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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

July 9, 2003

Jefferson City, Missouri

Volume 1

In the Matter of a Proposed Amendment) Case No.
to Commission Rule 4 CSR 240-13.055) AX-2003-0193

BEFORE:

RONALD D. PRIDGIN,
REGULATORY LAW JUDGE.

KELVIN SIMMONS, Chair
CONNIE MURRAY,
STEVE GAW,
BRYAN FORBIS,
ROBERT M. CLAYTON, III
COMMISSIONERS.

REPORTED BY:
TRACY L. CAVE, CSR, CCR
ASSOCIATED COURT REPORTERS

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1 JUDGE PRIDGIN: Good morning. We're on the
2 record. This is the rulemaking hearing for Case
3 No. AX-2003-0193. And this is in the matter of a proposed
4 amendment to Commission Rule 4 CSR 240-3.180 and .250.

5 I am Ron Pridgin. I'm the regulatory law
6 judge assigned by the Missouri Public Service Commission to
7 preside over this hearing.

8 At this time I would like to get oral entries
9 of appearance from counsel. And if I could begin with
10 Staff, please.

11 MR. BERLIN: Yes, your Honor. Robert S.
12 Berlin, attorney for Staff of the Missouri Public Service
13 Commission, 200 Madison Street, Post Office Box 360,
14 Jefferson City, Missouri 65102.

15 JUDGE PRIDGIN: Thank you, Mr. Berlin.

16 Anyone here on behalf of the Office of Public
17 Counsel?

18 MR. COFFMAN: Appearing on behalf of the
19 Office of the Public Counsel and the public, John B.
20 Coffman, PO Box 7800, Jefferson City, Missouri 65102.

21 JUDGE PRIDGIN: Thank you, Mr. Coffman.

22 I do see that we have some comments from some
23 organizations and I will see if anyone is here on behalf of
24 them to enter an appearance. Is there anyone here on behalf
25 of KCP&L?

1 MR. FISCHER: Yes, your Honor. James M.
2 Fischer, Fischer and Dority, PC, 101 Madison Street, Suite
3 400, Jefferson City, Missouri 65101. And, your Honor, I'm
4 also appearing today on behalf of Ameren as well as Southern
5 Missouri Gas Company and Atmos Energy Company.

6 JUDGE PRIDGIN: Also known as MGE; is that
7 correct?

8 MR. FISCHER: No. Southern Missouri Gas
9 Company, LP. They serve in the -- east of Springfield,
10 Missouri as well as Atmos Energy Corporation, which has a
11 number of areas in the state.

12 JUDGE PRIDGIN: Thank you, Mr. Fischer.

13 Anyone here on behalf of Laclede Gas?

14 MR. ZUCKER: Yes, your Honor. Rick Zucker,
15 Z-u-c-k-e-r, Laclede Gas Company, 720 Olive Street, Suite
16 1524, St. Louis Missouri 63101.

17 JUDGE PRIDGIN: Thank you, sir.

18 Anyone here on behalf of Missouri Gas Energy?

19 MR. COOPER: Yes, your Honor. Dean L. Cooper
20 from the law firm of Brydon, Swearngen and England, PC, PO
21 Box 456, Jefferson City, Missouri 65102, appearing on behalf
22 of Missouri Gas Energy, a division of Southern Union
23 Company.

24 JUDGE PRIDGIN: Thank you, Mr. Cooper.

25 Any other counsel who need to enter an

1 appearance? All right.

2 MR. COFFMAN: Your Honor, there are, I
3 believe -- there's at least one member of the public who I
4 think appeared today wanting to make some comments and there
5 may be more, just for your information.

6 JUDGE PRIDGIN: Thank you, Mr. Coffman. I
7 appreciate you alerting me to that.

8 All right. Just let the parties know that
9 because this is a rulemaking area hearing, it's not a
10 contested case, therefore, counsel will not be permitted to
11 cross-examine any witnesses.

12 The Commission may have some questions for the
13 witnesses, however. And what I would like to do is at this
14 time take testimony, and I will proceed in this order. We
15 will take testimony from Staff, then from the Office of the
16 Public Counsel, then from anyone who would like to testify
17 in support of the rule, and finally, anyone who would like
18 to testify in opposition to the rule.

19 And I understand we have some comments from
20 some companies that may not necessarily be in support or in
21 opposition, but simply have some concerns. And for these
22 purposes, I'd like to let those parties testify in
23 opposition. If they have any type of concerns at all, I'm
24 going to call those in opposition simply just for purposes
25 of organizing how we're going to present witnesses. In that

1 case, Mr. Berlin, will Staff call any witnesses?

2 MR. BERLIN: Yes, your Honor. But, your
3 Honor, is this the appropriate time that I might bring to
4 your attention some matters before we call the witness?

5 JUDGE PRIDGIN: Certainly.

6 MR. BERLIN: Okay. I would like to draw your
7 attention then that on May 1st, 2003, Staff filed a
8 memorandum of rule number transfer and this was for purposes
9 of clarification.

10 This memorandum recognizes the interim event
11 of the transfer of the rule reporting requirements of
12 subparagraph 12 of Commission Rule 4 CSR 240-13.055 to 4 CSR
13 240-3.180, submission of electric utility residential
14 heat-related service cold weather report, and 4 CSR
15 240-3.250, submission of gas utility residential
16 heat-related service cold weather report.

17 JUDGE PRIDGIN: Thank you, Mr. Berlin.

18 MR. BERLIN: And then Staff also wishes to
19 enter into evidence as Exhibit 1 the affidavit of Janet
20 Hoerschgen, the customer service manager for the Public
21 Service Commission at the time this affidavit was originally
22 filed, December 23rd, 2002 as Exhibits B1 and B2 of the
23 amended motion for finding of necessity for rulemaking. And
24 I have copies for the Commissioners and for those present.

25 JUDGE PRIDGIN: All right. If you could bring

1 a copy up, please.

2 All right. Exhibit No. 1, the affidavit of
3 Janet Hoerschgen from the Staff subscribed and sworn on
4 December 23rd, 2002, will be admitted.

5 (EXHIBIT NO. 1 WAS RECEIVED INTO EVIDENCE.)

6 JUDGE PRIDGIN: Mr. Berlin?

7 MR. BERLIN: Yes, your Honor. Also, in
8 response to comments that have been submitted, Staff would
9 like to make three clarifying changes to each of the
10 proposed rule amendments. And these changes apply to both
11 3.180 and 3.250 as the rules are identical.

12 In paragraph 1, in the middle of the paragraph
13 where it states, And the utility shall separately report on
14 the information listed below for customers receiving energy
15 assistance and customers who are affected by 4 CSR
16 240-13.055, and the first change is to insert the word "not"
17 before "known" and then to delete the word "not" after the
18 word "known." It's merely an inversion of the two words.

19 JUDGE PRIDGIN: Thank you.

20 MR. BERLIN: The next change would be in
21 subparagraph A of paragraph 1 where it states, How many
22 customers. The first change is to insert a colon and then a
23 number 1 with a period and then it would read, Were
24 disconnected at the end of the period. Change the colon to
25 a semicolon and then change subparagraph 1 to 2, change

1 subparagraph 2 to 3. And then under 3 it states, Of those
2 disconnected during the period, comma. We change the word
3 "disconnected" to "discontinued."

4 JUDGE PRIDGIN: Okay. So then on
5 subparagraph 3 instead of "of those disconnected," it will
6 say "of those discontinued"?

7 MR. BERLIN: That is correct.

8 JUDGE PRIDGIN: And paragraph 2 will stay
9 disconnected?

10 MR. BERLIN: That's correct.

11 JUDGE PRIDGIN: Thank you.

12 MR. BERLIN: And then we have one minor change
13 on the next page, which is under section -- or subparagraph
14 C, paragraph 2C where it currently states "customer" and
15 then D where it currently states "other," we are switching
16 the two in order. So that C says "other" and D says
17 "customer." Those changes are applicable to both 3.250 and
18 3.180.

19 JUDGE PRIDGIN: Thank you, Mr. Berlin.

20 MR. BERLIN: Yes, your Honor. And Staff
21 wishes to call as its first witness Gay Fred.

22 JUDGE PRIDGIN: Ms. Fred, would you please
23 come forward and be sworn.

24 (Witness sworn.)

25 QUESTIONS BY JUDGE PRIDGIN:

1 Q. Thank you, Ms. Fred. Please be seated.
2 Would you please state your name for the
3 record?
4 A. Carol Gay Fred.
5 Q. And your position, please?
6 A. Consumer services manager for the Missouri
7 Public Service Commission.
8 Q. Ms. Fred, are you familiar with the proposed
9 rulemaking that's before the Commission in this case?
10 A. Yes, I am.
11 Q. Did you have some comments that you wish to
12 make concerning that rule?
13 A. Not any other comments other than what counsel
14 for the Staff has already made.
15 Q. All right. So would your comments be
16 essentially in line with the affidavit from Ms. Hoerschgen
17 and any Staff pleadings and filings?
18 A. Yes, it would.
19 JUDGE PRIDGIN: Thank you, Ms. Fred.
20 Commissioner Murray, do you have any questions
21 for the witness?
22 COMMISSIONER MURRAY: Yes, I have a couple.
23 Thank you, your Honor.
24 QUESTIONS BY COMMISSIONER MURRAY:
25 Q. Good morning.

1 A. Good morning.

2 Q. In reading some of the comments that were
3 filed to the proposed rule, I would like to have Staff's
4 feedback on how the informal comment period was conducted.
5 Were you a part of that?

6 A. No, I'm sorry. I was not.

7 Q. So you don't know if the Staff gave feedback
8 to the companies who may have expressed some concerns?

9 A. No. I do not know.

10 Q. Would anybody here know that?

11 A. Perhaps Mr. Berlin or Tom Imhoff. I believe
12 Mr. Berlin would be the appropriate one to ask.

13 MR. BERLIN: Yes, Commissioner. The companies
14 were invited to provide informal comments in September of
15 2002. And those companies that elected to provide comments
16 provided them in a letter or fax format to the Staff. The
17 Staff then met at that time, took their comments into
18 consideration and made some additional clarifying changes.

19 COMMISSIONER MURRAY: Was any feedback given
20 on that other than the proposed rule that you've submitted?

21 MR. BERLIN: I'm sure -- I don't understand
22 your question.

23 COMMISSIONER MURRAY: Okay. Was there any
24 discussion with -- any informal discussion process regarding
25 some of the concerns between the Staff and those who

1 expressed concerns?

2 MR. BERLIN: There was some discussion between
3 Staff and at least one company representative that I'm aware
4 of. I can't answer for Janet Hoerschgen.

5 COMMISSIONER MURRAY: All right. I understand
6 we don't have the same person here who was working on this
7 at the time. Thank you, Mr. Berlin.

8 BY COMMISSIONER MURRAY:

9 Q. Ms. Fred, the purpose of the amendment was
10 stated to make certain information public without a whole
11 lot of reporting requirements or without, I guess it was
12 stated, completely overhauling the reporting requirements.
13 I apologize. I'm stating that incorrectly.

14 What I'm doing here is taking that language
15 from a comment that was filed by Kansas City Power & Light
16 Company. And the statement that I'm referring to is in
17 their comment No. 6, the last sentence that says, If the
18 purpose of the amendment is to make the information public,
19 that could be accomplished without completely overhauling
20 the reporting requirements.

21 Have you thought about that and whether
22 there's a more simple way to accomplish the same thing
23 without making as many changes to the reporting
24 requirements?

25 A. Well, I think we're dealing with two separate

1 issues really there. One is the reporting requirements, one
2 is making the information public.

3 We feel like the reporting requirements need
4 to be a little bit better defined because a lot of questions
5 we receive from the Missouri legislators, the Governor's
6 office, other public interest groups who are concerned with
7 Missourians and whether or not they qualify under Cold
8 Weather Rule reporting issues, we cannot sufficiently answer
9 at this time with the information we are receiving because
10 it is somewhat overall speaking rather than perhaps breaking
11 it down to be able to better identify particular -- whether
12 it's groups or particular times or periods or situations
13 that may warrant perhaps an increase or a need and
14 additional funding for LIHEAP and other programs similar to
15 that.

16 With what we're receiving today under the
17 existing current reporting requirements, it doesn't give us
18 enough information to do a fair analysis to make a better
19 determination on what the needs may be for the State of
20 Missouri.

21 So we felt by making the additional request
22 for additional requirements, it would help better serve the
23 Staff and other parties in having the proper information to
24 do a better analysis of what the needs are.

25 In addition to that, we get frequent requests

1 from the public or from public interest groups or from our
2 legislators or from the Governor's office who request for
3 certain information related to the Cold Weather Rule that we
4 cannot provide without going to the Commission and getting
5 permission to release that information.

6 We also get a number of calls from the press
7 especially during the period in which the Cold Weather Rule
8 applies. We felt it was -- is somewhat cumbersome and if we
9 could at least provide that information in an aggregate
10 form -- and that aggregate form could be on a quarterly
11 basis or even a monthly basis where we're not releasing
12 customer specific information, we could see -- we could not
13 see how that would be detrimental to anyone to provide that
14 information. It's simply providing information that's
15 reported to us.

16 Q. And is that an aggregate form per utility?

17 A. Well, again, I think that would be a
18 determination by the Commission whether they wanted to make
19 that by utility or by utility types being gas versus
20 electric. But we would propose by utility, yes.

21 Q. So as the rule -- as the proposed rule is set
22 out, it is by utility, aggregate by utility?

23 A. Correct.

24 Q. And -- I know you're not an attorney, so I
25 won't ask you that question.

1 Did you have anything to do with the
2 preparation of the fiscal note?

3 A. No. I'm sorry. I did not.

4 Q. Is there anyone here as a witness today who
5 did?

6 MR. BERLIN: Commissioner Murray, I prepared
7 the fiscal notes.

8 COMMISSIONER MURRAY: All right. Mr. Berlin,
9 did the amount of \$17,100 in the aggregate that the fiscal
10 note shows, how did you arrive at that figure?

11 MR. BERLIN: That is the only figure that was
12 submitted by an electric utility at that time, and I believe
13 it was KCPL.

14 COMMISSIONER MURRAY: So was your assumption
15 that there would be no cost to anyone other than that
16 utility?

17 MR. BERLIN: For purposes of completing the
18 fiscal note, I could only use the data that was submitted,
19 so --

20 COMMISSIONER MURRAY: You can't do any kind of
21 an assumption analysis or anything like that?

22 MR. BERLIN: I could do that, but I did not
23 with regard to other electric utilities because there were
24 some wide-ranging numbers that were submitted.

25 COMMISSIONER MURRAY: Now I'm confused. I

1 thought only one utility submitted numbers.

2 MR. BERLIN: Well, that is with regard to

3 3.180. That's the electric utility.

4 COMMISSIONER MURRAY: All right. And as to

5 3.180, did you make an assumption that because you only

6 received an estimate from one utility, that all of the other

7 utilities would be at zero cost?

8 MR. BERLIN: I can't say that I made that

9 assumption. I presumed more that the other utilities were

10 submitted under the gas utility of those utilities that

11 were -- were reporting numbers. For example, AmerenUE has

12 both gas and electric service, so they would be reporting

13 for both their gas and electric territories.

14 COMMISSIONER MURRAY: So how did you

15 incorporate those numbers into 250 then?

16 MR. BERLIN: The only pure electric utility

17 that had submitted a number was KCPL, so that went to the

18 fiscal note for 3.180. The others were gas utilities, so

19 I -- I put them under the 2.250, the related fiscal note.

20 COMMISSIONER MURRAY: And on 3.250 you show

21 Atmos, for example, as no cost. Where did you get that?

22 MR. BERLIN: From them.

23 COMMISSIONER MURRAY: And you didn't include

24 any cost for Southern Missouri Gas. Because they made no

25 submission?

1 MR. BERLIN: That's correct.

2 COMMISSIONER MURRAY: And did you consider

3 that they had zero cost then?

4 MR. BERLIN: Well, I -- for the purpose of the

5 fiscal note, I considered exactly what they pretty much --

6 what they had submitted. So I made no assumption with

7 regard to any additional cost if they did not report a cost.

8 COMMISSIONER MURRAY: Is it your opinion that

9 any company would be zero cost?

10 MR. BERLIN: I can't answer that, because some

11 of the off-setting savings for this are the savings derived

12 from the reduction of ad hoc inquiries. So I can't answer

13 what internal cost savings mechanisms or efforts and

14 activities the company would undertake to accomplish this

15 reporting requirement.

16 COMMISSIONER MURRAY: Okay. Thank you,

17 Mr. Berlin.

18 JUDGE PRIDGIN: Commissioner Murray, further

19 questions for --

20 COMMISSIONER MURRAY: I'm just looking. Just

21 one second.

22 JUDGE PRIDGIN: Thank you.

23 COMMISSIONER MURRAY: I believe not. Thank

24 you.

25 JUDGE PRIDGIN: Thank you, Commissioner

1 Murray.

2 Commissioner Clayton?

3 COMMISSIONER CLAYTON: I have no questions.

4 JUDGE PRIDGIN: Thank you.

5 I don't believe I have any questions.

6 Ms. Fred, thank you. You may step down.

7 Mr. Berlin, any further evidence from Staff?

8 MR. BERLIN: Your Honor, we have Tom Imhoff

9 from Staff available for any questions from the Commission.

10 JUDGE PRIDGIN: All right. Thank you,

11 Mr. Imhoff. Let me have you take the stand, if you will,

12 Mr. Imhoff, and get you sworn in.

13 (Witness sworn.)

14 BY JUDGE PRIDGIN:

15 Q. Thank you, sir. If you would, please state

16 your name for the record.

17 A. My name is Thomas M. Imhoff. Last name is

18 spelled I-m-h-o-f-f.

19 Q. Mr. Imhoff, are you employed by the Missouri

20 Public Service Commission?

21 A. Yes, I am.

22 Q. And what is your position?

23 A. I am the supervisor over the energy

24 department, rates and tariffs.

25 Q. Are you generally familiar with the proposed

1 rulemaking that's before the Commission in this hearing?

2 A. Generally, yes.

3 Q. All right. Do you have any comments you wish

4 to make before the Commission has any questions for you?

5 A. I would just basically echo what was in the

6 affidavit signed by Ms. Hoerschgen that was submitted by

7 her --

8 Q. All right.

9 A. -- in the amended application.

10 JUDGE PRIDGIN: Thank you, Mr. Imhoff.

11 Commissioner Murray, do you have any

12 questions?

13 COMMISSIONER MURRAY: Thank you.

14 QUESTIONS BY COMMISSIONER MURRAY:

15 Q. Mr. Imhoff, did you have a direct role in the

16 preparation of this proposed rule?

17 A. No, I did not.

18 Q. So you can't offer anything additional?

19 A. Not really.

20 COMMISSIONER MURRAY: All right. Thank you.

21 JUDGE PRIDGIN: Commissioner Clayton?

22 QUESTIONS BY COMMISSIONER CLAYTON:

23 Q. Sir, you just said that you're here for

24 questions, but you really don't have anything to offer?

25 A. Well -- well, I was not directly involved in

1 the preparation of it.

2 Q. Okay.

3 A. But -- but if you do have some questions
4 pertaining to that --

5 Q. I do have one question.

6 A. Okay.

7 Q. There was a comment in one of the statements
8 filed by one of the utilities relating to subsection C
9 regarding information that perhaps is not available to the
10 companies.

11 A. Okay.

12 Q. Do you agree or disagree with that statement
13 in subsection C? Do you have a copy of the rule in front of
14 you?

15 A. Yes, I do.

16 I do agree that there will be some information
17 that the -- that the companies would not have access to.
18 Take, for instance, if they had a customer who had their
19 grandmother or their parents give them a check to help pay
20 their utility bill, there's no way that the utility company
21 would have any idea that that's where it came from.

22 I don't believe that we're looking at them
23 trying to call each individual customer and try to find out
24 what their various payment arrangements are. So if they
25 would get a payment, it could be assumed that it was from

1 the customer if there's nothing coming from organizations
2 such as your Dollar More, Dollar Help, which we would assume
3 would fall under the other category or -- and then you have
4 your LIHEAP and your ESIP.

5 But as it relates to their concern about not
6 knowing, we really don't expect them to be able to report
7 something like that.

8 Q. So you agree that there's some things that
9 they're not going to have access to, but they will have
10 access to some information?

11 A. Yes.

12 Q. That's what you're saying. And I don't think
13 I quite understand paragraph C, sub 2, sub C currently as
14 it's listed, how much energy assistance was provided by
15 customer. Exactly what does that mean?

16 A. Okay. Basically the way that we would look at
17 that is that they would receive payments from -- from --
18 let's say like Dollar More, Dollar Help, that would fall
19 under the other category. If they would receive an ESIP or
20 LIHEAP piece, those as well would fall underneath that.

21 If they still had some extra left over to pay
22 their bill and they paid the entire bill, we would assume
23 then that would just be classified as the customer giving
24 the extra amount.

25 Q. When a bill is paid like this, is there --

1 right now are you aware of a tracking system that identifies
2 the type of payment that comes in, or basically are they all
3 just a form of a check that comes in and gets deposited and
4 acknowledged in their accounting department?

5 A. I'm not quite sure. I believe that they do
6 have mechanisms that would let them know that a payment has
7 been made through LIHEAP, ESIP or through like Dollar More
8 or Dollar Help.

9 Q. Are those payments made by check or are they
10 wired -- not wire transfer, but are they electronic
11 transfers or do you know?

12 A. I don't know.

13 Q. Well, how would they know then -- I mean, do
14 they have to copy all the checks that come in?

15 A. They wouldn't make a copy of the -- of the
16 checks. There -- I'm not quite sure exactly. There is some
17 mechanism that would let them know that there was a LIHEAP
18 grant or that there was an ESIP. And as it relates to such
19 as Dollar More or Dollar Help, that is administered through
20 agencies that the -- that the various utilities know that
21 some of the funds come through them. They have a mechanism.

22 Q. The agency, the supporting agency or the
23 assisting agency, has a mechanism or the utility has a
24 mechanism?

25 A. It would be the utility has a mechanism to

1 identify that.

2 Q. They currently have that?

3 A. That's to my understanding, yes.

4 COMMISSIONER CLAYTON: Okay. Thank you.

5 JUDGE PRIDGIN: Any further questions,

6 Commissioner Clayton?

7 COMMISSIONER CLAYTON: No.

8 JUDGE PRIDGIN: I don't believe I have any

9 questions.

10 Thank you, Mr. Imhoff. You may step down.

11 Mr. Berlin, any further testimony from Staff?

12 MR. BERLIN: No, your Honor.

13 JUDGE PRIDGIN: All right. Thank you.

14 At this time I will take comments or testimony

15 from the Office of Public Counsel. Mr. Coffman, did I

16 understand you had some testimony?

17 MR. COFFMAN: Yes, I do.

18 JUDGE PRIDGIN: If you would, please come

19 forward to be sworn.

20 MR. COFFMAN: I also have a summary of my

21 written comments in printed format. Does everyone have a

22 copy of that?

23 JUDGE PRIDGIN: I believe. Commissioner

24 Murray, you have a copy. Commissioner Clayton, I think you

25 have one also. Thank you.

1 (Witness sworn.)

2 BY JUDGE PRIDGIN:

3 Q. Thank you, Mr. Coffman. Please be seated.

4 If you would, please state your name for the

5 record.

6 A. My name is John Coffman.

7 Q. And your position, please?

8 A. I currently serve as the acting Public Counsel

9 with the Office of the Public Counsel.

10 Q. And, Mr. Coffman, are you generally familiar

11 with the proposed rulemaking that's before the Commission in

12 this case?

13 A. Yes, I am. I have read it. Thank you.

14 Q. Mr. Coffman, did I understand you have some

15 testimony and you've also tendered from written comments to

16 the Commission concerning this rule?

17 A. Yes. I guess I would ask that my written

18 comments be made a part of the record in this case and then

19 I could briefly summarize those comments. I would also -- I

20 think I could give a short answer to some of the questions

21 that the Commissioners have asked so far today.

22 And I think I would also make a couple of

23 comments regarding actually some good points of

24 clarification pointed out by Kansas City Power & Light

25 Company and by Missouri Gas Energy.

1 Q. All right. Before I forget, Mr. Coffman, let
2 me accept your tendered Exhibit No. 2, which are your
3 written comments; is that correct?

4 A. Yes.

5 (EXHIBIT NO. 2 WAS RECEIVED INTO EVIDENCE.)

6 BY JUDGE PRIDGIN:

7 Q. All right. Any further explanation that you'd
8 like to make on those comments or any further testimony you
9 have before Commissioner's questions?

10 A. Yes. I'll just quickly summarize what I wrote
11 here and please feel free to interrupt me if you would like
12 to.

13 Again, my name is John Coffman. I work for
14 the Office of Public Counsel and for many years, about at
15 least 12 years, have been very active in low-income energy
16 policy discussions here in the state of Missouri and I'm
17 here today to offer support for the proposed rule. And
18 although I think there may need to be a few minor edits to
19 the rule for clarity, I think it is a very sound and
20 positive rule.

21 And I think that, first of all, making the
22 Cold Weather Rule reporting requirements, which have been
23 something that have been reported for at least 15, maybe 20
24 years in some format, making them public will only help to
25 help policymakers here in the state make better informed

1 decisions and help the public have a better grasp of what is
2 a very real problem here in Missouri and that is, you know,
3 as in most places, there are many families that cannot
4 afford to heat their homes during the cold winter months and
5 many of them are disconnected during the year for
6 non-payment of those bills racked up for energy received
7 during the winter months.

8 One of the things that I have done besides
9 being a part of several Cold Weather Rule rulemakings over
10 the years is I've also served as an officer of the Committee
11 to Keep Missourians Warm. And this is a very effective ad
12 hoc coalition that meets every month religiously here in
13 Jefferson City.

14 It's a group that includes I believe almost
15 every regulated and electric natural gas company here in the
16 state, most of the community action agencies here in the
17 state, Social Services, DNR, the Public Service Commission
18 is a participant with several low-income energy advocates.

19 And we meet every month and just discuss a lot
20 of the problems related to low-income energy issues and try
21 to come up with collaborative solutions. This committee has
22 often discussed the reporting requirements and these issues
23 have been brought up to representatives from the regulated
24 utilities from time to time.

25 I would -- I think at this point I might

1 mention that in addition to whatever informal steps that the
2 Staff of the Commission may have taken to prepare the
3 proposed rule, there was also a discussion of these issues
4 at a Public Service Commission round table.

5 I don't remember the exact date, but I believe
6 it was earlier -- it was some point in 2002, maybe it was in
7 the winter period. It was over at the Capitol Plaza. It
8 was called the Cold Weather Rule and possible Hot Weather
9 Rule Round Table.

10 The comments were made by the Staff of the
11 Commission, Janet Hoerschgen mentioned the reporting
12 requirements at that. All of the regulated electric and
13 natural gas companies had a representative there. Some of
14 them made presentations. I made a presentation regarding
15 some proposed improvements to the Cold Weather Rule.

16 And all of the presentations I believe are on
17 the Public Service Commission website. I had trouble
18 finding it this morning, but for your information, I believe
19 it can be found on the web page under the heading of
20 Publications the subheading of Natural Gas and then the
21 sub-subheading of electric and natural gas round table.

22 But there is information that within the last
23 year has been provided by several interested parties
24 involving Cold Weather Rule and reporting requirements.

25 The reporting requirements were first

1 officially made a requirement of this Commission in what was
2 called an open docket case back in 1985. That case was
3 initiated by the Public Counsel.

4 And one of the orders that was a joint
5 recommendation was that all the utilities supply a certain
6 list of information mostly involving shut-offs and the
7 amount of money owed to utilities. And that information was
8 to be provided to the Staff of the Commission, the Consumer
9 Services Department specifically and to the Office of the
10 Public Counsel.

11 And if I recall, that information was reported
12 every month for many years and that information at that time
13 was considered public information. And I believe it was in
14 a rulemaking that occurred in 1993 that these reporting
15 requirements were almost verbatim incorporated into the Cold
16 Weather Rule.

17 And when they became a rule, they continued to
18 say that the information was provided to the Staff and the
19 Public Counsel, but because of the statute Section 386.480,
20 which says that information provided to the Commission shall
21 be considered confidential unless there's an order of the
22 Commission so stating, that there has been a question about
23 whether that's been public.

24 So out of an abundance of caution, I think the
25 Commission and my office have considered that confidential.

1 And if there has been a request for it, we simply have said
2 that that request needs to go to the Commission for some
3 specific order.

4 But, to my knowledge, up until that time,
5 there had never been an issue about whether the information
6 was to be secret or not. And I don't believe it's ever been
7 formally raised to the Commission.

8 But that history being stated, I think that
9 the purpose of the Commission's rule is valid. I cannot
10 think of any valid reason why this information should be
11 kept from the public. I think it will promote the public
12 good to allow this information to be provided in the
13 aggregate. I think it would be good for it to be provided
14 by utility and just to show the number of shut-offs and
15 amount of energy assistance made to the public.

16 And every year that I remember there has been
17 at least one or two requests for this information made to me
18 or my office. And there were many, many requests made
19 during the winter of 2000/2001 when natural gas prices were
20 very high and there was a record number of folks who were
21 shut off for non-payment of their utility bills.

22 These requests came from newspapers, came from
23 University researchers who wanted to do a study of data,
24 low-income advocates, I think a couple of Senators requested
25 this information. So it's -- it's regularly requested and I

1 don't see any reason why those folks need to go through the
2 extra formal steps of requesting the information. Often the
3 requesters expressed frustration that this was just a
4 bureaucratic hurdle that didn't need to be there.

5 Again, I think it is -- as my written comments
6 point out, the Missouri's Open Records law sets up the
7 standard that all government records should be open for
8 inspection unless otherwise provided by law, that that
9 should be liberally construed and any exception should be
10 strictly construed.

11 And it's kind of unfortunate that 386.480 is
12 worded the way it is. It's sometimes referred to as kind of
13 a circular argument because Chapter 610, which lays out the
14 open records rule, says that all records should be open
15 unless there's a specific exception in the law. 386.480
16 says that information provided to the Commission should be
17 considered public unless there's a specific provision making
18 it public. So you can argue that it's somewhat circular.

19 But, nonetheless, I think any argument that
20 this information -- or that this proposed amendment to the
21 rule conflicts with 386.480 is really eliminated if the
22 Commission decides to go ahead and adopt this rule. Because
23 I think an order of rulemaking would be considered, you
24 know, an order of the Commission under the rule and provided
25 that the Commission can simply clarify that this is

1 public information, I think that that satisfies any legal
2 question.

3 Kansas City Power & Light company does claim
4 that the information reflects certain business practices and
5 its customer base and makes the suggestion, I guess, or at
6 least explanation of why that's confidential. I'm not sure
7 what that is and perhaps they could be asked what business
8 practices they do not want compromised.

9 I mean, obviously I think their customer base
10 and customer numbers are public information already. I'm
11 not really sure what business practice would need to be kept
12 secret. However, I think that supplying information in the
13 aggregate should eliminate any information from being
14 disclosed that shouldn't.

15 The only thing that I can state I think should
16 definitely be kept confidential is already mentioned in the
17 proposed rule, and that is customer-specific information.
18 And I'm not aware anywhere in the rules or statutes that say
19 that that needs to be kept private, but I think everyone --
20 all the parties have always considered that to be
21 confidential.

22 And certainly the names of customers, their
23 addresses, their phone numbers, personal information
24 relating to that should be kept confidential. It has
25 traditionally been kept confidential and I'm glad the

1 proposed rule makes that clear.

2 Let me see. I think I could probably just
3 touch on a couple of questions raised by utility companies
4 who I think brought up some valid points about the wording
5 that may have been a little bit confusing.

6 The first one is in subsection 1, Kansas City
7 Power & Light Company particularly pointed out that the rule
8 asks them to supply the information for customers who they
9 knew were receiving energy assistance and for those known
10 not to be receiving it.

11 They validly point out that they can't know
12 who is not receiving it; in other words, to know a negative.
13 I'm not sure I caught the Staff edit, but I think that they
14 were trying to correct that. I think if that was changed
15 merely to say, Not known to be receiving energy assistance,
16 that would make it clear that the category would be for
17 those who they knew were supplying information and those for
18 whom they didn't know whether or not they were receiving
19 information.

20 And to address Commissioner Clayton's question
21 about subsection C, I think it's -- I think the utility
22 validly points out that they can't be certain that they know
23 all the sources of information. Most every major source of
24 energy assistance flows right through the utility. They
25 will certainly know about LIHEAP, ESIP money, any Utilicare

1 money, governmental money.

2 Every source of energy assistance I'm aware of
3 is paid directly to the utility and many forms of charities
4 and other fuel funds, Dollar Help, Dollar More, Salvation
5 Army, a lot of these do go through the utility or paid
6 directly to the utility.

7 The information that they may or may not be
8 aware of is information from smaller charities that may
9 simply write a check or hand some cash to a customer. And I
10 think a reasonable reading of the rule is that the utility
11 should only be required to report that assistance for which
12 they are aware.

13 And my understanding of these other sources of
14 assistance is to be really rather minor compared to the
15 other sources. I mean, after LIHEAP, ESIP and various fuel
16 funds that are administered by the utility, the rest of the
17 assistance is really not very large in comparison.

18 I think that I also support the other edits
19 that the Staff has suggested here, particularly in
20 subsection A pointing out that what is now subsection 2
21 where it says disconnected, that probably should be changed
22 to discontinued or discontinued for non-payment.

23 I think what is being requested there is how
24 many customers who were -- you know, in subsection 1
25 discontinued were then restored during that same month.

1 Discontinued has a specific definition in the rule. As you
2 may know, it is defined as customers who are involuntarily
3 shut off.

4 Disconnection either refers to the universe of
5 all shut-offs or those shut-offs that were voluntary or
6 requested by the customer. I think that there are some
7 differing definitions from utility to utility in tariffs
8 involving what disconnected means.

9 There's no specific definition in Chapter 13
10 about what disconnected means, but I think it's generally
11 understood to mean any shut-off altogether. And then
12 discontinued is the subset of disconnections that are
13 involuntary.

14 I think that is all the comments I have and
15 I'd be happy to answer any questions.

16 JUDGE PRIDGIN: Thank you, Mr. Coffman.

17 Commissioner Murray?

18 COMMISSIONER MURRAY: Thank you.

19 QUESTIONS BY COMMISSIONER MURRAY:

20 Q. Good morning, Mr. Coffman.

21 A. Good morning.

22 Q. You stated that you thought the company only
23 needed to report the assistance of which it's aware?

24 A. Yes.

25 Q. Do you think that perhaps the language needs

1 to be adjusted a little bit so that we don't have a rule
2 requiring something that sounds like it's requiring more
3 than it actually is?

4 A. That would be reasonable, sure. And I haven't
5 thought about how that would be done. Perhaps you could
6 insert some wording where the proposal is to include the --
7 you know, the words, Utility shall report -- or down later
8 where it says, The utility shall separately report, maybe it
9 should say for which it is aware or for which it has
10 knowledge, but --

11 Q. So --

12 A. -- I think the Commission if it -- you know,
13 in its deliberations could probably come up with a way
14 through some simple wording to clarify that. But even
15 without that, I would certainly read the rule to not require
16 something to be provided that they don't have.

17 Q. And then on 3C2C, I didn't quite understand --
18 I believe it was Mr. Imhoff's explanation of that, the
19 energy assistance provided by customer.

20 A. I'm not sure I know exactly what was intended.
21 Perhaps it was customer supplied -- you know, the dollar --
22 what are sometimes called fuel funds, the Dollar Help,
23 Dollar More, Neighbor Assisting Neighbor programs that the
24 major utilities provide.

25 Often there are check-offs on the bill where

1 customers can provide a dollar or an extra amount on their
2 bill, they go into some fund. Those are sometimes called
3 customer-supplied assistance.

4 I'm not sure it would make any sense to
5 interpret that as, you know, assistance provided by the
6 customer being assisted. Presumably those are other
7 customers, but I think those are -- I think that is intended
8 to mean funds coming from other customers.

9 Q. All right. It appears to me that that needs
10 some clarification to make it understandable unless I'm the
11 only one that still doesn't understand it.

12 A. I think that was the funds that -- the major
13 examples are Dollar Help and Dollar More.

14 Q. Thank you. The information that is made
15 public, why does it need to be in the aggregate company by
16 company and not just in the aggregate as a whole?

17 A. Well, the main request that I've received for
18 information, and I think that have been on the Commission's
19 agenda, have been from reporters or legislator in a specific
20 part of the state who are interested in how many --
21 specifically how many shut-offs in their part of the state.

22 And I think that, you know, if the St. Louis
23 Post or the Kansas City Star wanted to know how many
24 shut-offs, I think they would be more interested in how many
25 shut-offs were from their particular -- their particular

1 readership area than from the state as a whole. That would
2 be one reason.

3 And I can recall a couple requests from
4 legislators who asked me how many people were shut off in my
5 district. And so I think that -- I think they're -- I think
6 it's valid to supply the information by utility to perhaps
7 point out a trend or a difference, a problem between
8 utilities.

9 You know, if we find that one utility has, you
10 know, an inordinate number of shut-offs compared with
11 another, that might, you know, lead to an investigation of
12 why and if there's any valid explanation for it.

13 I don't -- many utilities have policies that
14 go beyond the Cold Weather Rule and have different rules
15 about what it takes to get -- particularly get hooked back
16 up again after one has been discontinued. And I think -- I
17 think it would be important information to know.

18 Q. But you're not suggesting that a utility has
19 rules in place that were -- where we have not -- that we
20 think are inappropriate according to what is required of
21 them, are you?

22 A. There have been instances over the past
23 10 years I can remember where complaint cases have been
24 filed regarding whether a utility was accurately
25 interpreting the Cold Weather Rule. There have been

1 differences of opinion about what's required of a utility
2 and whether they're following the rule.

3 And there are also instances when a utility
4 does go beyond the rule, if you will, and have a -- and the
5 main example of that is utilities will have different
6 standards for how much money or what conditions are required
7 for reconnection.

8 Q. I always get a little concerned when people
9 start -- like from the media or anywhere for that matter
10 start looking at numbers and comparing and drawing
11 assumptions from a set of numbers because there are so many
12 variables that the numbers --

13 A. Yes.

14 Q. -- do not reflect --

15 A. Right.

16 Q. -- that I don't like being in a position when
17 we are causing numbers to be made public that really could
18 be misleading. And do you think that that could be a
19 possibility from this?

20 A. I think that's a valid concern. And I think
21 one -- there's one instance that I know that is often a
22 source of confusion, and that is that the number of
23 shut-offs, even discontinuances, can contain a certain
24 number of shut-offs that reflect customers who simply left
25 town and didn't pay their last month's bill because they

1 forgot or just decided not to pay their last month's bill.

2 And that really doesn't reflect often the
3 group of customers that we're really focused on, which are
4 the folks that simply don't have the means to pay the bill
5 and still are living in their house.

6 But I think the better policy is to make this
7 information available to point out what qualifications need
8 to be made about the information and just to supply more
9 information instead of less. And I think it would be very
10 appropriate to provide qualifications and disclaimers and
11 more information about what the data may or may not include
12 rather than maintain a veil of secrecy over it.

13 Q. And who would provide those disclaimers and
14 that additional information?

15 A. The Commission could provide that, the
16 utilities could provide that whenever information was made
17 public. And I would -- I think it would be appropriate for
18 my office to provide any clarification or explanation of the
19 data if it was ever requested.

20 COMMISSIONER MURRAY: Okay. Thank you. I
21 think that's all I have.

22 JUDGE PRIDGIN: Thank you, Commissioner
23 Murray.

24 Commissioner Clayton?

25 COMMISSIONER CLAYTON: Thank you, Judge.

1 QUESTIONS BY COMMISSIONER CLAYTON:

2 Q. Mr. Coffman, I have several general questions
3 and you can help me catch up. I started my second month
4 here and I'm working on my learning curve.

5 First of all, does the Cold Weather Rule apply
6 to municipal utilities as well as investor owned?

7 A. No, it does not.

8 Q. It does not. Should it be applied to the
9 other, or do we even have jurisdiction to talk about that
10 here?

11 A. I don't think the Commission has jurisdiction
12 over that. I think that jurisdiction over municipals is
13 essentially over safety. I guess that could be stretched.
14 You could make an argument that this is a safety issue
15 because folks who are shut off in the wintertime can, you
16 know, face the threat of hypothermia or other health related
17 problems, I suppose. But I guess I haven't given that a
18 whole lot of thought.

19 Q. Well, don't worry about speculating.

20 A. The Commission does have -- I might point out
21 that in the Commission's jurisdictional statute 386.250,
22 subsection 6, there is a very specific reference to the
23 Commission being allowed to regulate and make rules relating
24 to disconnections and refusal of service. And the
25 legislature I think definitely intended the Commission to

1 occupy this area of regulation and be focused on it.

2 Q. The subsection C that you referenced early in
3 your comments and I asked some questions earlier, generally
4 speaking, since you're a member of this organization -- and
5 I can't remember the --

6 A. The Committee to Keep Missourians Warm.

7 Q. That's it. Nice fuzzy name.

8 The question I have, do you know how payments
9 are tendered from particular aid organizations to utilities?
10 Are they done by check? Are they done by, you know, a
11 direct deposit type of arrangement? Is it one payment is
12 made with a list of whose accounts are supposed to be
13 applied to?

14 I'm trying to get an idea or an understanding
15 of how -- when money comes in, I mean, are we basically
16 talking about the utility has to sit there at the photocopy
17 machine and copy the checks as they come in and match them
18 up? How are these recorded? Is it electronically recorded?
19 What is your understanding?

20 A. I think it's mostly electronic now. I
21 don't -- I can't really speak from personal experience. I
22 don't work in the accounts. But I believe that with both
23 LIHEAP and ESIP, there are pledges that are made and then
24 some transfer made, either electronically or by check.
25 There may be someone here who handles that on a regular

1 basis and could -- could testify.

2 Q. Well, I'm sure we're going to hear about that
3 later on, but I wanted to ask the question from Staff and
4 from your perspective to see what your understanding of it
5 was, because you mentioned some other programs. I think you
6 said Dollar More and there was another one --

7 A. Dollar Help.

8 Q. Do they function by electronic means or do
9 they function by check?

10 A. Those are funds that are maintained by the
11 utility themselves. The money is primarily donated,
12 contributed by --

13 Q. Those are internal --

14 THE COURT REPORTER: I can only get one at a
15 time.

16 BY COMMISSIONER CLAYTON:

17 Q. Thank you.

18 A. I apologize. Those are funds that solicit
19 donations from other customers, maintain the fund and then
20 under some guidelines supply that information to customers
21 that are considered to be needy or qualify. And I just
22 assume that because they are internally collected are --
23 that, you know, debits are made internally within the
24 utility.

25 Q. Okay. Have you read the comments that have

1 been submitted to the Commission?

2 A. Yes, I have.

3 Q. Do you have any comments yourself regarding

4 statements about cost to the companies?

5 A. You know, programming costs I've seen reported

6 involving lots of different issues and I've seen those

7 estimates fluctuate wildly. Sometimes utilities will say

8 that, you know -- you know, what seems like a very simple

9 change to their record keeping costs are hundreds of

10 thousands of dollars in software and data processing.

11 The costs reported here in the fiscal --

12 included in the fiscal notes seem actually relatively minor.

13 I'm not really alarmed by that. And I don't know that --

14 I'm not a data processing expert, but I just know that

15 sometimes data processors will consider a change to the

16 general ledger, to the reporting requirements to be a really

17 involved costly expense and sometimes they won't.

18 Q. I've got to wait until you finish speaking

19 before I ask my next question.

20 So you really have no way to dispute the cost

21 that's been alleged here?

22 A. No.

23 Q. Your position would be that it's worth it?

24 A. Yes.

25 COMMISSIONER CLAYTON: Okay. Thank you.

1 JUDGE PRIDGIN: Thank you, Commissioner
2 Clayton.
3 And I had a question about cost, but
4 Commissioner Clayton stole it from me so I will pass.
5 Thank you, Mr. Coffman. Does the Office of
6 Public Counsel have any other evidence or testimony to
7 present?
8 MR. COFFMAN: No, we do not.
9 JUDGE PRIDGIN: Thank you, Mr. Coffman. You
10 may step down.
11 At this time we will take comments in support
12 of the rule. Is there any party that would like to testify
13 at this time in support of this proposed rule?
14 Before I swear you in, could I get you to say
15 your name for the record?
16 MR. EAMES: My name is Ivan Lee Eames,
17 E-a-m-e-s.
18 JUDGE PRIDGIN: Okay. Mr. Eames, if you
19 would, please raise your right hand to be sworn.
20 (Witness sworn.)
21 BY JUDGE PRIDGIN:
22 Q. Thank you very much. If you would, please be
23 seated, sir.
24 And, again, for the record would you please
25 state and spell your last name?

1 A. My name is Ivan Lee Eames, E-a-m-e-s. And I'm
2 with Central Missouri Counties Human Development
3 Corporation, a community action agency in Columbia,
4 Missouri. And for the last 22 years I have administered the
5 Energy Crisis Intervention program and the Dollar More
6 program, so perhaps I can answer some of the Commissioners'
7 questions concerning those programs.

8 I would like to commend the Commission for
9 issuing this rule. I think it's important. In terms of
10 issues that have been raised about information, I think the
11 information that is critical that I know the utilities have
12 a record of, and that is the LIHEAP and ESIP programs, those
13 programs -- the reporting requirements here will be -- give
14 us information regarding how effective or ineffective those
15 programs are. And so that -- that is my critical concern is
16 those two other programs.

17 I -- I think also, however, they do track
18 programs like Dollar More and Dollar Help. And I agree with
19 the Commission's comments up to now. There needs to be word
20 clarification.

21 And Kansas City Power & Light pointed out that
22 the way the present wording is, is confusing. They
23 certainly can't report something they don't know. And I do
24 think that needs to be changed.

25 I'm basically supporting the Office of the

1 Public Counsel's comments and Janet Hoerschgen's comments
2 concerning making this information public.

3 I would like to make a brief comment
4 concerning our society's prejudice against people who are
5 protected by this rule. Dr. Schwarz from the Washington
6 University in St. Louis did a longitudinal study on poverty.
7 And over a 10-year period, one out of four families in the
8 United States fell into poverty.

9 I'm not saying that we don't have people who
10 are chronically poor primarily due to mental health and
11 substance abuse problems, but the overwhelming majority of
12 people who become poor become poor because they lose their
13 job.

14 I would also urge the Commission to look in
15 the future at -- at this rule and make it so it better
16 protects low-income people. I'll bring up one issue here
17 now that I wish you would consider. If you -- this rule was
18 adopted in 1983. If you were protected by this rule but
19 defaulted on a payment plan in the last recession, you would
20 not be protected by this rule in the current recession
21 because once you default, you can no longer be protected.
22 This one strike and you're out business needs to be changed
23 considering this rule.

24 That's just one area I think it can be
25 improved. I think both myself and Public Counsel will have

1 other suggestions considering that.

2 Concerning payments, our agency -- what we do
3 is we call in a pledge for either Dollar More or ESIP. This
4 program works primarily because of the good faith between
5 our agency and the utility company.

6 In my 22 years, I only know of three disputes
7 that we've had with the utility company over whether or not
8 we did not or did pay a bill. Since we serve 2,000 people a
9 year, I think that's a pretty good record.

10 I'd be glad to answer any questions of the
11 Commission if I can.

12 JUDGE PRIDGIN: Thank you for your comments
13 sir.

14 Commissioner Murray, any questions?

15 COMMISSIONER MURRAY: Thank you.

16 QUESTIONS BY COMMISSIONER MURRAY:

17 Q. Good morning.

18 A. Good morning.

19 Q. In terms of the information that would be
20 provided as a result of the rule or made public as a result
21 of the rule, how specifically would you use information
22 provided per company?

23 A. Well, my own interest would probably be the
24 aggregate statewide, but I think Public Counsel has a valid
25 point by saying that especially legislators are interested

1 in what's going on in their district. And so I think
2 that's -- that's a valid point to make concerning specific
3 areas of the state.

4 I'm -- of course, my own particular interest,
5 given what my employment is, is people who have received
6 both ESIP and LIHEAP and yet have been discontinued in the
7 winter months. I mean, what kind of -- how effective are
8 those programs in relationship to keeping people on?

9 I would remind the Commission Janet Hoerschgen
10 doesn't let us lose sight of the purpose of the Cold Weather
11 Rule, which is to protect the health and safety of our
12 citizens during a period in which problems of health
13 problems, hypothermia problems can arise if you don't have
14 heat in your home.

15 Q. And currently how are you trying to make those
16 determinations as to effectiveness?

17 A. Of the present Cold Weather Rule?

18 Q. Yes.

19 A. Well, I just brought up one example in which I
20 think that it is not effective, and that is the one strike
21 and you're out provision of the rule.

22 Q. Well, excuse me. What I'm actually trying to
23 ask you is what information are you using now to make your
24 determinations? This rule is going to provide better
25 information you say to make these determinations. Correct?

1 A. Yes. I believe so. We can -- again, I'd just
2 repeat what I said about LIHEAP and ESIP. If people have
3 gotten both of those energy assistance programs in the
4 winter and yet have defaulted on a Cold Weather Rule payment
5 plan, I'd like to look at the numbers of why -- you know,
6 statewide of how serious a problem that is.

7 Q. And you cannot do that now?

8 A. That's correct, ma'am. I'm also a member of
9 the Committee to Keep Missourians Warm. And I've requested
10 from Mr. Coffman's office for several years now to try to
11 get this information. So I, again, commend the Commission
12 for issuing this rule.

13 COMMISSIONER MURRAY: Okay. Thank you very
14 much.

15 JUDGE PRIDGIN: Thank you, Commissioner.
16 Commissioner Clayton?

17 COMMISSIONER CLAYTON: Thank you.

18 QUESTIONS BY COMMISSIONER CLAYTON:

19 Q. I just have a couple of areas of interest.
20 First of all, what is your service area, and for the
21 corporation that you're a part of, Community Action
22 Corporation you're a part of?

23 A. We serve eight counties in central Missouri.

24 Q. Eight counties?

25 A. Do you want me to list them?

1 Q. No. Don't need to know that.

2 A. Okay.

3 Q. You have eight counties in mid-Missouri. And

4 what percentage of, say, your clients would be affected by

5 this, meaning that they are under regulated utilities?

6 A. Well, that's a good question. I'll take a

7 stab at it. About -- about 70 percent.

8 Q. So about 70 percent and the rest would either

9 fall under --

10 A. Municipal or --

11 Q. -- rural or --

12 A. -- rural cooperatives, yes, sir.

13 Q. Okay. How does your organization, either

14 organization, deal with those areas that there is no cold

15 weather reporting rule?

16 A. With great difficulty. I mean, people have no

17 protection. Now, I will say this. The rural electric

18 cooperatives and the municipals have stated publicly that

19 they voluntarily follow the rule because, to be quite

20 candid, they're concerned -- they do not want the Commission

21 to regulate them.

22 Q. Well, if they say that, do you agree with that

23 statement?

24 A. That has not been my experience --

25 Q. Okay.

1 A. -- with some of them.

2 Q. The other question that I had relates to the
3 statement that you made about the one strike and you're out.
4 You default on an agreement, you're out. And my question
5 is, how many strikes should they get? Unlimited?

6 A. Well, I think you have to -- that's a very
7 good question, but I think you would have to look at that
8 over a period of time. Again, I brought up someone who was
9 protected by this rule and was a victim of the last
10 recession and now another recession comes along and they
11 cannot be protected by the rule. So I would put some time
12 limits on it, but I'd certainly give people more than one
13 shot at it.

14 Q. Because I think that kind of gets to the heart
15 of it. If you have a perpetual victim, should that person
16 receive the same benefit as perhaps someone that is a
17 first-time victim or that type of thing.

18 Well, anyway, I appreciate your comments.
19 Thank you.

20 COMMISSIONER CLAYTON: Thank you, Judge.

21 JUDGE PRIDGIN: Thank you, Commissioner
22 Clayton.

23 I don't believe I have any questions. Thank
24 you very much for your testimony, sir. You may step down.

25 Are there any comments or any other witnesses

1 who wish to testify in support of the rule?

2 Seeing none and hearing none, I will now move
3 to those who wish to make comments in opposition to the
4 rule. And at this time do I have any testimony from KCP&L?

5 MR. FISCHER: Good morning, Commissioners. My
6 name's Jim Fischer. I'm outside counsel for Kansas City
7 Power & Light.

8 I'm not sure how the Bench would like to
9 proceed.

10 JUDGE PRIDGIN: What I would like to do,
11 Mr. Fischer, just to make a record is have you sworn in as a
12 witness. And then I'll let you make comments and -- unless
13 you're going to be terribly uncomfortable, could I trouble
14 you to speak from the witness stand for camera purposes?

15 MR. FISCHER: Sure. I have a couple of
16 technical people that are probably in a much better position
17 to answer your questions. I could summarize the concerns
18 that were mentioned in the comment by Kansas City Power &
19 Light, or if you'd like, I can call a witness forward that
20 could actually give you more technical information.

21 JUDGE PRIDGIN: I think, Mr. Fischer, if I
22 could, if I could get you sworn in and then again have you
23 approach the witness stand and have you make your comments
24 and the Commission can ask questions, and then we'll
25 certainly be glad to hear from other witnesses of yours.

1 (Witness sworn.)
2 BY JUDGE PRIDGIN:
3 Q. Thank you. Please state your name for the
4 record.
5 A. My name is James M. Fischer.
6 Q. And your title please or your relationship to
7 KCP&L?
8 A. I am outside local counsel for Kansas City
9 Power & Light Company, which is an electric utility located
10 in the Kansas City area.
11 Q. And are you generally familiar with the
12 proposed rulemaking that's before the Commission in this
13 case?
14 A. Yes, sir.
15 Q. Any comments that you'd like to make on that
16 rule at this time?
17 A. Yes. I would just basically reiterate the
18 comments that were filed in a written format by Kansas City
19 Power & Light. It was mostly designed to clarify some
20 issues that KCP&L had with the proposed rule.
21 One of the suggestions that the company had
22 was that there be a technical committee to talk about
23 implementation of the rule to make certain that it was done
24 across the utility industry on a uniform basis because
25 that's the area that they're concerned, that there may be

1 misleading information if you just take the raw numbers and
2 it's not done uniformly across the industry. And I think
3 that's an area of their concern overall to making the
4 information public, especially on a company by company
5 basis.

6 They also did point out that they don't really
7 know who is not receiving energy assistance. And they
8 wouldn't know, for example, if a customer was receiving
9 energy assistance from a church or a relative or some other
10 customer.

11 And that was one of the things in section C
12 that I think's been discussed at length and it sounds like
13 there's not really a big disagreement about that.

14 I do have a couple of representatives from the
15 company here that are much more familiar with the actual
16 workings of their company in implementing the cold weather
17 rule, Vicky Meyer and Lois Lickte (ph.) and if the
18 Commission has specific questions that I can't answer, I'd
19 be glad to call them forward.

20 JUDGE PRIDGIN: All right. Thank you,
21 Mr. Fischer. First, let me see if we have any questions
22 from the Bench.

23 Commissioner Murray, any questions?

24 COMMISSIONER MURRAY: I don't believe so.
25 Thank you.

1 JUDGE PRIDGIN: Thank you.
2 Commissioner Clayton?
3 COMMISSIONER CLAYTON: Judge, just for
4 clarification purposes, I know Mr. Fischer represents
5 several people, and I guess procedurally is he going to come
6 back up and we're going to do one client first and then do
7 your witnesses and then come back for the next client?
8 MR. FISCHER: I'd be glad to do it all at one
9 time unless the Judge has a different view of that.
10 JUDGE PRIDGIN: That's fine with me. I was
11 going to ask if your response would be consistent since
12 you're representing more than one client instead of
13 piecemeal going back and forth. If indeed your comments are
14 going to be the same or substantially the same for all the
15 other clients, if you just want to state that for the record
16 and do it all at once, that's fine.
17 MR. FISCHER; I would say that Ameren filed
18 comments that are generally supportive of the rule, but the
19 concern that they had is that there be at least a 90-day
20 transition period from the time that it becomes effective to
21 get it -- get the programming that's going to be necessary
22 to implement the rule. I think that's their major concern
23 in that regard.
24 The other utilities that I entered appearances
25 for have not filed written comments, but would like to be

1 here participating today.

2 BY COMMISSIONER CLAYTON:

3 Q. Just for clarification, you're here on behalf
4 of Ameren, KCP&L --

5 A. And Atmos Energy Corporation, which is a gas
6 company that serves in the Hannibal, Kirksville and bootheel
7 area. And then also Southern Missouri Gas Company, LP,
8 which is a small local distribution company in the eastern
9 area -- east of Springfield.

10 Q. So you're here to speak in favor of the rule
11 on behalf of Ameren and then just other comments are sort of
12 opposed by your other clients?

13 A. Yeah. Ameren had the concern about the
14 transition period and following the Judge's comments, that's
15 the reason I'm here -- I'm testifying at this point.

16 Q. So you're speaking in favor and opposed?

17 A. Well, I'm speaking in -- Ameren is supporting
18 the rule with the concern of the transition period. And as
19 I understood Judge Pridgin, he wanted anybody that had any
20 concerns to speak in opposition, so we're doing that.

21 COMMISSIONER CLAYTON: I understand. Thank
22 you.

23 JUDGE PRIDGIN: Thank you, Commissioner
24 Clayton.

25 Commissioner Murray?

1 QUESTIONS BY COMMISSIONER MURRAY:

2 Q. I'm sorry. I do want to ask one question
3 that, Mr. Fischer, you may have the answer to.

4 The fiscal note that showed Atmos at zero, are
5 you familiar with that?

6 A. I'm not familiar with the details of why they
7 came in at zero. I know they try and track a lot of
8 information already and they may have felt given the fact
9 that they're in a number of states and track information
10 like that, that it's not going to be a lot of incremental
11 costs or none, but --

12 COMMISSIONER MURRAY: Thank you.

13 JUDGE PRIDGIN: All right. Thank you.

14 I don't believe I have any questions for
15 Mr. Fischer other than to clarify. Mr. Fischer, I
16 understand that you have two other potential witnesses. Do
17 they have comments that they wish to make or are they simply
18 available for cross-examination?

19 MR. FISCHER: No comments? One comment? I
20 think we do have a comment.

21 JUDGE PRIDGIN: All right. And I don't have
22 any more questions.

23 Mr. Fischer, who will be testifying next?

24 MR. FISCHER: Laurie, are you going to be
25 first? I didn't see if KCP&L wanted to testify. No.

1 JUDGE PRIDGIN: I'm sorry. Before I swear you
2 in, could I get your name?

3 MS. KARMAN: Sure. My name is Laurie,
4 L-a-u-r-i-e, middle initial H., last name is Karman,
5 K-a-r-m-a-n.

6 JUDGE PRIDGIN: All right. Would you please
7 raise your right hand to be sworn?

8 (Witness sworn.)

9 BY JUDGE PRIDGIN:

10 Q. Thank you very much. If you would, please be
11 seated. Would you -- I'm sorry.

12 Would you please state your name for the
13 record and spell your last name?

14 A. Sure. My name is Laurie Karman, last name
15 spelled K-a-r-m-a-n. I'm the director of credit and
16 collections for AmerenUE and also Ameren CIPS. And under my
17 jurisdiction in addition to credit and collection
18 responsibilities are also energy assistance programs.

19 And I just would like to reiterate a little
20 bit more about Ameren's written testimony and that being
21 that we certainly are very supportive of additional
22 reporting requirements, the revision to it.

23 We would like, however, to request that
24 sufficient time be provided for the implementation of this
25 so that the necessary programming and that could be

1 performed. We would ask that -- we're proposing that it not
2 be implemented prior to January 1st. And if the rule, in
3 fact, does become effective after October 1st, that at least
4 a 90-day period be provided so that the necessary
5 programming could be put in place.

6 We're also supportive of KCP&L's comment about
7 the possibility of a technical workgroup, if you will, to
8 talk about some of the interpretative issues. For example,
9 the issue that Commissioner Murray brought up about the --
10 in section C about that customer energy assistance payment.
11 Our interpretation was that that was a customer down payment
12 and how much did the customer contribute towards the
13 reconnection amount.

14 There are other kinds of interpretative things
15 like that that might be well served if, in fact, there was a
16 committee or some collaborative effort to actually look at
17 the form and the development of the form and make sure that
18 all the utilities really are on the same wavelength.

19 Again, we don't have a problem in providing
20 the data. I -- just for the record, I will mention that
21 there are some issues, as Commissioner Murray mentioned,
22 about the disclosure of information that's out there by
23 specific utility companies in terms of disconnection numbers
24 per utility.

25 Obviously Ameren, as one of the larger

1 utilities in the state, is probably going to have the larger
2 number of disconnections. And, you know, that compared to,
3 you know, smaller utilities, it may be an apples and orange
4 kind of thing and how is that going to be taken out of
5 context?

6 The other thing is, in addressing what
7 Mr. Coffman had said, Ameren is not prepared to provide
8 numbers of disconnections by legislative district. I mean,
9 we just don't track disconnections in that kind of a format.
10 So to the extent that, yes, that would be very useful to a
11 legislator, we simply are not tracking within the boundaries
12 or constraints of a legislative district to provide that
13 information.

14 And if there are any questions, I'd be very
15 happy to answer them.

16 JUDGE PRIDGIN: All right. Thank you,
17 Ms. Karman.

18 Commissioner Murray?

19 COMMISSIONER MURRAY: Thank you.

20 QUESTIONS BY COMMISSIONER MURRAY:

21 Q. Good morning.

22 A. Good morning.

23 Q. The 90 days for implementation, has that been
24 discussed with Staff, do you know, in the informal
25 discussions about the rulemaking?

1 A. I don't believe so. I was not involved in the
2 initial discussions. I know Janet Hoerschgen not -- was --
3 is not available. Similarly, I was not involved in the
4 discussions at that point in time, so I do not know.

5 Q. You've not heard that anyone has a problem
6 with that, I assume? Can I assume that? That you have not
7 heard from anyone saying they have a problem with 90 days
8 for implementation; is that accurate?

9 A. Not that I'm aware of.

10 Q. And the interpretative committee that you've
11 mentioned, do you think that could be done following the
12 rulemaking prior to -- or during an interim period before
13 implementation? How do you envision that being done?

14 A. It can be done either way. It can be done
15 beforehand, you know, depending upon how the order is going
16 to go forward or it can be done afterwards. I mean, the
17 rule can be passed, then the interpretation and the form to
18 be developed, you know, as part of a collaborative sort of
19 committee.

20 But just so that all of the utilities are on
21 the same wavelength and we're all understanding what's being
22 requested of us in terms of reporting, I think will be very
23 valuable on the front end.

24 Q. You can't be too clear about rulemaking and
25 what is required. And in terms of tracking disconnects for

1 the information that would be provided here, does this
2 require very many changes to the way you're tracking
3 information?

4 A. There -- there are some revisions. We are
5 currently reporting data monthly to the Commission because
6 we do have gas service. So some of the data is already
7 being captured. But there will be -- need to be some
8 refinements to our system.

9 Q. But you're not considering that they're major
10 refinements?

11 A. No. Our best estimate is that they'll be
12 somewhere approximately \$10,000, somewhere in that ballpark.
13 Again, it's one of those things that sometimes when you get
14 into the system, you don't really know -- as Mr. Coffman
15 alluded to, sometimes it could be a bigger thing. But at
16 this point we're not anticipating that it's going to be, you
17 know, overwhelming or anything of that nature.

18 Q. In terms of Ameren's position on the
19 information disclosed, is Ameren all right with the
20 disclosure in the aggregate by company?

21 A. The preference would be to -- to disclose it
22 aggregate by state, but Ameren would not object to it if it
23 were to be presented by company, recognizing that there then
24 becomes the responsibility to make sure that it is, in fact,
25 in the right context and it isn't just, you know, put out

1 there in comparison with a utility that doesn't have, say,
2 the same customer base, you know, so that, you know, unfair
3 comparisons aren't made. But, you know, obviously the
4 preference would be to do it on a statewide level, on an
5 aggregate basis.

6 Q. And you say that there is no -- whether this
7 rule goes forward or not, Ameren does not track by
8 legislative district?

9 A. No.

10 Q. How about by area of the state?

11 A. Ameren tracks it by its own operating
12 companies, which are just geographical areas based on
13 Ameren's operations which, you know, outside of Ameren would
14 not necessarily be as, you know, meaningful. It's not done
15 on a county-wide basis, it's not done necessarily -- it's
16 not done on a city basis. It's done on an operating
17 district basis.

18 Q. So the information that is apparently desired
19 here by some of the people that have spoken in favor of the
20 rule as it's written would be to provide legislators the
21 ability to see how many disconnects in their district or
22 reporters to see how many in a certain geographic area.
23 This information, you're saying at least as far as Ameren
24 goes, will not supply -- will not meet those needs; is that
25 right?

1 A. Correct.

2 COMMISSIONER MURRAY: All right. Thank you.

3 MS. KARMAN: You're welcome.

4 JUDGE PRIDGIN: Commissioner Clayton?

5 COMMISSIONER CLAYTON: Thank you, Judge.

6 QUESTIONS BY COMMISSIONER CLAYTON:

7 Q. Ms. Karman, what exactly has to happen at

8 Ameren to implement these changes? Is it all computer

9 programming?

10 A. It's computer programming, yes, it is. And

11 the necessary testing, getting into the programming,

12 testing --

13 Q. And --

14 A. -- all of that.

15 Q. And do you all have to hire outside your

16 company?

17 A. It's possible that some contractual

18 programmers may need to be hired for that.

19 Q. And I was looking at the comments filed and I

20 didn't see it. What cost did you assume or does Ameren

21 assume it will incur for --

22 A. Ameren is estimating that the costs required

23 to do the necessary program will be somewhere around the

24 range of about \$10,000.

25 Q. And Ameren is the -- it's a fairly large

1 service area?

2 A. Yes.

3 Q. Okay. My last question is on -- I think that
4 you were in the room when I was asking this. When payments
5 from some of these assistance programs that are referenced
6 in subsection C, when they come in, do you know how they
7 come in and how those are tracked or can they be tracked? I
8 mean, are they checks? Could you explain to me how that
9 would work?

10 A. Certainly. I can speak to that. The LIHEAP
11 payments are certainly electronic. Some of the ESIP
12 payments can or can't be. Some of them are just by
13 individual checks by community action agencies giving us
14 that.

15 I would like to mention Ameren partners with
16 about 1,200 different social service agencies to provide
17 assistance to our customers. So -- and it could range from
18 larger organizations to -- to very small churches and small
19 grass roots community groups providing funds. Those
20 payments typically come in the form of a single individual
21 check --

22 Q. Are they coded?

23 A. -- that Ameren processes. Ameren does code
24 those. And that's why the category is listed here is other.
25 We would be able to provide information on that recognizing

1 it could come from a number of different sources, these
2 small churches, in addition to Ameren's Dollar More
3 program --

4 Q. Do you code them right now or is -- I mean, do
5 you already code them -- these payments as they come in
6 right now?

7 A. Yes, we are.

8 Q. Okay. So basically it's just extracting all
9 that data out of your system?

10 A. Correct.

11 Q. Okay.

12 A. Correct. There -- we are kind of watching
13 where the funds are coming from and that. So that would not
14 be, for Ameren, that insurmountable to provide. However,
15 again, in that section C where it says a customer, our
16 interpretation was that that was the down payment that the
17 customer was paying to restore service. So, again, it
18 speaks back to that interpretative collaborative effort, if
19 you will --

20 Q. Thank you.

21 A. -- to get that.

22 COMMISSIONER CLAYTON: Thank you.

23 Thank you, Judge.

24 JUDGE PRIDGIN: Thank you, Commissioner.

25 QUESTIONS BY JUDGE PRIDGIN:

1 Q. Just a few quick questions, Ms. Karman. Could
2 you tell me, if you know, how Ameren arrived at that 90-day
3 figure for testing? I mean --

4 A. It was -- it was looked at just for the other
5 projects that are in que and being able to free up the
6 necessary resources to get in there and if, in fact,
7 contractual programming help needs to be secured to do that.

8 Q. Could that 90-day number change depending on
9 whether or not you need contractual help?

10 A. Ninety days was the estimate given by our
11 programming staff when they estimated that a -- the numbers
12 that -- the hours, the cost estimate of what would need to
13 be done, that they would need a 90-day lead time and the
14 approximate programming hours to be able to get it into the
15 que.

16 Q. Is that based upon having contractual help or
17 not having contractual help, or do you know?

18 A. I do not know offhand.

19 JUDGE PRIDGIN: All right. I think those are
20 all the questions I have.

21 Anything else, Commissioner Murray or
22 Commissioner Clayton?

23 Thank you. Thank you for your testimony. You
24 may step down.

25 Mr. Fischer, any other testimony from any of

1 your clients?

2 MR. FISCHER: No, sir. Unless the Commission

3 had specific questions that you would like to address.

4 JUDGE PRIDGIN: All right. Commissioner

5 Murray, do you wish to have any witnesses come forward for

6 cross-examination?

7 COMMISSIONER MURRAY: I'd just like to ask

8 Mr. Fischer a question. Do any of your clients track data

9 by legislative district or by geographic area?

10 MR. FISCHER: They may track it by geographic

11 area based on the areas that they serve. For example, Atmos

12 has several different areas, one of which was formerly

13 Associated Natural Gas Company. They may track that data by

14 those regions, but they certainly wouldn't have it by

15 legislative district.

16 COMMISSIONER MURRAY: Thank you.

17 JUDGE PRIDGIN: Commissioner Clayton, do you

18 need any other witnesses for cross-examination?

19 COMMISSIONER CLAYTON: I suppose it depends if

20 Mr. Fischer needs to defer or not, if I could ask him a few

21 questions since we've got him under oath.

22 JUDGE PRIDGIN: That's right.

23 MR. FISCHER: Probably the first time for this

24 before the Commission too.

25 QUESTIONS BY COMMISSIONER CLAYTON:

1 Q. First time being under oath. Just to make
2 sure, you are here on behalf of KCP&L?
3 A. Yes, sir.
4 Q. Okay. Make sure. On page 3, paragraph 7 of
5 the comments, KCP&L assumes 24,000 in costs. Is that
6 company-wide, that cost assumption for all its services?
7 A. Yes. That would be company-wide in Missouri.
8 JUDGE PRIDGIN: I'm sorry, Mr. Fischer. Is
9 your microphone on? I'm not sure if we're picking this up.
10 If you have a hard time getting it going, I may need to ask
11 you to take the witness stand so we can get your voice on
12 the record.
13 MR. FISCHER: I don't think it's working.
14 JUDGE PRIDGIN: Could I trouble you to come
15 take the stand so we can get your voice?
16 I'm sorry, Commissioner.
17 BY COMMISSIONER CLAYTON:
18 Q. We're good now.
19 A. Thank you.
20 Q. Total cost for Missouri company-wide of
21 \$24,000. Are you aware, does KCP&L track these payments
22 that come in from heating assistance organizations right
23 now? Do you know the answer to that?
24 A. To some extent. The comments indicate there
25 are areas that they aren't tracking now that they would have

1 to track in order to comply with the rule.

2 Q. Are they under the -- the LI--

3 A. LIHEAP.

4 Q. Do they track under that right now?

5 A. I believe they do.

6 Q. And then there was the E one.

7 A. ESIP. Yes, those are two government programs

8 that they would be able to track.

9 Q. Okay.

10 A. They wouldn't be able to track private

11 contributions or customer -- friends of customers that would

12 be making payments.

13 Q. So the costs would be adding in these extra

14 entities that are making -- tracking the extra organizations

15 that are making the payments?

16 A. No. I think the -- the comments indicate

17 there are several areas that they aren't tracking now.

18 Q. Are they -- in discussing the cost factor, are

19 we talking about computer programming costs? Are they staff

20 costs in-house?

21 A. I'm not certain. I understand their

22 principally programming. There may be some staffing. For

23 example, here on the -- on Section D they -- they indicate

24 that KCP&L does not currently track information related to

25 how many were put on the Cold Weather Rule pay plan and how

1 many were on the Non-Cold Weather Rule pay plan.

2 That was one area that they're not tracking

3 now. And then another area is in the G -- section on G,

4 KCP&K has never tracked Cold Weather Rule assistance funding

5 to the level of detail that's required in that rule in that

6 section.

7 COMMISSIONER CLAYTON: Okay. I don't think I

8 have any other questions.

9 JUDGE PRIDGIN: Thank you.

10 Commissioner Clayton, did that answer the

11 questions you needed answered or do you need other witnesses

12 for cross-examination?

13 COMMISSIONER CLAYTON: I don't believe I have

14 any other questions.

15 JUDGE PRIDGIN: All right. Thank you.

16 Mr. Fischer, thank you for your testimony.

17 You may step down.

18 Before I take any witnesses from the other

19 companies, Mr. Coffman could I ask you to retake the stand?

20 And I believe Commissioner Murray has some follow-up

21 questions for you.

22 And, Mr. Coffman, you still are under oath.

23 MR. COFFMAN: Thanks for reminding me.

24 JUDGE PRIDGIN: Commissioner Murray, when

25 you're ready.

1 QUESTIONS BY COMMISSIONER MURRAY:

2 Q. Mr. Coffman, in light of what we heard
3 regarding how companies track their data and not -- it
4 appears that it's not by legislative district, how would
5 legislators, in fact, use this information from these
6 changes?

7 A. I -- it was my understanding that it wasn't
8 kept by -- by legislative district, but I think typically
9 providing information by utility has been sufficient to
10 satisfy most of those who were requesting information.

11 I know that the Commission has individually
12 over the last few years, you know, released information
13 either for Laclede Gas Company or for Missouri Gas Energy
14 when that has been requested.

15 It was my understanding that information can
16 usually be provided by operational district. For instance,
17 you know, AmerenUE has a capital district, you know, I'm
18 sure, you know, Aquila I would assume could provide most any
19 information between its MoPub area and its Light and Power
20 area separately.

21 As I read the current rule, the only thing
22 that's required to be reported by operational district now
23 and the only thing that would be required under the proposed
24 amendment would be the number of days permitted to
25 discontinue service under the rule.

1 And I think that refers to the -- the daily
2 temperature moratorium, the requirement that a utility may
3 not shut off service when it is predicted by the National
4 Weather Service to be under 30 degrees.

5 And, you know, that's -- obviously, you know,
6 one part of the state may have a weather forecast colder
7 than the other area. And so as I understand the current
8 rule, for instance, if the Light and Power area of Aquila is
9 going to have a, you know, cold snap but the general MoPub
10 area and the Kansas City area is not, they may not shut
11 folks off in the Light and Power area, but they may in their
12 MoPub area. So that's reported differently because, you
13 know, they obviously can shut off people only where it's
14 predicted to be 30 degrees or warmer.

15 But, you know, I guess the rule could be
16 amended to report other information by operational district.
17 I don't know for certain, but I think that it probably could
18 be provided -- a lot of this information could be broken
19 down by operational district.

20 But to answer your question, I think that
21 simply being able to provide information by utility has been
22 more or less sufficient in the past. You know, maybe
23 requiring operational district would be more helpful, but
24 that's not being proposed right now except for the weather
25 information.

1 Q. The information disclosure as it's required by
2 this rule will be subject to certain extraction and
3 assumptions in order for someone to analyze it; is that
4 correct?

5 A. Yeah. Yes, I'm -- I assume there would be
6 people who would like to keep the information and -- I mean,
7 I would imagine that -- that, you know, one thing the
8 information may be available for is just simply to show
9 that -- the magnitude of a particular problem at a
10 particular time.

11 For instance, I'm sure you remember the winter
12 of 2000/2001 where a lot of numbers were cited as an example
13 of a crisis in our state. But maybe more importantly it
14 would be to have this information available on a regular
15 basis to show trends.

16 And I certainly understand that some utilities
17 may have a slightly different understanding and it would
18 certainly be good to get uniform reporting. But assuming
19 that each utility is reporting their information uniformly
20 within that utility, you could certainly notice trends
21 over time.

22 Q. What do you think of the idea of a
23 collaborative group to arrive at some understanding -- some
24 general understandings about how information is tracked and
25 how it will be -- how the rule will be implemented or the

1 amendment will be implemented?

2 A. I think it would be a good idea for the
3 Commission to suggest or to order a technical conference or
4 however you want to describe it, some formal get-together
5 amongst the utilities and other parties to discuss how the
6 reports will be formatted. I think it would make sense.

7 COMMISSIONER MURRAY: Thank you. I think
8 that's all I have, Judge.

9 JUDGE PRIDGIN: Thank you, Commissioner.
10 Commissioner Clayton?

11 JUDGE PRIDGIN: Thank you. I don't believe we
12 have any questions, Mr. Coffman. Thank you.

13 Mr. Fischer, did I understand correctly that
14 that concludes the comment from your clients?

15 MR. FISCHER: Yes, your Honor.

16 JUDGE PRIDGIN: To make sure we got on the
17 record, Mr. Fischer replied in the affirmative.

18 All right. At this time we'll hear from
19 Laclede Gas Company.

20 JUDGE PRIDGIN: If you would please, raise
21 your right hand and be sworn.

22 (Witness sworn.)

23 BY JUDGE PRIDGIN:

24 Q. Thank you very much. If you would, please
25 have a seat and state your name and spell your last name for

1 the record.

2 A. My name is Rick Zucker, Z-u-c-k-e-r.

3 Q. And your relationship with Laclede Gas

4 Company?

5 A. I am assistant general counsel regulatory with

6 the Laclede Gas Company.

7 Q. And, Mr. Zucker, are you generally familiar

8 with the proposed rulemaking that is before the Commission

9 in this case?

10 A. Yes. I'm generally familiar, although I'm not

11 a subject matter expert.

12 Q. Any comments you would like to make on the

13 rule?

14 A. Yes. I just have a few comments on behalf of

15 Laclede Gas.

16 First of all, I agree with the other witnesses

17 who have advocated a technical committee or a technical

18 working group to I guess straighten out some of the language

19 issues or interpretative issues. I think that group would

20 be better done before the rule was approved rather than

21 after. I think that would be more efficient.

22 One other comment I'd like to make about a

23 previous witness who said that the Cold Weather Rule was one

24 strike and you're out. I'm not sure I completely agree with

25 that.

1 If you enter into a Cold Weather Rule
2 agreement for the first time, my understanding of the rule
3 is you then make 1 of the 12 monthly payments up front as an
4 initial payment. If you break the Cold Weather Rule -- or
5 break the agreement, the Cold Weather Rule agreement you
6 have, you're then subject to disconnection.

7 But when the next winter comes around, you can
8 again sign up for Cold Weather Rule agreement, but the
9 initial payment then becomes the amount of missed payments
10 from the last Cold Weather Rule.

11 So it's a tougher hurdle it get on the second
12 time if you've broken the first one, but it's certainly not
13 a -- I wouldn't consider it to be a one strike and you're
14 out.

15 Other comments about this rule specifically, I
16 think I have two major ones. And that is that given the
17 change that was made this morning where A1 has now become
18 how many customers were disconnected at the end of the
19 period, I'm still not sure I understand the use of the term
20 "disconnected," if that is by the choice of the customer or
21 not, if it encompasses the universe of customers who have
22 turned off service, whether or not they voluntarily turned
23 off service or had their service discontinued not by their
24 choice.

25 And I also don't understand in terms of a

1 customer being disconnected at the end of the period, how
2 far back the utility is supposed to go. If a customer was
3 disconnected in 1998 and has not yet turned back on, is that
4 customer considered disconnected?

5 Obviously a lot of things could have happened
6 to that customer since then and that customer might not
7 still be considered to be disconnected, if the customer has
8 moved out of the territory, the customer has gotten married
9 and lives with a spouse in a different address, the customer
10 has passed away. I don't -- you know, I'm just not sure of
11 the -- of the -- of the meaning of that term.

12 And that term does -- disconnected at the end
13 of the period apply to not only A, but then to B and E also.
14 And that kind of brings me back to the value of the
15 technical conference.

16 My other comment is something that we've
17 spoken about, other witnesses have spoken about, and that
18 effects letters C, G and H. And I know Commissioner Clayton
19 has asked a number of questions about this area.

20 We, at Laclede, can track the LIHEAP money,
21 the ESIP money and Dollar Help or Dollar More. None of that
22 is a problem. As our comments showed, what our concern is,
23 is obviously we don't know if one customer or an agency or
24 religious organization gave someone money directly, we
25 can't -- we have no way to know that.

1 And we can't currently track if a charity sent
2 a check in to Laclede through the normal process. In other
3 words, the charity took the customer's bill, wrote a check,
4 put the bill in an envelope and sent that into our regular
5 lock box, we would not be able to capture that. We can
6 capture all energy assistance checks that come in through
7 our community services department. And I think that
8 concludes my comments.

9 JUDGE PRIDGIN: All right. Thank you very
10 much, sir.

11 Commissioner Murray?

12 QUESTIONS BY COMMISSIONER MURRAY:

13 Q. Good morning.

14 A. Good morning.

15 Q. What was your fiscal estimate?

16 A. We estimated, I believe, between 10 and 20
17 thousand for our programming charges. And in the fiscal
18 note they -- the Staff took an average of that and I think
19 put us down for 15,000.

20 Q. Okay. And your comments talked about imposing
21 these costs between rate cases. I'm assuming that you're
22 saying that those will be unrecoverable between rate cases?

23 A. That's correct.

24 Q. And Laclede doesn't track by legislative
25 district or geographic area other than operational area, I'm

1 assuming; is that right?

2 A. That's correct also.

3 COMMISSIONER MURRAY: Thank you. That's all I

4 have.

5 JUDGE PRIDGIN: Thank you, Commissioner

6 Murray.

7 Commissioner Clayton?

8 COMMISSIONER CLAYTON: Thank you, Judge.

9 QUESTIONS BY COMMISSIONER CLAYTON:

10 Q. Commissioner Murray made reference to

11 paragraph 2 in the comments. And I'm the newest guy on the

12 block as a member of the Commission and I didn't quite

13 understand the remainder of paragraph 2.

14 And I couldn't tell if you were making

15 reference to particular cases where the Commission had

16 rejected certain utility filings on behalf of Laclede. And

17 if you were making reference to those, perhaps I should be

18 educated as to those since I'm new. And I guess I'll ask

19 that question first. Or was that just a general statement?

20 A. No. I would be glad to speak to a specific

21 example. We filed a case last year in which we proposed a

22 low-income program called Catch-Up/Keep-Up. And in that

23 program we were going to use a share of pipeline discounts

24 that we negotiated from our pipeline suppliers to aid

25 low-income.

1 The payments to the low-income customers would
2 then -- could then have an effect of lowering our
3 uncollectibles and, in effect, increasing our income in
4 between rate cases, which would be money that the company
5 could then keep.

6 One of the -- the -- our proposal was rejected
7 after hearing, and one of the reasons given was that it was
8 inappropriate for us to -- this should have been done within
9 the context of a rate case and it was inappropriate for us
10 to do that outside of a rate case.

11 So in paragraph 2 we simply point out the
12 principle that in a case like this, there are some costs
13 imposed that the company would bear in between rate cases
14 also.

15 Q. What was the amount of money that was in that
16 dispute?

17 A. Well, that amount was kind of flexible. We --
18 we started off with a -- we wanted a program in the amount
19 of \$6 million. After the initial order rejecting our
20 tariff, we asked for reconsideration and proposed \$3 million
21 which had been an amount that had been at one time suggested
22 by Public Counsel.

23 Q. Okay. And I just want to make sure that I
24 understand the logic. Basically the \$15,000 in cost
25 associated with this rule would be better associated with a

1 rate case so that that -- those costs could be thrown into a
2 rate case? You're comparing the 6 million to the 15,000?

3 A. Well, in principle I'm comparing expenses
4 incurred between rate cases versus increased earnings
5 between rate cases. Obviously the numbers -- well, the
6 6 million or the 3 million wouldn't be -- wouldn't be extra
7 income. It was unclear what, if any, extra income there
8 would be in the Catch-Up/Keep-Up program. And we didn't say
9 in this paragraph that one was -- it's either right or wrong
10 to do it or not do it, but that it's the other side of the
11 same coin.

12 Q. Or the Commission has taken too limited a view
13 or given inadequate attention to the considerations, I guess
14 was language. That's fine. You answered my question. I'm
15 catching up on all these old cases. Thank you.

16 JUDGE PRIDGIN: Thank you Commissioner
17 Clayton.

18 I don't believe I have any questions.
19 Mr. Zucker, thank you very much for your testimony. You may
20 step down.

21 At this time we will hear comments from
22 Missouri Gas Energy. Mr. Cooper, would you please raise
23 your right hand to be sworn?

24 (Witness sworn.)

25 BY JUDGE PRIDGIN:

1 Q. Thank you very much. Please be seated. Would
2 you please state your name for the record and spell your
3 last name?

4 A. My name is Dean L. Cooper. Last name is
5 spelled C-o-o-p-e-r.

6 Q. Mr. Cooper, what is your association with
7 Missouri Gas Energy?

8 A. I am outside counsel for Missouri Gas Energy.

9 Q. Are you generally familiar with the proposed
10 rulemaking that's before the Commission in this case?

11 A. Yes.

12 Q. Do you have any comments you would like to
13 make concerning this rule?

14 A. I do on behalf of Missouri Gas Energy. I
15 would state that Missouri Gas Energy has no objection to
16 making aggregated information available to the public as
17 generally proposed in this rule.

18 This having been said, similar to Ameren's
19 comments, MGE's primary interest is making sure there's
20 sufficient time to make the programming changes that it must
21 make in order to comply with the rule as proposed.

22 MGE estimates that it will take between three
23 and four months to make those changes, and therefore, again,
24 similar to Ameren's testimony, would ask the Commission that
25 it provide approximately 90 days between the time the rule

1 becomes final and the time when the rule would become
2 effective.

3 Lastly, you may be familiar with MGE's written
4 comments. MGE pointed out I think four specific instances
5 where it sought clarification as to portions of the rule. I
6 think a couple of those instances have been addressed by
7 prior comments this morning.

8 I think those prior comments also may have
9 created another question or two, for instance, in the area
10 of what constitutes assistance provided by customers. So I
11 think that the technical conference -- I think that's the
12 term that's been used -- the purpose of which would be for
13 the Staff, the Public Counsel and the utilities to make sure
14 that everybody's on the same sheet of music in regard to the
15 rule requirements would be a good idea and something that
16 MGE would also support.

17 And that would conclude my comments this
18 morning.

19 JUDGE PRIDGIN: Thank you, Mr. Cooper.

20 Commissioner Murray, any questions?

21 COMMISSIONER MURRAY: Thank you.

22 QUESTIONS BY COMMISSIONER MURRAY:

23 Q. Mr. Cooper, are you aware of anyone who would
24 be opposed to the 90-day implementation?

25 A. No, I'm not.

1 Q. Thank you.

2 A. Although I have to add, I haven't talked to a
3 lot of people about that 90-day period either.

4 Q. It obviously was in your comments though and
5 some other comments and you've not heard any opposition at
6 this point?

7 A. I have not received any feedback that would
8 indicate opposition, that's correct.

9 COMMISSIONER MURRAY: Thank you.

10 JUDGE PRIDGIN: Thank you, Commissioner.

11 I don't believe I have any questions.

12 Mr. Cooper, thank you for your testimony. You
13 may step down.

14 Are there any other parties who wish to be
15 heard before we conclude the hearing? Mr. Schwarz?

16 (Witness sworn.)

17 BY JUDGE PRIDGIN:

18 Q. All right. Thank you very much, sir.

19 Mr. Schwarz, if you would, please state your full name for
20 the record and spell your last name.

21 A. My name is Thomas R. Schwarz, Jr.,
22 S-c-h-w-a-r-z. I am deputy general counsel of the Public
23 Service Commission. And I apologize to the Commission and
24 the other parties. I'm specifically -- well, if that's
25 enough.

1 Q. That's quite all right. Could you briefly
2 state whether or not you're familiar with the proposed
3 rulemaking --
4 A. I am.
5 Q. -- that's in this case?
6 A. I am familiar with the proposed rulemaking.
7 Q. Any comments you have on the rule?
8 A. Yes. Specifically on subsection C the
9 troublesome word "customer," and I don't know if it's a
10 subdivision or what the Secretary of State calls it, but the
11 word "customer" appears in subsection 2.
12 And I think Ms. Karman's testimony refreshed
13 my recollection. I believe "customers" should be removed
14 from subsection 2 and there should be a subsection 3, what
15 amount was paid by the customer.
16 That provision then will give you a sense of
17 the relative effort of the customer themselves and the
18 dependence on the additional funds that are provided both by
19 government and by other charitable contributors. And so I
20 think that that would clear that problem up.
21 And I do believe -- I did sit down with Janet
22 Hoerschgen and work over the wording of this rule and
23 that's -- that's I think what we were driving at there. And
24 I'd entertain any questions that --
25 JUDGE PRIDGIN: All right. Thank you,

1 Mr. Schwarz.

2 Commissioner Murray?

3 COMMISSIONER MURRAY: Thank you.

4 QUESTIONS BY COMMISSIONER MURRAY:

5 Q. Changing that, as you suggest though, would
6 not show when a customer has received contribution directly?

7 A. No. That's correct. I don't think there's
8 any way that -- that you can -- can track down if granny or
9 Uncle Fred or someone has provided the customer help.

10 Nevertheless, I think that keeping track of
11 other contributions, Salvation Army, other ones that are
12 known to the utility are important both to get a sense of
13 the overall level of assistance, but also to leverage the
14 LIHEAP funds; that is, private contributions can be used to
15 increase Missouri's share of LIHEAP funds available from the
16 federal government. And to the extent that that information
17 can be gathered and forwarded to the proper federal agencies
18 is a worthwhile.

19 Q. And you don't have any problem, I assume, with
20 working with the language to include something that would
21 indicate the companies only have to provide what they know?

22 A. Well, I would suggest that that's a reasonable
23 reading of the current language, but certainly adding the
24 words "other assistance known to the company" would --
25 would -- that's certainly what was intended. And I think

1 that's a reasonable reading, but I certainly don't oppose
2 adding something along those lines to clarify.

3 Also, I don't believe that Staff would be
4 opposed -- and I'm not necessarily -- I haven't consulted
5 with the balance of Staff on this, but I don't think Staff
6 would be opposed at all. I think that a conference to make
7 sure that everybody's reporting the same type of things
8 would be useful.

9 I would remind the Commission that there are
10 statutory limitations on when the order of rulemaking has to
11 issued after the conclusion of this hearing and recommend
12 that if it's not going to fit into the schedule prior to the
13 rulemaking, that certainly it should be done before any of
14 the utilities would be expected to implement the rulemaking.
15 I think that that would certainly be a fair approach to
16 things.

17 Q. Would a delayed implementation be provided in
18 the rule itself or would that be by understanding that we
19 would not be applying the rule before a certain date or how
20 would that be done?

21 A. Well, I think in the order of rulemaking, for
22 instance, you might indicate that -- when you would
23 anticipate the companies to be complying. I don't know that
24 you'd have to add it to the rule, but certainly you could
25 make known to Staff and the parties what your expectations

1 would be.

2 And since the Commission is the one that

3 enforces the rule, if you tell us that we don't want you

4 making accounting changes during the heating season when

5 there's lots going on, certainly that's something that the

6 Staff would comply with and, frankly, that I think is

7 reasonable.

8 COMMISSIONER MURRAY: Okay. I think that's

9 all I have.

10 JUDGE PRIDGIN: Thank you, Commissioner

11 Murray.

12 I don't have any questions.

13 Mr. Schwarz, thank you for your comments.

14 Any other parties wishing to be heard that

15 have not yet been heard?

16 All right. Hearing none, that will conclude

17 this rulemaking hearing. We are adjourned and off the

18 record. Thank you.

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