that, you know, that
17 are falling through the cracks. And there are a lot of
18 families falling through the cracks right now.

19 COMMISSIONER GAW: Can you give me an idea
20 about those individuals that you thought should have been
21 receiving assistance that you had to turn away, what
22 income levels are we talking about?

23 MS. HUTCHINSON: We're talking about
24 126 percent of poverty to probably 185 percent of poverty.
25 Most of the folk that we denied were in that range.

1 There -- you know, there are limited dollars that we can
2 use to assist those families. Some of the Dollar More
3 money, the Dollar Help money can go to assist those
4 families, but it is -- it is not nearly enough, and plus
5 we have to package the Dollar Help and the Dollar More
6 money to help those folk who are at the lower income
7 level.

8 So we're always juggling the dollars to
9 say, do we help this person that's at 150 percent of
10 poverty that needs, you know, \$400 to get cut on, or do we
11 help this person that's at 50 percent of poverty that
12 needs \$1,000 to get cut on? So we're making -- we're
13 making the hard decisions on the front line about who gets
14 cut on and who doesn't.

15 And, unfortunately, the -- the people who
16 are above our income guideline and the people who get
17 denied for assistance are not a part of the count.
18 They're not -- you know, because they're not -- when you
19 look at the people who receive LIHEAP, most of the
20 information we're looking at is the people who receive the
21 LIHEAP and not the people who get denied or for some
22 reason don't get any assistance at all.

23 So, I mean, it's -- we have to -- we have
24 to think beyond LIHEAP eligible in this state because most
25 states are using 150 to 185 percent of poverty. We're one

1 of the few states that is using 125 percent of poverty.
2 So when they talk about covering, you know, 50 percent of
3 their population, they're doing it at a much higher income
4 maximum.

5 COMMISSIONER GAW: So who set our rate?

6 How come it is at 125 percent? Is that statutory?

7 MS. HUTCHINSON: It is. It's set by the
8 Department of Social Services and, you know, at their
9 defense, the funding level has been so low that they, too,
10 have to make the hard decisions about do we -- you know,
11 do we serve the poorest of the poor, do we protect -- you
12 know, give them a reasonable level of assistance. Our
13 average assistance grants are for LIHEAP somewhere around
14 \$250 while the ESIP average, which serves a much smaller
15 population, is probably somewhere around \$400.

16 If we double the eligible population that
17 we serve, then we reduce in half the amount of money that
18 they get. So we're -- you know, we need more state
19 dollars. We need consistent state dollars. In some
20 states there are consistent state dollars that are going
21 toward LIHEAP-eligible households that help fill that gap.

22 COMMISSIONER GAW: And the state dollars
23 here, we had some last year, but there wasn't any before
24 that for several years, I believe; is that correct?

25 MS. HUTCHINSON: That is correct, and we

1 really appreciate --

2 COMMISSIONER GAW: Do you remember when the
3 last time it was funded prior to last year?

4 MS. HUTCHINSON: Probably 2000, 2001.

5 COMMISSIONER GAW: Yes. So the amount of
6 money you received from LIHEAP -- for LIHEAP last year,
7 how much different was it from the amount you received in
8 past years? I'm talking about federal money now.

9 MS. HUTCHINSON: Federal money last year
10 was probably twice as much as we have -- or close to twice
11 as much as we've received in previous years.

12 COMMISSIONER GAW: The funding level in DC
13 wasn't increased that much, was it, so how --

14 MS. HUTCHINSON: Yeah, it was increased by
15 an additional billion dollars.

16 COMMISSIONER GAW: What's the -- in
17 Missouri or overall?

18 MS. HUTCHINSON: Overall.

19 COMMISSIONER GAW: How much is the total
20 funding nationwide?

21 MS. HUTCHINSON: This past year, I believe
22 it was somewhere around 3 billion, and I'm sorry, I didn't
23 bring those statistics. Whereas, last year was
24 1.8 billion.

25 COMMISSIONER GAW: Would you be able to get

1 that for us?

2 MS. HUTCHINSON: Sure. Yeah, I probably
3 have it on my laptop over there.

4 COMMISSIONER GAW: Someone that's here and
5 has that information.

6 And also do you know about what the
7 projections are for this coming year?

8 MS. HUTCHINSON: What is proposed right now
9 is somewhere around 1. -- I think 1.8 billion is proposed.
10 We have no idea where that's going to land. The advocates
11 and directors and all are asking that it be funded at
12 5 million. I don't -- I don't see that happening in my
13 lifetime, but we're still hoping.

14 COMMISSIONER GAW: And before last year, is
15 it accurate to say that the LIHEAP funding since its
16 inception had been fairly flat since the early 1980s?

17 MS. HUTCHINSON: Well, actually it's been
18 decreasing since the '80s.

19 COMMISSIONER GAW: Okay.

20 MS. HUTCHINSON: '85 -- last year was I
21 think the first year we received right about the same
22 level of funding as we did in 1985. I think '85 or '84,
23 somewhere around there was our high point, and then we had
24 constant drops in funding until we were about half the '85
25 level funding, and then a gradual increasing of funding

1 over the last few years since 2001.

2 COMMISSIONER GAW: These are actual
3 dollars, correct, these are not adjusted for inflation?

4 MS. HUTCHINSON: No, not adjusted for
5 inflation. We're way behind if you adjust for inflation.
6 We're still probably at the same level as -- the funding
7 this year was at the same level as '85 if you adjust for
8 inflation.

9 COMMISSIONER GAW: And, of course, I think
10 everyone knows what energy prices have done over that span
11 of time, correct?

12 MS. HUTCHINSON: That's correct.

13 COMMISSIONER GAW: They've gone up more
14 than any -- the rate of inflation, I would assume in the
15 last five years they've doubled, tripled, maybe quadrupled
16 in some cases?

17 MS. HUTCHINSON: Yes. And the projection
18 is not -- not going down. It's not projected that the
19 rates are going to be going down any time soon.

20 COMMISSIONER GAW: So what I would like for
21 you to do, Ms. Hutchinson, if you would, think about for a
22 little while while we have time this morning what you
23 would suggest to us ought to be done in regard to this --
24 to -- to rule changes, changes to the rule as is proposed.
25 In particular if you would focus on the question of

1 whether that \$500 level is appropriate or whether there's
2 some different amounts that you think would be more
3 appropriate, and then unless you know the answer to that
4 right now, if you want to take some time to think about
5 that and come back, I'll come back to you in a little
6 while.

7 MS. HUTCHINSON: Let me take a minute to
8 think about that. I think that I am -- you know, in the
9 spirit of cooperating, I would like to talk with others.
10 I wouldn't like to, you know, put a number out there
11 without going back to talk with John a little bit and talk
12 with others.
13 So let's--

14 COMMISSIONER GAW: Fine. You go ahead and
15 do that. I'll give you some time. But I have a great
16 deal of appreciation for the fact that you see this on the
17 front lines, as you said earlier, and I know you've been
18 dealing with this for -- how long have you been dealing
19 this, with this topic?

20 MS. HUTCHINSON: I believe it is 27 years.
21 I stopped counting. Don't make me say.

22 COMMISSIONER GAW: That -- that answers my
23 question.

24 MS. HUTCHINSON: Since I was a baby. Since
25 I was a baby.

1 COMMISSIONER GAW: I thought six months
2 was probably a little early to see you start working. So
3 if -- if you would do that, and I'll get back to you in
4 just a little while.

5 MS. HUTCHINSON: Okay.

6 COMMISSIONER GAW: Thank you.

7 JUDGE DALE: Thank you, Ms. Hutchinson.

8 OPC?

9 MR. POSTON: Thank you. My comments are
10 brief, and they are comments. Public Counsel supports the
11 protections offered by -- Public Counsel supports the
12 protections offered by the proposed rule. We think these
13 are necessary, and recommended a few modifications --
14 modifications which I will not repeat. I will also not
15 repeat our opposition to the AAO recovery mechanism,
16 except to say there is nothing extraordinary about the
17 permanent protections proposed by the amendment.

18 In response to the gas utility comments
19 that have been filed, we strongly oppose the bad debt
20 tracker. It doesn't track the costs of the rule and is
21 well beyond the scope of this rule. Uncollectible
22 expenses are set in rate cases and recovered through
23 rates. If these expenses are high, a rate case is the
24 appropriate remedy, not this attempted runaround.

25 The gas utilities also want to include an

1 income cap. We're okay with the rule as written, but if
2 the Commission's compelled to include a cap, we believe
3 the 185 percent used by LIHEAP and, I believe, mentioned
4 by Ms. Hutchinson is appropriate. We also believe the
5 50 percent payment requirement acts as a cap as well.

6 Lastly, the gas utilities want the
7 protection of the amendment to be a one-time offer. We
8 oppose this. There's no way to know in advance what gas
9 prices or weather will do from year to year. If the
10 Commission's compelled to include a limit, we would
11 support a change that allows the customer to utilize the
12 rule once every two years.

13 That's all the comments that we've
14 prepared. I'm available for questions, and Russ
15 Trippensee is also available for questions.

16 JUDGE DALE: Are there questions from the
17 Bench?

18 CHAIRMAN DAVIS: Counsel, okay. Going back
19 to your prefiled comments, I believe you oppose the
20 December 1st date and wanted the period to run
21 concurrently November 1st through March 31st; is that
22 correct?

23 MR. POSTON: Yeah. It was our
24 understanding that December date was put into the
25 emergency rule because of when -- the timing of when the

1 emergency rule was filed, and the November date is in line
2 with the rest of the Cold Weather Rule.

3 CHAIRMAN DAVIS: I'm sorry I missed
4 Ms. Hutchinson's comments.

5 MS. HUTCHINSON: I am, too. Do you want me
6 to start over?

7 CHAIRMAN DAVIS: We may have to, but let's
8 do that at the end, Ms. Hutchinson. That way, if my
9 colleagues want to go do something else, they have that
10 opportunity.

11 MS. HUTCHINSON: Okay.

12 CHAIRMAN DAVIS: Let's see what else, what
13 other questions I have for OPC. And what was the answer
14 on that, Judge?

15 JUDGE DALE: I was explaining that I had
16 already asked his question about cost recovery in other
17 states. I'm now referring him to the study Mr. Coffman
18 handed out. I'm not certain whether that includes cost
19 recovery mechanisms, but it does at least explain what
20 other states' provisions are.

21 CHAIRMAN DAVIS: Okay. I'm not going to
22 ask any other questions of OPC at this time.

23 JUDGE DALE: Commissioner Gaw?

24 COMMISSIONER GAW: Not right now. Thank
25 you.

1 JUDGE DALE: Thank you. Then we will
2 proceed to Laclede.

3 MR. PENDERGAST: Thank you, Judge. Good
4 morning. May it please the Commission?

5 I believe we're here for the fourth time in
6 the last five years to discuss potential change to the
7 Cold Weather Rule, and I hope this will provide a
8 constructive opportunity for us to entertain questions and
9 hopefully make some progress in resolving an issue that's
10 been raised time and time again by these proceedings.

11 It's an issue that everyone here is
12 familiar with. It's been the subject of at least two
13 appeals, two circuit court decisions by two separate
14 judges, and that's the sufficiency and adequacy of the
15 recovery mechanism. And we've taken the position in the
16 past as we take today that an AAO isn't sufficient.

17 We've taken that position because it puts
18 us in the position of having to reprove that we're
19 entitled to receive revenues that our tariffs today say
20 that we're entitled to, and we have problems with it
21 because of the uncertainty. And to get a flavor of why
22 that would be a concern to us, all you have to do is read
23 the comments today where the Office of Public Counsel is
24 suggesting that by implementing these more lenient credit
25 terms for our more vulnerable customers, that we may

1 actually benefit from the Cold Weather Rule.

2 You know, you can go ahead and calculate
3 what the cost of compliance is by utilizing many different
4 assumptions, and those many different assumptions can
5 produce many different results. We think it's important
6 to have some sort of mechanism that clearly states how the
7 major elements affected by the rule will be affected, and
8 that's, of course, our uncollectibles.

9 Ms. Hutchinson indicated that she wasn't
10 aware of whether or not bad debts and uncollectibles were
11 actually impacted by the rule. What I can tell you is, we
12 have some real world experience. When the emergency rule
13 was passed in 2001, we actually had an uncollectible
14 expense tracker placed into effect. And under that
15 particular tracker that was designed to pick up the impact
16 of the Cold Weather Rule, emergency rule was passed there,
17 we had about \$2.5 million worth of increases in
18 uncollectibles. That was verified by the Staff. It was
19 audited.

20 And so I think it's pretty clear that these
21 rules do have an impact, and not only incremental changes
22 to the rule, but the rules in general. I think that if we
23 lived in an environment where we can insist customers pay
24 100 percent of their arrearages before they have services
25 restored, if we lived in an environment where we could go

1 ahead and insist the customers pay a deposit that's two
2 times their highest bill and we didn't have to waive those
3 things, our uncollectible levels would be dramatically
4 different than what they are today.

5 But that said, what solution can we come up
6 with? We've obviously tried various things in the past.
7 We have proposed to put the gas cost portion of
8 uncollectibles in the PGA, much like they have in Kansas
9 and they permit their utilities to recover that portion
10 there. I believe that they've also done that in
11 Tennessee. I believe there are utilities in Texas that
12 are allowed to do that.

13 I know that, I believe it's MichCon has a
14 reconciliation process where they get to true up their
15 uncollectible levels. I believe they have a recovery
16 mechanism in Virginia as well. We'll be happy to go ahead
17 and provide additional information on that, if you like.
18 But in any event, there were legal objections to doing
19 that, and that ultimately wasn't adopted in the last
20 emergency rulemaking proceeding.

21 We talked about getting behind Public
22 Counsel's proposal for a separate surcharge with a few
23 modifications that we had proposed. There were objections
24 to doing that, and that was not adopted, and the matter
25 was appealed. The Circuit Court, as it had four years

1 before, said the AAO mechanism wasn't sufficient.

2 So where does that leave us? Where it left
3 us was trying to come up with a solution that hopefully
4 everybody could be comfortable with, and if they couldn't
5 be comfortable with it, they should be comfortable with
6 it, because we came up with a solution that establishes a
7 mechanism that you've approved probably dozens of times
8 for other expense items, and that is an uncollectible
9 expense accounting tracker.

10 This is a mechanism that's been used to
11 reflect changes from the amount that's been included in
12 rates for pension expenses. It's a mechanism that's been
13 used to reflect changes in rates for post-retirement
14 medical benefits. It's been used for purpose of tracking
15 changes from what's allowed in rates for environmental
16 costs. It's been used for purposes of actually tracking,
17 as I said before, changes in uncollectible expense due to
18 rule changes.

19 I'm not aware of anybody ever having raised
20 the issue that that's an unlawful mechanism. I haven't
21 heard anybody raise the issue that it's bad public policy
22 to do it. In fact, the reason they've been implemented
23 for at least some of these other items is a recognition
24 that some of these items are affected by factors and
25 affected significantly outside the control of the utility.

1 Pension expense, stock market goes up,
2 stock market goes down, that has a significant impact
3 either way on that pension expense. That can have a
4 significant financial impact on the utility and its
5 customers between rate cases. So let's go ahead and track
6 those differences between rate cases, reconcile them in a
7 rate case, and flow through any over or underrecovery on a
8 going-forward basis.

9 The same exact being true even more so with
10 uncollectible expense. Obviously it's impacted by market
11 forces beyond our control, namely where gas prices are.
12 You've heard a lot of testimony on that today. Plus it's
13 impacted by the fact that the rule's changed not
14 infrequently on how we're allowed to go ahead and collect
15 money, what kind of credit terms we need to offer them in
16 order to go ahead and have them maintain or restore
17 service.

18 So if that's a mechanism that works for
19 these other expensed items, I can't understand why it's
20 not a mechanism that works for this.

21 And if we do go ahead and get a mechanism
22 like that approved as part of this rule or tariff filing,
23 I think it will resolve litigation that we've been
24 undergoing off and on for four years now over this issue.
25 It will provide a suitable recovery mechanism for the

1 utilities without making any adjustments outside the
2 context of a rate case without any separate surcharge.

3 I know that's been a matter of concern
4 before. This completely avoids that. It's a mechanism
5 that works both ways. It will go up, it will go down, but
6 in the end, the customers will not be asked to go ahead
7 and pay any more or any less than what the actual bad debt
8 costs were that have been incurred by the utility.

9 So I guess I kind of look at it from the
10 standpoint everybody's voiced concerns about the impact of
11 high prices on our most vulnerable customers. We share
12 those concerns. We were very active in trying to promote
13 additional state funding for UtiliCare. We were active in
14 Washington, D.C., attempting to go ahead and obtain
15 additional funds there.

16 I think in the end, if you're really
17 concerned about that, then you need to come forward and
18 you need to go ahead and address this particular issue,
19 that it's not enough in our perspective to say, I'm
20 concerned, we need to go ahead and help customers out, but
21 on the other hand, we don't need to go ahead and address
22 what financial consequences of that are in a suitable
23 manner that the courts would deem to go ahead and be
24 suitable, and it's consistent with what this Commission
25 has found to be appropriate for all these another expense

1 items.

2 So we think we found something that ought
3 to work. We hope it does work for you, and we would
4 certainly strongly recommend that the Commission
5 incorporate that as a part of its rule.

6 I'll just briefly address the two items
7 that we had suggested be clarified in the rule. The
8 one-time requirement, it was our understanding that that's
9 what the rule was required, that you only have to make
10 this offer once.

11 If instead it's a question of where you
12 have to go ahead and make this offer every year, I don't
13 think it's much of a mystery that if customers are allowed
14 to come back on for 50 percent, they don't make any
15 payments and this happens not infrequently for the rest of
16 the winter and then they're allowed to come back on and
17 make 50 percent the next -- 50 percent's not going to be
18 enough to pay for their incremental winter usage.

19 Those arrearages will continue to grow and
20 grow and grow, and I don't think that's a situation that
21 you want. So we think that clarification needs to be
22 made.

23 And secondly, on the 150 versus
24 185 percent, that was something that was negotiated, I
25 think, when we had the overall change to the Cold Weather

1 Rule two years ago, and prices are higher than they were
2 two years ago. If Public Counsel's comfortable with
3 185 percent or Jackie's comfortable with 185 percent, I
4 think that that is something that we could probably live
5 with.

6 But once again, I think it's critically
7 important that we get this funding issue resolved. We
8 think we found a way to do it that's legally sound and
9 fully consistent with Commission precedent, and something
10 that the Commission has been comfortable utilizing for a
11 variety of other expense items, and we would recommend
12 that you use it for this purpose as well. Thank you.

13 JUDGE DALE: Mr. Pendergast, in follow-up
14 to your remarks, I would like for you to please provide
15 the information that you had about the PGAs in Kansas,
16 Texas and Tennessee, also what other cost recovery
17 mechanisms are in use. You mentioned Michigan and
18 Virginia, but if there are others, we'd be very interested
19 in seeing that information as well.

20 MR. PENDERGAST: Certainly.

21 JUDGE DALE: And finally, can you please
22 give us a handful of cases in which the tracker mechanism
23 you described has been used in Missouri cases?

24 MR. PENDERGAST: I know they have been used
25 in any number of Laclede cases. I believe they've been

1 used for Aquila.

2 JUDGE DALE: Well, if you can just get me
3 case numbers.

4 MR. PENDERGAST: Sure.

5 JUDGE DALE: Great. Thank you. Are there
6 other questions from the Bench?

7 CHAIRMAN DAVIS: Okay. Mr. Pendergast,
8 this was raised in I believe it was OPC's filing, and that
9 is, you know, specifically, I mean, one of the -- and it's
10 obviously the subject of other proceedings here before
11 this Commission that are not necessarily the subject of
12 today's hearing. But obviously one concern that OPC
13 expressed was that the \$500, 50 percent or \$500, the
14 lesser of, was too high, given that Laclede has had a
15 propensity to wait and send out a lot of estimated bills,
16 allegedly that, you know, are over \$1,000. Would you care
17 to -- would you care to respond to that?

18 MR. PENDERGAST: Sure. I'd like to respond
19 by saying that the day of estimated bills is fortunately
20 growing short, that we are well on the way to having
21 automated meter reading systems installed. I think we
22 have about 425,000 units installed on our 650,000 meters
23 and, therefore, in the future at least those estimated
24 bill situations will not exist.

25 But to speak specifically to where they do

1 exist, in any instance where there is a catch-up bill
2 that's rendered, we afford an opportunity to spread that
3 out. By Commission rule, we have to afford an opportunity
4 to spread it out over the same period of time that the
5 bill was estimated and that the undercharge occurred. So
6 that is a mechanism that's currently available for trying
7 to reduce the impact of something of that nature.

8 I fully agree, I think it would be
9 inappropriate if you give a customer a make-up bill like
10 that to expect that that would be paid in one fell swoop.

11 CHAIRMAN DAVIS: Mr. Pendergast, can you
12 give us an idea geographically of where the remaining
13 200,000-plus homes are that don't have AMR and are they in
14 disproportionately low-income neighborhoods?

15 MR. PENDERGAST: Well, they are probably
16 disproportionately within the City of St. Louis. We
17 attempted to go ahead and get the ones that could be
18 gotten quicker. The ones in the City of St. Louis and
19 also Monett. But the ones in the City of St. Louis have
20 the heaviest proportion of inside meters, so instead of
21 being able to just walk by the customer's house and go to
22 the meter and put this device on, you have to get inside.
23 And we have been attempting to go ahead and do that as
24 quickly as we can, but it's been difficult getting access
25 in a number of instances.

1 We're working on making sure we do that so
2 we can keep on pace, but it is within the City of
3 St. Louis, and I would venture to say probably more
4 heavily demographic low income there than elsewhere,
5 Chairman.

6 CHAIRMAN DAVIS: And how long do you
7 estimate it's going to take before all of these, the
8 remaining 200,000-plus meters are replaced, how many
9 years?

10 MR. PENDERGAST: Our intention was to go
11 ahead and have it done by the end of this year.

12 CHAIRMAN DAVIS: All of them?

13 MR. PENDERGAST: All of them that we can
14 get access to.

15 CHAIRMAN DAVIS: Physically get access to?

16 MR. PENDERGAST: Yes. And I think we're
17 still on schedule to do that. I will check, though, and
18 if we're not, I will let you know immediately.

19 CHAIRMAN DAVIS: Okay. Judge Dale asked my
20 question about the tracker issue. With regard to the AAO,
21 is it fair to say that you don't feel the AAO in and of
22 itself is sufficient?

23 MR. PENDERGAST: That's correct, your
24 Honor.

25 CHAIRMAN DAVIS: Is there any way that the

1 AAO could be made sufficient in your eyes?

2 MR. PENDERGAST: Well, we have attempted in
3 the past to come up with a mechanism that would calculate
4 what the costs of the rule are. We have not been able to
5 go ahead and reach agreement, despite many months of
6 trying, on how that should be done, which leads us to be a
7 little skeptical as to whether we can do it in the future.

8 But I think I need to point out that, from
9 our perspective, what an uncollectible expense accounting
10 tracker is, is an AAO. Okay? I mean, we're not
11 suggesting that we have a separate surcharge, a separate
12 adjustment outside rate cases. It's an accounting
13 convention.

14 The only difference is, it tells you how
15 you're going to go ahead and track it. It goes ahead and
16 says, here's what's in rates, just like we do with pension
17 expense, just like we do with OPEBs, just like we've done
18 with environmental, just like we've done with portions of
19 uncollectible expense in the emergency rulemaking in 2001,
20 and then you account for it in between rate cases, does it
21 increase, decrease.

22 Then when you come into another rate case,
23 you go ahead and amortize it over a three-year period, is
24 what we're proposing. It can always be two. It can be
25 four. And so from our perspective, this is an AAO. I

1 mean, you know, and it's an AAO that tells you exactly how
2 you're going to calculate it, tells you how you're going
3 to go ahead and track it, and you don't go ahead and
4 adjust rates separately outside a rate case.

5 CHAIRMAN DAVIS: Okay. Now, you don't have
6 a rate case, and I believe MGE and Atmos are here, so I'll
7 ask them to speak to this issue, too. But for those
8 companies that have rate cases going on right now, is an
9 AAO still necessary, you know, if inside the case they
10 know what the rule is going to be?

11 MR. PENDERGAST: I think it's very
12 important to go ahead and get clarity on that and get
13 clarity on that now. And, of course, what we've tried to
14 do with our tracker mechanism the way we proposed is we've
15 tried to kill two birds with one stone. We tried to go
16 ahead and establish a mechanism that works for the
17 permanent rule and that also goes ahead and by tracking
18 changes from January 1st, 2006 addresses the emergency
19 rule as well.

20 CHAIRMAN DAVIS: No further questions at
21 this time, Judge.

22 JUDGE DALE: Thank you. Other questions
23 from the Bench?

24 COMMISSIONER GAW: This tracker mechanism,
25 so I can understand a little better, this would say --

1 does it just basically say whatever the bad debt limit is
2 at the last rate case, we're going to set that amount and
3 then we're going to track bad debt up and down, then if
4 it's above it, we're going to take that into account in
5 the next rate case as an adjustment, and if it's below it,
6 we do the same?

7 MR. PENDERGAST: Right.

8 COMMISSIONER GAW: Is that all it is?

9 MR. PENDERGAST: That's basically all it
10 is, Commissioner. And you said in the last rate case, we
11 made an effort to try and make what the benchmark was
12 something that was relatively recent. So if you had a
13 rate case in 2005, that's what you would go ahead and use,
14 and if you didn't, you would use calendar year end 2005,
15 in other words, right before the Emergency Cold Weather
16 Rule started, to provide the initial benchmark.

17 COMMISSIONER GAW: So there's really no tie
18 or connection between the tracking device and whether or
19 not there are impacts from the Cold Weather Rule; it's
20 just a tracker for bad debt, period?

21 MR. PENDERGAST: Well, I think,
22 Commissioner, it's fair to say that it does provide a
23 remedy for changes that occur as a result of either this
24 Cold Weather Rule change or the Emergency Cold Weather
25 Rule change or any other changes you've had, and it does

1 so without making any adjustments outside a rate case,
2 just as pension trackers do and other trackers do, and
3 I --

4 COMMISSIONER GAW: This carves out one more
5 exception, doesn't it, Mr. Pendergast, to the old standard
6 of we're going to account for all the expenses and the
7 incomes in the rate case, and then we're going to set them
8 until the next rate case, so we're -- it's one more
9 erosion over that long history of setting rates to make
10 sure there's a balance between the income and expenses of
11 a company, and we're going to find now a way of tracking
12 one more thing in between rate cases that most of the time
13 will -- I would imagine the companies, since they argue
14 about this all the time, believe would increase and be to
15 the benefit of the company to track?

16 MR. PENDERGAST: Commissioner, I -- you
17 know, will it increase over the short term? That's a
18 possibility. But if you're looking at where gas prices
19 are today, nobody's got a crystal ball. As I said,
20 they've gone from what was a high of 15 bucks down to 5
21 and 6 this summer, projected to go ahead and be 10. It's
22 difficult to say two years, three years down the road
23 where those will be.

24 And certainly our experience with other
25 trackers is that particularly when they're market-oriented

1 trackers affected by market, whether it's the stock market
2 or what have you, it can definitely go both ways.

3 COMMISSIONER GAW: Well, I assume that the
4 company believes it's going to go -- probably going to go
5 in one direction or they wouldn't be too concerned about
6 this issue.

7 MR. PENDERGAST: Well, this is a matter of
8 concern, and -- it's a matter of concern. The same
9 extraordinary circumstances with gas prices that have led
10 to two or three separate rulemakings in the last year and
11 a half, and we fully acknowledge they have an impact on
12 our customers, but they also have an impact on us.

13 And throughout this process we've tried to
14 be cooperative in coming up with some kind of mechanism,
15 and by the time you get to your third or fourth proposal
16 and, you know, you're not getting anywhere with it, you
17 start looking for something that will hopefully work, and,
18 you know --

19 COMMISSIONER GAW: In this case, though,
20 isn't it true, Mr. Pendergast, that what you would be
21 accounting for in that tracker would in all likelihood
22 include all factors that impact bad debt in a particular
23 direction, not just the potential impacts of the Cold
24 Weather Rule on bad debt?

25 MR. PENDERGAST: Well, you're absolutely

1 right, Commissioner. It's not just the incremental impact
2 of this particular rule. Just like the pension expense
3 tracker or other trackers, it applies to the expense item
4 in total. The one other thing I would say, though, in
5 addition to --

6 COMMISSIONER GAW: I'm not saying that this
7 is not something that you shouldn't propose. Don't
8 misunderstand me. But it just -- I have seen now for the
9 last three years this effort and successful effort on the
10 part of the utilities to be able to introduce changes
11 in -- within the amount of revenue they're getting in
12 between rate cases, and it is -- it is overwhelmingly in
13 favor of the utilities, these changes in these trackers.
14 And I don't see any significant counterbalance to that
15 that tracks things that might if they were tracked benefit
16 consumers.

17 MR. PENDERGAST: Well --

18 COMMISSIONER GAW: It's just amazing to me
19 the amount of change that we have seen in the way
20 utilities are regulated and overseen in this state in
21 recent years, and this is -- I mean, this is -- this is --
22 I appreciate the fact that you are bringing forth
23 something that at least would be simple to implement in
24 comparison to try to separate out what is and what isn't
25 tied to bad debt from this potential rule.

1 But I'm -- I would like to see some -- some
2 success that would counterbalance the changes on the
3 consumer side, and this one -- this one again goes the
4 other direction, I think.

5 MR. PENDERGAST: And I certainly appreciate
6 that perspective. The only thing I would add is that you
7 see before you somebody who's an inclining cost company.

8 COMMISSIONER GAW: Yes.

9 MR. PENDERGAST: And, you know, it's not a
10 situation where somebody's going to be able to point to
11 the last seven or eight years and see those big peaks of
12 earnings that went above our authorized rate of return.

13 COMMISSIONER GAW: Right.

14 MR. PENDERGAST: From our standpoint, these
15 mechanisms give us an opportunity to go ahead and
16 hopefully earn that authorized rate of return for maybe
17 another year, as opposed to earn well over it while still
18 adjusting. I'd just like to make that point.

19 I think the other point that at least needs
20 to be remembered is that the Commission's rule itself has
21 a provision that says utilities should be allowed to
22 recover all reasonable operating expenses associated with
23 the implementation of the rule. 90 percent or so of our
24 uncollectibles come from residential customers.

25 As I said before, while you can't attribute

1 everything to the Commission's Cold Weather Rule as to why
2 they are where they are, they'd be substantially different
3 if we didn't have a Cold Weather Rule and if we imposed
4 the kind of credit terms that I was talking about before.

5 So I think that given the fact that we've
6 had a history of underrecovery of those under existing
7 practices, I think MGE has as well, that that's another
8 reason to go ahead and implement a tracker like this
9 that's been successfully used for those. But I appreciate
10 your points.

11 COMMISSIONER GAW: And appreciate yours,
12 too, Mr. Pendergast. Thank you.

13 CHAIRMAN DAVIS: I want to get back, touch
14 on -- I want to touch on something that Commissioner Gaw
15 asked before. If a tracker is used, what incentive do the
16 utilities have to keep uncollectibles low?

17 MR. PENDERGAST: Sure.

18 CHAIRMAN DAVIS: Why not just pass -- I
19 mean, why not just pass it all through?

20 MR. PENDERGAST: And I think there's a
21 couple of incentives that we have. No. 1, we aren't
22 requesting any carrying costs from the standpoint that
23 money's going out the door. That's a cash impact. Now,
24 admittedly that's going to be 5 or 6 percent. It's not a
25 huge number, but it is an incentive.

1 Secondly, to the extent that you are
2 accumulating increases, that's something that you're going
3 to have to recover in a future rate case that's going to
4 compete for other revenue requirements you have, and the
5 one thing you don't want to do in a rate case is to have
6 to recover past items in addition to those that are
7 ongoing.

8 But to respond more directly to your point,
9 what we proposed, including the gas cost portion of bad
10 debts in the PGA last year, you know, the industry came
11 forward and said, we're not asking for full recovery here,
12 that if you want us to still be on the line for our
13 margin, provide us an incentive to make sure that we
14 continue to go out and pursue as aggressive collection
15 practices as rules permit us to pursue, we're willing to
16 do that.

17 The proposal that we gave today was
18 designed to go ahead and mirror other trackers that have
19 been proposed that don't have that. But if that's
20 something that would make the Commission more comfortable,
21 90 percent accrual, then that's certainly something that I
22 think we would probably find acceptable.

23 CHAIRMAN DAVIS: Okay. Now, you touched on
24 obviously your rates are set based on whatever rules there
25 are at the time of the rate case. So obviously you're

1 saying, okay, this is a -- this is a change in rules that
2 affects our revenue requirements; therefore, we need to be
3 able to track this, et cetera.

4 If -- and I'm not exactly sure how to do
5 this, but is your concern that you're going to get into a
6 rate case and then, in attempting to settle that rate
7 case, you're going to ask to take less money for, you
8 know, something that you feel that you're already owed,
9 you know, as just part of the overall package of give and
10 take? Is that part of the problem?

11 MR. PENDERGAST: I think that's always a
12 concern. Everybody always talks about how rate case
13 issues are settled. From that standpoint, it's all a
14 matter of negotiation, and it's often difficult to tell
15 what particular value you got for any particular issue.
16 So that's certainly a consideration.

17 And the other consideration is, as we've
18 demonstrated in our comments, both MGE and Laclede have
19 substantially underrecovered their uncollectible expense
20 over the last ten years, and given that rather significant
21 underrecovery over that period of time, leaving aside the
22 rule and its impacts, we think that existing practices
23 haven't done as good a job as they should of reflecting
24 what those levels really are.

25 What this kind of tracker does is end the

1 guessing game. And for an item like this that's affected
2 by market forces that we don't -- we can't tell what
3 they're going to be six months from now, let alone six
4 weeks from now, that are affected by rather frequent rule
5 changes, it seems taking the guessing out of it makes a
6 lot of sense, and that's what a tracker effectively does.

7 CHAIRMAN DAVIS: So if we had some way to
8 bifurcate, you know, determine what the AAO was worth or
9 whatever and how much should be included into rates after
10 the next rate case to make -- you know, that way we're not
11 dealing with the whole single issue thing, would that be a
12 way of resolving some of the angst?

13 MR. PENDERGAST: Well, I think that's
14 certainly helpful. I can't tell you that from our
15 standpoint it would be sufficient, but it would be
16 helpful.

17 And to be perfectly candid about it, one of
18 the reasons that we proposed the PGA treatment for the gas
19 cost portion of uncollectibles in the past was so that you
20 wouldn't continue to accumulate those. You would go ahead
21 and recover those just as you recover your other gas costs
22 and wouldn't need to get involved in the rate case at all.
23 But once again, that was something that we weren't able to
24 go ahead and get all the stakeholders to buy into, so we
25 went to this other approach.

1 CHAIRMAN DAVIS: But a lot of other states
2 do run the gas through their PGA, just the gas cost
3 portion?

4 MR. PENDERGAST: I'm aware that Kansas
5 does. I understand that Tennessee does, that -- I think
6 MichCon has a reconciliation process, but I don't believe
7 it's done through the PGA, but I will definitely get that
8 information for you pursuant to the Judge's request.

9 CHAIRMAN DAVIS: Okay. Judge, I don't have
10 any more questions. Thank you.

11 JUDGE DALE: Thank you, Mr. Pendergast.

12 MR. PENDERGAST: Thank you very much.

13 JUDGE DALE: MGE is next.

14 MR. COOPER: Thank you, your Honor.
15 Missouri Gas Energy has joined in the comments and the
16 proposal that's been made by the Missouri utilities.

17 MGE believes that the tracker mechanism
18 that's been outlined by Mr. Pendergast is a good approach
19 to satisfying the existing rule requirements that the
20 Commission recognize and permit recovery of reasonable
21 operating expenses incurred by a utility because of this
22 rule, and that additionally it has the advantage of really
23 providing the Commission with some added flexibility in
24 the future to modify the Cold Weather Rule when it needs
25 to address any future circumstances or changes in

1 circumstances.

2 As Mr. Pendergast outlined, we've seen that
3 over the last three or four years we've run into new and
4 additional circumstances that the Commission has wanted to
5 address several times. It's not unreasonable to think
6 that may be the case in the future. And the tracker
7 mechanism I think eliminates one of the big issues, one of
8 certainly the concerns from the company's perspective that
9 really should allow the Commission to operate, I think,
10 faster with more flexibility when it needs to make
11 changes.

12 To answer Chairman Davis' question as to
13 whether the tracker mechanism is necessary if a company
14 has a case ongoing, we certainly believe that it is
15 necessary in that situation. The examples -- or two of
16 the examples that were raised by Mr. Pendergast were
17 pension expense and OPEB expense. Both those situations,
18 and certainly pensions that I'm most familiar with, where
19 a tracker has been used, it has been implemented in a rate
20 case, during a rate case.

21 I think the reasoning for that is that it's
22 a type of expense that is -- where past experience is less
23 likely to be a good indicator of what future expense will
24 be, and I think that's the situation you're dealing with
25 here in regard to uncollectible expense and the variety of

1 changes that seem to be made every year to -- in regard to
2 collection practices, and in particular Cold Weather Rule
3 impacts upon those collection practices.

4 With me today is Ms. Kim Lambert, who's the
5 manager of account services for Missouri Gas Energy, and
6 she has some short testimony that she would like to
7 provide.

8 JUDGE DALE: Okay. Ms. Lambert, please
9 raise your right hand.

10 (Witness sworn.)

11 JUDGE DALE: Thank you.

12 KIM LAMBERT testified as follows:

13 MS. LAMBERT: I just have a few brief
14 comments. As you've heard from other people this morning
15 in the room and from an administrative point of view, it
16 would certainly be simpler for us to utilize a single date
17 for the Cold Weather Rule policies to begin. In the
18 approved rule, the begin date is November 1, and in the
19 proposed amendment the date is December 1.

20 So I would like to ask that perhaps that
21 could be looked at, reconsidered, and a single date
22 decided upon so that we can provide the best customer
23 service possible and hopefully alleviate any
24 misunderstanding or confusion that might result from
25 having a couple of different dates and payment options

1 available at different times.

2 Along those same lines, I'd like to request
3 that we genuinely support the practice of allowing
4 customers the opportunity to take advantage of this rule
5 one time. If a customer does not make their prescribed
6 payments, we should not be burdened with having to offer
7 the special payment schedules again, or be required to
8 offer Cold Weather Rule from year to year to the group of
9 customers that does not follow through on their
10 commitments.

11 This only serves to drag the customer
12 deeper into personal debt and cause the company to suffer
13 larger uncollectibles, much of which may ultimately result
14 in higher cost for other paying customers.

15 As pointed out in the written comments, our
16 bad debts are overwhelmingly from the residential sector,
17 and this is driven primarily by the collection practices
18 associated with the Cold Weather Rule and by customers who
19 participate in the Cold Weather Rule each year.

20 Our residential writeoffs as a percentage
21 of total writeoffs was nearly 93 percent in 2005 alone,
22 and an average of almost 92 percent for the period of 2002
23 to 2005. Many of these customers make a one-time-only
24 payment to have the service continued or restored, but
25 then fail to make the necessary monthly payments that will

1 allow them to climb out of debt.

2 The ratemaking allowance that typically has
3 been a fixed amount based on four to five -- excuse me --
4 four to five year average of the actual, which has
5 consistently produced a shortfall for MGE. In fact, over
6 the past ten years, actual writeoffs has exceeded the rate
7 case allowance for bad debts by almost \$17 million.

8 And MGE believes that this is inconsistent
9 with Section 12 of the current rule, which provides that
10 the Commission would recognize impacts of complying with
11 the Cold Weather Rule in its rates. MGE, therefore,
12 respectfully asks for a new improved recovery mechanism
13 such as that explained by Mr. Pendergast of Laclede Gas.

14 Implementation of the Emergency Cold
15 Weather Rule that began in January of this year has had a
16 significant impact to lost revenues and, while still
17 calculating the losses, we believe that it could be as
18 high as several million dollars. We support the idea of
19 using some type of tracking mechanism as proposed that
20 will assist all of the utilities in calculating items the
21 same way, but more importantly will protect all ratepayers
22 in the state of Missouri.

23 In closing I would just state that MGE is
24 happy to work with its customers, certainly wants its
25 customers to use our product, and we're supportive of the

1 idea that many customers may need assistance with special
2 payment arrangements during the cooler periods of the year
3 to keep their service on. All that we ask is that we are
4 given recovery for the uncollectibles that we would
5 attribute to the Cold Weather Rule. Thank you.

6 JUDGE DALE: Thank you. Are there
7 questions from the Bench?

8 CHAIRMAN DAVIS: So just to reaffirm, MGE
9 says they need -- they need a tracker no matter what, even
10 if they do have a rate case?

11 MR. COOPER: That's correct, yes,
12 Commissioner.

13 CHAIRMAN DAVIS: No further questions.

14 JUDGE DALE: Are there other questions from
15 the Bench?

16 (No response.)

17 JUDGE DALE: Thank you. That takes us to
18 Atmos.

19 MR. FISCHER: Thank you, your Honor. This
20 is Jim Fischer representing Atmos Energy Corporation, and
21 also Southern Missouri Natural Gas. I would just echo the
22 comments of my colleagues Mr. Pendergast and Mr. Cooper
23 regarding the pending rule.

24 I would also mention, though, in answer to
25 a couple questions, that in the emergency proceeding that

1 we had last year, Case No. GX-2006-0181, I introduced into
2 the record four exhibits that had the Kansas, Tennessee,
3 Virginia and Texas methods of handling bad debt recovery,
4 at least the gas portion of bad debt recovery, their
5 various orders and tariffs, and I would just ask those be
6 taken official notice of, since they're already in the
7 Commission's files.

8 Atmos does have a rate case pending,
9 GR-2006-0387, and in that particular rate case, which is
10 the very first rate case Atmos has had since they've been
11 operating in the state as Atmos Energy, they are
12 requesting that the gas portion of bad debts be recovered
13 through the PGA mechanism. That's consistent with their
14 other four states that I just mentioned and how they
15 handle it.

16 However, they are also supporting the
17 gas -- the bad debt tracker mechanism that's currently
18 being discussed and is a part of this rulemaking. They
19 see that as a beneficial method of handling the tracking
20 of bad debts. However, they also, I think, probably need
21 to mention that they would continue to -- if you find that
22 to be unacceptable, they will continue to be asking for
23 PGA treatment of bad debt, the gas portion of bad debt in
24 their current rate case.

25 They -- Atmos in particular has not had a

1 rate case for a number of years. And I would echo
2 Mr. Cooper's comments that just because there's a rate
3 case pending right now doesn't alleviate the need to
4 continue to watch this item and to track it in some
5 method. As gas prices have gone up over the last ten
6 years, bad debts have as well.

7 And historically, whenever you look at the
8 way commissions have set bad debts in rate cases, often
9 it's based on some kind of an historical average of
10 several years, which has not captured the likely trends
11 with the increasing -- with the increasing gas costs
12 overall.

13 If you have any questions, I'd be happy to
14 answer them.

15 JUDGE DALE: Thank you, Mr. Fischer.

16 CHAIRMAN DAVIS: No questions.

17 JUDGE DALE: Thank you. Ameren?

18 MS. TATRO: Good morning. My name is Wendy
19 Tatro with AmerenUE, and, you know, we were here a few
20 months ago, I guess back in -- last winter for the
21 emergency amendment to the Cold Weather Rule. And as
22 AmerenUE stated at the time, it recognizes that the cost
23 of natural gas and heating with natural gas has increased
24 and that that causes some difficulty for some of our
25 ratepayers. And we recognize that this type of amendment

1 to the Cold Weather Rule is the Commission's attempt to
2 address that concern, and that's admirable. We followed
3 the ruling that came out of the Emergency Cold Weather
4 Rule docket. We weren't a party to the appeal of that
5 Order, and we don't oppose in concept the change in front
6 of the Commission here today. We haven't filed comments
7 on this rule. So my comments to you would just be of an
8 oral nature.

9 Essentially, we believe that the one change
10 that does need to be made is to the mechanism of the
11 capture/recovery of the increased costs that will be
12 imposed upon the utilities, and so AmerenUE would support
13 the, what has been casually called the tracker mechanism
14 proposed by the comments of the Missouri gas utilities
15 which were filed in this docket.

16 We think that this proposed mechanism,
17 since it requires a rate case before those costs are
18 actually passed on to the rest of the ratepayers, provides
19 the appropriate balance that the Commission strives to
20 protect ratepayers while recognizing the interest and
21 rights of the utility, and for that reason we would
22 request that you adopt that measure as part of the change
23 in order to protect both ratepayers and the utility.
24 Thank you.

25 JUDGE DALE: Thank you, Ms. Tatro. Are

1 there questions from the Bench?

2 CHAIRMAN DAVIS: No questions of
3 Ms. Tatro.

4 JUDGE DALE: Thank you. At this time, do
5 the Commissioners wish to recall any of the previous
6 witnesses, ask additional questions of counsel?

7 CHAIRMAN DAVIS: I guess I'd like to hear
8 from OPC and Mr. Coffman concerning -- and Staff
9 concerning what Mr. Fischer and Mr. Pendergast have talked
10 about about running, it's my understanding, maybe just the
11 fuel costs through the PGA. Was it just the fuel costs
12 associated with the --

13 MR. FISCHER: I think we call it gas
14 portion of uncollectibles.

15 CHAIRMAN DAVIS: The gas portion of the
16 uncollectibles through the PGA. I wanted to hear their
17 thoughts on that. I see Mr. Coffman smiling.

18 MR. COFFMAN: I'll be happy to address it.
19 I'm familiar with a couple of previous attempts to do
20 that, and I don't know if AARP has a specific position on
21 that, but it would be my personal opinion that the PGA
22 should be kept for gas cost only.

23 I think there just are a lot of devilish
24 problems when you start adding uncollectibles on top of
25 the gas costs, even if it is somehow segregated out to be

1 other gas costs. And if the PGA is going to be
2 represented as simply the wholesale cost of gas and that
3 portion and does not include other expenses for people who
4 haven't paid their gas portion, I just think that needs to
5 be kept more clearly what it was designed to do, as well
6 as all of the single-issue-related problems as
7 Commissioner Gaw was addressing.

8 And I think that if I can just address that
9 concern, I think that it's not -- the problem is not just
10 that we've seen a proliferation of single-issue ratemaking
11 that really is at odds with the underpinning of cost of
12 service regulation, in that it typically has addressed
13 expenses that are of an inclining nature and not the
14 other -- not the list that I would come up with for
15 consumers of single-issue ratepayers.

16 I think that maybe the bigger issue is
17 risk, that these are usually issues that are taking away
18 significant amounts of risk. Now, the gas company has of
19 course the PGA, which significantly reduces fuel risk. We
20 have weather mitigation that significantly reduces
21 weather. We have little components, including the ISRS
22 infrastructure component, which significantly reduces
23 their risk in that component. And we don't see
24 significant reduction in the rate of return corresponding
25 with less risk.

1 But back to this point about what an
2 appropriate mechanism is, I would urge the Commission if
3 you feel that -- you do feel a need to have some recovery
4 component to this rule, that you stick with nothing
5 greater than the Accounting Authority Order idea that is
6 in the proposed rule, and that you stick -- that if
7 something's going to be put in this case and in this rule,
8 that it stick to the subject matter of this rule.

9 The tracker is very similar to an AAO, and
10 I've got to give Mr. Pendergast credit for always working
11 and always trying to come up with something new and trying
12 to address concerns, but it is much, much broader than
13 what's been proposed. It is an ongoing mechanism.
14 Instead of something that's a stopgap measure to get them
15 to their next rate case, it's much broader than the rule
16 itself and it addresses all uncollectible expense.

17 And again I would emphasize, I don't think
18 it's legally necessary and I don't really think it's
19 significant enough that you would have to have any remedy.
20 And frankly, I would support the Public Counsel's approach
21 that you don't have an AAO here, but it's not
22 unreasonable. It is within, I think, traditional subject
23 matter to have an AAO, and AARP is willing to go along
24 with an AAO, provided that it is just for now and to the
25 next rate case.

1 And I think that it needs to be recognized
2 that despite the utility complaints about that mechanism,
3 worries they have that they're not going to fully get
4 everything that may be related to it, it really is about
5 as close as you're going to get, I think, to being made
6 whole. You have a rule that -- the Cold Weather Rule
7 which already contains within it language that's been in
8 there a long time that says that anything related to this
9 rule, you get reasonable recovery. So they have some
10 assurance, some guarantee already in the rule, and then an
11 Accounting Authority Order lets them collect all the
12 expenses up until their next rate case. That is really
13 quite an extraordinary mechanism.

14 These -- the tracker is just, I think, much
15 broader than what this rule is about. The similar
16 mechanism, I'm not aware of any tracker of this type that
17 has ever been adopted in a contested case. They've all
18 come out of settlements that I'm aware of, stipulation and
19 agreements in a case. I'm not sure they've really been
20 fully vetted in a contested case. Someone may correct me
21 on that.

22 And again, I would -- I would point out
23 that the changes being made in this rule are not radical,
24 not radical in comparison to some other states. And I
25 really think it's important that you realize that

1 requiring 50 percent of arrears is still a significant
2 requirement to be hooked up and should mitigate, I think,
3 any concern about how high this could cause expenses to go
4 for the utility, as well as a concern about how bad it
5 could cause a particular customer to get behind and spiral
6 into -- you know, if we were talking about Illinois and
7 only requiring 10 percent to get folks hooked up or only
8 \$25 to get hooked up, I could understand how they could
9 get out.

10 But the problem of someone slipping
11 thousands and thousands of dollars behind are really
12 mitigated by the fact that each year they would have to
13 come up with 50 percent of whatever they've already fallen
14 behind to get on and then have to make payments going
15 forward.

16 CHAIRMAN DAVIS: Okay. But -- okay. Let
17 me go back to that just for a second. If a customer owes
18 hypothetically speaking \$1,000 on November 1st and they
19 pay 500 and then so they owe 500, and then they have, I
20 guess, a payment plan to take them out of the arrears for
21 that -- that 500 plus whatever bill they accumulate.
22 Well, if they -- if they get off the system again or they
23 could foreseeably end up coming back the following
24 November with a bill that's more than \$1,000.

25 MR. COFFMAN: That's right.

1 CHAIRMAN DAVIS: And then do we not let
2 them back on the system or do we let them -- you know,
3 I want to presume that everyone has good motives,
4 Mr. Coffman, but I could also see how someone could
5 possibly say, well, if I can just let this slide and every
6 year maybe they could -- might have to pay a little more
7 than 500, but they could also end up in a situation where
8 they're letting 6, 700, \$800 of their bill ride.

9 MR. COFFMAN: Two things I think address
10 mitigating the problem there. The first is, as I said,
11 where you're already requiring 50 percent of it, so it
12 doesn't get too far behind.

13 Secondly, you are hopefully keeping some
14 families, some customers in their current situation
15 without causing a disruption of moving. You're getting
16 money from them which otherwise you would get none from.
17 They might -- so you're getting something where you might
18 not get anything or who knows where they would be.

19 I certainly -- and the issue that you're
20 talking is a real difficult one, and I have seen
21 transcripts from several states that have wrestled this.
22 Do you give people a chance every single year or you only
23 give them one chance? And I think that those can often
24 seem to be pretty extreme options. I would urge the
25 Commission if you're going to adopt a policy on this, that

1 you certainly go towards offering -- you know, offering
2 this on some regular basis.

3 And I think that the Public Counsel
4 approach, if you're going to be making a compromise, is
5 reasonable, say two years, three years at the most. In
6 other words, you could have -- you messed up one year and
7 you fell way behind. You might not be able to get it the
8 next year, you might not have that same opportunity, but
9 two or three years later is one way to try to balance
10 that. But I think that offering something like this every
11 year when it's 50 percent --

12 CHAIRMAN DAVIS: Jackie's disagreeing with
13 you.

14 MR. COFFMAN: I know -- is certainly less
15 radical than saying you only get once in a lifetime.

16 CHAIRMAN DAVIS: Right. Right. Once in
17 a -- my lay impression here is, you know, once in a
18 lifetime seems a little bit harsh, but once annually or
19 even biannually, and I don't know where to draw the line
20 either.

21 MR. COFFMAN: I think you have to consider
22 what you're doing, too. We're not a state like Iowa that
23 has a blanket moratorium, that doesn't shut people off at
24 all. We have the day-to-day temperature moratorium.
25 We're not a state that -- that is at least we're talking

1 about 50 percent, and so we kind of have to balance each
2 of the components about whether --

3 CHAIRMAN DAVIS: Iowa's probably a lot
4 colder than Missouri, isn't it?

5 MR. COFFMAN: A little.

6 CHAIRMAN DAVIS: Let's let Jackie get up
7 here and say some things.

8 MS. HUTCHINSON: Thank you, Chairman Davis.
9 I adamantly disagree with John, and usually we're in
10 accord on things, but I disagree on that point. And the
11 reason that I disagree is that, you know, the assumption
12 is that people don't pay because they can't afford to pay.

13 Now, I know that there are people who can
14 afford to pay who -- who don't pay, but the majority of
15 the people who we're trying to protect are people who
16 don't pay because they can't afford to pay and so the --
17 you know, the one time or the every other year is still a
18 punitive, you know, condition for people who are suffering
19 from the fact that they don't make enough money or they're
20 on a fixed income and it still puts them at a health and
21 safety risk.

22 If the intent is to get something into the
23 rule that would keep me from running back to ask for
24 emergency rules every other year, then we need to look at
25 health and safety protections that are ongoing every year.

1 And so if a person defaults on a Cold Weather Rule -- and
2 that's the basic problem with the existing Cold Weather
3 Rule, is that if a person defaults on a Cold Weather Rule
4 right now, then the next year, they are not afforded any
5 protection unless they pay 100 percent of the past due
6 amount.

7 And we're seeing people forced out of their
8 housing into shelters, into overcrowded situations,
9 working poor people who are off most of the winter because
10 they have to wait until they get an income tax return
11 check in order to get the gas restored, and every other
12 year is just not protecting the health and safety of
13 elderly and low-income children.

14 I'd like to also add, which I forgot to say
15 when I was at the podium, that there are utilities in this
16 state who allow people to have a fresh Cold Weather Rule
17 payment arrangement every year, regardless of whether they
18 defaulted the previous year.

19 And AmerenUE is one that has done that
20 quietly since the inception of the Cold Weather Rule.
21 They every year give people a fresh start, and I applaud
22 them for doing that, and they're not -- they're not
23 bankrupt nor do I think their rate of uncollectibles is
24 out of whack because they're doing that.

25 I realize that they are electric as opposed

1 to a gas utility, but I believe that there are gas
2 utilities also who -- who are giving people a fresh chance
3 to start over every year with a new Cold Weather Rule
4 plan, and I'd like to just have you talk to some of those
5 companies who don't see it as a problem.

6 The other point is that I don't see how we
7 can attribute all of the uncollectibles to the Cold
8 Weather Rule or whether or not we offer that to clients,
9 to customers year after year. I don't think the utilities
10 can give us a number that is attributed to the Cold
11 Weather Rule. I don't think that they have the ability to
12 break out or to figure out what their bad debt would have
13 been due to the extreme cost of gas even if we didn't have
14 a Cold Weather Rule.

15 So I reject the notion that because we have
16 these protections that is going to raise their percentage
17 of bad debt. I wonder if all of these people they didn't
18 collect any money, if people couldn't come up with the
19 amount that was necessary and they were totally off of the
20 system, what the difference would be in their bad debt
21 rate.

22 And, you know, I don't know the answer to
23 that, and I don't think that they do, but I think that
24 they -- that they're making an assumption that it would be
25 different if there were less protection, and I don't think

1 that's an assumption that's backed up by any factual
2 information.

3 CHAIRMAN DAVIS: Does OPC have anything to
4 add? It's been so long I forgot what the question was.

5 MR. POSTON: We would like to have
6 Mr. Trippensee provide a little testimony in response, if
7 we could.

8 JUDGE DALE: I do want you to swear in.

9 (Witness sworn.)

10 RUSSELL TRIPPENSEE testified as follows:

11 MR. TRIPPENSEE: Commissioner, I believe
12 your question was including the uncollectible and the PGA
13 initially.

14 CHAIRMAN DAVIS: Uh-huh.

15 MR. TRIPPENSEE: Whether you include a
16 portion of total uncollectible, the portion allegedly
17 attributed to gas costs, in the PGA or whether you look at
18 it in a tracker mechanism or what's been referred to as a
19 tracker mechanism, either way is a tracker.

20 As far as including the PGA, the portion of
21 uncollectibles in the PGA, I think it was mentioned
22 earlier by Mr. Coffman that the PGA in Missouri has been
23 defined as gas costs. Gas costs historically were set by
24 the Federal Energy Regulatory Commission through a tariff
25 method.

1 The FERC in their wisdom, along with I
2 think some acts of Congress, have deregulated but moved to
3 a market where most utilities will assert that they have
4 minimal control, just like they had minimal control of
5 FERC setting tariffs. They could appear before them, but
6 that was about it. They can participate in the market.
7 They can hedge to some extent to mitigate prices, but
8 again, it's something that is not within their control.
9 They don't have control of the practices, how they
10 implement things, which they do with bad debts.

11 Putting all of the cost into a tracker
12 mechanism, whether it be a PGA or a separate mechanism, is
13 a definite incentive. There's issues with incentives.
14 Public Counsel has always encouraged this Commission to
15 give the best incentive to the companies, which is an
16 economic incentive.

17 If you give them full cost recovery
18 without -- if you put the -- your own Staff, if you put
19 the intervenor -- Public Counsel and the other intervenors
20 in the position of after the fact trying to make a
21 prudence review of practices of the company, we have
22 some -- we're put at -- I don't think you're going to
23 result in good regulatory procedures and practices and the
24 best rates for customers.

25 I think there was some comments with regard

1 to the trackers being for OPEBs, and other post-employment
2 benefits and pensions. Those costs are -- once offered
3 are covered by federal law, and the cost of them are
4 determined by a third party. They're not within the
5 control of management once the process -- once the benefit
6 has been defined. The actual cost of providing that
7 benefit is not under the control of the company.

8 Again, uncollectibles and their practices
9 and procedures that the companies do have entirely within
10 their control. Laclede Gas has a very unique process of
11 dealing with uncollectibles, totally unlike the other
12 companies in this state.

13 CHAIRMAN DAVIS: It's not wait three months
14 and send them a bill, is it?

15 MR. TRIPPENSEE: That's another part of
16 their practice they currently have, it seems. Hopefully
17 Mr. Pendergast is right and that will be going by the
18 wayside. Unfortunately they haven't done that in the
19 past.

20 There's been the assertion that
21 uncollectibles have been uncollected over the past ten
22 years for Missouri Gas Energy, for Laclede. I could go
23 back to a rate case in 1990 and look at the level of
24 payroll that Missouri Gas Energy has had and make that
25 same assertion, unless their employees have not gotten any

1 raises, like State employees in the last five or ten
2 years. Any expense you can do that with that there's been
3 an under or overcollection.

4 I would point out that during that period
5 of ten years for MGE, it appears they only had two rate
6 cases. This regulatory practice is not cost recovery.
7 It's rate of return, and that's because you look at all
8 relevant factors. I would assert MGE obviously recovered
9 all their costs because they didn't come in for a rate
10 case or their predecessor company didn't come in for a
11 rate case, so they were earning an adequate rate of
12 return.

13 A tracker guarantees them cost recovery in
14 addition to that rate of return, and there's been no
15 proposal by the utilities and never have I seen a proposal
16 when all of these have come before this Commission to make
17 a specific reduction in their rates of return. Never has
18 happened. What they want is to guarantee a level of
19 earnings, keep chipping away at all these incentives, and
20 therefore drive their guarantee up of their revenues that
21 they receive, with no commensurate return in the risk
22 component of the rate of return.

23 It's the best of both worlds. And Public
24 Counsel has significant concerns with that. So whatever
25 form of tracker or whatever you want to call it, a PGA or

1 call it a tracker mechanism for uncollectibles, we have
2 very large concerns with that.

3 Whether it goes through PGA or through a
4 tracker mechanism has been alluded to, but I think I'll
5 just resay it. The cost of this rule, if there is any
6 cost, is an incremental, not a total uncollectible
7 expense.

8 I would also point out, just simply a
9 practical matter, this Commission is charged with setting
10 just and reasonable rates, health and safety issues and a
11 multitude of other things dealing with utility regulation.
12 If you cannot set rules without going through some sort of
13 rate mechanism each and every time, I would suggest you're
14 not going to be able to do your job effectively.

15 There's been this assertion of revenue
16 neutrality or revenue recovery. I believe page 9 of the
17 comments of the Missouri utilities in the last full
18 paragraph on that page states, the proposed amendment
19 serves to reduce those revenues. I would -- as a CPA, I
20 would ask, what revenues have been reduced by this
21 amendment? It has not decreased the tariff of this
22 company, of the companies. It has not decreased their
23 sales volumes. It has not decreased their customer
24 counts.
25 And the last time I did an annualization of revenue, I got

1 revenue by taking customers times the tariff rate and I
2 took sales times the tariff rate.

3 I've seen this argument repeatedly against
4 the Commission's ability to do an AAO or whatever, to do
5 some sort of treatment of cost, but costs are not revenue.
6 Costs are expenses. Costs are capital investments, and
7 the utilities have successfully muddied the waters by
8 using this revenue neutrality or revenue loss. This rule
9 does not change revenues. It's that simple.

10 JUDGE DALE: Thank you, Mr. Trippensee.

11 MR. TRIPPENSEE: Thank you.

12 JUDGE DALE: Staff?

13 MS. SYLER: Yes, your Honor. Staff has two
14 witnesses, Mr. Sommerer and Mr. Rackers, who are going to
15 address separately different points. And Mr. Sommerer is
16 going to go first.

17 JUDGE DALE: Thank you.

18 MR. SOMMERER: I'd like to touch upon the
19 Chairman's question of having a tracker within the context
20 of the purchased gas adjustment clause. I have to say
21 that Atmos as part of its rate case has proposed that type
22 of mechanism. That's an open issue. It's going to be
23 addressed. I'm not sure about MGE's rate case.

24 The Staff has opposed that kind of
25 treatment in the past. I'll say at the outset I'm not an

1 attorney, I'm not even a legal scholar, which is sometimes
2 bestowed on folks that aren't attorneys as a compliment.
3 However, my understanding is this may be single-issue
4 ratemaking. That's what I've been advised from legal
5 counsel, that bad debt expense is not a gas cost, and the
6 actual cost adjustment process, the true-up is to actual
7 gas cost. You basically take the invoices that the
8 company pays and that's what you true up their billed
9 revenues to.

10 So you have to ask yourself, what will be
11 truing up in the context of the actual cost adjustment if
12 we use the utilities' method of putting bad debt expense
13 in the purchased gas adjustment and the actual gas cost
14 mechanism? It won't be billed revenues anymore. It will
15 be some estimate. It will be unbilled revenues. It will
16 be subjective adjustments that are made.

17 I've reviewed the actual cost adjustments
18 for 15 or 20 years. As long as I can remember, the
19 standard has been billed revenues. Bad debt expenses are
20 under the utility companies' control. This will just be
21 another item that really should be recovered in margin for
22 non-gas cost that would be thrown in to gas cost.

23 I participated in enough of these types of
24 forums to realize that there really is a science to
25 recovering cost, uncollectible cost, bad debts. Those

1 kind of tools that the company has at its disposal in
2 terms of how you'll design what you'll collect from a
3 customer, how much will you collect from the customer,
4 will you have late payment fees, when will you disconnect,
5 when will you let them back on, how hard will you push for
6 LIHEAP funds, how will you integrate that process into
7 other funding mechanisms, those are subjects that can keep
8 the Commission busy for many hours, and they're not --
9 they don't involve an area that my group is used to
10 looking at.

11 So I think you would have to ask how the
12 prudence of the bad debt expense within the context of
13 actual cost adjustments would work. It would not be
14 Staff's proposal to include those as part of the ACA
15 process. And I think Mr. Rackers has some further
16 comments.

17 MR. RACKERS: I think it's important to
18 distinguish this AAO that's proposed in the rule as from
19 other AAOs that I think the Commission has had before it,
20 and the AAO proposal that we lost or that caused us to
21 lose -- the Commission to lose in the Circuit Court
22 recently.

23 Other AAOs you've seen contain the language
24 that says that costs will be considered for future
25 recovery in a rate case. That language does not appear in

1 the proposed rule. It says, the costs will be deferred
2 and recovered in a future case.

3 So I think there would have to be some kind
4 of a finding that the costs were not reasonably incurred
5 before there would be any kind of disallowance.

6 And I just wanted to be clear, I think it
7 was at least alluded to, if not said, that all the
8 trackers that Mr. Pendergast talked about that have been
9 implemented in the past were implemented as part of a rate
10 case, and that to my knowledge there hasn't been any
11 trackers that have resulted in a rulemaking. Thank you.

12 JUDGE DALE: At this time we need to take a
13 break and figure out how much longer we expect to be here,
14 whether we're going to continue and just go straight
15 through or whether we're going to break for lunch. So
16 right now we're going to take a five-minute break and
17 decide how we're going to proceed.

18 We're off the record.

19 (A BREAK WAS TAKEN.)

20 JUDGE DALE: It appears that we will be
21 able to conclude within the next half hour or so, so in
22 fond hope that that will come to pass, we will resume with
23 questions from the Bench.

24 COMMISSIONER CLAYTON: Ms. Hutchinson, may
25 I ask you some questions that I hope won't take very long?

1 You can stay there -- if the judge will let you stay
2 there, you can stay there for my purposes. Sorry.

3 Ms. Hutchinson, what was the name of your
4 company or the corporation that you work for?

5 MS. HUTCHINSON: I work for the Human
6 Development Corporation, which is a community action
7 agency in the City of St. Louis. We serve the City of
8 St. Louis and the City of Wellston. There are also 19 --
9 18 other community action agencies throughout the state of
10 Missouri, and there's one in every county.

11 COMMISSIONER CLAYTON: So does your
12 corporation do other things beside looking at low-income
13 heating assistance?

14 MS. HUTCHINSON: Absolutely.

15 COMMISSIONER CLAYTON: Just very briefly,
16 what does that include?

17 MS. HUTCHINSON: We provide just a
18 multitude of services. We provide employment services,
19 emergency services, including rental and mortgage
20 assistance. We provide employment programs and youth
21 programs and WIC program and just education programs for
22 low-income families.

23 COMMISSIONER CLAYTON: Many things?

24 MS. HUTCHINSON: Many things.

25 COMMISSIONER CLAYTON: Many things. Okay.

1 MS. HUTCHINSON: Yes.

2 COMMISSIONER CLAYTON: Well, during this
3 time of year, you're probably not getting that many calls
4 relating to heating assistance with the temperature
5 hovering around 100 degrees outside; is that a fair
6 statement?

7 MS. HUTCHINSON: No, it's not a fair
8 statement actually. In addition to the many calls we're
9 getting right now for cooling assistance, for electric
10 assistance, we get, you know, probably 100 calls a day
11 from people who are going to get their gas cut off and are
12 concerned about it. So it's not like people get threats
13 of disconnection and they don't call us. It's that we
14 don't have any funds available to assist them at this time
15 of the year.

16 So it's not that, you know, we're not
17 getting the calls. We're absolutely getting the calls.
18 Every time people get threats of disconnection or bills
19 that they can't meet, we --

20 COMMISSIONER CLAYTON: So you're getting
21 phone calls regarding gas service even during the very hot
22 months?

23 MS. HUTCHINSON: Absolutely. I dealt with
24 several of them yesterday myself.

25 COMMISSIONER CLAYTON: Well, if you're

1 getting 100 a day, how many staff do you have answering
2 the phones?

3 MS. HUTCHINSON: We have an answer system
4 that gives out some basic information about what
5 assistance we have available and also counts the number of
6 calls. We don't actually talk to every one of them, but
7 we have probably six, six people, at least six people
8 answering the phones every day to deal with all of the --
9 all of the calls that come in.

10 COMMISSIONER CLAYTON: Are you getting
11 phone calls for people with problems associated with
12 cooling their homes or electricity, things that are not
13 related to heating their residence?

14 MS. HUTCHINSON: Absolutely.

15 COMMISSIONER CLAYTON: What do you do about
16 those phone calls?

17 MS. HUTCHINSON: We have assistance
18 available right now for summer cooling assistance, so we
19 provide assistance.

20 COMMISSIONER CLAYTON: Is that cash
21 assistance?

22 MS. HUTCHINSON: Yeah, it's utility
23 assistance, goes directly to the electric company.

24 COMMISSIONER CLAYTON: Does that come from
25 a different line item than the LIHEAP money?

1 MS. HUTCHINSON: No. It is part of the
2 LIHEAP money that goes for summer cooling. So the LIHEAP
3 money, the biggest majority of it is used for winter
4 heating bills, but there is an amount of it set aside for
5 summer cooling assistance.

6 COMMISSIONER CLAYTON: Is it the Congress
7 that sets aside the money or is it the State of Missouri,
8 or do you decide how much money will be set aside for
9 heating versus cooling assistance?

10 MS. HUTCHINSON: No, we don't decide that
11 at our level. It's part of our state plan. I think on
12 the federal level, the feds say that there must be -- part
13 of the money must be used for cooling assistance and --
14 and then states have to determine what that amount is
15 going to be.

16 COMMISSIONER CLAYTON: Okay. What would
17 you say the percentage is between heating and cooling
18 assistance? What would be -- is it a 50/50 split, 60/40,
19 70/30?

20 MS. HUTCHINSON: No. I would say it's more
21 probably 10 percent or some smaller, 10 or 12 percent for
22 cooling assistance, yes.

23 COMMISSIONER CLAYTON: Is that enough for
24 the inquiries that you get, that 10 or 12 percent?

25 MS. HUTCHINSON: It is -- it's never --

1 it's never enough.

2 COMMISSIONER CLAYTON: I was afraid I asked
3 the question the wrong way.

4 MS. HUTCHINSON: Yeah. If you talk about
5 during the winter in the St. Louis area, probably 15, this
6 year maybe 17,000 families receive heating assistance, and
7 we will probably serve 3,000 to 4,000 with cooling
8 assistance. So there's a wide disparity there.

9 COMMISSIONER CLAYTON: 3,000 you said for
10 cooling assistance?

11 MS. HUTCHINSON: Yeah, probably 3,000 this
12 year.

13 COMMISSIONER CLAYTON: And is the criteria
14 the same or are the criteria the same?

15 MS. HUTCHINSON: The criteria for receiving
16 assistance is basically the same as the winter crisis
17 assistance. So the ESIP requires that you have a -- a
18 threat of disconnection, whereas a large portion of the
19 winter assistance goes to families whether they have a
20 threat of disconnection or not as a supplement.

21 COMMISSIONER CLAYTON: When you say 3,000
22 people call for assistance during the cooling season, are
23 each of those or most of those 3,000 people subject to
24 being cut off from their electricity?

25 MS. HUTCHINSON: We get -- we get many

1 calls that are not from people who are in immediate threat
2 of disconnection. However, they have a huge bill that
3 they know that they cannot pay the bill, you know.
4 They've got a \$200 electric bill or \$150 electric bill.
5 They know they can't pay all of it, so they call us for
6 assistance. Unfortunately, we are for the most part only
7 able to help people once they have a crisis because of the
8 small amount of funds that we have.

9 COMMISSIONER CLAYTON: So the money's set
10 aside for people who are about to get cut off, as opposed
11 to, I guess, those who are not yet being teed up to lose
12 their electricity service; is that a fair description?

13 MS. HUTCHINSON: That is correct, with the
14 exception of special permission we have in St. Louis.
15 Because of the number of elderly people who are afraid to
16 turn on their air conditioning, we have special permission
17 to give them assistance up front, even if they are not in
18 threat of disconnection to allow them -- to take away
19 their fear and to allow them to use their air
20 conditioning. So we do in case of elderly we're able to
21 provide them with a limited amount of assistance to
22 encourage them to use their air conditioning.

23 COMMISSIONER CLAYTON: So you preempt the
24 problem, you preempt the cutoff. You anticipate that
25 there's going to be a problem at a certain income level

1 and you provide the assistance up front that gives them
2 the confidence to use their air conditioning or their
3 cooling in their home?

4 MS. HUTCHINSON: And understand that
5 they're never going to have a threat of disconnection
6 because they are too afraid to use their electric and have
7 it -- the bill be high enough that they can't pay. So
8 they simply don't use the air conditioning and suffer and
9 sometimes die from the effects of the heat.

10 COMMISSIONER CLAYTON: So that's an
11 interesting point. So disconnection is not the same issue
12 for the summer as it would be for the winter?

13 MS. HUTCHINSON: It is not. It is not the
14 same issue.

15 COMMISSIONER CLAYTON: Well, what you get
16 are people will just not -- they'll choose not to turn on
17 the air conditioning, choose not to use the electricity
18 and suffer in that instance rather than face
19 disconnection?

20 MS. HUTCHINSON: That's correct. Many,
21 particularly the seniors will suffer rather than face
22 the, you know, the possibility of disconnect.

23 COMMISSIONER CLAYTON: Do you have
24 disconnections of -- do you see any disconnections of
25 electricity during the cooling season as you would at all

1 relating to the winter heating season?

2 MS. HUTCHINSON: Absolutely. We see cuts
3 of electric and threats of disconnection pretty much, you
4 know, all summer. We have -- we have a group of people
5 who heat with -- with electric and, fortunately, it's not
6 a large group, but they usually come into the summer with
7 high electric bills, and then we just have others that,
8 you know, because of their low income, just simply can't
9 afford to keep up on their utilities, so they're juggling,
10 pay a little here, little there and eventually get cut off
11 or get in threat of disconnection.

12 One of the -- one of the things that, you
13 know, in my mind makes it less of an issue is that we
14 have -- you know, we've been able to keep a relationship
15 in the St. Louis area with AmerenUE where, you know, we
16 know that during times like this they are not going to cut
17 people off, so I'm not -- I'm not in fear of that.

18 COMMISSIONER CLAYTON: How do you know
19 that? What makes you say that? Do you have an agreement
20 or is there a policy?

21 MS. HUTCHINSON: We have a -- well, we
22 don't have a written agreement or any of that. But their
23 policy, which they have consistently implemented over the
24 years, is that they don't -- they don't cut off people.
25 They are a part of our Operation Weather Survival group

1 that has been in effect since 1981, and they meet with us
2 monthly and have assured us that they don't cut people
3 off. And it's -- it has pretty much, you know, been my
4 experience with them that they don't cut folk off at --
5 you know, when the weather is extreme.

6 COMMISSIONER CLAYTON: Wait 'til September
7 or something like that when the weather cools down for any
8 type of collection activity?

9 MS. HUTCHINSON: Yeah. And they don't --
10 they don't send out a notice to the client and say, look,
11 I'm not going to cut you this month, but they don't, they
12 just -- they don't.

13 COMMISSIONER CLAYTON: Is that the way it's
14 been over the 20-some years you've been doing this type of
15 work?

16 MS. HUTCHINSON: Yes. Well, since the --
17 since the early '80s when we had an extreme large number
18 of heat-related deaths in the St. Louis area, and we
19 formed a group called Operation Weather Survival, AmerenUE
20 has been at the table since we -- since that very first
21 year when we began to talk about it, and -- and, you know,
22 they contributed money to buy air conditioners and --
23 every year for the elderly. And they -- you know, we have
24 liberal Dollar More policies that help, you know, and it
25 hasn't been as much of an issue.

1 Now, do I wish there were, you know, no
2 people cut off in the summer? Yeah, I do. I wish that
3 there were, you know, no low-income people who can't
4 afford to pay cut off at any time. But I'm saying, you
5 know, if -- it hasn't been as big of a problem,
6 particularly during periods of extreme heat. It just
7 hasn't been as big -- it hasn't been a problem that has
8 made me, you know, need to put my energies into a hot
9 weather rule, and I -- and I'm not -- I'm only speaking
10 for the St. Louis area.

11 I don't know what the experience is
12 statewide. So I can't say that that's not something that
13 would be beneficial --

14 COMMISSIONER CLAYTON: I understand.

15 MS. HUTCHINSON: -- statewide, but it
16 hasn't been that -- that's the reason I have not come
17 forward to push for it, is because of the participation
18 that we have on a local level.

19 COMMISSIONER CLAYTON: It seems like
20 there's some great irony here, that it seems every time we
21 talk about the Cold Weather Rule it's the hottest day of
22 the year. I think they said today on the radio that today
23 and tomorrow's supposed to be the hottest at least in
24 mid Missouri. And it begs the question about what type of
25 problems come up during these days that would be

1 comparable, if at all. It sounds like there's some
2 similarities, but many things are different than the
3 problems you face during the winter months.

4 MS. HUTCHINSON: Yeah, even though there
5 are more heat related, you know, more deaths in the
6 summer.

7 COMMISSIONER CLAYTON: How many deaths
8 would you face in your area, would you say, in a given
9 summer season?

10 MS. HUTCHINSON: Extreme summer, it's
11 really hard to say. We haven't had any so far this
12 summer. Probably, you know, in a normal summer, you know,
13 10 or 12, and maybe three or four of those will be
14 elderly, but in an extreme period, if we have prolonged
15 hot weather, then the numbers creep up. But because we
16 have worked over the years to have a proactive system in
17 the St. Louis area, we have reduced the number of
18 heat-related deaths.

19 So we have a city plan, and we met
20 yesterday and, you know, and all of the major agencies in
21 the city and both utilities. The gas company is also at
22 the table at Operation Weather Survival, and, you know, we
23 -- we have reduced those numbers of deaths by doing some
24 proactive things.

25 COMMISSIONER CLAYTON: How many deaths

1 would you get in a comparable winter season? I guess none
2 of them are easy to track.

3 MS. HUTCHINSON: Right. Really very, very
4 difficult to attribute the deaths in the winter, and the
5 reason is that people, the deaths are usually caused by
6 other things. They die of pneumonia, you know, they don't
7 die -- they don't freeze to death in their home. They get
8 pneumonia and they end up in the hospital or, you know,
9 they have other related heart disease that becomes, you
10 know, worse and they die of heart disease.

11 And so with the summer heat, the medical
12 examiner can take the core body temperature and say, yes,
13 this death was related to heat. With the winter, you
14 know, there are so many other things that ultimately cause
15 the death that there is no good number on, you know,
16 winter deaths.

17 COMMISSIONER CLAYTON: That's an
18 interesting point. Did you-all -- I say -- did you -- you
19 served on the low-income energy group that was meeting
20 over the last couple of years; is that correct?

21 MS. HUTCHINSON: Yes, and the Governor's
22 task force.

23 COMMISSIONER CLAYTON: Were there any
24 conclusions that you-all found regarding problems
25 associated with bills being paid during the summer months

1 when the heat gets up to high levels? Were there any
2 conclusions that those groups made with the cooling
3 system, do you recall?

4 MS. HUTCHINSON: Well, pretty much if I can
5 remember, I haven't reviewed those documents in a while.

6 COMMISSIONER CLAYTON: If you don't
7 remember --

8 MS. HUTCHINSON: If I can remember, I think
9 we came to the conclusion that, you know, it's a concern,
10 but not at a level where we thought it necessary to pursue
11 a -- a rulemaking at that time.

12 MR. COFFMAN: One brief point, if I can
13 interject here. This idea of a hot weather rule is
14 something that is of great interest to AARP because of its
15 impact on seniors and heat exhaustion, and AARP has
16 proposed hot weather rules in other states, including one
17 that's being considered this very week by the Texas Public
18 Utility Commission.

19 But it is a -- involves a different set of
20 issues in large part and they often aren't things that
21 this Commission could do. They involve, you know,
22 contacting these older citizens and making them realize
23 when it is a hot day. And I might suggest one thing that
24 could be explored was coordinating with the Department of
25 Health when they issue their heat alert, but that really

1 is for another topic. But if you're interested, I can get
2 you information from things that have been done in other
3 states.

4 Perhaps one reason that we haven't had such
5 a problem is that there have been collaboratives such as
6 Operation Weather Survival in St. Louis that have been so
7 successful. In fact, that's a program that when the City
8 of Chicago had hundreds of deaths years ago --

9 COMMISSIONER CLAYTON: 700 deaths, I think
10 they said on the radio the other day.

11 MR. COFFMAN: And they were trying to
12 figure out why, and they looked to St. Louis for some
13 answers.

14 MS. HUTCHINSON: And I might add to what
15 John said that Operation Weather Survival is a model that
16 is the model that is used in many other states, and we had
17 a team of folk that went to Chicago to help them set up
18 their hot weather response plan. Our county -- city and
19 county health departments, the mayor's office, you know,
20 the city inspectors and all of those folk are involved,
21 along with the Salvation Army and the Red Cross and the
22 United Way and all other folk that provide services to
23 people are involved in this plan.

24 And it includes proactive things such as
25 checking on elderly. And we have a large media

1 involvement, too, because if you -- if you listen to the
2 weather reports in St. Louis, they always -- every station
3 says check on your elderly friends and neighbors.

4 And the idea is that, you know, the elderly
5 may not use their air conditioning, but if there's
6 something else I can check, making sure they're safe and
7 they're going to be better off. We also have some
8 mechanisms in place to have daily phone calls to elderly
9 folk and movie theaters that give half price tickets to
10 folks to come to the movies during the day and all kind of
11 different things, including taking water out to the
12 homeless.

13 So it's comprehensive. It's a more
14 comprehensive and, you know, I'm -- I'm not necessarily
15 disagreeing with John or AARP.

16 COMMISSIONER CLAYTON: You've been
17 disagreeing with him all day, what are you talking about?

18 MS. HUTCHINSON: The reality is, is that in
19 none of the heat-related deaths that we've had have the
20 elderly folk had their utilities off.

21 COMMISSIONER CLAYTON: So the utilities
22 have been on. The electricity's fired up. They've just
23 been voluntarily choosing not to use it?

24 MS. HUTCHINSON: The electricity is on and
25 they have chose most of the time, because they fear that

1 it will get cut off.

2 COMMISSIONER CLAYTON: Let me ask this
3 question just to kind of conclude this, because I've
4 gotten us off on a track and apologize, but I think it's
5 an important time to compare the differences of these
6 problems, especially with it being so hot outside.

7 Do you believe there's any action that
8 should be taken by this Commission to address issues
9 during the summer, during the cooling season, especially
10 during times of extreme heat? Is there any action that is
11 necessary from this Commission in your opinion?

12 MS. HUTCHINSON: Well, I think that my --
13 my experience is from the St. Louis area, in that the
14 Commission has a responsibility for the -- for the whole
15 state, and so in that regard that you really do need to
16 take a hard look at what the experience is statewide in
17 terms of utility cutoffs and problems related to the heat.

18 I also think that any -- any hot weather
19 plan must be comprehensive and, as John said, involve the
20 health departments and, you know, some wider rules on
21 protecting -- here you've got to look at protecting the
22 elderly in a much different -- in a much different way,
23 and also children, small children and people who have
24 medical conditions, take drugs that -- that make their
25 body not regulate heat.

1 For instance, many of the allergy drugs, we
2 have a whole list of drugs that cause the body not to be
3 able to determine how hot it is, and so we have to educate
4 people who are taking, you know, allergy meds and
5 different heart medications that, you know, that they can
6 be overcome by the heat and, therefore, it's important for
7 them to use their air conditioning. And -- and then if
8 we're encouraging people to use their air conditioning,
9 then the need for protection and funding and all of that
10 becomes more important.

11 COMMISSIONER CLAYTON: Thank you for
12 answering these questions about this issue. I appreciate
13 your coming down today. Thank you.

14 JUDGE DALE: Commissioner?

15 COMMISSIONER GAW: Ms. Hutchinson, have you
16 had time to think about those items I asked you about
17 earlier?

18 MS. HUTCHINSON: Yes, I've had a little
19 time to think about it, and I -- the question was what,
20 you know, what do you think is a good amount to charge,
21 and I guess the -- I've had time to think about it, but I
22 still don't have a really good answer.

23 I think for me it is designing a -- a Cold
24 Weather Rule that takes into account a person's ability to
25 pay, that -- that can sort of separate the can't pay from

6 So, for instance, if you -- if you cut a
7 person on for \$500 and roll \$500 into a payment plan and
8 they're already using, you know, \$100 a month worth of gas
9 and couple that with the fact that they have an average --
10 the folk that we serve have \$600 a month in income, and
11 then, you know we expect them to be able to pay that 150
12 or \$160 a month, and they have average rents that are 350
13 to \$400 a month, and then at the end of the year we say,
14 well, we're going to punish you because your \$600 didn't
15 stretch enough to pay the utilities and the medicine and
16 the food.

25 I commend the money that we were able to

1 get from UtiliCare, and I commend Chairman Davis for
2 taking the lead on that, and -- but, you know, and I'm
3 hoping that we will -- we will have, you know, that kind
4 of response every year, that we will, you know, we'll have
5 state dollars will help to cover the cost.

6 I don't want to propose something that is
7 going to run up the rates for the folk, you know, in the
8 middle, the folk that are barely holding on, barely being
9 able to pay, and I don't want to force them back down
10 into the area where they can't pay, and so I would -- I
11 would just like to see something that brings that energy
12 burden -- I talked about the energy burden.

13 It's ridiculous for some families to have a
14 39 percent of their income energy burden while the
15 majority of families in the state are at 4 to 6 percent.

16 And so I think something -- if we want to
17 be comprehensive about it, we should -- we should do what
18 I -- what I proposed back in the early '80s, was to sit
19 down and come up with some kind of percentage of income
20 payment plan, or you don't have to call it that anymore.
21 I know that PIP is a dirty word.

22 But let's look at something that takes into
23 account a customer's ability to pay, and there are some
24 models of affordability plans, which is the -- which is
25 the current terminology for it. There's some models that

1 are working and are not driving bad debt through the roof
2 in some states, and I think that, you know, we're far, far
3 behind the states in that.

4 COMMISSIONER GAW: I'm going to stop you
5 for a minute, Ms. Hutchinson. We have been on this
6 subject now for several years.

7 MS. HUTCHINSON: Yes.

8 COMMISSIONER GAW: This is the last time I
9 suspect we will see this subject for a while. Now is the
10 time. If you have a proposal, if you have an idea, I want
11 to hear it. I want to hear what the specifics are. I
12 don't want to hear after we're done that we didn't try to
13 do something that's significant. I don't want to hear
14 that we're still ranked in the bottom 10 in the country on
15 doing anything about this.

16 If we don't do something significant here,
17 what are we doing here? Tell me what it is that we need
18 to do to put us in line with where we should be to help
19 people out there. If there is a specific thing that
20 should be changed on what the rule is, let me hear what it
21 is. I want to hear what those specifics are. I want to
22 hear what those payments should be. I want to hear what
23 those minimums should be. I want to know the numbers.

24 I'm not wanting to hear next year or
25 whoever is around here that, well, we just didn't do as

1 much as we should have. We just -- this is all we could
2 get done. I'm sorry, this is all that could happen, and
3 there's been -- I don't know. It's time. What is it that
4 we should be doing? What should this rule read like?

5 MS. HUTCHINSON: Well, I think that we need
6 to sit down and, you know --

7 COMMISSIONER GAW: This is -- we are
8 sitting down and we're here.

9 MS. HUTCHINSON: But I don't want to give
10 you the answer to that right now, but I tell you, I will
11 go back and --

12 COMMISSIONER GAW: I don't think we have
13 any other day. That's the problem.

14 MS. HUTCHINSON: I will -- I will tell you
15 that it would include a payment plan of people being able
16 to get back on for, you know -- if we want to look at
17 Illinois, people are getting service restored for
18 10 percent of the arrears, you know. If we want to look
19 at Kentucky, people are getting restored in Kentucky for
20 \$200, and they're getting payment plans that may stretch
21 into two years, two years long, based on their ability to
22 pay.

23 And so if, you know, if I had to say, I'd
24 say look at -- look at what our neighbors are doing, look
25 at what Illinois is doing, and I don't think that their

1 utilities are bankrupt.

2 COMMISSIONER GAW: Are you recommending
3 that we do what Illinois is doing?

4 MS. HUTCHINSON: I am. I'm recommending
5 that, with one caveat. Illinois has some money. They've
6 got considerable state dollars to help pay for their plan.
7 And so with my recommendation comes the recommendation
8 that the State has to make a commitment to help pay for
9 it, that we, you know, we've got to figure out how to pay
10 for it. The payment plan is the key.

11 Let's have payment plans that, you know, if
12 we had an easy way to do it would be to have a payment
13 plan, you know, particularly with people who we can
14 identify what their income is, the LIHEAP-eligible
15 households, that would give them a percentage of, you
16 know, energy burden, a payment that is close to their
17 energy burden.

18 For instance, in New Mexico what they did
19 is they set payments for customers at whatever the energy
20 burden was for the average customer. So for instance, no
21 low-income person would pay more than 6 percent of their
22 income for their utilities if that was the same energy
23 burden that the average person living at the median income
24 was paying. And they used the rate base as a funding
25 mechanism for that. You know, I'm reluctant to say which

1 plan is better, but I think that we need to choose one.

2 COMMISSIONER GAW: Mr. Coffman?

3 MR. COFFMAN: Do you want to hear my ideal
4 rule?

5 COMMISSIONER GAW: Yeah. I'm trying to get
6 some specifics.

7 MR. COFFMAN: I suppose that AARP looked at
8 what the Commission was able to propose and figured that
9 was reasonable, but I think if -- and I guess I'm speaking
10 for myself personally here, but I think that it would be
11 entirely reasonable if you wanted to say the folks could
12 be hooked up for 25 percent of arrears or \$250.

13 I mean, I think there's some benefit to
14 having both a percentage and a flat fee that folk could be
15 hooked up to. I mean, there's some states that hook
16 people up every year for free and don't allow them to be
17 cut off. Maine or Vermont, you have states up north that
18 do that.

19 I think that a moratorium would also be
20 reasonable for those protected classes, LIHEAP eligible,
21 under the statutes elderly or disabled folks, and just say
22 that throughout the winter months, those folks cannot be
23 disconnected. And then I would make it clear that
24 these -- that the connection hookups are not a
25 once-in-a-lifetime. If not every year, then there should

1 be some reasonable limit, two or three years, you get the
2 opportunity within that period, because I think, you know,
3 everyone can understand you can be in financial crisis
4 more than once in your life. And there are -- Iowa has
5 got a -- I think they give folks two chances or three
6 chances.

7 So those I think would be the important
8 components, and they are controversial and I understand
9 that you may need to compromise on them some. And I
10 certainly commend what the Commission's doing, but if you
11 wanted a real rule that seemed to go I think far enough,
12 that would be my idea.

13 COMMISSIONER GAW: Public Counsel?

14 MR. POSTON: We provided some detail in our
15 written comments. We had proposed 50 percent, that was
16 included in the amendment, the proposed amendment, and/or
17 \$250, which was consistent with the emergency rule that we
18 had proposed last year. That's the specifics of that
19 provision that we would like to see.

20 COMMISSIONER GAW: That's all I have.

21 CHAIRMAN DAVIS: All right. Ms.
22 Hutchinson, I guess my first question is, you know, are
23 you saying that customers should basically be charged
24 based on whatever their income is and not based on the
25 cost of the commodity, natural gas, and how much of that

1 commodity they are using?

2 MS. HUTCHINSON: That's correct. That is
3 correct. And there are many states that are serious about
4 the health and safety risk of being without fuel and have
5 regulated low-income discount rates in some states. For
6 instance, California has discount rates for low income.
7 You know, some states have determined that low-income
8 customers are really a separate and different class of
9 customer and that they do need to be treated in some way
10 differently.

11 And so, yeah, if we are -- if we're serious
12 about this being a health and safety issue, then we need
13 to be able to take into account in some fashion ability to
14 pay.

15 CHAIRMAN DAVIS: And I -- I agree with that
16 statement wholeheartedly, and I guess one statement that I
17 want to make very clear here is, if somebody is coming to
18 this Commission with a proposal from another state as
19 saying how this is how we're proposing that this be done,
20 it's how they do it in Texas, let's not just pick --
21 cherry pick the provisions that we like and then forget
22 about the things that we don't like. Implicit in this,
23 somebody is paying for it. It's the state, it's other
24 utility customers, it's the utility.

25 And I guess the question is, I want to know

1 who's paying for it in Illinois, who's paying for it in
2 Kentucky, who's paying for it in California when, you
3 know, obviously if customers are going to get a subsidized
4 rate -- and maybe it is to the advantage of all the other
5 customers to subsidize it. That's an intellectual
6 discussion that we may need to have here, but I'm just
7 trying to ferret out the answers.

8 MS. HUTCHINSON: And I did say that it's
9 going to take, you know, a combination of things to pay
10 for it, because I would not like to see the burden fall on
11 people who are barely making it, and in those states they
12 do have some mechanism to pay for it, and it's a
13 combination of things. It's their LIHEAP dollars, it's
14 their -- it's state general revenue dollars, it's TANIFF
15 dollars in some states, and in quite a number of the
16 states it's some portion is rolled into the rate base. So
17 it's a combination of those things.

18 It's not where one -- one thing -- and
19 that's my reluctance here in saying, you know, in
20 proposing a specific plan is that we've got to have -- the
21 who pays question is a bigger question, and I don't want
22 to, you know, sound like I'm proposing some pie in the sky
23 with no -- with no thought about who pays. It has to be
24 part of the discussion. The LIHEAP has to be a part of
25 it, and some state dollars.

1 CHAIRMAN DAVIS: Can you understand my
2 hesitancy in, you know, if I know that gas costs \$6 per
3 million BTU, you understand my hesitancy in wanting to set
4 a rate that would be lower than that? If that's what
5 you -- if that's what, you know, the utility has to pay,
6 and that's what it costs the average consumer or would
7 cost any consumer if they were just buying it off the
8 shelf like they would propane, I mean, can you understand
9 my hesitancy at selling a product at below market cost?

10 MS. HUTCHINSON: Yeah, I can. I absolutely
11 can understand the hesitancy there, but the issue is, you
12 know, have we as a state really decided that it is a
13 commodity that is necessary to the health and safety of
14 all consumers, and have we -- do we really have a
15 commitment to ensure that all Missourians can afford that
16 commodity?

17 So if we can't price it at a place where
18 everybody who we've deemed needs it to be healthy, then we
19 need to figure out how to fill that gap there, and -- and
20 start, you know, start doing something that -- you know,
21 and I don't know exactly what it is, but I just know that
22 what we're doing is -- hasn't gotten us there yet.

23 CHAIRMAN DAVIS: Are you aware of these
24 states that do, you know, offer special rates for low-
25 income consumers or special discounts or have these

1 special programs, are you aware of any studies that have
2 been done to monitor their, I guess, use and compared that
3 with the normal customers or who aren't receiving the
4 rates?

5 MS. HUTCHINSON: Yeah, there have been
6 studies, and I can't -- I can't cite the names of the
7 studies now, but there was one that was presented at the
8 National Fuel Funds Network this past June that sort of
9 dispels the myth that people will just, you know, open the
10 window and use up as much gas as possible if they, you
11 know, if they have a lower rate. There are studies that
12 we can get.

13 CHAIRMAN DAVIS: If we were to adopt a rule
14 of the nature that you're suggesting and we -- would you
15 be in favor of including a mechanism that would allow
16 utilities to disconnect persons who have been found to be
17 opening up the window and just using more natural gas than
18 they proportionately should?

19 MS. HUTCHINSON: I think if we could
20 determine that, you know, the furnace wasn't broke or the,
21 you know, hot water heater wasn't dripping or that there
22 was truly an abuse of the system, then yes, I would be.

23 You know, the one thing is that, you know,
24 in the case of the elderly, we may find them setting their
25 thermostats very, very low right now at a dangerous point

1 that keeps their body temperature a little low, but if
2 they thought they could afford it, they may use just a
3 little bit more, not in the range of wasteful.

4 So you may find that their usage may go up
5 just a -- just a little because they become, you know
6 secure that they can be comfortable. But I think if you
7 find abuses, then you have to get the abuses off of the
8 system, and I'm not opposed to keeping abusers on any
9 system. I mean, I'm not for keeping them on there.

10 CHAIRMAN DAVIS: Thank you, Ms. Hutchinson.

11 JUDGE DALE: Is there anything else from
12 the Bench?

13 (No response.)

14 JUDGE DALE: Seeing nothing, we will
15 conclude this hearing, and go off the record. Thank you.

16 CHAIRMAN DAVIS: Are you going to keep the
17 record open?

18 JUDGE DALE: I forgot to mention that. I'm
19 going to keep the record open in this proceeding for
20 another week. There are several exhibits that need to be
21 late-filed, and people may have follow-up comments based
22 on things discussed today. So we're going to keep the
23 record open for an additional week for comments.

24 MR. FISCHER: Would you like the Tennessee,
25 Kansas, Virginia those orders to be refiled again or --

1 JUDGE DALE: If you can -- which case were
2 they filed in, was it the Atmos?

3 MR. FISCHER: They were the emergency rule
4 GX-2006-0184, and they were Exhibits 3, 4, 5 and 6.

5 JUDGE DALE: No, they needn't be refiled.

6 MR. FISCHER: Be happy to do that, if it
7 would be more convenient.

8 JUDGE DALE: I can have a link put on EFIS
9 to those, so I'll do that. Is there anything else?

10 (No response.)

11 JUDGE DALE: Now we really are adjourned
12 and off the record.

13 WHEREUPON, the hearing of this case was
14 concluded.

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1 EXHIBITS INDEX

2 MARKED

3 EXHIBIT NO. 1
4 National Energy Assistance Directors'
5 Association, Public Service Commission
Consumer Protection Rules and Regulations,
A Resource Guide 13

6 EXHIBIT NO. 2
7 Winter Weather Payments: The Impact of Iowa's
8 Winter Utility Shutoff Moratorium On Utility
Bill Payments by Low-Income Customers,
February 2002 13

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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)

5 I, Kellene K. Feddersen, Certified
6 Shorthand Reporter with the firm of Midwest Litigation
7 Services, and Notary Public within and for the State of
8 Missouri, do hereby certify that I was personally present
9 at the proceedings had in the above-entitled cause at the
10 time and place set forth in the caption sheet thereof;
11 that I then and there took down in Stenotype the
12 proceedings had; and that the foregoing is a full, true
13 and correct transcript of such Stenotype notes so made at
14 such time and place.

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

17 Kellene K. Feddersen, RPR, CSR, CCR
18 Notary Public (County of Cole)
19 My commission expires March 28, 2009.
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