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STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

PETER B. HOWARD,)

)

Complainant,)

)

Vs.) File No. EC-2013-0524

UNION ELECTRIC COMPANY, d/b/a)

AMEREN MISSOURI,)

Respondent.)

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

Volume III

April 4, 2014

St. Louis, Missouri

KENNARD JONES, Presiding

REGULATORY LAW JUDGE

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

2 JUDGE JONES: We're on the record Case No. EC-20130524
3 Peter Howard versus Ameren Missouri. At this time let's take
4 entries of appearances, I'll just state for the record that
5 Peter Howard is present. For Ameren Missouri?

6 MS. GIBONEY: Sara Giboney, 111 South 9th Street,
7 Columbia, Missouri 65211.

8 THE COURT: And for the staff of the commission?

9 MR. OPITZ: Tim Opitz P.O. Box 360, Jefferson City,
10 Missouri 65102 appearing for the staff.

11 THE COURT: My name is Kennard Jones. I'm the
12 regulatory law judge assigned to the matter.

13 Okay, Mr. Howard you filed a complaint against Ameren?

14 MR. HOWARD: That is correct, Your Honor.

15 THE COURT: Go ahead and tell me your complaint.

16 MR. HOWARD: Well, I believe the complaint, the
17 genesis of the complaint happened June 17, 2013. Allegedly the
18 utility company wrongfully charged me \$852.58 a large portion
19 that includes premises at 4111 Maffitt where I did not reside
20 but I did have two animals staying there in the yard.

21 As far as Athelone the only person residing there was
22 my daughter Alicia Nicole Bell. I believe she moved out some
23 time in March, April, however, the company has searched that she
24 moved out prior to that and that I habitated those premises,
25 which I assert today is an error.

1 JUDGE JONES: Before you proceed, let me suggest to
2 you slow down just a little bit.

3 MR. HOWARD: Me and Ameren UE had had a very
4 acrimonious relationship for some time now.

5 JUDGE JONES: What is acrimonious, what does that
6 mean?

7 MR. HOWARD: Bitter, adversarial, confrontational.
8 Since the, like I said, the Taum Sauk Johnson State Park fiasco,
9 whereby my utility service per month went from \$18 to \$32 a
10 month to \$137 to \$140 a month inexplicably I have to attribute
11 it to the fact that they're trying to pass off, recoup some of
12 their damages from the average consumer. I complained
13 proliferously at the time to no avail of course to the person
14 the public service commission assigned to investigate the matter
15 before even launching the investigation, the first thing that
16 come out of her mouth was why don't you hire an electrician to
17 repair the service at that address.

18 JUDGE JONES: You said something about Taum Sauk
19 Johnson, does that have something to do --

20 MR. HOWARD: Johnson State Park, right.

21 JUDGE JONES: What does this have to do with --

22 MR. HOWARD: It has to do with the fact my bill
23 incrementally increased after they had to absorb the payment of
24 these damages. I don't think it was just me, I don't think I'm
25 an isolated incident, it's the average consumer their bill

1 increased exponentially after they were found guilty of you
2 know, negligence and what have you. I've made a complaint at
3 that time indicating that you know I don't feel that that's
4 justified, like I said, the only live thing that resided at that
5 address at Maffitt was my two canines I only kept the
6 electricity on just as a matter of going over there and feeding
7 them at night, I needed to be able to walk through the house so
8 I could do that. Otherwise no one lived there. There was no
9 major appliances there, there was no reason for them to justify
10 saying \$137 of electricity was used at that residence. Back to
11 this 4453 Athelone matter.

12 JUDGE JONES: Let me understand you're saying that the
13 bill at this address increased while no one was there and you --

14 MR. HOWARD: Exactly.

15 JUDGE JONES: For whatever reason you're attributing
16 it to them passing off costs having to do with the Tom Sock?

17 MR. HOWARD: I agree, yeah.

18 JUDGE JONES: I don't know if there's any way to prove
19 that.

20 MR. HOWARD: But you can just prove it by
21 circumstantial evidence. My bill is \$25 a month then goes to
22 \$150 a month. Normally any company, particular utility company
23 goes on prior uses. You go that month, the year before. You go
24 the year before that month, you'll see my bill was hovering
25 around \$25 a month. Circumstantial evidence will dictate that

1 yeah there was no sudden spike in electricity usage there.

2 JUDGE JONES: When the amount and usage went up, did
3 it go up just one month or stay high?

4 MR. HOWARD: No, it stays high. It stayed high.
5 Eventually just said the heck with it, so I didn't pay it, of
6 course then after a while, after so many attempts on their part
7 they eventually referred it to a collection agency Aargon, I
8 guess after about 8 to 9 months that came to wisdom that perhaps
9 no one did reside there, because no one was trying to get the
10 electricity reconnected. They the collection agency decided to
11 make an accord of satisfaction of \$125 a month, I mean if I give
12 them \$125 this thing will go away. This is the company that
13 made the agreement with me. They're saying they have no
14 knowledge of that.

15 JUDGE JONES: Who is they?

16 MR. HOWARD: Ameren UE.

17 JUDGE JONES: That they have?

18 MR. HOWARD: No knowledge of this specific agreement
19 between Aargon and myself, that's their contention even though
20 it's their collection agency, they hired them.

21 JUDGE JONES: Aargon sent this letter which is marked
22 as Petitioner's Exhibit 3 to you?

23 MR. HOWARD: Then they called me via telephone via
24 telephonic communication. They said Mr. Howard, how much do you
25 think you owe, I said maybe \$75, they said will you settle for

1 \$125. I said yeah just to make that go away, I'll settle for
2 \$125. They said well we'll get back to our client, and then
3 we'll get back with you, and I don't remember the conversation
4 being forthcoming after that point, but yeah that's the
5 agreement I made with Aargon.

6 JUDGE JONES: Well this is marked November 21, 2013
7 says the amount owed is \$849 and I'm sorry, \$864.28 which that
8 includes some interest at \$14.96, now this is November 21 you're
9 saying?

10 MR. HOWARD: Mind you this is not the first copy of
11 this communication I received from Aargon, this is just the
12 latest copy. I received two communications prior to this, I
13 think one was in 2011 and one -- so it's an continuing effort to
14 collect a debt. I mean, this is not the first and only copy of
15 this communication that I received from this company.

16 JUDGE JONES: Okay. And the --

17 MR. HOWARD: I just couldn't retrieve those documents,
18 I was looking for them frantically, I just couldn't find them.
19 But yeah, this is not the first copy of this, November 17, 2013
20 is the last communication they sent in an attempt to collect a
21 debt.

22 These are the people I made the agreement with
23 initially, they were saying that they're not aware of this
24 payment arrangement when we had the hearing here, that's why I
25 had to give you documentary evidence that company indeed did

1 represent Ameren UE in an attempt to collect this bill.

2 JUDGE JONES: Okay. You said this is the last
3 document --

4 MR. HOWARD: Last communication I received from that
5 company, yes.

6 JUDGE JONES: You said you had a telephone
7 conversations with --

8 MR. HOWARD: Yes.

9 JUDGE JONES: After this date?

10 MR. HOWARD: No, prior to that date, prior to that
11 date.

12 JUDGE JONES: Now, you said you had telephone
13 conversations and during that telephone conversation you two
14 came to an agreement that you would pay \$125 to settle.

15 MR. HOWARD: As an accord of satisfaction of the total
16 thing, yes.

17 JUDGE JONES: And, this letter --

18 MR. HOWARD: Doesn't reflect that fact. No, this
19 letter repeats the original debt amount.

20 JUDGE JONES: You do realize it's in the system?

21 MR. HOWARD: Yes, I do.

22 JUDGE JONES: I just want to make sure you're aware of
23 that.

24 MR. OPITZ: Judge Jones?

25 JUDGE JONES: Yes.

1 MR. OPITZ: If I may, I don't think maybe you did
2 already, but I don't think you've sworn in the witness if this
3 his testimony right now.

4 JUDGE JONES: Yeah, we should swear you in. Raise
5 your right hand. Thank you, I appreciate that.

6 (Witness sworn)

7 JUDGE JONES: Thanks. Well this just shows that
8 Aargon is a collection agency regarding Ameren Missouri and that
9 you owe \$864.28 as of November 21, 2013.

10 MR. HOWARD: That's correct.

11 JUDGE JONES: Is that what you intend to show?

12 MR. HOWARD: I intend to show that's an error.

13 JUDGE JONES: Oh, okay.

14 JUDGE JONES: I don't intend to show that I owe them
15 \$864, I don't intend to show that at all. This whole claim is a
16 dispute.

17 JUDGE JONES: Do you want this into evidence?

18 MR. HOWARD: Well, I want it in evidence to stipulate
19 to the fact that Aargon is the collection agency that they've
20 hired. They said they don't remember assigning this account to
21 a collection agency.

22 JUDGE JONES: I understand --

23 MR. HOWARD: I'm giving you promissory evidence that
24 this is the collection agency that they did assign this account
25 to. So I'm just showing that they did hire a collection agency

1 for this, I'm telling you what happened between the
2 communications between me and the collection agency, but that
3 this is the actual collection agency that they hired in order to
4 collect this debt.

5 JUDGE JONES: So you're wanting --

6 MR. HOWARD: Earlier they were disputing that they
7 didn't hire a collection agency to do this, the first, yes, you
8 did, the first time around they said no, we didn't assign this
9 to a collection agency. I'm showing you they did.

10 JUDGE JONES: So you're submitted this not to show
11 anything that happened --

12 MR. HOWARD: Not to show the truth of the matter, not
13 to show that I owe them \$864, no. To show that they did in deed
14 assign this to a collection agency.

15 JUDGE JONES: Do you have any objection to
16 Petitioner's Exhibit 3?

17 MS. GIBONEY: No objection Judge.

18 JUDGE JONES: Mr. Opitz, do you have any objection to
19 Petitioners Exhibit 3?

20 MR. OPITZ: No objection, Your Honor.

21 JUDGE JONES: Petitioner's Exhibit 3 admitted to the
22 record. Okay, you can go ahead Mr. Howard.

23 MR. HOWARD: Well, as I was saying I submitted
24 evidence, yeah you got a copy of it, I submitted evidence, you
25 have the billing cycles for the relevant time period and you can

1 see the fluctuation, the violent fluctuation in billing per
2 month. As you can see there was a long time there where that's
3 when you know, I just allowed the service to be disconnected for
4 months on end, and that's when these people contacted me once
5 they realized Mr. Howard must be right, there is no person there
6 in need of electric service, so they called me and tried to make
7 an offer in compromise and I accepted it at \$125 and that was
8 the agreement we made, but the documentary evidence speaks for
9 itself. That's the billing cycle, that's not something I
10 conjured up out of my own imagination, like I said, you know it
11 fluctuated violently. I just want you to submit that into
12 evidence for your review, in making your final decision.

13 JUDGE JONES: I have what's marked as Petitioner's
14 Exhibit 1. It's an account activity statement and the account
15 number is 4387107125, and this is your account activity,
16 Mr. Howard?

17 MR. HOWARD: Yes, Your Honor.

18 JUDGE JONES: How did you get this?

19 MR. HOWARD: I requested it from the company.

20 JUDGE JONES: And this is -- you're submitted this to
21 show the fluctuation in the bills?

22 MR. HOWARD: Yes, the documentary evidence as to the
23 fluctuation in the billing cycles, and we had a telephone
24 communication, I believe it was between me and Ameren, if I'm
25 not mistaken, maybe Public Service Commission, we've had this

1 dance more than once. They brought along their engineer or
2 someone, and she couldn't explain the fluctuation in billing
3 cycle between one year, the month of one year via and the month
4 of the same time last year, and she was saying usually that
5 would raise a black flag or something, you know, it was such a
6 drastic variance in billing cycles between one year and another
7 in the same month, but she couldn't give you know, explanation
8 as to why that was.

9 JUDGE JONES: Okay. I'm having -- it looks like here
10 in February of 2008 the bill was \$133.78, or I'm not sure how to
11 read this, the billing period is from June, 2007 to August?

12 MR. HOWARD: Where you at, February or June, Your
13 Honor?

14 JUDGE JONES: I don't understand this transaction
15 date, do you know what that means, Mr. Howard?

16 MR. HOWARD: Fuzzy math, I don't know, this is
17 something they generated, it was generated by their company.

18

19 JUDGE JONES: Okay. We'll come back and go through
20 that with Ameren's witness because I have a feeling she can
21 explain; am I correct? Do you know what this is?

22 MS. HART: It looks like a statement.

23 JUDGE JONES: And you can tell me what that is?

24 MR. HOWARD: Well, that's a statement.

25 MS. HART: Yes.

1 JUDGE JONES: We'll wait until we get to this to talk
2 about it, but you want this submitted to show the fluctuation?

3 MR. HOWARD: Yes, the variance in billing cycles one
4 from year to another.

5 JUDGE JONES: Was the property --

6 MR. HOWARD: It was unoccupied, Your Honor.

7 JUDGE JONES: All the time?

8 MR. HOWARD: Yes, Your Honor, with the exception of
9 two canines that resided in the backyard.

10 JUDGE JONES: Well they're not using electricity.

11 MR. HOWARD: Exactly. I was using it to go over there
12 and feed them, that was it, that was the only usage.

13 JUDGE JONES: But there was a time when your daughter
14 lived there, right?

15 MR. HOWARD: No, she stayed at 4453 Athelone.

16 JUDGE JONES: So we're talking about two different --

17 MR. HOWARD: Yeah, that's the Maffitt, yes, that's the
18 billing cycles from Maffitt.

19 JUDGE JONES: So the amount that Ameren wants from
20 you, does that include Maffitt and Athelone?

21 MR. HOWARD: Yeah, consolidated both bills, yes
22 combination.

23 JUDGE JONES: And Maffitt, nobody ever lived there?

24 MR. HOWARD: Correct.

25 JUDGE JONES: Athelone your daughter stayed there at

1 some point?

2 MR. HOWARD: My mother stayed there and then my
3 daughter stayed there.

4 JUDGE JONES: Not at the same time?

5 MR. HOWARD: No.

6 JUDGE JONES: This looks like it goes from 2007, from
7 four years all the way to 2011, through June of 2011?

8 MR. HOWARD: I believe.

9 JUDGE JONES: Okay. Miss Giboney --

10 MR. HOWARD: The last bill was November 4, I assume
11 that was close to connection period at Maffitt.

12 JUDGE JONES: So before you move this exhibit, let's
13 deal with this one first. We have Petitioner's Exhibit 1 Miss
14 Giboney, do you have any objection?

15 MS. GIBONEY: Well, Judge, I don't have any objection
16 based on it's authenticity, but as to it's relevance, the
17 fluctuation of his electric usage or what's shown as usage, it's
18 really not relevant to this proceeding. This complaint only
19 involves the Athelone account, and there was a report and order
20 in a prior case that's going to be presented later that has
21 already been ruled on the arguments he's making now about the
22 usage of that account, but we do plan to offer an exhibit that
23 also shows those bills and those transactions, so I don't object
24 to it on that grounds.

25 MR. HOWARD: I believe the last hearing we had here

1 Your Honor, you agreed --

2 JUDGE JONES: Wait, wait, wait, wait, wait --

3 MR. HOWARD: We were going to include both residences.

4 JUDGE JONES: Wait, no.

5 MR. HOWARD: Now she's trying to object to --

6 JUDGE JONES: Mr. Howard, if the commission already has
7 written a report and order on the case, I'm not going to do it
8 over again. That's how like re-painting a house that's already
9 been painted. I mean, and I know it's not in evidence, but I
10 know staff makes reference to a past case that was before the
11 commission, I don't think I had anything to do with that case
12 because I don't remember having any clearance, so if the
13 commission's already heard a case, I'm not going to hear it
14 again.

15 MR. HOWARD: Okay, I still have the court as a final
16 last resort for something like that, I mean.

17 JUDGE JONES: Well --

18 MR. HOWARD: I mean, I've exhausted the administrative
19 remedies, so I can always go to the court for a remedy on that.

20 JUDGE JONES: I'm not going to give you any legal
21 advice on how you're able to proceed in the Circuit Court, but
22 I'm sure you can figure that out. You understand where I'm
23 coming from, does it make sense for me to re-do something?

24 MR. HOWARD: Yeah, the last time we had a hearing here
25 that we were on the same page we would consolidate. You asked

1 me was I contesting the service at Maffitt as well as Athelone,
2 I said yes, Your Honor I am.

3 JUDGE JONES: Okay --

4 MR. HOWARD: I thought this evidentiary hearing was
5 scheduled to reflect that, now you've saying that you're going
6 to separate the two residence.

7 JUDGE JONES: Okay. The pre-hearing conference is
8 what you're referring to and that's an actual matter of record
9 we can always look --

10 MR. HOWARD: We can always look at the record, you're
11 right. We agreed that we would consider both residences.

12 JUDGE JONES: I'm going to tell you this, it doesn't
13 matter what I said. The commission is not going to hear or rule
14 on a matter before and as far as what I recall, the only thing I
15 recall is that you owed a certain amount of money, whether or
16 not it was concerning two addresses, I don't know, and that at
17 that time, I had no idea there was a prior case and whether or
18 not there was a recording of you requesting service at an
19 address seemed to be the only issue, and that you were provided
20 proof of that recording of you requesting service, then the case
21 is a wash, but here we sit today. That's all I got from the
22 pre-hearing conference. Now, I want to, all right let's go
23 ahead and -- you said you all were planning on submitting
24 something on this address.

25 MR. HOWARD: Exactly.

1 MS. GIBONEY: Yes.

2 MR. HOWARD: So, it opens the door again, right?

3 JUDGE JONES: Tim, do you have any objection to
4 Petitioner's Exhibit 1?

5 MR. OPITZ: No, Your Honor, but I agree with what Miss
6 Giboney has said and in terms of the relevance, I would ask that
7 you take judicial notice of EC-20080329, which was the previous
8 commission case at 4111 Maffitt, and the commission's report and
9 order in that case.

10 MR. HOWARD: Can you give me that number again, EC
11 what?

12 JUDGE JONES: EC20080329.

13 MR. OPITZ: And the commission's report and order,
14 specifically in that order.

15 JUDGE JONES: Well, judicial notice is taken of the
16 report and order. Petitioner's Exhibit 1 admitted to the
17 record, and when you were talking Mr. Howard, you started
18 talking about a bill I think it was your Exhibit 2, so why don't
19 we talk about this.

20 MR. HOWARD: Oh, I believe that was --

21 JUDGE JONES: You started talking about this
22 Petitioner's Exhibit 2.

23 MR. HOWARD: I forgot in what context I was saying
24 that this supposedly this was previous to the disconnection, we
25 were having some trouble pointing to the date of this

1 disconnection as well, this is Maffitt again now. We're talking
2 about the Maffitt residence, and I know there was no electricity
3 on in 2010 at that residence. I distinctly remember this being
4 disconnected before then I believe.

5 JUDGE JONES: If that Maffitt residence a single
6 family dwelling?

7 MR. HOWARD: Yes, Your Honor.

8 JUDGE JONES: Are you the only one that has access to
9 it?

10 MR. HOWARD: Yes, Your Honor.

11 JUDGE JONES: You said --

12 MR. HOWARD: Matter of fact, I believe the city has
13 owned that residence since 2011, if I'm not mistaken, that
14 residence was lost on property taxes.

15 JUDGE JONES: So it's not yours, you don't even own
16 the property?

17 MR. HOWARD: Right, the time they're sending me bills,
18 the city owned that property, that's another discrepancy in
19 there in this whole investigation.

20 JUDGE JONES: You said your mom and your daughter
21 lived at Athelone?

22 MR. HOWARD: They lived there sequentially, they
23 didn't live there together.

24 JUDGE JONES: I understand. Have you ever lived at
25 Athelone?

1 MR. HOWARD: Yeah, I grow up there, that was my
2 residence growing up as a little boy.

3 JUDGE JONES: I mean as you've been an adult?

4 MR. HOWARD: No.

5 JUDGE JONES: What's the address at Athelone?

6 MR. HOWARD: 4453 Athelone.

7 JUDGE JONES: 4453?

8 MR. HOWARD: Right.

9 JUDGE JONES: This report and order from this last
10 case is from 2008, I believe, and your address at that time was
11 4453 Athelone?

12 MR. HOWARD: That was my mailing address, yes.

13 JUDGE JONES: Where do you stay now?

14 MR. HOWARD: Well, I was staying at 4684 Springdale,
15 I'd rather not divulge my whereabouts. I live in Illinois, your
16 Honor. That's all you need to know.

17 JUDGE JONES: There's no point in you being Peter
18 Crusoe over here --

19 MR. HOWARD: I object for relevance, the same reason
20 she did. How is that relevant in this proceeding --

21 JUDGE JONES: Anything I ask there's nothing that --

22 MR. HOWARD: Contention to my --

23 JUDGE JONES: Slow down for a second now. I don't
24 know what your reason is for not wanting to state what your
25 address is --

1 MR. HOWARD: Well, they might decide to overbill me
2 there. I object to relevancy grounds, Your Honor, I object to
3 relevance. They will send me a double bill.

4 JUDGE JONES: You're going to let me finish my
5 statement I've been patient, all right, now I'm going to keep
6 trying to be patient.

7 When you filed this complaint, you had to put what
8 your address is?

9 MR. HOWARD: I'm sorry, what?

10 JUDGE JONES: When you filed this complaint, you
11 stated what your address was in the complaint.

12 MR. HOWARD: I gave you a P.O. Box, if I'm not
13 mistaken.

14 JUDGE JONES: And that's where you want things mailed
15 to?

16 MR. HOWARD: Well, yeah, I think it's a P.O. Box, is
17 it not?

18 JUDGE JONES: Who stays at Athelone right now?

19 MR. HOWARD: Ben Scott.

20 JUDGE JONES: That's the renter that we talked about
21 before?

22 MR. HOWARD: Yeah, now they're overbilling him.

23 JUDGE JONES: So the electricity is on now?

24 MR. HOWARD: Yes.

25 JUDGE JONES: So now we're just dealing with an

1 arrearage.

2 MR. HOWARD: Right, that's charged to me.

3 JUDGE JONES: And that arrearage concerns two
4 different properties, one that has been resolved.

5 MR. HOWARD: But they're talking about going back to
6 recapture some of it, she was saying she's going to use it, so
7 that doesn't open the whole Pandora's Box again.

8 JUDGE JONES: No Pandora's Box. So, but we have here
9 and exhibit that's in evidence.

10 MR. HOWARD: Right.

11 JUDGE JONES: All right. And you're saying you paid
12 the \$125?

13 MR. HOWARD: No, I'm saying I did not pay it, because
14 they're saying that we never made that agreement, the collection
15 agency didn't have authorization to make such an agreement and
16 we don't recognize the collection agency as being our collection
17 agency, so that's why I bought this today to show you that they
18 did pass this matter on to a collection agency.

19 JUDGE JONES: I will, I mean I'm looking at these
20 account numbers on the documents in front of me, and I'm
21 assuming that because I have two different account numbers,
22 you're talking about these two different addresses?

23 MR. HOWARD: Right.

24 JUDGE JONES: I don't know that, but the account
25 number from collection agency is different from those two.

1 MR. HOWARD: But Your Honor, they combined the
2 accounts, and the amounts a combination of both account numbers
3 is it not?

4 JUDGE JONES: They brought the arrearage from one
5 account and put it in the other.

6 MR. HOWARD: Consolidated and put it in this two, they
7 put it together.

8 JUDGE JONES: And what you're saying is you have an
9 agreement to pay \$125?

10 MR. HOWARD: But they're saying they didn't, they're
11 saying they didn't even hire a collection agency, last time we
12 had this pre-hearing they said they didn't even hire a
13 collection agency to pursue this matter, and I'm showing you
14 evidence that they did. We can call these people, they can
15 probably verify the fact that indeed Ameren UE hired them to
16 make a collection on this debt and they did come to an accord
17 and satisfaction with me to pay \$125.

18 JUDGE JONES: But it's my understanding of the
19 pre-hearing conference it was just a matter of whether you
20 ordered service at a particular address.

21 MR. HOWARD: Like you said, Your Honor. We can always
22 go back and find out what exactly we agreed to --

23 JUDGE JONES: I know exactly that's what happened.

24 MR. HOWARD: I thought we were going to combine both
25 account numbers.

1 JUDGE JONES: Is that it was a question of whether you
2 requested service at an account we put, at a particular address
3 put in your name.

4 MR. HOWARD: I understand I talked to someone, I
5 forgot who it was that I talked to, Debbie Crock work for you
6 guys, something like that.

7 MS. HART: I don't recognize that name.

8 JUDGE JONES: Do you know -- do you remember that
9 conversation we had?

10 MR. HOWARD: Yes, Your Honor. You mean at the last
11 pre-hearing, yes. I remember it distinctly, yes.

12 JUDGE JONES: Okay. Do you remember that now I see
13 other issues happening here, but it seems to me that there was a
14 question of whether you requested service.

15 MR. HOWARD: Oh, yeah, that was definitely a question,
16 yes.

17 JUDGE JONES: And you needed proof that it was you
18 requested service at a particular address.

19 MR. HOWARD: Uh-huh.

20 JUDGE JONES: And then I thought that they had given
21 you proof of that.

22 MR. HOWARD: They sent me a recording, Your Honor,
23 where I emphatically tell them at least 6 to 10 times I'm not
24 requesting service at that address.

25 JUDGE JONES: Okay, well --

1 MR. HOWARD: They kept repeating the questions over
2 and over it was called corporate arm wrangling, as far as I'm
3 concerned, actually I'll tell you what it amounted to,
4 extortion, you know, because I wanted the electricity to stay on
5 there for the sake of security of that house, that residence
6 until such time as Ben Scott could make his transition into the
7 property. If you listen to the recording, I say over and over
8 again I'm not requesting service at that address, before at the
9 very end --

10 JUDGE JONES: Okay, well --

11 MR. HOWARD: I say I'm going to contest this, yeah.

12 JUDGE JONES: Well, we have a recording so we'll know
13 exactly what was said.

14 MR. HOWARD: Okay, they kept talking until they got
15 the answer they wanted, more or less.

16 JUDGE JONES: Is there any other points you want to
17 make?

18 MR. HOWARD: No, Your Honor.

19 JUDGE JONES: Mr. Opitz, do you have any questions of
20 Mr. Howard?

21 MR. OPITZ: None at this time, Your Honor.

22 JUDGE JONES: Miss Giboney, do you have any questions?

23 MS. GIBONEY: No judge.

24 JUDGE JONES: Okay.

25 MS. GIBONEY: Let me ask you a question, was

1 Petitioner's Exhibit 2 admitted into the record? Or are we
2 going to wait.

3 MR. HOWARD: Was it admitted before or after I was
4 sworn in?

5 JUDGE JONES: Did you want this --

6 MR. HOWARD: Yes, but was it admitted prior to or
7 before or after I was sworn in?

8 JUDGE JONES: No, it was just marked as an exhibit.

9 MR. HOWARD: Yeah, we can have that submitted.

10 JUDGE JONES: And this is, you want to admit this in
11 the record for the purpose of showing that you made a payment?

12 MR. HOWARD: November 4, 2010 they supposedly sent me
13 a billing statement to that affect, I'm sure I think that by
14 that time the electricity was long off.

15 JUDGE JONES: This shows that you made a payment of
16 \$45.

17 MR. HOWARD: November 4, 2010, right?

18 JUDGE JONES: Yeah, but I don't understand why you --
19 what's --

20 MR. HOWARD: I'm trying to remember.

21 JUDGE JONES: What are you trying to show?

22 MR. HOWARD: I'm trying to remember.

23 JUDGE JONES: Just think about it, what you're trying
24 to prove from submitting this?

25 MR. HOWARD: Well, I think we were trying to pinpoint

1 a disconnection date at that residence, were we not?

2 JUDGE JONES: Who's we?

3 MR. HOWARD: Well, I, me.

4 JUDGE JONES: Okay. All right.

5 MR. HOWARD: But yeah, so I mean I'm so cordial now
6 with you guys, I just consider us one team. But I was trying to
7 pinpoint a disconnection date at that residence, my contention
8 was electricity was long before disconnected, so this statement
9 is an error. Most of this communication to me was an error,
10 actually, that's what I'm contending.

11 JUDGE JONES: Wait a minute, okay, this shows that
12 service at 4111 Maffitt will be disconnected unless \$638 is
13 paid, then there's a payment of \$45 and then that's what this
14 shows.

15 MR. HOWARD: Actually, well, last payment was \$60 on
16 November 4.

17 JUDGE JONES: Well, was a payment --

18 MR. HOWARD: What are you looking at, Your Honor,
19 you're look at Exhibit 2?

20 JUDGE JONES: I'm looking at the receipt.

21 MR. HOWARD: Oh.

22 JUDGE JONES: It shows that a payment of \$60 was made
23 then it shows that payment of \$45 was made on December 8. So
24 you made a payment of \$60 in November, and you made a payment,
25 I'm assuming it's you making the payment?

1 MR. HOWARD: Yeah, I guess I did. At that point I
2 considered them a nuisance, this was probably nuisance money
3 just to make them, you know, just to placate them or whatever.

4 JUDGE JONES: So did you make these payments?

5 MR. HOWARD: Yeah, I mean, I'm sure I did, there was
6 no one else there.

7 JUDGE JONES: You made a payment of \$45, so you made a
8 payment of \$145 towards \$638.29?

9 MR. HOWARD: That wasn't my contention.

10 JUDGE JONES: That's what this shows, I'm just trying
11 to understand.

12 MR. HOWARD: Well, what it was is at this point I
13 think I filed a formal complaint and I think one of the
14 instructions that the PSC gave me that even though a formal
15 complaint is in process, you're still obligated to make monthly
16 payments on this account. I mean, they couldn't disconnect it
17 while I was being investigated by PSC, but I was still obligated
18 to make payments on this account, so but that was more or less,
19 communication that was made to me, you still have to make
20 payments on this account, monthly payments.

21 So I'm making these payments in lieu of you know, in
22 anticipation of the formal hearing that I already filed charges
23 against Ameren UE.

24 JUDGE JONES: Right, now, Miss Giboney told me
25 there's -- there was a complaint that was resolved with Judge

1 Dupell (phonetic) way back a long time ago, and then there was
2 another complaint and now this third complaint, is that --

3 MR. HOWARD: I don't have the evidence in front of me,
4 but that sounds, I mean, we have a very acrimonious
5 relationship, me and Ameren UE, so this -- but once I filed
6 with second complaint, I was told, instructed by PSC that you
7 still have to make future monthly obligatory payments towards
8 this account. This doesn't abort any, you know, it doesn't
9 freeze any obligation to make a payment, so I was making these
10 payments in lieu of that information I received from PSC.

11 JUDGE JONES: Well, I don't know how I'm going to use
12 this, but do you want it into evidence.

13 MR. HOWARD: Yeah, better to have too much than too
14 little.

15 JUDGE JONES: Any objection?

16 MS. GIBONEY: No judge.

17 JUDGE JONES: Mr. Opitz, do you have any objection to
18 Petitioner's Exhibit 2?

19 MR. OPITZ: No, Your Honor.

20 JUDGE JONES: Petitioner's Exhibit 2 admitted for the
21 record.

22 Mr. Opitz, you can go ahead with your presentation.

23 MR. OPITZ: Your Honor, staff has with us Miss Gay.

24 (Witness sworn)

25 JUDGE JONES: You may proceed.

1 **Q. Good morning, Miss Fred.**

2 A. Good morning.

3 **Q. Can you please state your name for the record?**

4 A. Yes, Carole Gay Fred.

5 **Q. And where are you employed and in what capacity?**

6 A. I'm with Missouri Public Service Commission. I'm the
7 manager of the consumer services unit.

8 **Q. Did you prepare testimony that's been provided to the**
9 **court reporter as Staff's Exhibit 1?**

10 A. Yes.

11 **Q. Do you have anything you wish to correct at this**
12 **point?**

13 A. Yes, I do. On page 1, second paragraph, second
14 sentence after Roman numeral one, I state he states he did not
15 reside at 445 Athelone it should be 4453 Athelone, so I'd like
16 to correct that for the record.

17 **Q. Do you have any other corrections?**

18 A. On page 2, I'm actually quoting Mr. Howard, but there
19 again, in that second, in the first full paragraph that's an
20 indented paragraph it states 445 Athelone, it should be 4453
21 Athelone. That's all I have.

22 JUDGE JONES: Okay, let me share these corrections,
23 with Mr. Howard. Okay. You can go ahead.

24 **Q. (By Mr. Opitz) Miss Fred, were those corrections in**
25 **line with this pre-trial testimony, your testimony here today?**

1 A. Yes, it is.

2 Q. To the best of your knowledge and belief is the
3 information in this document marked Exhibit 1 true and correct?

4 A. Yes, it is.

5 MR. OPITZ: Your Honor, staff offers Exhibit 1 into
6 evidence and at this time tenders the witness for cross by the
7 parties and commission.

8 JUDGE JONES: Any objection to staff Exhibit 1?

9 MS. GIBONEY: No judge.

10 JUDGE JONES: Staff Exhibit 1 is admitted to the
11 record. Any questions Miss Giboney, of Miss Gay?

12 MS. GIBONEY: No Judge.

13 JUDGE JONES: Mr. Howard, do you have any questions of
14 Miss Gay?

15 MR. HOWARD: Yes.

16 C R O S S E X A M I N A T I O N

17 Questions by Mr. Howard:

18 Q. (By Mr. Howard) Miss Gay, how long have you been an
19 employed --

20 JUDGE JONES: Miss Fred, sorry.

21 Q. (By Mr. Howard) Miss Fred, how long you been an
22 employee of the Public Service Commission?

23 A. For 27 years, I've been in my current capacity for 12
24 years.

25 MR. HOWARD: Thank you, no further questions.

1 JUDGE JONES: Okay, let's go on and move to the
2 company.

3 MISS GIBONEY: Judge, the company offers Cathy Hart.

4 JUDGE JONES: Will you raise your right hand, Miss
5 Hart?

6 (Witness sworn)

7 Q. (By Miss Giboney) Miss Hart, could you state your name
8 for the record?

9 A. Cathy Hart.

10 Q. Are you employed with Ameren Missouri?

11 A. I am.

12 Q. What is your title and what are your job
13 responsibilities?

14 A. My title is regulatory liaison and I witness for the
15 company for any complaints, I review accounts for any informal
16 and formal complaints that come in.

17 Q. What with was your position before you became
18 regulatory liason?

19 A. I was a customer services supervisor in the contact
20 center.

21 Q. And for how long were you the customer service
22 supervisor?

23 A. From January, 1 of 2001 through December 16 of 2013.

24 Q. And in that position and in your current position, do
25 you have general knowledge about Ameren Missouri methods of

1 **doing business?**

2 A. I do.

3 **Q. Do you also have technical and specialized knowledge**
4 **with respect to billing practices and customer service?**

5 A. I do.

6 **Q. Do you also have that type of knowledge with respect**
7 **to record keeping?**

8 A. Yes.

9 **Q. Do you believe your testimony will assist the**
10 **commission in understanding the evidence and determining the**
11 **facts of this commission?**

12 A. I do.

13 **Q. Have you been qualified as an expert witness in**
14 **evidentiary hearing before the commission?**

15 A. Yes, I have.

16 **Q. Are you also here today as a corporate representative**
17 **of the company?**

18 A. Yes, I am.

19 **Q. In preparing for your testimony today, have you**
20 **reviewed company document and records?**

21 A. I have.

22 **Q. In particular, have you reviewed documents that**
23 **pertain to service provided by the company at 4111 Maffitt**
24 **Street and 4453 Athelone Street?**

25 A. Yes, I have.

1 Q. That's electric utility service?

2 A. Yes.

3 Q. Are you also familiar with Mr. Howard's account
4 history for other reasons, have you been personally involved
5 with this account?

6 A. I have and that would have been for the formal hearing
7 that I witnessed for the Maffitt address, and his current
8 account at Athelone.

9 Q. When Mr. Howard filed the current complaint, when he
10 first filed it, were you still in the supervisory position?

11 A. Yes.

12 Q. All right. Let me hand you what's been marked Ameren
13 Missouri Exhibit 1 HC, do you recognize that document?

14 A. I do.

15 Q. Can you identify it?

16 A. It is our account activity statement.

17 Q. Is that a type of record the company keeps on a
18 regular basis?

19 A. Yes, it is.

20 Q. Can you tell me how that information is prepared?

21 A. We have software that pulls readings. We have AMR
22 readings, which is the automated meter readings, they are pulled
23 in from the meter and also that data is then put into our
24 database, so this account activity statement will give us the
25 date of the bill, under the transactions what type of service,

1 and then the billing period, it also gives the charges for that
2 particular period, any payments, and usage for that particular
3 address.

4 Q. So for example, when a customer makes a payment and
5 that payment is processed, does your software pull data about
6 that payment into the record?

7 A. Yes, it does.

8 Q. Is this essentially this printout, is that read only
9 type of report?

10 A. It is.

11 Q. And is it up to date within a few hours or half a day
12 of the transaction?

13 A. Yes.

14 Q. So this data is entered into the report in the
15 ordinary course of business?

16 A. Yes.

17 Q. Is this a true and accurate copy of the account
18 activity statement as it would appear on the company's computer
19 system as of the date of the last entry?

20 A. It is.

21 Q. Is there anything on this document that wouldn't
22 appear in the company's computer system?

23 A. No, the only thing is when this was printed out, would
24 have been the Ameren Missouri Exhibit 1 HC and the date at the
25 top.

1 **Q. Other than that date at top corner, it's a true and**
2 **accurate copy?**

3 A. It is.

4 **Q. And the exhibit sticker?**

5 A. Yes, sir.

6 MR. GIBONEY: Judge, I move for the admission of
7 Ameren Missouri Exhibit 1HC?

8 MR. HOWARD: No objection.

9 JUDGE JONES: Any objection Mr. Opitz?

10 MR. OPITZ: No objection, Your Honor.

11 MR. HOWARD: Just for the record, what is your Hart,
12 is it H-E-A-R-T or H-A-R-T?

13 MS. HART: H-A-R-T.

14 JUDGE JONES: Ameren Missouri Exhibit 1HC is admitted
15 to the record.

16 **Q. (By Mr. Giboney) Miss Hart, I'm now handing you Ameren**
17 **Missouri Exhibit 2HC, is this the same type of record?**

18 A. Yes, it is.

19 **Q. But is it for a different account, different address?**

20 A. It is just for a different account number, and
21 different address, yes.

22 **Q. This is also for an account for Mr. Howard?**

23 A. It is.

24 **Q. Now is this record prepared the same way?**

25 A. Yes.

1 MS. GIBONEY: Judge, I move for the admission of
2 Ameren Missouri 2HC.

3 JUDGE JONES: Any objection?

4 MR. HOWARD: Only a continuing objection to the amount
5 of usage. Other than that, no.

6 JUDGE JONES: Ameren Missouri Exhibit 2HC is admitted
7 to the record.

8 Q. (By Ms. Giboney) Miss Hart, if I could ask you to look
9 just want to make sure I said this, that Ameren Missouri Exhibit
10 1 HC, what account is that for, could you tell us?

11 A. This account, the account number 0717300154.

12 Q. And what's the service address for that account?

13 A. It is for 4453 Athelone, St. Louis, Missouri 63115.

14 Q. And then same question for Exhibit 2 HC, what's the
15 account number?

16 A. The account number for the other one is 4387107125, it
17 was for the address of 411 Maffitt, St. Louis 63113.

18 Q. Thank you. I'm now handing you Ameren Missouri --

19 MR. HOWARD: Can you give me that account number
20 again?

21 MS. HART: This last one?

22 MR. HOWARD: Yes.

23 MS. HART: 43871-07125.

24 MR. HOWARD: I presume that this, okay, I'm sorry, I
25 have a wrong document here. Okay. Go ahead.

1 **Q. (By Ms. Giboney) Miss Hart, I'm now handing you Ameren**
2 **Missouri Exhibit 3 HC, do you recognize that document and can**
3 **you identify it?**

4 A. Yes, this would be a copies of bills, yes, this would
5 be a copy of bills for 0710300154 and that was on the Athelone.

6 **Q. Those were bills that were sent to Mr. Howard?**

7 A. Yes, they were.

8 **Q. Are those true and accurate copies of those bills?**

9 A. They are.

10 MS. GIBONEY: Move for admission of Ameren Missouri
11 Exhibit 3 HC.

12 JUDGE JONES: Any objection to Ameren Missouri Exhibit
13 3 HC?

14 MR. OPITZ: No, Your Honor.

15 MR. HOWARD: Continuing objection as to the amount of
16 the bill as well as the doubtfulness of Miss Hart's testimony.
17 She seems to be kind of hesitant in identifying those bills, as
18 so instructed by Giboney.

19 JUDGE JONES: I don't understand.

20 MR. HOWARD: She seems --

21 JUDGE JONES: Well, I don't understand whether you --
22 you object to the admission to this.

23 MR. HOWARD: I object to her, I know she's laying
24 foundation, but it seems as though Miss Hart is kind of shaky on
25 her memory as to the account numbers and how they correspond

1 with these bills.

2 JUDGE JONES: Well, I'll say for the record I don't
3 see what you see. I mean she might be, maybe she's just trying
4 to be deliberate in her statement, I don't see her as being
5 shaky, I'm just saying for the record, but --

6 MR. HOWARD: Point taken.

7 JUDGE JONES: Is her being shaky is your objection?

8 MR. HOWARD: As far as foundation, yes, questions
9 authenticity of this foundation, and that she seems to be
10 uncertain as to account numbers and as they correspond to
11 particular residences.

12 JUDGE JONES: Okay. Well, your objection is
13 overruled, and Ameren Exhibit 3 HC is admitted into the record.

14 **Q. (By Ms. Giboney) Miss Hart, I'll hand you Ameren**
15 **Missouri Exhibit 4 HC, can you identify that, do you recognize**
16 **that?**

17 A. This is a contacts list from our contact center from
18 calls.

19 **Q. How is that contacts list prepared, how does the data**
20 **make it's way into the list?**

21 A. Any time we have a call into our contact center, when
22 the contact center, the contact care advisor as they were
23 called, they enter remarks about what that conversation entails,
24 so when that conversation is over with, the person that called
25 in, they will make notes as to what happened, and that's to help

1 the next representative that may talk to or about this account.
2 It also, this list also will have any automated contacts in here
3 that would be like if someone were to set up on a payment
4 agreement, then that information was also going to be in here to
5 show that we sent out a payment agreement or letter.

6 **Q. Well, these contact lists also show outbound calls if**
7 **a company calls a customer back or something like that?**

8 A. If we call someone back, then we're going to also, the
9 representative is also going to make notes as to that, so yes.

10 **Q. Are there any other type of letters or notifications**
11 **other than the payment agreement letters that are reflected in**
12 **the contacts when they're sent?**

13 MR. HOWARD: I'm sorry, could you repeat the question?

14 MS. GIBONEY: Sure.

15 MR. HOWARD: Compounded question, can you maybe
16 simplify it.

17 MS. GIBONEY: Sure.

18 **Q. (By Ms. Giboney) What types of written contacts by the**
19 **company to the customer might be reflected in a contacts list?**

20 A. Well --

21 MR. HOWARD: Objection, calls for speculation. Seems
22 she doesn't know, and I mean, it seems she's speculating now.

23 JUDGE JONES: That's not speculation.

24 MR. HOWARD: I mean, this is her job supposedly as an
25 expert in the field, she doesn't seem to be certain as to what

1 Miss Giboney is asking her.

2 JUDGE JONES: She's just taking her time, looking
3 through the records.

4 Q. (By Ms. Giboney) Let me ask you a more specific --

5 JUDGE JONES: Objection overruled.

6 Q. (By Ms. Giboney) Let me ask you a particular specific
7 question. If the company says what I call an unknown user
8 letter to an address, is that going to be reflected in the
9 account contacts.

10 A. It is and that's what I was just looking at here, to
11 see the different types. Yes, we do, we would have a date on
12 there, the time that that particular notice was sent, and we
13 would call an unknown user if we were going to send somebody out
14 to disconnect the service, it could be called a lock hot
15 terminated issue, that is an automated entry into this
16 particular contact account, so yes.

17 Q. Let me ask you this, how does the company use this
18 type of report, is it used in it's ordinary course of business?

19 A. It is and it's to inform anyone researching the
20 account as to what happened previous, that may be when we have
21 another caller to call in, then that representative will be able
22 to look back to see what's happened, so yes.

23 Q. Is the data that's reflected in this record whether
24 it's noted on a call or noted that a letter has been sent, is
25 that entered in that report at or near the time that event

1 **occurs?**

2 A. Yes.

3 MS. GIBONEY: Judge, I move for admission of Ameren
4 Missouri 4 HC.

5 JUDGE JONES: Any objection, Mr. Opitz?

6 MR. OPITZ: No, Your Honor.

7 JUDGE JONES: Any objection Mr. Howard?

8 MR. HOWARD: Continuing objection to the authenticity
9 of her testimony, yes.

10 JUDGE JONES: So you're saying that there's -- she
11 hasn't laid the proper foundation?

12 MR. HOWARD: Yes, I'm challenging the foundation that
13 she's attempting to lay.

14 JUDGE JONES: Objection overruled.

15 **Q. (By Ms. Giboney) Miss Hart, Ameren Exhibit 4 HC --**

16 MR. HOWARD: That was 4 HC.

17 **Q. (By Ms. Giboney) Can you tell me which account that**
18 **references by account number or address?**

19 A. This particular one is for the address of 4453
20 Athelone.

21 **Q. I'm going to hand you now what's been marked Ameren**
22 **Missouri Exhibit 5 HC, do you recognize that exhibit and can you**
23 **identify it for us?**

24 A. This is also a copy of contacts, but this is one is
25 for 4111 Maffitt.

1 **Q. And is this exact same type of record as Exhibit 4 HC,**
2 **just for a different address?**

3 A. Yes.

4 **Q. And different accounts?**

5 A. Yes.

6 **Q. Prepared the same way?**

7 A. Yes.

8 **Q. Used in the same way?**

9 A. Yes.

10 MS. GIBONEY: Judge, I move for admission of Ameren
11 Missouri Exhibit 4 HC -- or 5 HC, I'm sorry.

12 JUDGE JONES: Any objection?

13 MR. HOWARD: My continuing objection.

14 MR. OPITZ: No, Your Honor.

15 JUDGE JONES: Objection overruled, Exhibit 5 HC
16 admitted to the record.

17 **Q. (By Ms. Hart) Now Miss Hart, I'm handing you what's**
18 **been Marked Ameren Missouri Exhibit 6, can you identify that**
19 **exhibit for us?**

20 A. This is a copy of an, what we call an unknown user
21 notice that was sent to the address of 4453 Athelone.

22 **Q. Ordinarily, does the company keep copies of those**
23 **letters?**

24 A. We do not.

25 **Q. How did you obtain a copy of that letter?**

1 A. This one was actually attached to, as an attachment to
2 the complaint that was filed by Mr. Howard.

3 MS. GIBONEY: Judge I move for the admission of Ameren
4 Missouri Exhibit 6.

5 JUDGE JONES: Any objections.

6 MR. OPITZ: No objection, Your Honor.

7 JUDGE JONES: Mr. Howard?

8 MR. HOWARD: You're saying this occupancy
9 communication, is that normally when there's a question as to
10 the user at that residence?

11 A. It's sent due to the fact that we do not know who's
12 using the service.

13 MR. HOWARD: But the service is being used?

14 A. But the service is being used.

15 MR. HOWARD: And that's --

16 JUDGE JONES: Mr. Howard, I hesitate to allow you to
17 continue to ask her questions when I just want to know if you
18 object.

19 MR. HOWARD: Continuing objection, you can overrule on
20 it.

21 JUDGE JONES: But you will have an opportunity to
22 cross-examine, I feel like that's where you were going; am I
23 right?

24 MR. HOWARD: Yeah.

25 JUDGE JONES: All right. Ameren Missouri Exhibit 6 is

1 admitted, the objection is overruled.

2 Q. (By Ms. Giboney) Miss Hart, in the ordinary course of
3 business, does Ameren Missouri record incoming calls to it's
4 customer service department?

5 A. Yes, we do.

6 Q. How are those calls recorded, can you describe
7 generally the technology?

8 A. We again have software that records all of the calls
9 that come into our contact center.

10 Q. Are those recordings made in an electronic or digital
11 format?

12 A. Yes.

13 Q. Is that format commonly referred to as a WAV file?

14 A. It is, W-A-V.

15 Q. Can those files be copied over or burned to a disc?

16 A. Yes, we can do that.

17 Q. Miss Hart, I'm handing you what's been marked Ameren
18 Missouri Exhibit 7 HC, can you identify that for us?

19 A. This is an audio recording of the telephone call
20 between Ameren customer service and Peter Howard.

21 Q. How do you now that's a call between Ameren and Mr.
22 Howard?

23 A. I've listened to it.

24 Q. How do you know that's Mr. Howard on the call?

25 A. Because the question is asked of him who we're

1 speaking to he does state that's his name.

2 Q. Is the voice you hear on that disc the same as the
3 voice you've heard today from Mr. Howard?

4 A. It is.

5 MR. HOWARD: I have to make an objection there's no
6 evidence that she's a voice expert.

7 JUDGE JONES: That objection is sustained.

8 Q. (By Ms. Giboney) Do you recognize that voice as the
9 same?

10 A. I do.

11 Q. Was that recording system in good working order
12 generally as far as you know on the date that call was made?

13 A. Yes.

14 MS. GIBONEY: Judge I move for admission of Ameren
15 Missouri Exhibit 7 HC.

16 JUDGE JONES: Any objection?

17 MR. HOWARD: Yes, Your Honor, continuing objection.

18 JUDGE JONES: Which as to lack of foundation?

19 MR. HOWARD: Yes.

20 JUDGE JONES: Don't let me put words in your mouth,
21 lack of foundation is going to be overruled. If you think
22 there's a different objection, you should think about that.

23 MR. HOWARD: Well, I mean, I had a question but --

24 JUDGE JONES: You'll be able to ask questions, just
25 not --

1 MR. HOWARD: Go ahead then.

2 JUDGE JONES: So, you're objection as to lack of
3 foundation.

4 MR. HOWARD: Okay.

5 JUDGE JONES: It's overruled. Ameren Missouri Exhibit
6 7 HC is admitted to the record.

7 MR. HOWARD: Six or seven?

8 MS. GIBONEY: Seven.

9 MR. HOWARD: Give me a copy of that?

10 MS. GIBONEY: Judge, I only have one disc.

11 MR. HOWARD: Okay, go ahead. You're talking about
12 Exhibit 7, oh, okay. Go ahead.

13 JUDGE JONES: You can play that.

14 **Q. (By Ms. Giboney) Miss Hart, while I'm loading this**
15 **disc, let me go ahead and ask you, is there quite a bit of hold**
16 **time on this call?**

17 A. There is.

18 **Q. Is the total call time around 18 minutes?**

19 A. It is.

20 MS. GIBONEY: Mr. Howard, with your permission, I
21 would fast forward in that hold time, but if you want, or we can
22 listen to the entire call.

23 MR. HOWARD: I'd like to listen to the entire call, I
24 mean, that's fine.

25 JUDGE JONES: I guess I should say for the record

1 that, what you're typing is the recording of the call.

2 (Whereupon, recording was played).

3 (Whereupon, the court reporter typed the audio played
4 on the computer)

5 Q. Good afternoon this is Kelly, how can I help you?

6 A. Yes, I'm trying to get service turned on.

7 Q. Okay. Well I'll be glad to help you with that. May I
8 have your name please?

9 A. Ben Scott.

10 Q. Ben Scott?

11 A. Yes, ma'am.

12 Q. May I have your Social Security number Ben?

13 A. [REDACTED].

14 Q. Thank you. And do you have a middle initial, sir?

15 A. No, ma'am.

16 Q. And what is the address where you're needing service
17 Ben?

18 A. At 4453 Athelone. That's A-T-H-E-L-O-N-E, 63115.

19 Q. Thank you. Just a moment, I'll verify the status on
20 the meter, and when did you move to this address Ben?

21 A. I moved there the first of June.

22 Q. The first of June?

23 A. Yes, ma'am.

24 Q. Thank you. Looks like the service is currently off,
25 let me take a look at the usage on the meter, just a moment, who

1 will you be renting from Ben?

2 A. I'll be renting from Phillip Howard, no, from Peter
3 Howard.

4 Q. Peter Howard?

5 A. Yes, ma'am.

6 Q. And do you have a phone number for Peter?

7 A. Yes, ma'am, area code [REDACTED]

8 Q. And what address are you moving from, sir?

9 A. I'm moving from 3435 Missouri.

10 Q. Now is that also in St. Louis?

11 A. Yes, ma'am.

12 Q. And may I have your phone number with the area code
13 please?

14 A. Area code [REDACTED].

15 Q. Can I place you on hold for just a moment, I will need
16 to verify the usage on the meter, we will need to call
17 Mr. Howard and verify that you are the new tenant and I'll need
18 to run your social and verify your previous address?

19 A. All right.

20 Q. Okay. Thank you, just a moment please.

21 MR. HOWARD: She is calling me?

22 JUDGE JONES: Whoever called is on hold. Why its on, I
23 don't know.

24 MR. HOWARD: I wouldn't have been put on hold.

25 A. Good afternoon.

1 Q. Hi this is Kelly with Ameren Missouri. I'm calling
2 for Peter Howard?

3 A. Speaking.

4 Q. Hi I am calling, do you have rental property at 4453
5 Athelone?

6 A. Yes, ma'am.

7 Q. When did you purchase that property, Peter?

8 A. August of 2011. I inherited the property actually?

9 Q. Okay. And who did you inherit it from?

10 A. From my mother.

11 Q. And her name?

12 A. Cortes (phonetic) Howard.

13 Q. Now is Peter your first name?

14 A. Yes.

15 Q. Because when I check are you the only owner or?

16 A. No, me and Spencer Howard.

17 Q. Okay, that's what it's showing me under the dead of
18 reference, as to who the owner is. And do you have a new
19 tenant?

20 A. Yes, I think Benjamin Scott, if I'm not mistaken.

21 Q. And when did Benjamin move there?

22 A. Well, he's scheduled to move June 1, we've already
23 came to an agreement. He would like to have it turned on now,
24 he wants to do a walk through or whatever.

25 Q. Okay. So who's been there, have you been cleaning up

1 the property because there's been consistent usage on the meter,
2 and it it's not in anyone's name?

3 A. Yeah, there hasn't been that much usage, I mean I've
4 been cleaning it up, getting it rental ready, yes, it's pretty
5 much clean. Just had the lawn cut today, as a matter of fact.

6 Q. Can you verify your previous tenant and when they
7 moved out?

8 A. Previous tenant was my daughter, Alicia Bell.

9 Q. Okay. Because it looks like she had called for a
10 connection and she called back and voided it, but she was living
11 there, when did she move out?

12 A. She moved out maybe a month ago, two months ago, I
13 think.

14 Q. Do you know when she moved in?

15 A. She moved in, I don't have a date in front of me.

16 Q. Well, let's see, looks like she must have called later
17 again and put it in her name and it looks like, let's see, yeah,
18 looks like Alicia was here, now she had it taken out of her name
19 February 20?

20 A. Okay.

21 Q. So you would be responsible for the usage since then?

22 A. Well, no one's been living there since then.

23 Q. Right. But that's what I'm saying, there's been usage
24 on the meter?

25 A. There's been a very minimum usage, if at all. Maybe

1 the light was on or something like that.

2 Q. I mean, there's been days where the usage is
3 definitely more than just having a light on.

4 A. Ma'am, you know what it's probably, I leave a light on
5 there so no one will break in and think no one lives here.

6 Q. Right, but I don't think one light is going to use 30
7 kilowatts in one day?

8 A. 30 kilowatts?

9 Q. Right.

10 A. Just send me the bill then, whatever overage there is,
11 just send it to me.

12 Q. Okay. I can do that now. I would need your Social
13 Security number in order to do that.

14 A. You will need my Social Security number to send me a
15 bill?

16 Q. Yes, sir to put the service in your name?

17 A. I think Benjamin Scott is going to put it in his name,
18 right?

19 Q. He is, but to send you a bill for the service from
20 February 20 up through May 31, he'll take responsibility as of
21 June 1, right that's when you said he's going to move in.

22 A. Well, he wants it on now.

23 Q. Okay. Well then we'll bill you from February 20
24 through today.

25 A. How much are you talking about, I mean really?

1 Q. Let me see, I can only give you a ballpark, it's not
2 going to be an exact quote, because I'm not going to figure the
3 taxes or anything like that.

4 A. There's no way, the premises has been unoccupied for a
5 number of months. I mean other than a light being on, there
6 hasn't been that much usage, I mean there hasn't been.

7 Q. It looks like since she left, yes, there's been 2135
8 kilowatts used.

9 A. Now, come on, now.

10 Q. No, I'm looking at the reading, sir, I mean I'm not
11 going to lie to you, there's no reason to, but that's why the --
12 I'm calling is to see who's responsible for the usage.

13 A. So give me a ballpark figure, so what do you think I
14 owe you then.

15 Q. Now this will be without taxes.

16 A. 2000 kilowatts for a light bulb being on.

17 Q. You've got about 30 kilowatts per day being used, so
18 there would be more than just a light that would be on.

19 A. Maybe a radio was left on or something like that.

20 Q. Yeah, you're looking at probably \$113 plus taxes.

21 A. Crap, there's no dealing with you guys is there, okay,
22 send me the bill then, send me the bill.

23 Q. I'll need your Social Security number for that.

24 A. Why do you need my Social Security number?

25 Q. Because I need to verify that you are who you say you

1 are, do you have an existing bill with it?

2 A. (Whereupon, Social Security number was redacted). No
3 one has been living there.

4 Q. What is your address so we can send the bill?

5 A. I have a P.O. Box, ma'am. [REDACTED],
6 [REDACTED]. You know I'm going to contest this, my friend
7 is the chairman of PSC. I'm going to contest this, I mean, no
8 one's been here, how can I owe you \$113.

9 Q. I'm saying it's going to be more than that, that's a
10 ballpark figure, that's without taxes or any customer charge.
11 Now you said your [REDACTED]

12 A. Yeah, 63135.

13 Q. Okay. All right. We'll get it put in your name and
14 put in the tenants name?

15 A. Put it in his name, he's not going to put it in my
16 name.

17 Q. We'll have to send you a disconnect in your name for
18 service of February, and we'll put it in your new tenant's name
19 as of today.

20 A. Yes, ma'am, thank you.

21 Q. Thank you for taking the call, Peter have a good day?

22 A. You too.

23 JUDGE JONES: Okay what I was saying, I don't want his
24 Social Security number in the transcript

25 MS. GIBONEY: We have no objection to redacting the

1 Social Security number of the P. O. Box.

2 MR. OPITZ: Your Honor?

3 JUDGE JONES: Yes, Mr. Opitz.

4 MR. OPITZ: Not that we believe that it rises to the
5 level of requiring a disqualification, but staff would like to
6 note that there was a reference in that phone call to a
7 relationship with the chairman.

8 JUDGE JONES: Oh, I didn't even hear it, was there?
9 Well, okay, I've told him about that, I'll let him handle that
10 however he wants, but I will ask for the record is there any
11 objection to the chairman participating in the discussion in the
12 decision in this case?

13 MS. GIBONEY: Could we just inquire briefly to
14 Mr. Howard about his relationship?

15 JUDGE JONES: Sure.

16 MS. GIBONEY: Mr. Howard, do you have a personal
17 relationship with the chairman?

18 MR. HOWARD: No, second, my brothers do. My brothers
19 do, they're in the same fraternity.

20 MS. GIBONEY: We have no objection, Judge.

21 JUDGE JONES: Okay. With we take a five minute break.

22 (Whereupon, a break was taken)

23 (Back on the record)

24 JUDGE JONES: Go back on the record.

25 Q. (By Ms. Giboney) Miss Hart, I'd like to ask you some

1 **questions about the terms that the representative used in the**
2 **call. The representative refers to verifying usage, what does**
3 **she mean?**

4 A. She means that in the past we have had service use at
5 that location and no one had been billed for it. We had no one
6 to bill for it.

7 **Q. Does the account activity statement for the Athelone**
8 **show electric usage at that address from February 20 through May**
9 **22?**

10 MR. HOWARD: Which exhibit is that?

11 MS. GIBONEY: Exhibit 1 HC.

12 A. It does show usage.

13 **Q. (By Ms. Giboney) And prior to Mr. Scott's call to the**
14 **company, had the company tried to figure out who was using**
15 **service at that address?**

16 A. We had tried to figure out who was there, and the way
17 I can tell that is by looking at the contact sheet.

18 **Q. Which exhibit are you looking at?**

19 A. 4 HC and it actually shows, I believe there were three
20 times that I saw on here, there were three times that we had
21 sent out what we called unknown user cards and that is a request
22 sent to that premises to request who's there, and do they want
23 service turned on. If we don't hear from them after so many
24 days, then we will disconnect the service.

25 **Q. And is that that card or letter is that the same as**

1 Ameren Exhibit 6?

2 A. Yes, it is, it's sent to occupant.

3 Q. What date was Ameren Exhibit 6 sent, does it have a
4 date on it?

5 A. March 1 of 2013.

6 Q. And this was the item that was attached as an exhibit
7 to Mr. Howard's complaint; is that correct?

8 A. It is.

9 Q. So is it the representative's responsibility to try to
10 figure out who should take responsibility for that usage?

11 A. Yes, it is.

12 Q. Is she required to do that before she can reestablish
13 service at that account?

14 A. Yes.

15 Q. And did Mr. Howard tell the representative that he
16 owned the property with his brother?

17 A. He did.

18 Q. And that he was the landlord?

19 A. Yes.

20 Q. In your opinion, did Mr. Howard accept responsibility
21 for that usage between February 20 and the date of the call?

22 A. He did.

23 Q. In what way did he do that?

24 A. He stated bill me for it, send me the bill.

25 MR. HOWARD: I have to object, Your Honor, under

1 hearsay grounds. I mean, she's a third party, this is a dialog
2 between me and someone else, I guess it's Carol Fred, was that
3 the representative that you were listening in?

4 A. No, that was a contact center representative that was
5 on --

6 MR. HOWARD: You said you listened in on the call, did
7 you not? You didn't directly talk to me; is that correct?

8 A. That's correct.

9 MR. HOWARD: So this is hearsay, I object on hearsay.

10 JUDGE JONES: You're almost right, but hearsay is an
11 out of court statement, we just heard the statement on
12 recording, here in the hearing, she --

13 MR. HOWARD: But you can base your decision on what
14 you've heard and not so much what she's heard, listening in on
15 the third party conversation.

16 JUDGE JONES: I can compare to she says with what's on
17 the recording. And the record is going to be what's said,
18 sounds like to me she's recanting to get to the point.

19 MR. HOWARD: Again, I object to relevancy grounds. We
20 have the recording, why do we need her to verify what she said
21 on the recording that we all listened to, what's the relevance
22 of the conversation?

23 JUDGE JONES: It's relevant, very relevant. I mean,
24 otherwise --

25 MR. HOWARD: I mean, her testimony regarding what was

1 said on the tape. I mean we all heard it so why is she being
2 asked about what was being said on the tape?

3 JUDGE JONES: Miss Giboney?

4 MS. GIBONEY: Judge, Mr. Howard has made complaint
5 about actions taken by the company, attempting to ask Miss Hart
6 how the company would interpret the statements that he made. He
7 has mentioned how they their act on the status of service based
8 on those statements.

9 JUDGE JONES: The objection is overruled, but a better
10 objection is redundancy, not relevancy, or hearsay.

11 MS. GIBONEY: I apologize, I was more attempting to
12 solicit an opinion than a recap, but I understand the objection.

13 JUDGE JONES: Okay.

14 Q. (By Ms. Giboney) And did the company then transfer
15 service into Mr. Scott's name at some point in May?

16 A. Yes, we did.

17 Q. And that was what the tenant, Mr. Scott the tenant had
18 requested?

19 A. Yes, it was.

20 Q. Did the company then send Mr. Howard bills for the
21 Athelone address for the usage between February 20 and May, 24?

22 A. We did.

23 Q. And are those bills what we've looked at as Ameren
24 Exhibit 3 HC?

25 A. Yes, they were.

1 **Q. Did the company charge Mr. Howard a deposit when it**
2 **first established that account for service at the Athelone**
3 **address?**

4 A. We did initially charge a deposit, and then because it
5 was in Mr. Howard's name for such a short period of time, from
6 the time, because we were actually backdating it from the time
7 that Alicia Bell moved out on February 20 at the time that we
8 put it into Mr. Howard's name, we charged the deposit, but
9 because then Mr. Scott, his name was put on it almost
10 immediately, then we actually cancelled that deposit.

11 So yes, this first bill will show a deposit, the very
12 last final bill will not show a deposit and that's why.

13 **Q. Let me ask you about why a deposit was put on there in**
14 **the first place, can you explain why a deposit was assessed when**
15 **the Athelone account was set up in Mr. Howard's name.**

16 A. Because there was an old bill that he owed us for
17 \$609.93 and that was transferred into the Athelone account.

18 **Q. Was that a bill for account for service at the Maffitt**
19 **Street address?**

20 A. It was.

21 **Q. Have you read the complaint in this case?**

22 A. I have.

23 **Q. And you understand that one of the complaints, one of**
24 **the issues was an allegation that we denied service to it's**
25 **tenant, Mr. Scott?**

1 A. Yes.

2 Q. But, in fact, the company did provide service to
3 Mr. Scott beginning on May 24, 2013; was that correct?

4 A. That's correct and he still has service there today.

5 Q. To this date?

6 A. Yes.

7 Q. All right. Let's talk about the balance that you
8 mentioned on the Maffitt address, do those bills Exhibit 3 HC,
9 those include an unpaid balance for service to the Maffitt
10 address?

11 A. Yes.

12 Q. Can you tell me when that account was first
13 established?

14 A. The Athelone address or?

15 Q. No, the Maffitt address.

16 A. The Maffitt address.

17 MR. HOWARD: I will object to relevancy grounds as you
18 said that's already been heard and determined, I don't see the
19 relevance of her bringing up information on that address for
20 this present hearing, to use her own logical colloquialism, it's
21 already been decided. That should be, that information
22 shouldn't be allowed to be reintroduced here for the purposes
23 of her case.

24 JUDGE JONES: Yeah, I understand what you're saying,
25 from an evidentiary standpoint, the evidence that you've put in

1 opens the door to the Maffitt account.

2 MR. HOWARD: I thought you closed that door, Your
3 Honor, earlier in this proceeding.

4 JUDGE JONES: That's why I said from an evidentiary
5 standpoint.

6 MS. GIBONEY: Judge, if I can respond, what we've
7 attempted to close the door on is Mr. Howard already has been
8 held responsible for these amounts, and that was what was
9 decided in these up to 2008 in the prior report and order, but
10 what is still at issue is the fact that that bill remains
11 outstanding and unpaid and that was what was properly added to
12 the bill for Athelone. I would like to discuss the Maffitt
13 account with purpose of --

14 JUDGE JONES: So the past report, let me ask the
15 question Mr. Howard, so the report and order from 2008, I
16 believe, dealt with the Maffitt account?

17 MS. GIBONEY: Yes, Judge.

18 JUDGE JONES: And said that he owed a certain amount
19 or didn't say he owed it, but that he didn't show he did owe?

20 MS. GIBONEY: Correct.

21 JUDGE JONES: And he didn't pay that amount?

22 MS. GIBONEY: The, as the account activity statement
23 for that account demonstrates, service continued to be received
24 there, even past that report and order, and then you can ask
25 Mr. Howard when it was terminated, correct, but when that

1 account was terminated there was an unpaid balance.

2 MR. HOWARD: And that's the balance he's complaining
3 about now?

4 MS. GIBONEY: Yes, because it was part of the bill
5 that was sent to him for the account at Athelone.

6 JUDGE JONES: Okay.

7 MR. HOWARD: The entire amount is in dispute, but as
8 you said earlier, Your Honor, it's redundancy, like you said
9 we're rehashing something that's already been a decision on by
10 the PSC.

11 JUDGE JONES: Objection overruled.

12 Q. (By Ms. Giboney) I believe my question, Miss Hart, was
13 when was that account at Maffitt established?

14 A. It was on June 14 of '05.

15 Q. And was that account established in Mr. Howard's name?

16 A. It was.

17 Q. And when was this account terminated or actually let
18 me ask you a better question, when was the last date that
19 service, electric service was received at that address?

20 A. That would have been through April 12 of '11.

21 Q. Was that account terminated for non-payment?

22 MR. HOWARD: I'll allow judicial note that to the fact
23 that yeah, that's normally why accounts are disconnected due to
24 nonpayment, we don't need for her to, I don't see the logic in
25 allowing her to go and explain there's no other reason why it

1 would be terminated, is there? There wasn't an electrical fire
2 hazard on the premises was there. I'll take judicial notice of
3 the fact that yeah, accounts are normally terminated as a result
4 of nonpayment, we don't need to quibble about that.

5 JUDGE JONES: Is that the point you were getting at?

6 MS. GIBONEY: Well, I was going to ask a second
7 question, but if he wants to stipulate that it was terminated
8 for nonpayment, that would be great.

9 MR. HOWARD: Yeah, I have a question as to the date, I
10 don't think it existed that long, but I'm sure it was terminated
11 for nonpayment.

12 Q. (By Ms. Giboney) Miss Hart, when a customer calls to
13 elect to have service terminated, when they elect to do that,
14 does the company keep a record of that request?

15 A. We do.

16 Q. Is there any entry in the context or any other company
17 record that you know of from Mr. Howard that indicates that he
18 ever asked for service at Maffitt to be terminated?

19 A. No, he did not.

20 Q. So the only evidence is that it was terminated for
21 nonpayment?

22 A. That's correct.

23 Q. Is a customer responsible for service provided to his
24 premises until he notifies the company to terminate it?

25 A. He is.

1 Q. Is that what your tariffs provide?

2 A. It is.

3 Q. Does the company have the authority to make
4 arrangements for a customer to pay a prior unpaid account
5 balance before the company is required to commence service for
6 that customer at a new address?

7 A. Yes.

8 Q. And is that authority granted in the tariffs?

9 A. It is.

10 Q. How does the company make arrangements generally, if
11 the customer doesn't just pay the old unpaid balance with one
12 check, how was the company usually make arrangements for that
13 old, unpaid balance to be paid?

14 A. Generally when that customer calls for service, then
15 we find that they do have an old bill that's unpaid then we will
16 offer payment agreements and we will ask for a down payment.

17 Q. Are you also permitted to go ahead and transfer that
18 balance to the new service account that's been established?

19 A. If it is within the time limit, yes.

20 MS. GIBONEY: Judge I don't have any further questions
21 of this witness.

22 JUDGE JONES: Mr. Opitz, do you have any questions of
23 Ameren's witness.

24 MR. OPITZ: No, Your Honor.

25 JUDGE JONES: Mr. Howard, do you have questions?

1 MR. HOWARD: Just a few.

2 C R O S S E X A M I N A T I O N

3 Questions by Mr. Howard:

4 Q. You were saying that your last statement here was that
5 normally, as far as customer requesting new service at an
6 address, that's when your protocol is to attach any delinquency
7 to prior bills; is that correct?

8 A. That's not the only time that we would, okay, are you
9 talking about setting up a payment agreement or just attaching
10 the bills to a new account?

11 Q. Right, you're saying normally as a rule it's done if
12 the customer makes request for new service, at a new address, if
13 he doesn't write a check for the entire amount, I believe you
14 said, then you would just, apportion that delinquency to it's
15 new account upon him making request, requisitioning your company
16 for new service?

17 A. If that customer is calling in for new service and the
18 owe us an old bill, then yes, we will offer a payment
19 arrangement.

20 Q. Would you agree that I did not call in or requisition
21 your company for new service?

22 A. At which address?

23 Q. At 4453 Athelone?

24 A. You did not call and ask to put service on your name,
25 we called you and asked if you were willing to take --

1 **Q. So that's not proper protocol then?**

2 MS. GIBONEY: Judge, he's interrupting the witness.

3 **Q. (By Mr. Howard) I'm just going by what you said**
4 **earlier, with your question.**

5 JUDGE JONES: Mr. Howard, if you ask her a question,
6 let her finish it.

7 MR. HOWARD: Okay.

8 A. If there is a balance, if there a balance due these
9 are two different scenarios is the way that I'm taking your
10 questioning. I'll answer the first one to be if you're calling
11 for new service and you have an old bill, then we will ask you
12 if you're not going to pay that off in full, we'll offer you a
13 payment arrangement or ask how you'd like to pay it.

14 If in this case there was an interim period that we
15 saw that there was service used, then we will call out and we
16 will ask the landlord who's responsible for that bill, in this
17 case, you said you were, so, that is our protocol.

18 **Q. Is it your responsibility to seek out the landlord to**
19 **find out who the landlord is? I mean I know she was saying**
20 **earlier you eluded to the fact you send a lot of the occupancy**
21 **cards, so 3 HC.**

22 A. Right.

23 **Q. When you're uncertain as to who the occupant is, you**
24 **just send out occupancy cards. And at this particular address,**
25 **you sent out several, I believe; am I correct?**

1 A. We sent out three.

2 Q. But you said earlier, your testimony was that you
3 would wait a couple of days or whatever, you would wait a few
4 days, I got the impression you're talking about a few days to a
5 few weeks prior to, you know, actually terminating service
6 there, how does that work, again?

7 A. Well on this copy of the notice, yes, Exhibit 6, it
8 will state we have not received an order for the electric an or
9 gas service at this location, if you would like the service to
10 remain active, please contact us immediately to open an account,
11 failure to contact us may result in service being disconnected.

12 Q. When is that dated, ma'am?

13 A. March 1 of 2013.

14 Q. So service remained on there. When was I contacted?

15 A. On May 22 of 2013 at 4:58 p.m.

16 Q. So actually, you went against your own protocol there,
17 correct, according to your earlier reading of you sending out a
18 statement saying disconnection will occur if someone doesn't
19 call immediately to reinstitute service at that address, and
20 that was two months prior, I mean prior to you contacting me or
21 regarding this same address, right?

22 A. This is regarding the Athelone address.

23 Q. So almost 60 days later?

24 A. Well, we sent three notices out though.

25 Q. And that's unusual as well, right?

1 A. No, that's not unusual. If it is, and okay, I'll go
2 back here. The very first notice that we sent out was on
3 March 1 of 2013, and so we did not hear anything.

4 **Q. You're saying you have the exact date when Alicia**
5 **Nicole Bell called in to request disconnection of service at**
6 **that address?**

7 A. No, I'm saying this was the first --

8 **Q. So this is all speculation, this is all speculation as**
9 **to when she actually requested disconnection?**

10 A. You asked me about the occupant card, and I'm stating
11 that the first occupant card that we sent to the premises --

12 **Q. March, 2013?**

13 A. March 1, 2013.

14 **Q. But you came up with a disconnection date Alicia**
15 **Nicole Bell February 23, 2013; is that correct?**

16 A. Yes, we do have one, 8 a.m. to 2/20 of '13.

17 **Q. And you're saying that's based on her, but you don't**
18 **have any evidence of her actually calling in and requesting**
19 **disconnection of service at that address, is that correct on**
20 **that date?**

21 A. We received a call, this was entered by one of our
22 representatives.

23 **Q. Do you know which one?**

24 A. Which representative.

25 **Q. Uh-huh?**

1 A. I have that yes.

2 Q. Can you give me that name?

3 A. Jean R. Johns.

4 Q. You're looking at what, 5 HC?

5 A. 4 HC.

6 Q. 4 HC. So there was a request for disconnection of
7 service February 20?

8 A. Correct.

9 Q. Eight something in the morning by a Alicia Nicole
10 Bell?

11 A. Yes.

12 Q. And you're saying this one receipt where you show
13 activity from February 20 to 5/25 I guess you're says service
14 I'm going by 1 HC now, the amounts are fluctuating here, you
15 have \$50 one month, \$25 another month, \$779 another month. How
16 can you explain the discrepancy in the usage there?

17 I mean from month-to-month that normally happens, I
18 mean if it's being used by a consumer at that address, does that
19 normally show such a variance in a monthly billing statement?
20 You went from \$25 to \$50 to \$79, \$88, is that normal billing
21 cycle for a consumer to use at a particular address?

22 A. Certainly, it is? This is -- some of this is winter
23 colder wintertime --

24 Q. That's when it should have be more usage then right?

25 I mean, that's what Ameren always said, you know, due to cold

1 weather, they have to increase fuel usage or something like
2 that.

3 A. Let me explain first, the first billing period after
4 Alicia Bell stopped service would have been from 2/2013, to --

5 Q. 301 right?

6 JUDGE JONES: Let her explain the discrepancy.

7 MR. HOWARD: All right. Go ahead.

8 A. That is a reason for the \$25.36 bill, it's a very
9 minimal amount of days, that's not a full 30 day bill. On
10 April 2, to 3/1 to 4/2 would have been the next bill it was for
11 \$88.20, from 4/2/13 to 4/29 would have been a bill of \$79.09.
12 So it depends on if it's a full --

13 Q. From 4/29 to 5/24 would have been a bill for \$46.75,
14 right?

15 A. Correct.

16 Q. So there that's a drastic drop from \$88 to \$46, I
17 mean, that's still a discrepancy there, isn't it?

18 A. Not a discrepancy, but it depends on the weather if
19 it's colder, the bill is going to be higher, if there's more
20 heat used at that location, 4/29.

21 Q. You know, logically I would think like most consumers
22 that the bills would become higher in the summer months when the
23 house is typically cool, so according to Ameren UE, the bills
24 are higher when it's cold and when it's hotter, I mean, it
25 doesn't matter. Whatever time the season of the year, the bills

1 **are higher, according to Ameren?**

2 MS. GIBONEY: Judge, I object. I believe he is being
3 argumentative.

4 JUDGE JONES: You are being argumentative, and I mean
5 just to squash that whole thing, my bills are lower because I
6 have Laclede for gas.

7 MR. HOWARD: Most consumers do, Your Honor.

8 JUDGE JONES: And we never know what the temperature is
9 going if be, we never know what person's usage is going to be.
10 Why don't you just tell me what your point is on the --

11 MR. HOWARD: My point being I think there's some kind
12 of, aside from there being some kind of collusion between
13 Laclede and Ameren UE, I guess they find out from Laclede who
14 has gas service at this residence and who doesn't. When they
15 don't have gas service, they must have electric service here. I
16 mean there's some collusion there, you can make an argument for
17 collusion between the two companies.

18 JUDGE JONES: Not me, I'm just going to say that now,
19 I'm not even going to go there that Ameren US is colluding
20 somehow to get more money from customers --

21 MR. HOWARD: I think if there's some study on this, I
22 think you would find people study it --

23 JUDGE JONES: But I think you should leave it off the
24 transcript, all right. We're not going to even go into none of
25 that, because it doesn't have anything to do with what we're

1 talking about. Now I will say this, and I want this on the
2 record, and I want to think about it. The only thing we're
3 talking about now is between February 20 and May 24, right? And
4 then there was some other stuff from before.

5 MR. HOWARD: Right, that's all included. The whole
6 bill is contested.

7 JUDGE JONES: Yeah, right, and you're contesting the
8 amounts between February and May 2013 because you think they
9 fluctuated.

10 MR. HOWARD: That's one of the reasons, another
11 reason, I've never enlisted services at that residence.

12 JUDGE JONES: I heard you say put it in my name, send
13 it to me, the bill was \$113 I think it was, but now this is what
14 my concern is, I don't know whether staff checked this out or
15 not, that address that property is Athelone, that's North City,
16 right?

17 MR. HOWARD: Yes.

18 JUDGE JONES: What are the houses like around it, are
19 they occupied, do you know offhand?

20 MR. HOWARD: They're unoccupied, well, there's one
21 occupied on the corner, two occupied on both corners, across the
22 street, next door they're unoccupied, next door to that
23 unoccupied, across the street from that is unoccupied.

24 JUDGE JONES: Yeah, well I mean that kind of allows
25 the issue I was getting at. So I'm just wondering if someone,

1 if it's true that no one is living at that address, your
2 address?

3 MR. HOWARD: Oh, Ben Scott is living there now.

4 JUDGE JONES: I mean during this time period, and
5 everybody agrees that nobody was living there, you all maybe. I
6 don't think you care whether someone was living there, the bill
7 is what it is. Is it possible that someone jacked into your
8 electric service? Did that ever cross your mind?

9 MR. HOWARD: Not really. I mean, I mean, the building
10 was pretty much secure.

11 JUDGE JONES: I mean, electric is on the outside, I
12 don't know, I saw a film, I think Ameren put it on, that showed
13 how people can do things to electric things outside, and
14 essentially get service from one address and hot wire it to
15 their address.

16 MR. HOWARD: On the left side is fully occupied, I
17 don't think no one over there would do it.

18 JUDGE JONES: Okay, well, I'm just --

19 MR. HOWARD: Building on the right is unoccupied, so
20 no reason for no one there to do it.

21 MR. HOWARD: All right. So now I want to go back
22 because I don't think you had an opportunity to fully explain
23 how those amounts differ, and we only talked about from February
24 to March 1, and then you have a March bill, March, April and
25 then May, okay.

1 MS. HART: Okay, well, as I'm looking at it, I see
2 that from 2/20 to 3/1 the bill was \$25 because it was a partial
3 bill.

4 JUDGE JONES: Okay.

5 MS. HART: If the heat was left on, even depending on
6 how cold, and I don't have the degrees days with me to see what
7 those heating and cooling days were, it would have been
8 allocating days at that time, so, basically, if the heat was
9 even left on at 55 degrees and it was 10 degrees outside or 0 or
10 you know, I don't, that furnace is going to run if you have
11 electric furnace, if you have gas, you're still going to use
12 electric to run your whatever you have in there, I don't know if
13 you use space heat I don't know what you had. So --

14 MR. HOWARD: I didn't have anything because I didn't
15 live there.

16 MS. HART: Well, whoever left it on, whoever was Alicia
17 Bell was the last tenant, correct.

18 MR. HOWARD: Yes, that's correct.

19 MS. HART: It looks to me like there was some type of
20 heating or something left on in here for it to use that much
21 kilowatts for the month, and for it to be wintertime --

22 JUDGE JONES: I don't want you two to be in a
23 conversation right now, you want you to tell me what's on there.

24 MS. HART: That's what I see, Your Honor. If I were
25 to look at it right now, I would say there was some type of heat

1 left on here.

2 JUDGE JONES: So that bill includes electricity for
3 lighting and electricity for heat, both?

4 MS. HART: Well, if he would have an electric, let's
5 just say he had a gas furnace, you're still going to have to
6 have electric to run that, so well if fans on it are electric,
7 so regardless of, he had to, and I believe the rep eluded to 30,
8 she said about 30 kilowatts a day.

9 JUDGE JONES: How much is the bill for?

10 MS. HART: March 1 through April 2 was \$88.20.

11 JUDGE JONES: Okay. Go ahead.

12 MS. HART: I was just going to tell you from April 2
13 through April 29 it was \$79.09.

14 JUDGE JONES: Okay.

15 MR. HOWARD: From April 29 to May 24 it was \$46.04.

16 MR. HART: Right.

17 MR. HOWARD: So basically you have it both ways, I
18 mean, you're saying that you're assuming even if there wasn't
19 any gas, the fans were running that's why the electric bill
20 would be higher, it's just like an argument you guys can't lose.
21 Like well, you know, if he had Laclede Gas guess what you still
22 have to use fans, so --

23 JUDGE JONES: I will share this with you Mr. Howard,
24 that bill could be \$300 for one month, that would be ridiculous,
25 the last bill you could have an electric bill in April, which is

1 one of the more temperate months, for \$350. They're going to
2 send you a bill for \$350 because that's what the meter shows,
3 and these are objective factors that are shown as to how much
4 energy you're using, and if there's a problem, that's something
5 you're going to have to pull out of the hat.

6 MR. HOWARD: But these readings are coming from
7 downtown, they're not sending anyone out to actually read your
8 meter, am I correct? It used to be they could come out and read
9 your meter, but they don't do that no more. Now everything is
10 computerized, they do it from some magic kingdom downtown
11 somewhere, right?

12 MS. HART: We have automated meter readings. Those
13 are transmitted to our company every night at midnight, so yes,
14 we get a reading every night at midnight.

15 JUDGE JONES: Are you contesting the amount owed?

16 MR. HOWARD: Yes, I am, I'm contesting the whole
17 process. I'm contesting that they charged me for, there's
18 vacant properties all over the city that I know for a fact still
19 have lights on, they're not receiving electric bills.

20 JUDGE JONES: Well, I don't know --

21 MR. HOWARD: There's a block I'm speaking of, there's
22 a vacant house two doors down, they have lights on constantly
23 day and night. They're not receiving a bill there.

24 MS. HART: I cannot even guess to that. I don't have
25 any knowledge.

1 MS. GIBONEY: I guess I'm wondering if I'm hearing
2 Mr. Howard say he's objecting to receiving one because other
3 people don't.

4 MR. HOWARD: Unoccupied premises are not receiving
5 bills. The city is the biggest landlord in the city, there's
6 vacant --

7 JUDGE JONES: Let's not talk about the whole word,
8 we're not going to solve that problem.

9 MR. HOWARD: Ameren UE does what they want to do when
10 they want to do it, pretty much.

11 JUDGE JONES: And this is one thing I do know, I know
12 the question was whether or not you accepted responsibility for
13 the bill between February 20 and May 24. Without even going
14 back and looking at the record and reviewing things, taking a
15 recess or anything, from a factual standpoint, I can't see how
16 you disagree with that.

17 MR. HOWARD: You know what, I said ma'am, you know, if
18 you listen to the conversation, Your Honor, I also said let me
19 know, how much is it, I said --

20 JUDGE JONES: You did.

21 MR. HOWARD: I said I did not order electric service
22 at the residence, when she asked me for my Social Security
23 number I said why, I'm not ordering services at that residence.
24 I thought you had to order services at that residence in order
25 for me to be responsible for a bill to be attached to my name.

1 When she asked my Social Security number, I plainly and
2 emphatically said, I'm not ordering service at that residence,
3 that was the definitive.

4 JUDGE JONES: Let me ask, you do own the property,
5 right?

6 MR. HOWARD: I jointly own it with my brother, yes.

7 JUDGE JONES: You and your brother own the property,
8 somebody was living there up until February 20 and paid the
9 bill.

10 MR. HOWARD: That was my daughter, yes.

11 JUDGE JONES: After February 20 until May 24, no one
12 was living there?

13 MR. HOWARD: No.

14 JUDGE JONES: But electricity was used.

15 MR. HOWARD: According to them, theoretically,
16 hypothetically speaking. I'm saying that it wasn't. If it was
17 it was a nominal amount. You know, just you know, take their
18 word for it take mine, I say no one was living there. I wish I
19 had a video camera so I could record day-to-day activity in the
20 house, you would see no one was living there, just going on
21 their rendition of the facts. These same people last time we
22 had the hearing, I mean, she couldn't explain to me why the bill
23 fluctuated from one month one year, to a previous year the same
24 month. It fluctuated by \$110. She couldn't explain why it did.
25 You know, they just come up, they pull them out of their ears,

1 whatever they want to charge you, that's what they do, and she
2 just sits back and allow them to do that, that's what they're
3 trying to do now, trying to charge me for service at a residence
4 that no one was residing. You know, trying the justify with
5 these numbers.

6 JUDGE JONES: It's not whether or not someone was
7 residing there, somebody was, there was service gotten at the
8 residence, and you owned the property, you and your brother
9 owned the property. Whether someone was residing there or not,
10 who knows --

11 MR. HOWARD: Your Honor, I'm agreeing there was
12 service. There was a light bulb on or whatever.

13 JUDGE JONES: Why was there even a light bulb on?

14 MR. HOWARD: To prevent intruders, to prevent
15 interlopers, trespassers, what have you, just to give the
16 appearance that someone was residing there.

17 JUDGE JONES: I see.

18 MR. HOWARD: But you know, that's doesn't speak to the
19 idea that you know, 30 kilowatts use, no, there was no one using
20 30 kilowatts.

21 JUDGE JONES: I don't even know what that means.

22 MR. HOWARD: I don't know either, but it sounds like a
23 lot.

24 JUDGE JONES: Do you have -- is there any evidence of
25 what usage is now while someone is residing there.

1 MS. GIBONEY: Judge, I don't believe we've brought any
2 information on the tenant.

3 MR. HOWARD: I talked to my tenant there, he said the
4 service, the charges he received --

5 MS. GIBONEY: I'm going object as hearsay --

6 MR. HOWARD: He says the charges are astronomical. He
7 owes close to \$400 he says.

8 JUDGE JONES: How much, \$40?

9 MR. HOWARD: \$400.

10 JUDGE JONES: And well how much --

11 MR. HOWARD: And he has no major appliances.

12 JUDGE JONES: I'm just going to ask you does he tell
13 you how much his monthly bills are?

14 MR. HOWARD: He complains when I go over there to
15 collect rent, he complains he says man, you got to give me a
16 break, I got to pay Ameren UE, I have to pay so and so.

17 JUDGE JONES: Did he tell you how much his monthly bill
18 was?

19 MR. HOWARD: We don't sit down and go over, he's a
20 grown man.

21 JUDGE JONES: I'm just asking. Does he say man my bill
22 was such and such.

23 MR. HOWARD: In an effort to renegotiate his rental
24 obligation, he'll tell me man, I have to pay my utilities man
25 can you accept this until the middle of next month or

1 whatever.

2 JUDGE JONES: I'm not trying to make this complicated,
3 I'm just asking did he say man my bill was such and such amount
4 this month?

5 MR. HOWARD: I can probably go -- I can mail you a
6 copy --

7 JUDGE JONES: I don't want you to mail me anything.
8 I'm just asking you, you don't have any idea how much he's
9 paying a month now?

10 MR. HOWARD: I do when I ask him for rent, he tells
11 me.

12 JUDGE JONES: What does he say?

13 MR. HOWARD: He tries to have me offset his rental
14 obligation based on the fact that he has these spiraling utility
15 costs out of control.

16 JUDGE JONES: Does he say how much they are?

17 MR. HOWARD: He says man, I had to pay \$150 last month
18 on electric, I don't know why --

19 JUDGE JONES: So it's \$150 on electric with someone
20 being there, and it's lot less with no one being there, so I
21 don't know, seems consistent to me, just from what you just
22 said, there's going to be a basic cost just for being able to
23 access the service, then there's going to be a usage cost.

24 MR. HOWARD: If I were to employ a generator there,
25 would they be responsible for coming out and checking it, Ameren

1 UE?

2 JUDGE JONES: I doubt it, I don't know what I would
3 say --

4 MR. HOWARD: I have do find out on them, because I can
5 just them out of my pocket all together. Get a generator, real
6 quick.

7 JUDGE JONES: We're just going to go off on a limb
8 here and I'm going to tell you put up a windmill, solar panels
9 or get a gerbil running around the basement, and you can go off
10 if you want, that technology exist, but the fact --

11 MR. HOWARD: But if I got a generator, they would
12 still have to hook into their system, so they would have to come
13 out and inspect, and I wouldn't want them to have anything.

14 JUDGE JONES: I don't know about your ill content with
15 Ameren, but I specifically heard you say yes, send me the bill,
16 I think this was \$113.

17 MR. HOWARD: You also heard me say I'm going to
18 contest this. That's the last statement I made, if I'm not
19 mistaken.

20 JUDGE JONES: You have contested it, but you took
21 responsibility for the bill, I mean, that was the only issue
22 that I --

23 MR. HOWARD: So it's one of those got ya, one of those
24 kind of things.

25 JUDGE JONES: No, I don't think that's the company has

1 intent like that.

2 MR. HOWARD: I do.

3 JUDGE JONES: I don't know, does anybody have anything
4 else you want to add?

5 MS. GIBONEY: No, Judge.

6 JUDGE JONES: Mr. Opitz, I forgot you guys were even
7 sitting there.

8 MR. OPITZ: I have nothing to add, Your Honor.

9 JUDGE JONES: There is what I want to do --

10 MR. HOWARD: I filed another complaint as far as
11 water usage --

12 JUDGE JONES: No, no, no, no, no, not even going to
13 happen, don't even go there man. This is what I want to do, I
14 want to crystallize the issues in this case, between what I
15 think is one issue, is whether or not Mr. Howard accepts
16 responsibility for usage of the Ameren bill from 2/20 to May 24,
17 2013. Now, you had, is there another issue that you -- that you
18 think we should be trying to answer?

19 MR. HOWARD: The amounts in question.

20 JUDGE JONES: Now --

21 MR. HOWARD: As well as the prior, because all that's
22 been consolidated.

23 JUDGE JONES: Do you want to -- I hesitate, were you
24 going to say something?

25 MS. GIBONEY: Judge, when Mr. Howard says amounts in

1 question, I'm not sure if that means he's disputing the usage
2 and therefor the charge, or whether he's disputing that he's
3 responsible for the amount, I just --

4 MR. HOWARD: Both, both.

5 MS. GIBONEY: If we clarify that.

6 JUDGE JONES: So you don't think you owe them
7 anything?

8 MR. HOWARD: No, I think I owe them \$125 from the
9 agreement I made with the collection agency, which I brought a
10 copy of that to you, but of course they get amnesia on that, but
11 yea, I'd just say if anything, I don't owe near as much as they
12 say I do.

13 JUDGE JONES: You all don't know anything about the
14 collection agency? I'm speaking to Ameren.

15 MR. HOWARD: They contacted them, right?

16 MS. GIBONEY: First of all, Judge I think he's
17 mischaracterizing any conversation that has occurred about that,
18 what he alleged in his complaint was that there was an agreement
19 between himself and that company, regarding \$125 and he didn't
20 deny that because there's nothing that indicated that he could
21 pay \$125 and have the rest wiped out, but I think Mr. Howard, we
22 could stipulate that that is a collection agency that's engaged
23 by the company.

24 MR. HOWARD: It is one.

25 MS. GIBONEY: So we have no knowledge of any supposed

1 agreement to compromise the debt, correct.

2 MR. HOWARD: And I'm not mischaracterizing my
3 statement. My statement is they are a collection agency, in
4 fact they are your agent, they had the authority to act on your
5 behalf, and on your behalf, they made an agreement with me for
6 \$125. They were your agent --

7 JUDGE JONES: Did they mail that to you?

8 MR. HOWARD: No, it was an oral telephonic
9 communication, Your Honor. And I should have told him to put
10 it in writing, you're right, first and foremost always get
11 things in writing, you're right. But they told me they'd get
12 back with the company, they'd talk to the company because we
13 decided on amount of \$125 we're going to get back with the
14 company, Mr. Howard, and get in touch with you again.

15 JUDGE JONES: Now that conversation happened before the
16 letter?

17 MR. HOWARD: Before this last communication.

18 JUDGE JONES: Okay. I hesitate to throw this out here
19 about any post hearing briefing. Is that -- do you have a
20 preference, either way?

21 MS. GIBONEY: I am not being facetious, if we knew
22 what the issues were, we would be happy to brief them, but
23 that's we're happy to do that, if you want to leave it open to
24 the parties and you know, that we may file briefs, that would be
25 fine, you know.

1 JUDGE JONES: Do you understand --

2 MR. HOWARD: Yes Your Honor. I have more than a 12th
3 grade education, Your Honor, I understand.

4 JUDGE JONES: Well, so you also understand that people
5 often are given an opportunity to finish a sentence in order
6 to -- before I get a response from you. I'm wanting to ask you
7 if you understand this briefing thing?

8 MR. HOWARD: Right, you said we can submit briefs in
9 lieu of you making a final decision.

10 JUDGE JONES: Not in lieu of anything, you would
11 submit a brief after the transcript comes out.

12 MR. HOWARD: As far as appellate brief.

13 JUDGE JONES: Well, not an appellate brief, but
14 similar to that, where you just present your arguments, align
15 your arguments with the evidence to prove your point.

16 MR. HOWARD: Okay.

17 JUDGE JONES: Is that something you want to do?

18 MR. HOWARD: Yes, I will do that, yes.

19 JUDGE JONES: Okay. In order to do that then, I
20 think we need to be clear on what the issues really are, and,
21 like I said, well, I don't even have a copy of the complaint, do
22 you have a copy?

23 MR. HOWARD: Yes.

24 MR. OPITZ: Your Honor, there is a copy of the
25 complaint attached to Staff's Exhibit 1.

1 JUDGE JONES: Thanks.

2 MR. OPITZ: It's schedule 1.

3 MR. HOWARD: I need to retrieve my initial complaint
4 anyway, I couldn't find it, I couldn't bring that today.

5 JUDGE JONES: You need to do what?

6 MR. HOWARD: My initial complaint.

7 JUDGE JONES: You need to do what with it?

8 MR. HOWARD: I need to retrieve it.

9 MS. GIBONEY: You mean got a copy?

10 MR. HOWARD: Yeah.

11 JUDGE JONES: I'll make a copy.

12 MR. HOWARD: Of my initial complaint.

13 JUDGE JONES: Yeah, this one.

14 MR. HOWARD: It was much longer than I believe.

15 JUDGE JONES: June 17?

16 MS. GIBONEY: Do you mean in this case, Mr. Howard?

17 MR. HOWARD: Yes.

18 JUDGE JONES: Let's deal with one thing at a time.

19 Looks like, well, I'm going to say this as broadly as possible,
20 whether or not you owe Ameren \$852.52, however, and whether or
21 not there was an agreement between Ameren and well you said
22 between yourself and Ameren, to reduce your prior balance to
23 \$125.

24 MR. HOWARD: Yeah, via their collection agency. Via
25 Aargon.

1 JUDGE JONES: Via Aargon.

2 MR. HOWARD: Right, they were in the position to make
3 an agreement with myself and Ameren.

4 JUDGE JONES: I mean, is that, if those two questions
5 are answered by the commission, will that address your
6 complaints squarely?

7 MR. HOWARD: \$852 yeah, and yeah, that would, yeah,
8 why not, that would give me relief I'm seeking.

9 JUDGE JONES: Well, I don't want to mischaracterize my
10 question, my question is, by asking those questions whether or
11 not you owe \$852.58, the commission answered that question, will
12 that address your complaints for the whole complaint?

13 MR. HOWARD: Well, it would have exhausted my
14 administrative remedies, anyway, if I wanted to pursue this
15 matter in a court of law, I would have that option.

16 JUDGE JONES: I just want to make sure --

17 MR. HOWARD: You say will I appeal your decision?

18 JUDGE JONES: No I'm asking you have I fairly stated
19 what you need the commission to do for you to resolve, whether
20 you owe \$852 and whether there was any agreement to reduce to
21 the debt to \$125?

22 MR. HOWARD: Yes.

23 JUDGE JONES: Do you want a copy this?

24 MR. HOWARD: I believe I have it on a disc somewhere.

25 JUDGE JONES: And you all want to file briefs on that?

1 Are you okay with that?

2 MS. GIBONEY: We're fine just want to make that
3 option, we don't want to require anyone to file a brief.

4 JUDGE JONES: Well, if well, staff is the only party
5 I'm not going to require to file a brief.

6 MS. GIBONEY: Okay.

7 JUDGE JONES: So you two file briefs then. And did
8 you hear me Tim?

9 MR. OPITZ: Yes, I heard that, Your Honor. And the
10 two issues are whether Mr. Howard owes \$852.58 through Ameren
11 Missouri and the second question being whether or not there was
12 an agreement between Mr. Howard and the collection agency to
13 reduce the amount \$125?

14 JUDGE JONES: Between Ameren via the collection
15 company.

16 MR. OPITZ: Okay.

17 JUDGE JONES: Between he and Ameren, I don't know, or
18 it could be between him and that collection company, I don't
19 know? Ameren --

20 MR. HOWARD: Well, they're working as an agency.

21 JUDGE JONES: Mr. Opitz, it would have to be whether or
22 not there's an agreement between Ameren --

23 MR. HOWARD: And Aargon.

24 JUDGE JONES: And Mr. Howard to reduce his debt to
25 \$125, now --

1 MR. HOWARD: Via their collection agency.

2 JUDGE JONES: Well, your argument could be that the
3 collection agency was speaking for Ameren, and you agree with
4 them, and then you have to prove that, but we can't, I mean if
5 there's an agreement, then I'll just say this for your benefit,
6 if you have an agreement with a collection agency, the
7 commission doesn't have jurisdiction on that, that's between you
8 and the collection agency. We're only bring up Ameren, you
9 understand what I'm saying?

10 MR. HOWARD: Yes, Your Honor, but I still believe
11 there's a thing called agency law.

12 JUDGE JONES: There is.

13 MR. HOWARD: Where stipulate to make on behalf and
14 they do so, and then we make an agreement and the accord of
15 satisfaction, I believe they should be held liable for the
16 agreement that their collection agency made on their behalf.

17 JUDGE JONES: Then you make that argument and you
18 present, you point out evidence in the record that's supports
19 your argument, that's what I'm saying.

20 MS. GIBONEY: Judge, I don't believe the complaint
21 alleges there was a collection agency involved.

22 JUDGE JONES: You mean in his actual complaint?

23 MS. GIBONEY: Yeah.

24 JUDGE JONES: In the complaint he doesn't say that.

25 MS. GIBONEY: Now he's --

1 MR. HOWARD: At the prehearing, the last hearing I did
2 that say that and it's on the record.

3 JUDGE JONES: He doesn't -- I understand you're saying
4 to limit scope of the question, to the four corner vista plain.

5 MS. GIBONEY: Yes, Judge because we prepared it,
6 presented evidence at the hearing on the complaint, that's all
7 the complaint is alleging.

8 JUDGE JONES: Right.

9 MR. HOWARD: And I'm alleging that there was privy of
10 contract between them and Ameren and we established that fact at
11 the last hearing and I'm saying they were negotiating on behalf
12 of Ameren. And that's on the record, that's on public record,
13 on our record.

14 JUDGE JONES: I'm going to tell you whatever we talked
15 about the pre-hearing conference, nothing we talked about was
16 fact. The only facts are being transcribed, only thing that is
17 being fact is found from this hearing today, this evidentiary
18 hearing. The prehearing conference was just to get an angle on
19 what was going on, give you all an opportunity to settle a
20 matter.

21 JUDGE JONES: This was after the service address had
22 been cut off for almost a year, I guess Ameren realized at that
23 point no one lived there. That's when they hired this company
24 to come in, talk to me. Because that's the first thing they
25 asked me, how much do you think you owe Ameren. I said I owe

1 them maybe \$85, and we even negotiated back and forth, me and
2 this company Aargon, and they said well will you settle for
3 \$125, I said yeah, I'll settle for that. They said we'll have
4 to get back with you, we'll have to go talk to our client, our
5 client that established the agency agreement to me.

6 JUDGE JONES: Like I'm saying Mr. Howard, the
7 arguments you're making right now you might want to save to
8 write down in the file as a brief.

9 MR. HOWARD: Okay.

10 JUDGE JONES: How much time after the transcript,
11 because you'll want to be able to read the transcript from
12 today's hearing, how much time after the transcript would need
13 in order to prepare a brief.

14 MR. HOWARD: 45 to 60 days, I guess.

15 JUDGE JONES: 60 days?

16 MR. HOWARD: Uh-huh.

17 JUDGE JONES: Okay, well after the transcript is
18 filed, I'll issue an order setting a specific date for the
19 brief, I'm not going to do --

20 MR. HOWARD: Will that be communicated via e-mail or,
21 because you have everyone's e-mail?

22 JUDGE JONES: Do you have internet?

23 MR. HOWARD: Yeah, I have access to it.

24 JUDGE JONES: Do you ever go to electronic filing
25 information system of the commission?

1 MR. HOWARD: Yes, I can access the page.

2 JUDGE JONES: Okay. It will be there, but it will
3 probably also be mailed to you. Have you been getting orders
4 in the mail?

5 MR. HOWARD: No, e-mail, electronic transitions.

6 JUDGE JONES: No, I mean snail mail.

7 MR. HOWARD: No, I haven't gotten any snail mail.

8 JUDGE JONES: No, I'm just being facetious.

9 MR. HOWARD: No, I thought, no actual mailing system,
10 no, I haven't, I haven't gotten.

11 MS. GIBONEY: I think he's been served via e-mail.

12 MR. HOWARD: I haven't received anything via the
13 regular mail, everything has been electronic.

14 JUDGE JONES: Well, that's how it will happen then,
15 just set a date of when the briefs are due. And I'm not going
16 to have him file, and you file, just file one brief at one time
17 on the same date.

18 MS. GIBONEY: Yes Judge.

19 JUDGE JONES: Anybody have anything else they'd like
20 to add?

21 MS. GIBONEY: I don't believe so.

22 JUDGE JONES: With that then, we'll go off the record.

23 (Whereupon, the hearing concluded at 12:45 p.m.)
24
25

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COUNTY OF ST. LOUIS)

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