

BEFORE THE
ILLINOIS COMMERCE COMMISSION

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GARY PIERCE) DOCKET NO.
-vs-) 05-0151
CENTRAL ILLINOIS LIGHT COMPANY,)
d/b/a AmerenCILCO)
Complaint as to billing/charges)
in Springfield, Illinois.)

Springfield, Illinois
May 17, 2005

Met, pursuant to notice, at 10:00 A.M.

BEFORE:

MR. JOHN ALBERS, Administrative Law Judge

APPEARANCES:

MR. GARY T. PIERCE
MS. SHARI PIERCE
2212 Catalina Lane
Springfield, IL 62702

(Appearing pro se)

MR. EDWARD FITZHENRY
1901 Chouteau Avenue
St. Louis, Missouri 63103

(Appearing on behalf of Central Illinois
Light Company, d/b/a AmerenCILCO)

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl, Reporter
Ln. #084-002710

I N D E X

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D, E, F, I, J, K

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PROCEEDINGS

1
2 JUDGE ALBERS: By the authority vested in me by
3 the Illinois Commerce Commission, I now call Docket
4 Number 05-0151. This docket was initiated by Gary
5 Pierce against AmerenCILCO and concerns a billing
6 dispute at 1940 East Jackson Street in Springfield,
7 Illinois.

8 May I have the appearances for the record,
9 please?

10 MS. PIERCE: Shari Pierce, 2212 Catalina Lane,
11 Springfield, Illinois. I wasn't listening, sorry.

12 MR. PIERCE: My name is Gary Pierce, 2212
13 Catalina Lane, Springfield, Illinois. The address
14 in question is 1940 East Jackson Street,
15 Springfield, Illinois 62702, where I have a church.

16 JUDGE ALBERS: What was your first name again,
17 ma'am?

18 MS. PIERCE: Shari.

19 JUDGE ALBERS: Could you spell that, please?

20 MS. PIERCE: S-H-A-R-I.

21 JUDGE ALBERS: And just so the record is clear,
22 you are --

1 MR. PIERCE: That is a church and a homeless
2 shelter for men, transition living for men.

3 JUDGE ALBERS: But as far as Ms. Pierce's
4 relationship, you are co-owners of the property, is
5 that why you are entering your appearance?

6 MR. PIERCE: Yes, she is the church's treasurer
7 as well as my wife. I was going to say as well as a
8 teacher. She is a youth teacher.

9 JUDGE ALBERS: But as far as entering your
10 appearance on this case, you are both owners of the
11 property?

12 MR. PIERCE: Right. We are not owners of the
13 property. We lease the property.

14 JUDGE ALBERS: That's fine. Okay. For the
15 Company?

16 MR. FITZHENRY: Yes. For Central Illinois
17 Light Company doing business as AmerenCILCO, my name
18 is Edward Fitzhenry, my address is Mail Code 1310,
19 1901 Chouteau Avenue, St. Louis, Missouri 63103. My
20 telephone number is area code (314) 554-3533. With
21 me at the counsel table is Ms. Suzanne Murphy.

22 JUDGE ALBERS: Is Ms. Murphy an attorney?

1 MR. FITZHENRY: No, she is not. She is just a
2 representative of the company.

3 JUDGE ALBERS: Oh, okay, thank you. Let the
4 record reflect that there are no others wishing to
5 enter an appearance.

6 As far as preliminary matters, I will just
7 go over what we discussed prior to going on the
8 record this morning. There appears to have been
9 some confusion as to the purpose of today's hearing.
10 Perhaps it would be best to have Mr. Pierce put that
11 in his own words for the record. Mr. Pierce, would
12 you --

13 MR. PIERCE: I was under the understanding that
14 this was an evidentiary hearing, not the actual
15 hearing. This is my first experience with this, so
16 I was just thinking that I was going to have a
17 chance to get a lawyer. Had I known that, I would
18 have sought counsel before today. But I thought I
19 was going to have a chance after today to get
20 counsel. I just thought maybe we was just going to
21 present the evidence to you, I guess, for the record
22 and for you to look over. I didn't know that this

1 was going to be the actual hearing.

2 JUDGE ALBERS: Right. And as I explained prior
3 to going on the record, the evidentiary hearing is
4 when both sides have the opportunity to present
5 their case, the facts supporting their case, and any
6 documentation supporting their case, and both sides
7 will have an opportunity to cross-examine the
8 witnesses of each other. And again you indicated
9 that you did not agree with my statements earlier
10 but, as you noted yourself, in the Commission's
11 rules there are opportunities here at the Commission
12 to have them reconsider my findings. So we may find
13 ourselves back here again if the Commission decides
14 that Mr. Pierce should have an opportunity to have
15 another hearing.

16 But, Mr. Fitzhenry, do you have any
17 comments, any preliminary matters?

18 MR. FITZHENRY: No, Your Honor.

19 JUDGE ALBERS: Okay. As far as the order of
20 witnesses today, Mr. Pierce, you will be presenting
21 your direct case first. Mr. Fitzhenry, you will
22 have an opportunity to call any witnesses to rebut

1 Mr. Pierce's statements. And as the complainant,
2 Mr. Pierce, you will have the opportunity to take
3 the stand last to respond to what the Company
4 witnesses have said. So, and, Mrs. Pierce, are you
5 testifying today?

6 MRS. PIERCE: Yes.

7 JUDGE ALBERS: Okay. Are you both going to be
8 testifying today?

9 MR. PIERCE: Yeah, we are both going to
10 testify.

11 JUDGE ALBERS: Okay. That's fine. So with
12 that why don't I go ahead and swear in everyone who
13 is going to be testifying today. So if you could
14 please stand and raise your right hand.

15 (Whereupon the
16 Witnesses were duly
17 sworn by Judge Albers.)

18 JUDGE ALBERS: All right. Thank you.

19 So as far as the presentation of your
20 cases, does it matter which one of you goes first?

21 MR. PIERCE: Okay. Well, get it started --

22 JUDGE ALBERS: Well, could you -- I am sorry,

1 the stand is over there in this room. Could you
2 just take the witness stand, please, and present
3 your case from there?

4 GARY PIERCE

5 called as a Witness on behalf of Complainant, having
6 been first duly sworn, was examined and testified as
7 follows:

8 STATEMENT

9 BY MR. PIERCE: All right. Well, the reason I
10 filed this complaint was because of the fact that I
11 had my gas power disconnected and had to come up
12 with 450 some dollars approximate fee, close to, it
13 was approximately \$450 I had to come up with to get
14 it restored. A couple weeks after that they sent me
15 another bill out for 700 some dollars which I found
16 ridiculous and I could not believe, even with the
17 gas prices, that I owe that amount of money for gas
18 for the months in question. They say it covered
19 three months but I cannot believe that after just
20 paying \$450 that I owed that amount.

21 Basically, I wanted to present some
22 pictures of the meters because the meters have been

1 changed twice over there. They have been changed
2 twice since I have had these complaints. And I know
3 the other complaint has been resolved but it is
4 still pertaining to the same thing. And I presented
5 these pictures to Attorney Fitzhenry before. The
6 first meters that were there when I first started
7 over there, I have been over there four years -- and
8 I want to present that to the Court. Do I need to
9 present that now or --

10 JUDGE ALBERS: Yeah, if you are going to talk
11 about the pictures.

12 MR. PIERCE: Here are the first pictures of the
13 first meters that were there when I first started
14 over there.

15 JUDGE ALBERS: Do you have copies of those to
16 give to myself and Mr. Fitzhenry?

17 MR. PIERCE: I want to give them to you. He
18 already has copies of them. I sent him copies of
19 these before, okay. Do I need to present them now?

20 JUDGE ALBERS: Well, just so I can follow along
21 with what you are talking about.

22 MR. PIERCE: That is why I am trying to keep a

1 format, to show these meters here were the first
2 meters that were there when I first moved in there,
3 and the gas charges then weren't near as high as
4 they have been recently. I told them, I said, these
5 the meters, I asked them was there anything wrong
6 with the meters, they said nothing was wrong with
7 the meters.

8 JUDGE ALBERS: Can you bring me a copy of that,
9 though, just so I can --

10 MR. PIERCE: These were the first meters that
11 were over there. I have copies of the ones they
12 changed, too. I wanted to present that, too. And
13 they just recently changed again which brings into
14 question why.

15 JUDGE ALBERS: Okay. Are these three pictures
16 of the same set of meters?

17 MR. PIERCE: These are the first meters that
18 were over there, okay. Then they came after this,
19 without my request -- they said I requested it but
20 it was without my request they changed the meters.

21 JUDGE ALBERS: Okay. Mr. Fitzhenry, do you
22 have a copy of this?

1 MR. FITZHENRY: No, I don't, Your Honor. Let
2 me for the record make this clear. In a data
3 request sent to Mr. Pierce I asked him to provide me
4 with any documents and so forth that he would intend
5 to use in the evidentiary proceeding here today.
6 That information wasn't provided. Now, he is
7 correct that in a prior complaint matter it was
8 provided and so I don't have it here today with me.

9 MR. PIERCE: If you need a copy, I brought only
10 two copies of the pictures because, see, I knew that
11 I had sent him other copies.

12 JUDGE ALBERS: Okay. I think I indicated the
13 last time we met to be sure to bring copies of any
14 documents for myself and Mr. Fitzhenry and a copy
15 for the court reporter so that can be stamped.

16 MR. PIERCE: Well, I have two. I have another
17 copy of that if he needs it, but he has one already.

18 JUDGE ALBERS: We need at least three.

19 MR. PIERCE: Well, I understood that and I
20 assumed that he already had one. As a matter of
21 fact, when I wrote my response to him, my reply to
22 his -- answer to his complaint, I told him that I

1 was going to include those pictures in my answer,
2 and he should have them. I put in here in my
3 response to his request that he should already have
4 those pictures.

5 JUDGE ALBERS: Okay. Well, you can give him
6 the copy you have now or -- and we can get another
7 copy later for the court reporter.

8 MR. PIERCE: All right. I will get you another
9 copy, but he should have those copies.

10 JUDGE ALBERS: These are supposed to be the
11 original meters.

12 MR. PIERCE: Those were the original meters
13 when I first moved into the place four years ago.

14 JUDGE ALBERS: Do you remember what month that
15 was?

16 MR. PIERCE: I moved in there 2001, November
17 2001. Those were the actual meters. And that
18 following year was when I had the gas turned on, is
19 when I noticed that I had two gas meters. I noticed
20 that they had two separate bills. And one of those
21 bills is connected to the water heater which that is
22 not the bill that's in dispute. The bill that is in

1 the dispute is the ones to the furnace.

2 But I brought them in and I told them, I
3 said, well, why is this like this, and they said,
4 well, this is -- the reason, I said, why does it
5 have two meters, you know. They asked the question
6 saying that maybe it was a commercial building. I
7 said, well, before I moved in there it wasn't being
8 used as a commercial building. I don't know the
9 history. I think the history of the building was at
10 one point it used to be a store. But I told them, I
11 said, well, I am not using it as a commercial
12 building. I am using it as a church and a homeless
13 shelter.

14 So they came out and they checked
15 everything. One of the guys, he is not here today.
16 I remember his face and I forgot his name but that's
17 when CILCO was in control, not AmerenCILCO but it
18 was CILCO. And he came out and he went through the
19 whole process and everything and told me and he
20 explained to me that one meter was connected to the
21 water heater, one meter was connected to the
22 furnace. I said, well, that's kind of stupid. He

1 said, well, I agree. And I said because it doesn't
2 really separate, you know, like it should.

3 But, anyway, he told me, he explained to me
4 that and he told me that if I wanted to change the
5 meters and this, and I told him, I said, no, I don't
6 want to change the meters. He said, well, that's
7 your choice, he said, because, you know, as far as
8 I know these charges are correct. And at that time,
9 like I said, again they were not as high as they did
10 recently. So when I had another dispute which we
11 was here for awhile back about the charges --

12 JUDGE ALBERS: Do you recall the name of the
13 man you spoke to?

14 MR. PIERCE: I don't remember his name because
15 I didn't think it was going to be like this. I even
16 asked the Attorney Fitzhenry in a prior case to find
17 out who that individual was because I would love to
18 have had him here today because he would explain
19 exactly some of the facts that pertained to the
20 letter to the date. He would have helped out with
21 some of the facts on the charges.

22 But the second complaint prior to after I

1 made my formal complaint with this Commission, they
2 came out and changed the meters without even -- you
3 know, I requested them to change them and they came
4 out and changed them again to the ones they changed
5 it to. I didn't ask them to change them but they
6 said to me it was your request. I didn't request
7 them to change these meters. They changed them on
8 their own. Which brings up the question why. You
9 know, again, why did they change them?

10 And then on April 29, 2005, they changed
11 them again. They changed the first meter again.
12 Why? I didn't get a picture of that. It looks like
13 the same meters as that one there but I didn't get a
14 picture of them. But there was a slight difference
15 on there to show that they had changed. And I can
16 go get a picture and present that to you, if you
17 want me to. But they did change them again. And
18 there is a slight difference on there, and I have
19 got statements and I have got three copies of those
20 statements from the guys that are staying there that
21 saw them change the meter. They saw the Commission
22 come over and change the meter. These are notarized

1 statements that they saw them change the meter.
2 That's the second time they changed it prior to me
3 moving in there.

4 Now, there is no problem -- just like that
5 meter over there, if there is no problem with these
6 readings, why would they change them? That's my
7 question to the Commission, that's my question to
8 AmerenCILCO. You know, why would you change it if
9 there is no problem with it.

10 And they had a -- issued, they left some
11 tags there the first time they changed them saying
12 that -- I have got copies of those, too -- stating
13 that something about unprotected underground fuel
14 line. I don't know anything about that. I am not
15 taking issue.

16 And here is that where he said by customer
17 request said that I asked them to change the meters
18 which is not true. That bottom one there said. I
19 didn't ask them to change the meters.

20 So after we went through all that, they
21 sent another technician out the second time and the
22 last time and we walked through the building. And I

1 know I sent Attorney Fitzhenry some copies of some
2 of the repairs and stuff that were made. I think I
3 gave him the name, I am not sure if we did or not,
4 but I think I gave him the name of the person who
5 came out the first time they shut my gas off and I
6 got it turned back on, and they came out and cleaned
7 the furnaces and everything else. And he told me
8 they were old furnaces, he said, but they weren't
9 capable of ever using the usages that they were
10 charging me. He told me this.

11 Now, I didn't have him come here today
12 because again I thought I was going to have another
13 chance to present -- I was going to try to get him
14 to come in here, but.

15 JUDGE ALBERS: Just so I am clear on this
16 document, where did you find these tags?

17 MR. PIERCE: They were left there with another
18 one of my homeless men that was helping over there
19 the second time. They were left there by the
20 technician, and he gave them to me. He is not here.
21 I tried to get a statement from him but he don't
22 live there any more. But they left that with him.

1 I am trying to see here, see if I have put
2 that in my reply about the technician that I had
3 come out to check the furnaces out. The first time
4 they had to shut them off and I had them turned back
5 on.

6 MR. FITZHENRY: Your Honor, if I could
7 interject an objection at this point in time. I
8 certainly want Mr. Pierce to be able to tell his
9 story to the Commission and to yourself. I would
10 note that his statements as to what others told him
11 are clearly hearsay evidence and ordinarily is not
12 admissible as evidence. I don't want my failure to
13 object every moment or two to be assumed by you to
14 be accepting his testimony as evidence for the
15 Commission's consideration. I will -- if I could do
16 this, perhaps showing it as a continuing objection.

17 JUDGE ALBERS: Understood.

18 MR. FITZHENRY: Thank you.

19 MR. PIERCE: Well, and I agree with you, you
20 are right. I should not -- if I don't have any
21 facts of the person to present what they said, you
22 are right about that, and I am going to ask the

1 Commission if I can't possibly get a signed,
2 notarized statement to the fact that this person
3 said that the furnaces were in good shape later on.
4 Can I maybe this week mail it to you and him, if
5 that's okay with the Commission? I would like to be
6 able to do that because I meant to do that, again,
7 thinking that I would have the opportunity to
8 present it the way I want to.

9 Anyway, moving on with it, this --

10 JUDGE ALBERS: Well, I feel compelled to note,
11 though, that typically when you are relying on the
12 statements of others, the other side, so to speak,
13 should have the opportunity to question that
14 individual. So I am just going to point that out.
15 The weight to accord to the signed statement,
16 affidavit, had the person been available more weight
17 would have been accorded to their statement, let's
18 put it that way.

19 MR. PIERCE: Well, what are you trying to say?

20 MR. FITZHENRY: Let me offer, Judge, that maybe
21 at the end of the hearing today we can talk about a
22 procedure that would maybe allow Mr. Pierce to

1 present the statement to you as part of the record
2 but give AmerenCILCO an opportunity maybe to respond
3 in kind.

4 JUDGE ALBERS: Okay.

5 MR. PIERCE: Well, he is a bona fide -- it is a
6 business. I mean, I am sure if you want to call him
7 on the telephone and ask him, you know -- would that
8 be good enough for you, if you knew that he was a
9 bona fide heating specialist, so to speak, and you
10 got him on the phone and talked to him? I am sure
11 he would verify what I am saying.

12 JUDGE ALBERS: We would need his statements to
13 be part of the record in the proceeding.

14 MR. PIERCE: Well, that's why I say I would
15 like to get the opportunity to go and see if I can't
16 get a statement from him and get it notarized and
17 present it to the Commission.

18 JUDGE ALBERS: Well, why don't we go ahead and
19 wait towards the end of the proceeding and try to
20 determine what procedure would be appropriate to
21 take care of such things.

22 MR. PIERCE: Again, going from where we started

1 at, I think the first time this guy came -- what's
2 your name, sir? I don't know your name.

3 MR. FIX: Michael Fix.

4 MR. PIERCE: Michael came out, him and another
5 fellow, a young man came out. That young man is not
6 here today. The first time. And they were checking
7 the meters out, right?

8 MR. FIX: Correct.

9 MR. FITZHENRY: You are not on the stand.

10 MR. PIERCE: Okay. Well, I don't know. I
11 mean, I am not a lawyer. I am not trying to pretend
12 that I am lawyer. I am not saying I am stupid, but
13 I am not a lawyer. I am just trying to present my
14 facts. You said this is my chance to present my
15 facts.

16 JUDGE ALBERS: It is. It is.

17 MR. PIERCE: Okay. Well, anyway, he came out
18 with another young man and they checked the meters
19 out and they told me that there is no way that you
20 should be getting charged what you are going to get
21 charged. That young man is not here today, but he
22 said it. I would like for him to be here. I have

1 asked Attorney Fitzhenry to present that young man
2 again, and I would ask him again.

3 MR. FITZHENRY: Same objection.

4 MR. PIERCE: Objection, fine with me but he
5 said it. It is an allegation but he did say that.
6 And they both walked me through and I showed them
7 where I had the homeless gentlemen living and people
8 that help with the homeless upstairs. And I showed
9 them the sanctuary and I showed them the downstairs
10 and I showed them how well insulated the sanctuary
11 was. It was the most well insulated part of the
12 building.

13 And I also showed them a lock box, how I
14 kept the thermostat locked up on the first level so
15 that the people that were staying there in the
16 shelter could not operate the first level
17 thermostat. That's locked constantly when we don't
18 have service. We only have service over there twice
19 a week at the most. We are over there twice a week
20 for services, and the only time I turn that
21 thermostat up in the winter time is when we are over
22 there for services. It is always locked. It is

1 back on, then they wanted to charge me \$700. And at
2 the same time I had to pay the \$450 I had to pay the
3 agreed amount that I agreed with them on to pay for
4 the prior problem that we had. And that put me in a
5 bind not to be able to pay that amount. I have a
6 letter here stating from him and he said, stating in
7 here, that your failure to abide by the settlement
8 agreement entire amount will result in AmerenCILCO
9 pursuing legal redress for all amounts owed during
10 the January through April 2004 period, any and all
11 available legal remedies. I am asking the
12 Commission can this be presented because to me this
13 plays a part into why I feel that they did what they
14 did.

15 MR. FITZHENRY: I do object, Your Honor. Even
16 wanting to have Mr. Pierce be able to explain his
17 story to the Commission and to yourself, the
18 resolution of the prior complaint case, I think you
19 were the judge in that matter as well...

20 JUDGE ALBERS: Yes.

21 MR. FITZHENRY: ..did result in a settlement
22 that covered the billing dispute from January

1 through April 2004, as Mr. Pierce has said. We did
2 reach an agreement and that matter is behind us
3 right now. I think it goes far afield from what is
4 supposedly here this morning, namely the January
5 2005 billing and his belief that he shouldn't be on
6 the commercial rate. We will spend a lot of
7 unnecessary time if we go down that path about prior
8 complaints and in fact the settlement of a prior
9 complaint as having to do with anything in this
10 case. It is just not relevant.

11 MR. PIERCE: Well, I find it that -- the reason
12 I find it relevant is the fact that it is kind of
13 ironic that my dad got shut off at the same time
14 that I was supposed to pay this amount to your
15 company. And then I had to come up with \$450 for
16 him because I had people living there and I had
17 church services going on there and that put me in a
18 bind. I had to make the decision of which one I
19 wanted to pay and of course I paid the one that was
20 the most important at that time. That's why I want
21 to present it. That's why I am asking the
22 Commission to let me present it, to show, I guess,

1 your attitude, so to speak.

2 MR. FITZHENRY: Well, CILCO's attitude is not
3 an issue here.

4 MR. PIERCE: I am not talking about CILCO's
5 attitude. I am talking about your attitude.

6 MR. FITZHENRY: My attitude is not before the
7 Commission as well. And as Mr. Pierce indicated off
8 the record, this matter he says has become personal.
9 He can take this to an attorney who practices in
10 civil law and proceed as he desires, but it is a
11 matter that shouldn't be here before the Commission
12 and it is completely irrelevant to his complaint as
13 filed with the Commission.

14 JUDGE ALBERS: Let me make sure I understand
15 what it is you are seeking to have --

16 MR. PIERCE: I just want you -- I want to
17 present it as evidence to show that I feel there was
18 some type of --

19 JUDGE ALBERS: Let me ask a few questions then
20 to help me fill in some blanks in my head. You have
21 a letter from Mr. Fitzhenry that is in response
22 to -- as I recall from the prior docket which,

1 forgive me, I forget the Docket Number, but as I
2 recall the two of you, AmerenCILCO and you,
3 Mr. Pierce, reached a settlement on that, on that
4 prior docket. I don't know the terms of that
5 because those typically aren't made part of the
6 record in the cases generally anyway. But you are
7 saying that at some point following the settlement
8 of that case you were unable to pay certain bills?

9 MR. PIERCE: I was unable to pay the settlement
10 agreement with him because I had to come up with
11 \$450 to get the gas service turned back on over
12 there for us to have services and for the guys who
13 are living there. You know, I had to make a
14 decision and I made that decision. You know, I have
15 a family, too. I had to make that decision. I am
16 telling you to keep your thoughts, but I had to work
17 to make that decision. And I feel that he knew
18 that. That's all I am saying. He knew that in
19 regards to what AmerenCILCO felt like they needed to
20 do, and I know that they probably felt they were
21 owed the charges that they are trying to charge me,
22 you know, they probably feel like they owe me these

1 charges -- I owe them those charges, but they are
2 wrong. And I feel that what they did was wrong. I
3 just think that, you know, I didn't have any idea
4 that I was going to be shut off because --

5 MRS. PIERCE: Can I say something?

6 JUDGE ALBERS: You will have an opportunity.

7 MRS. PIERCE: But it is with this thought, what
8 he was trying to --

9 JUDGE ALBERS: We have to take it one at a
10 time. I am sorry, Mrs. Pierce.

11 MR. PIERCE: That's why I told her to hold her
12 thought, write down your thought. But anyway, I
13 said this, I am saying this because from my
14 experiences with utility companies, gas companies,
15 in the winter months, if you have human beings
16 living in a place, you don't cut the gas off. You
17 know, that's my experience in the winter months.
18 Now, he said that because it was a commercial
19 account, irregardless -- they understood when I
20 talked to them what I had going on over there. They
21 knew I was helping out the homeless shelter. I was
22 doing a service to the community. They should have

1 took that into consideration.

2 JUDGE ALBERS: But as I understand this
3 complaint that is before us today, you are disputing
4 not being shut off; you are disputing the commercial
5 rate being applied to your --

6 MR. PIERCE: I am disputing everything that
7 pertains to it. I mean, I am disputing being
8 charged commercial rates. I am disputing being shut
9 off. In my original complaint I said that. And I
10 am also disputing my charges.

11 JUDGE ALBERS: Right, but we have to stay
12 focused on what you raised in this document right
13 here.

14 MR. PIERCE: Didn't I dispute that I was being
15 shut off?

16 JUDGE ALBERS: You mentioned that your utility
17 has been disconnected. But when we met last time at
18 our status hearing on April 26, you indicated that
19 your dispute was the commercial versus residential
20 rates being applied to your property.

21 MR. PIERCE: No, my whole dispute was -- and
22 that's why I am saying we was rushed through and I

1 didn't understand everything that you were looking
2 for, but my dispute stays the same as when I formed
3 the complaint. That's what my dispute is,
4 everything that is on that form complaint.

5 JUDGE ALBERS: Well, as I read what you are
6 asking the Commission to do in this case, and I
7 quote, to investigate this company to see if they
8 are not harassing this customer and to have the
9 company stop charging commercial rates which this
10 customer believes are unfair and invalid, end quote,
11 as I look at that you are complaining about the rate
12 being applied, not the disconnect from last year.

13 MR. PIERCE: Well, can I -- it is added on
14 there already what I mean, and I have fair stated
15 what I am talking about here. I mean, I don't know,
16 can that be added? It is already added. They shut
17 my gas off and I didn't think they were fair in
18 doing that. I think I stated that a couple times
19 when we talked. I think I have stated that when we
20 talked at one of the hearings. We had two hearings
21 prior to this. I think I made that clear that I was
22 disputing that we were shutting it off because

1 people lived there.

2 I know once I get my chance to question, I
3 am going to question -- I think one of these ladies
4 here I talked to on the phone. I am not sure. I
5 have to hear their voice. But I told them that we
6 had people living there. Even from the beginning of
7 this account I have been telling them that we are a
8 shelter, we are helping the homeless community. And
9 I told them from the beginning of starting this
10 church and everything.

11 JUDGE ALBERS: Go ahead. Continue your
12 presentation. Do you have more to testify?

13 MR. PIERCE: Well, I just wanted to show the
14 court, I mean the Commission, some of the
15 comparisons of the recent bills on this.

16 JUDGE ALBERS: But as far as that letter from
17 Mr. Fitzhenry, though, I don't want to lose track of
18 that.

19 MR. PIERCE: Okay. Basically what I was
20 presenting that letter for is stating that I feel
21 that based on that settlement and the timing of them
22 cutting off my electricity prevented me from

1 settling the other dispute which I had intention on
2 doing. I still have intentions on doing. I am not
3 going to run out and not pay them what I feel that I
4 should pay them. But at the same time I am using it
5 to show harassment, to be honest with you, because
6 at the same time that was being presented. Now, if
7 I am going down the wrong road here, you have a
8 right --

9 JUDGE ALBERS: Show me a copy of this letter so
10 I can see what it is that you are saying is the
11 relevant part. I don't have that letter yet.

12 MR. PIERCE: Okay. I thought I gave it to you.

13 JUDGE ALBERS: You are saying that it is
14 important that the Commission is aware of this
15 letter because it demonstrates harassment?

16 MR. PIERCE: To me it demonstrates harassment
17 and the timing of when they shut off my gas and the
18 money aspect of it, you know, knowing that I had to
19 come up with this money. We are a very small
20 church. We are not whatever that Catholic Church
21 down the street is. We are not that church. We are
22 a small non-denominational church with a small

1 membership. I am just showing that at that time
2 that that messed with my finances.

3 JUDGE ALBERS: Which part of this? Aside from
4 the timing, which part of this is evidence of
5 harassment in your opinion?

6 MR. PIERCE: Did you read the letter?

7 JUDGE ALBERS: I read it. I want to know what
8 you think.

9 MR. PIERCE: To me it is kind of like, you
10 know, you have reached this agreement, we are going
11 to go in legal proceedings with you. In other
12 words, we are going to continue to harass you.

13 JUDGE ALBERS: Okay.

14 MR. PIERCE: The amount of it was -- a
15 comparison of what they was looking for was 450 when
16 they disconnected me and the amount there was \$500.
17 So that's what raises my suspicion that they knew
18 what they were doing, trying to make me breach my
19 other agreement with Mr. Fitzhenry. He has got this
20 continuous objection. I don't understand it, but --

21 JUDGE ALBERS: Let me just say for
22 Mr. Fitzhenry, I think when Mr. Pierce has finished

1 offering the various documents, I am going to ask if
2 there is any objections to admitting them into the
3 record. At that time we can go through them one by
4 one if you have objections to the various documents.

5 MR. FITZHENRY: That's understood.

6 JUDGE ALBERS: That might be more efficient.

7 MR. FITZHENRY: That's fine.

8 JUDGE ALBERS: Okay. Go ahead, Mr. Pierce.

9 MR. PIERCE: Another thing is like my last
10 payment was \$450.13 on January 24. A couple weeks
11 after that they sent me out a bill, February 8
12 notice date, final notice of prior to disconnection.
13 They are going to disconnect me again and requesting
14 \$710. I have got a copy of that right here.

15 MR. FITZHENRY: Judge, I am going to continue
16 to object and obviously you will rule in a way that
17 you think is appropriate. You said at the status
18 hearing last week, Mr. Pierce, what is your case
19 about and he said I don't think the January charges
20 are right and I don't think I should be on the
21 commercial rate. Basically, two points he was
22 making. And the company obviously prepared its case

1 with that in mind because that's what he said,
2 that's what you asked him, and frankly that's what
3 his complaint alludes to.

4 I don't see where any of this about his
5 prior payment history or lack of payment history,
6 when he was disconnected, harassment, alleged
7 harassment and so forth is really beneficial. Again
8 I am understanding that Mr. Pierce is appearing pro
9 se. I truly believe, when I say this, I want him to
10 have his story told, but we are just at a point
11 where I think the company becomes prejudiced now
12 because we are here, we have people here who are
13 going to respond to the two points that he raised
14 the last time we were here.

15 JUDGE ALBERS: Well, as I indicated earlier,
16 Mr. Pierce, we had this discussion the last time we
17 met on April 26. You understand Mr. Fitzhenry is
18 saying --

19 MR. PIERCE: I understand what Mr. Fitzhenry
20 said.

21 JUDGE ALBERS: I share his understanding, to be
22 honest with you, about what I thought we were going

1 to be doing today as far as the two points at issue,
2 the January billing and whether the appropriate rate
3 is commercial or residential.

4 MR. PIERCE: You also stated that we could
5 present evidence to the facts of our case.

6 JUDGE ALBERS: That would support your position
7 on those two issues.

8 MR. PIERCE: I only -- I can only present it in
9 laymen's terms the best way I know how. I asked you
10 prior to we started this discussion give me time to
11 get a lawyer, and I could have gotten a lawyer and
12 had him come here and represent me the way you want
13 to and the way Mr. Fitzhenry wants me to represent
14 you. I only can present this in laymen terms.

15 JUDGE ALBERS: Well, first you have a right to
16 represent yourself in this case, and until this
17 morning it was my understanding that you were going
18 to be representing yourself. And if you still want
19 to seek counsel, that's fine. But given where we
20 are at today and which you indicated the last time
21 we met, I have to deal with the hearing as it has
22 been structured.

1 MR. PIERCE: Okay. I am going to present the
2 rest of my case and then we can go from there. What
3 I am going to present to you now is the fact that he
4 was talking about that he didn't receive any
5 evidence. I have a copy of a postage, the date that
6 I sent this to him, the evidence, that deals with
7 this case, what we are talking about today, where I
8 sent him all the information that he needed and
9 copies of everything that I feel that I was going to
10 be present today. Here is from the postal service.
11 Do you need a copy of that?

12 JUDGE ALBERS: In light of Mr. Fitzhenry's
13 earlier comment about not having received anything,
14 exhibits -

15 MR. PIERCE: Here is one. Okay. I want to
16 present that. And the only thing I really have is a
17 comparison of the bills, basically.

18 JUDGE ALBERS: You are saying that this is
19 indicative of you having submitted copies of
20 documents you intended to rely upon today?

21 MR. PIERCE: Right, correct. And I have a
22 prior one from a prior date that didn't have

1 anything to do with this case, so I didn't bring
2 that. But I have copies of that too as well. But
3 here is the bills that are in question, I believe
4 that we are talking about, the January and the
5 disconnections and so forth, and then to my other
6 complaint. Here is all copies showing comparisons.
7 Like here is one current that is marked 141 that was
8 due from the service dates of March 17 through April
9 18. That's 141.73.

10 JUDGE ALBERS: Well, you talked about 2004 a
11 little bit. Is that '04 or '05?

12 MR. PIERCE: This is 2005.

13 JUDGE ALBERS: I just wanted to make sure I
14 knew what you were talking about.

15 MR. PIERCE: This is 2005. This is what we are
16 talking about today.

17 JUDGE ALBERS: So you are saying this is
18 evidence of you being charged a commercial rate?

19 MR. PIERCE: This is evidence showing the
20 different charges they are throwing at me. I am
21 trying to show a comparison of the charges, how they
22 fluctuate, you know what I mean. One minute it is

1 \$600. Then you come back to another and it is 140
2 some dollars.

3 JUDGE ALBERS: Well, which part is fluctuating?
4 Your gas bill is going to have different components
5 to it.

6 MR. PIERCE: What I am showing is that this is
7 the same meter that they claimed was, oh, in tip-top
8 shape. And they charge -- one minute they charge me
9 for the service of March 17 to April 18, they
10 charged me 141.73. Can I use that as a comparison
11 from what the bill that is in dispute is, the 700
12 some dollars, right?

13 JUDGE ALBERS: If that's your January bill.

14 MR. PIERCE: Right. I am using this as a
15 comparison to show the fluctuations in the bills.
16 Do you see what I am saying?

17 JUDGE ALBERS: Okay.

18 MR. PIERCE: Can I present that to the
19 Commission?

20 JUDGE ALBERS: I will entertain that.

21 MR. PIERCE: Okay. This just shows the
22 fluctuation of how they are saying these bills are.

1 I will just go ahead and give you all of this and
2 give him copies, too. I will just give you all
3 this. And then this basically just shows you all
4 the comparisons. One of them from the services of
5 September 15 to October 14, the current amount due
6 at that time was 120. And another current amount
7 due from February 16 to March 17 was 248.33.

8 MS. PIERCE: Nobody was living there.

9 MR. PIERCE: Nobody was staying there, my wife
10 just said. Nobody was staying there. And from
11 December, 12/17, to January, 1/18, the amount was
12 \$675, and we had a warm January, warmer than normal.
13 And then from the 1/18, January, to February, 2/16,
14 the bill was \$403. Here you go, sorry.

15 I just wanted to show the fluctuation in
16 these readings, you know, to show that something is
17 wrong. Something is wrong with their readings.
18 They are not reading the meter right or apparently
19 there must have been something wrong with the meter
20 because they came out and changed the meter. They
21 came out and changed the meter. So I mean, in the
22 comparison Attorney Fitzhenry asked me for dates

1 back to 2004. I sent that to him and I do have
2 copies yet today to present if need be presented of
3 2004 charges as well that he asked for, and that
4 just shows how the fluctuations that --

5 I am not using that. We haven't been using
6 that. We have -- at one point we didn't even have
7 anybody staying there. You know, especially when he
8 sent a technician out, wasn't nobody even living
9 there at the time. And I am still getting charged
10 4, \$500. And I had the meters shut off. I had them
11 turned off. I had one locked off. Nobody had
12 access to that building. None of them. If somebody
13 came into that building, somebody would have told me
14 in the neighborhood. None of that happened. All of
15 the keys were returned from people that lived there.

16 I am done. I can't -- I don't know what
17 else. Maybe I may have something later on but I am
18 done. I don't know what else to tell you.

19 JUDGE ALBERS: Let me ask you a few questions
20 just to make sure I understand some of the
21 background information here.

22

EXAMINATION

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BY JUDGE ALBERS:

Q. You said this property used to be an old store?

A. From my knowledge it used to be. From the people in the neighborhood and people I talk to about the place, they said at one time it used to be a store.

Q. And now you are using it as a church and a homeless shelter?

A. Yes, sir.

Q. And you first started renting this property in November of 2001?

A. Yes, sir.

Q. When did you first believe that you were -- let me ask this. As far as you know were you always being charged a commercial rate?

A. When I first opened up the account, they didn't say anything about a commercial rate. CILCO didn't say anything about a commercial rate when I first opened it.

Q. If I infer correctly from your comment, at

1 some point since November of 2001 you realized you
2 were being charged a commercial rate?

3 A. When I had some problems the first time, I
4 said wait a minute and I looked at the bill. And I
5 said wait a minute, this is not right, you know.
6 The charges, I said, this is too much for gas.
7 Especially when there ain't nobody out living there
8 and in the warm months and all that kind of stuff.
9 And then that's when I questioned it. That was the
10 first dispute I had. It has been settled. That is
11 not here even before the Commission.

12 I checked that out. I said that's too
13 high. That's when they sent the technician out from
14 CILCO, not Ameren, but it was CILCO at that time.
15 And he walked me through the building, he explained
16 to me, showed me it had two meters and everything
17 up, the water heater hooked up to blah, blah, blah
18 and everything else, and he told me that he was in
19 agreement.

20 But it was too high. And I just couldn't
21 believe what I was being charged. So I called the
22 office and talked to a young lady on the phone and

1 that's when she said, well, if you have got two
2 meters, every time you have two meters it is
3 considered commercial. I don't believe that because
4 you have apartment complexes all over the place that
5 have got more than one. But she said any time you
6 have got two meters, it is considered commercial. I
7 said I don't understand that. I do not understand
8 that. She said, well, that's what's happening. So
9 that's when I started disputing the charges. And
10 finally -- the question is again, what was the
11 question again? Am I answering the question?

12 Q. I think you are.

13 A. Okay. And then this has been going on ever
14 since.

15 Q. Okay. And so your position is you should
16 be billed at the residential rate?

17 A. I think so. I think that say for instance
18 if I was living there which was the initial idea at
19 first until I went over there and worked in the
20 neighborhood a little bit and I didn't want to put
21 my kids and my family through that because it is
22 situated right across from a bar, the church. But

1 say if I was living there, now here again it is
2 hearsay, I admit, but it was on the phone, the
3 person stated to me, that if people were living
4 there, then you could possibly get away with not
5 paying commercial rates.

6 Q. So no one aside from time to time a
7 homeless gentleman will stay there but they are not
8 regular tenants, they just --

9 A. We have a program where we help them for
10 like six months or more. It depends on how they try
11 to help themselves. We spend six months with them.

12 Q. And the same physical structure, the
13 sanctuary then is all in one building?

14 A. You have got the sanctuary on one side.
15 You know, the wall divides the sanctuary from the
16 living quarters, and then you have upstairs.

17 Q. So a two-story building?

18 A. Yeah.

19 Q. How many square feet roughly?

20 A. I really don't know exactly. This is a
21 large building. It is a large building. But I
22 don't know how many square feet.

1 Q. Okay. And you believe that you have been
2 charged too much, it sounds like you are saying, for
3 two reasons now, one, because of the commercial rate
4 and, two, I take it from the offering of the various
5 pictures of the meters that you are saying that
6 perhaps there was something wrong with the meters?

7 A. Yes, sir. Yes, sir.

8 Q. And the meters in this first picture you
9 gave me --

10 A. Those are the original meters.

11 Q. That was on this building when you first
12 started renting it?

13 A. When I first got the building, those were
14 the original meters. Again, I ask the Commission --
15 I will go take a picture of the other meters they
16 just recently put on there. There is a slight
17 difference on there. And present that later, if you
18 want.

19 JUDGE ALBERS: Okay. I can't think of any
20 other questions at the moment.

21 MR. PIERCE: I didn't present this. I wanted
22 to present this. This is a letter, again talking

1 about my request, per your request of changing the
2 meters, not true.

3 JUDGE ALBERS: Now, is it your desire to have
4 all these documents submitted into evidence in this
5 proceeding?

6 MR. PIERCE: Yes, sir. Yes, sir.

7 JUDGE ALBERS: Why don't we just identify them
8 for purposes of referring them for now.

9 MR. PIERCE: Okay. Right now we --

10 JUDGE ALBERS: I am going to call the first
11 picture here with the older looking meters
12 Complainant's Exhibit A, the second picture with the
13 newer looking meters Complainant's Exhibit B, with
14 the two statements here from Mr. Andrew and
15 Mr. Cave, why don't we call that Complainant's Group
16 Exhibit C. The photos of the two tags Complainant's
17 Exhibit D. The photo -- and this is the meter -- I
18 am sorry, this is the thermostat in the sanctuary,
19 is that correct?

20 MR. PIERCE: That's the -- is it covered, is it
21 locked up? That's the one on the first floor that
22 is locked up.

1 JUDGE ALBERS: But is that the one in the
2 sanctuary?

3 MR. PIERCE: That controls the heat in the
4 sanctuary.

5 JUDGE ALBERS: Call that Complainant's Exhibit
6 E. And the photo of the other thermostat
7 Complainant's Exhibit F. And the January 31 letter
8 from Mr. Fitzhenry to Mr. Pierce Complainant's
9 Exhibit G. And you wanted this as evidence as well?

10 MR. PIERCE: Evidence that I presented showing
11 everything that I was complained today that I have
12 mailed it to him.

13 JUDGE ALBERS: But you are testifying that in
14 the envelope that accompanied this label here --

15 MR. PIERCE: Everything that I presented today
16 was presented to him besides the pictures.

17 JUDGE ALBERS: Okay. That's what I wanted to
18 make sure I understood. I will call that
19 Complainant's Exhibit H. That will be -- the nine
20 pages that consist of the Ameren account activity
21 statements, the June 17 letter to Mr. Pierce from
22 CILCO as well as the various bills and notices, I

1 put those in chronological order. Why don't we call
2 that Complainant's Group Exhibit I?

3 And finally the May 5 letter to Mr. Pierce
4 from CILCO's gas corporate meter department, why
5 don't we call that Complainant's Exhibit J? Okay.
6 Now --

7 MR. PIERCE: I have got -- before we finish
8 with the exhibits I submitted, I do have a response
9 that I responded to Mr. Fitzhenry, if you want a
10 copy.

11 JUDGE ALBERS: Well, if you want to offer that
12 for evidence.

13 MR. PIERCE: Right.

14 JUDGE ALBERS: None of this has been admitted
15 into the record as evidence yet. But just as far as
16 being able to refer to it later, we need to identify
17 it. So if that is something you would like to move
18 into the record --

19 MR. PIERCE: Right.

20 JUDGE ALBERS: Then go ahead and identify it.

21 MR. PIERCE: I would like to move this in, put
22 this in.

1 JUDGE ALBERS: And what is it again?

2 MR. PIERCE: This is a response to his data
3 request that I gave him. He got a copy. He already
4 should have a copy, but I will give him another
5 copy. I have made two for the court. I forgot
6 about that.

7 JUDGE ALBERS: Okay. I will call that
8 Complainant's Exhibit K. Okay. Did you have any
9 other documents that you --

10 MR. PIERCE: I have one other one but I want to
11 present that with my questioning, okay, with my
12 questioning. It is going to go to -- well, you said
13 I would have an opportunity to clear up.

14 JUDGE ALBERS: You will, yes.

15 MR. PIERCE: That's what I wanted -- it is for
16 one of the witnesses here. I want to present it
17 then.

18 JUDGE ALBERS: Okay. Then as far as,
19 Mr. Fitzhenry, do you have any objection to the
20 admission of any of these documents?

21 MR. FITZHENRY: Can we wait until the
22 completion of Mr. Pierce's examination?

1 JUDGE ALBERS: That might be -- if that might
2 be more efficient, I am willing to allow that.

3 MR. FITZHENRY: It might be.

4 JUDGE ALBERS: And, Mr. Pierce, you are done
5 with your statement at this point, correct?

6 MR. PIERCE: Yes, sir. I think I submitted all
7 the copies of -- yeah, I think I submitted
8 everything. If I find something later on, I want an
9 opportunity to be able to present it later, mail it
10 to you later and mail a copy to him as well.

11 JUDGE ALBERS: Well, that's what today is all
12 about, is giving us what you think supports your
13 position.

14 MR. PIERCE: Well, I think I gave you
15 everything. I have a couple bills here, but I am
16 not sure if these are copies or not. They might be
17 sufficient to show another comparison of the
18 fluctuation in the bills, but I don't know if I have
19 enough copies. You said I had to have three copies.
20 I don't know if I already submitted them, those
21 copies or not, so that's why I said. I just looked
22 at them here. They might be already in there.

1 JUDGE ALBERS: Okay. All right. So,
2 Mr. Fitzhenry, do you have any questions for
3 Mr. Pierce?

4 MR. FITZHENRY: Yes, I do. Thank you, Your
5 Honor.

6 CROSS EXAMINATION

7 BY MR. FITZHENRY:

8 Q. Good morning again, Mr. Pierce.

9 A. Good morning.

10 Q. I would like to ask you some questions
11 first about your belief why you believe the
12 commercial rate is inappropriate. Do you recall
13 that I did send to you data requests and you did
14 respond to them, correct?

15 A. Right.

16 Q. And in fact one of the data requests
17 specifically asked that you please provide the basis
18 for your allegation that the Illinois Commerce
19 Commission should have this company to stop charging
20 commercial rates, do you remember me asking you that
21 question?

22 A. Correct.

1 Q. And do you remember giving this answer.
2 "Since we are a church that is tax exempt from both
3 the federal as well as state taxes. The church is
4 providing a service to the homeless peoples in the
5 community for the better of the community. We are a
6 small church and when our service was disconnected,
7 this caused a hardship for our clients as well as
8 made our church and services to the homeless bad."
9 Do you remember giving that answer?

10 A. Yeah.

11 Q. Was that answer truthful at the time you
12 gave it?

13 A. Yes, it was.

14 Q. So at least relying upon your data request
15 answer, your belief that you should not be charged a
16 commercial rate is because your church enjoys some
17 sort of tax exempt status from the federal and state
18 governments?

19 A. Yes.

20 Q. Did you have the occasion to review or
21 examine any of AmerenCILCO's rates with regard to
22 your concerns?

1 A. No, I didn't.

2 Q. Do you know what rate you are taking
3 service under currently?

4 A. From my knowledge it is commercial, right?

5 Q. It is commercial?

6 A. That's the only knowledge that I have. I
7 recall asking you to give me a comparison.

8 Q. Okay.

9 A. Do you recall?

10 Q. In any event you did not examine what's
11 titled Rate 510 Residential Gas Service in
12 preparation for this hearing?

13 A. No, I didn't.

14 Q. And did you happen or did you review what
15 is titled Rate 550 Small General Gas Service?

16 A. No, I didn't.

17 Q. You indicated in your answer to one of
18 Judge Albers's questions that -- I thought I heard
19 this and if I heard it incorrectly, let me know --
20 that you thought you owed something for the January
21 usage?

22 A. I am not saying I don't owe you nothing.

1 Q. Do you have in your mind how much you think
2 you owe the company?

3 A. Well, going by the comparisons that I
4 presented, I think that at the most if I owed
5 anything for the month of January, it should be no
6 more than \$200.

7 Q. And that's just based on your comparison to
8 previous January months' usage?

9 A. Right, and the idea and the fact that we
10 had a warm month in January.

11 Q. In the information you provided to me,
12 Mr. Pierce, you did provide the January bill for
13 2004, do you remember that?

14 A. When did I present that to you?

15 Q. In the data request answers. You provided
16 a number of bills?

17 A. Right.

18 Q. In fact, in the data request I ask you to
19 read so there is no misunderstanding, "Please
20 provide the basis for your belief that you did not
21 incur the charges that are in dispute for the
22 January 2005 billing cycle. Be sure to provide any

1 documents upon which you rely for your answer." Do
2 you remember that question being posed to you?

3 A. Yes.

4 Q. And then do you remember giving this
5 answer, "I do not believe these charges and they
6 will be proven by comparisons in the prior bills and
7 statements," do you remember that?

8 A. Correct.

9 Q. And then you also provided enclosed copies,
10 and do you remember providing at least among others
11 the January 2004 bill?

12 A. If I gave it to you, if you have it in your
13 hand, then I provided it.

14 MR. FITZHENRY: Can I approach the witness?

15 Q. Here you go, sir.

16 A. This is from 2004?

17 Q. Right, this is one of the bill statements
18 that you provided me in response to the data
19 requests?

20 A. This is 2004.

21 Q. Correct.

22 A. Well, yeah, that shows a comparison, yes.

1 Q. Right. And just so that we can be sure
2 about that, it shows the number of therms in that
3 billing cycle being ten therms, correct?

4 A. I guess that's the way you read it. I am
5 not knowledgeable of, you know --

6 Q. I am sorry. Did you finish?

7 A. No, I am just going to say I am not
8 knowledgeable of this. I would like to know how to
9 read this. All I know how to read is how much I
10 have to pay.

11 Q. In fact, in one of your answers to one of
12 the Judge's questions you made note of the fact that
13 here you only owed \$130 for January usage in 2004?

14 A. I didn't say that today.

15 Q. You didn't say that today?

16 A. I thought I said that -- did I present that
17 to him today, is that what you are saying?

18 Q. I thought that in answering the Judge's
19 questions you made note of the fact that some of
20 your monthly payments were significantly less than
21 what you were asked to pay for January 2005?

22 A. Right.

1 Q. And I thought you did reference the \$130
2 charge?

3 A. I don't think I referenced that. I am not
4 sure. You can present that, though.

5 JUDGE ALBERS: You said this is a January bill?

6 MR. PIERCE: 2004.

7 MR. FITZHENRY: Well, actually February 17
8 through March 17.

9 JUDGE ALBERS: Okay. I just wanted to make
10 sure I had the right document.

11 MR. FITZHENRY: You did and I stand corrected.
12 We will just refer to this as Company Exhibit A for
13 right now.

14 JUDGE ALBERS: All right. Not a cross exhibit?

15 MR. FITZHENRY: Sure.

16 JUDGE ALBERS: Sure, a cross exhibit? Is there
17 a reason that it shouldn't be a cross exhibit?

18 MR. FITZHENRY: It is a cross exhibit.

19 JUDGE ALBERS: Okay. I didn't know if you were
20 going to talk about it later in some other respect.

21 MR. FITZHENRY: No.

22 Q. I am also going to show you, Mr. Pierce,

1 what will be Company Cross Exhibit B. Just so I am
2 clear, do you remember receiving this bill? It
3 shows a bill date of April 30, 2004.

4 A. Yep.

5 Q. And if you turn to the next page, does it
6 also indicate that this is a corrected bill,
7 disregard the previous bill that was rendered?

8 A. It was a corrected bill but at that time --
9 well, it says corrected bill.

10 Q. And does it show there -- I want to be sure
11 that I am reading this correctly there -- on the
12 first page under Rate 550 -- excuse me, under Total
13 Therms for the period of time February 17 through
14 March 17 that there was a 401 therms consumed for
15 that period of time?

16 A. Yes, says that's March, it says sale of
17 therms 3/17/2004, 401, yeah.

18 Q. You understand from the Company's
19 perspective that this bill is intended to correct
20 the February through March 2004 bill which only
21 showed the ten therms being consumed?

22 A. I didn't understand that. But I remember

1 that -- I remembered that was the question that we
2 were talking about. They were trying to regroup
3 from last time, the differences. Is that what you
4 are saying? Their attorney, you are saying that
5 they was trying to regroup, right?

6 Q. What I am saying is that you identified in
7 response to the data request certain bills that you
8 thought supported your position that the January
9 usage was inappropriate. The one bill that you
10 provide me was for the period of time February
11 through March of 2004 which only showed the ten
12 therms usage.

13 A. Correct.

14 Q. What I am showing in Cross Exhibit Number B
15 is that in fact that February through March 2004
16 bill was rebilled showing 401 therms instead of ten
17 therms?

18 A. Right.

19 Q. You are not disputing that you would have
20 received that changed bill, are you?

21 A. I received it, but I still dispute being
22 charged that, yeah.

1 Q. You talked a lot about the change of the
2 meters over the time that you have been in
3 possession of the property at 1940 East Jackson.
4 Have you ever had any of the meters tested?

5 A. Myself personally, the technician came up
6 the first time I had the dispute.

7 Q. Okay. I am saying have you yourself or did
8 you hire anybody to have the meters looked at?

9 A. I look at the meters, yeah, when he came to
10 clean up. I paid the bill that I owed and got the
11 gas turned back on a couple years ago, I believe, or
12 maybe a year ago. I had a technician come out
13 because you all would not turn the gas on until
14 after the furnaces were checked out. He checked
15 everything. He checked the meters as well.

16 Q. Okay. And how long ago was this?

17 A. Let's see. It had to be -- what year would
18 that have been? That had to be prior to the first
19 time you changed the meters. I am not good with
20 that date, but.

21 Q. A couple years ago?

22 A. Yeah, a couple years. I would say

1 approximately a couple years.

2 Q. Was this a CILCO technician?

3 A. No, this was a person that came in that I
4 hired to clean out the furnace and look and check to
5 see if there was anything wrong.

6 Q. The meter that was in place in January
7 2005, did you ever have that tested?

8 A. The one that you had prior to this last
9 change, no, I didn't get that tested.

10 Q. And you referenced a letter that you
11 received from AmerenCILCO, even though you didn't
12 request the meter to be inspected, it indicated that
13 the meter tested at 99.9 percent average accuracy.
14 Do you remember that seeing that?

15 A. Yes, yeah, I saw it.

16 Q. Do you have any reason to dispute it?

17 A. I don't believe that.

18 Q. And the basis of your belief is just
19 basically what you told the Judge here this morning?

20 A. Right.

21 Q. Not that you had the meter tested or
22 examined by anybody else, correct?

1 A. No, I haven't had that tested, no.

2 Q. The Judge asked you some questions about
3 the structure and I want to try to envision that as
4 well. There is a sanctuary or church, correct?

5 A. Correct.

6 Q. And is that a one-story or a two-story
7 building?

8 A. The sanctuary is probably the smallest part
9 of the whole building, so where we have it. And the
10 technician who came in, he seen how well insulated
11 it was. Okay. The first floor across from the
12 sanctuary is a dining room, a living room and a
13 kitchen. Then you go up and then you have two-story
14 spaces and a bathroom. Then you go upstairs and you
15 have three bedrooms and then you have like a living
16 room, kitchen and a bathroom.

17 Q. And the thermostat that serves the
18 sanctuary you said was locked?

19 A. I keep it looked up. I keep it locked up
20 and turned down all the way. It depends on how cold
21 it is outside.

22 Q. I am sorry, there is a water heater that

1 services --

2 A. The service. There is one meter by itself.
3 That is not what we are here for today.

4 Q. The meter that we are here for today
5 involves one or two furnaces?

6 A. Two furnaces.

7 Q. And that is served by the thermostat that
8 is not locked, correct?

9 A. One of those furnaces is connected to the
10 thermostat that is not locked.

11 Q. And that's the furnace that's used to heat
12 the building for whenever...

13 A. Heat the upstairs.

14 Q. ..the homeless people are staying?

15 A. Heats the upstairs where the homeless
16 people are.

17 MR. FITZHENRY: Thank you, Your Honor. That's
18 all we have.

19 JUDGE ALBERS: Okay. As far as objections then
20 to the exhibits?

21 MR. FITZHENRY: No, you want to walk through
22 that now?

1 JUDGE ALBERS: Isn't that what you suggested a
2 moment ago?

3 MR. FITZHENRY: Yes, yes. Let me get them in
4 front of me again. I have no objection to A. No
5 objection to B. Objection to C, hearsay, relevance.
6 Objection to D, relevance. Objection to E -- oh,
7 strike that, I have no objection to E or F.
8 Objection to G, relevance. Objection to H,
9 relevance. Objection to that portion of I that
10 deals with anything but the January 2005 billing.
11 No objection to J. Objection to K, Relevance. That
12 covers it.

13 JUDGE ALBERS: Mr. Pierce, Mr. Fitzhenry has
14 suggested that the Group Exhibit C, the two
15 statements, are not relevant.

16 MR. PIERCE: They are relevant because their
17 technician came out and these guys witnessed it.
18 They witnessed the technician.

19 JUDGE ALBERS: But is anybody disputing the
20 technician having been there on April 29?

21 MR. PIERCE: What I am trying to show there
22 with that evidence there is to show that the meter

1 was changed a second time. That's all I am using
2 it. And they have verified that they saw that this
3 happened. Even if they are not disputing it, that
4 just shows that they witnessed them changing the
5 meter.

6 JUDGE ALBERS: Does AmerenCILCO dispute that
7 there was a meter change?

8 MR. FITZHENRY: No, there was no dispute about
9 that. In fact, we will offer a witness that will
10 explain the reason for the meter change. But the
11 statement in here goes beyond just simply that fact.
12 I don't know what the last sentence is intended to
13 mean or be probative of anything in this case. The
14 fact that the gentleman who apparently signed the
15 affidavit is homeless doesn't really have any
16 meaning.

17 MR. PIERCE: The meaning behind the relevance
18 is that I service the community for the homeless,
19 and that's why it was put in there.

20 JUDGE ALBERS: No one is disputing that you are
21 serving the homeless.

22 MR. PIERCE: Well, then why is he disputing it

1 being in there? It is just basically stating that
2 they saw the technician come out and change the
3 meter. That's all it is saying.

4 MR. FITZHENRY: Well, again it is hearsay which
5 isn't changed by anything that Mr. Pierce would say
6 here this morning. It is hearsay.

7 JUDGE ALBERS: On the one hand I can't see any
8 harm either way. However, given that it is hearsay,
9 I am inclined to not allow this in since your
10 gentlemen aren't here to be questioned.

11 MR. PIERCE: I don't see -- if he is saying
12 that a technician came out on that date, where is
13 that technician? Is that technician here today so I
14 can question him?

15 JUDGE ALBERS: I don't know.

16 MR. PIERCE: Is that technician here that
17 changed the meter that day?

18 MR. FITZHENRY: We have the technician here who
19 inspected the meter, yes.

20 MR. PIERCE: Who changed it that day on the
21 29th?

22 MR. FITZHENRY: No.

1 JUDGE ALBERS: I am not sure what this
2 statement has to do with --

3 MR. PIERCE: What it is showing is that they
4 changed the meter.

5 JUDGE ALBERS: No one is disputing they changed
6 the meter on the 29th.

7 MR. PIERCE: Okay. He is saying that they are
8 not here today. Then where is the technician that
9 changed the meter for me to question today. That's
10 all I am saying. I didn't bring these men in for
11 him to question because I didn't feel that was
12 necessary. Apparently he didn't bring in the
13 technician that changed the meter because he didn't
14 feel it was necessary. So I don't see why it can't
15 be submitted.

16 JUDGE ALBERS: All right. Well, given -- I
17 will tell you this up front. This is not going to
18 make or break anyone's case if it is in or not.

19 MR. PIERCE: Well, if it ain't going to make or
20 break or make a difference in the case, then fine,
21 fine.

22 JUDGE ALBERS: Your objection is understood.

1 We will go ahead and overrule the objection as it
2 applies to Group Exhibit C.

3 What's the relevancy then of Company -- I
4 am sorry, Complainant's Exhibit D?

5 MR. PIERCE: The relevancy is to show that if
6 you look down there Customer Requests, I did not
7 request them to change the meter.

8 JUDGE ALBERS: Okay. So you are disputing that
9 statement?

10 MR. PIERCE: Definitely.

11 JUDGE ALBERS: Okay. We will overrule the
12 objection concerning Complainant's Exhibit D.

13 MR. FITZHENRY: I didn't follow any of that.

14 JUDGE ALBERS: I think --

15 MR. FITZHENRY: A notice of code violation in
16 July of 2004.

17 JUDGE ALBERS: I think he is concerned more
18 about the second part of that, is that correct?

19 MR. PIERCE: Right, right. The second part in
20 the prior complaint, that would have made a
21 difference but it don't make a difference today.
22 That second part does, though, customer request.

1 MR. FITZHENRY: Even if the meter was exchanged
2 in July of 2004, I still don't understand what it
3 has to do with charges in 2005 and whether the meter
4 was operating properly in January 2005 and whether
5 or not he is on the proper rate.

6 MR. PIERCE: My thing is that I did not request
7 for them to be changed. Why would he change?

8 JUDGE ALBERS: Well, you might find that out
9 later. I don't know myself, certainly.

10 MR. PIERCE: But I am stating that they stated
11 that I asked for it to be changed. I didn't.

12 JUDGE ALBERS: Well, again, we will let this
13 in. How much weight it gets will depend on what I
14 hear the rest of today.

15 MR. PIERCE: Okay.

16 JUDGE ALBERS: And Exhibit G, this is relevant
17 again because this is your letter from
18 Mr. Fitzhenry?

19 MR. PIERCE: Right.

20 JUDGE ALBERS: And why is it relevant?

21 MR. PIERCE: What does that letter give? I am
22 sorry.

1 JUDGE ALBERS: Complainant's Exhibit G is the
2 letter from Mr. Fitzhenry to you.

3 MR. PIERCE: Stating about the 500 that I owed
4 for a prior settlement?

5 JUDGE ALBERS: Yes.

6 MR. PIERCE: Okay. The relevance is showing
7 that it caused -- at the same time they disconnected
8 my service for \$450 which the amount that I was
9 going to pay them was \$500 which is close to the
10 amount that I had owed them, showing that -- it
11 raises some -- to me it raises some suspicion of
12 harassment of some form by this company. That's why
13 I am submitting that.

14 JUDGE ALBERS: I am going to withhold ruling on
15 this until I hear the rest of the proceeding today.

16 And the relevancy of Exhibit H?

17 MR. PIERCE: Showing that if he disputes
18 anything that I presented today outside of what I
19 admitted here today, that I did not mail to him,
20 that it was mailed to him. It was mailed to him.

21 JUDGE ALBERS: Is CILCO disputing that it did
22 not receive certain documents?

1 MR. FITZHENRY: We received certain documents.
2 We didn't receive, for example, all the ones that
3 are included in Exhibit I but we don't object to
4 Exhibit I or -- yeah.

5 MR. PIERCE: That's the only reason I was
6 submitting that, just to verify that I sent it.

7 JUDGE ALBERS: Well, here is my concern,
8 Mr. Pierce. This shows that you sent something. I
9 don't know what you sent with this.

10 MR. PIERCE: Okay.

11 JUDGE ALBERS: So I won't let Exhibit H in.

12 MR. PIERCE: It isn't going to make a matter in
13 the decision, I mean.

14 JUDGE ALBERS: Well, I -- I don't think anyone
15 from what I have heard so far is disputing who got
16 what when.

17 MR. PIERCE: Just in case it does come up, if
18 it does come up, you know.

19 JUDGE ALBERS: Well, again this does not tell
20 me what was sent with this. I mean, I have your
21 sworn testimony but this buy itself doesn't add
22 anything.

1 MR. PIERCE: Okay, all right.

2 JUDGE ALBERS: And we are looking at Group
3 Exhibit I. What was your -- you had a partial
4 objection to that, as I recall?

5 MR. FITZHENRY: Yeah, certainly anything prior
6 to January 2005 is not relevant, not probative of
7 Mr. Pierce's claims here that he shouldn't be on the
8 commercial rate, that he shouldn't be paying what he
9 was charged for January, and then, you know, even
10 bills afterwards. I think the January bill is what
11 it is and that's what's at issue here before you and
12 the Commission.

13 MR. PIERCE: It proves the comparison, a
14 fluctuation of some sort. That's what I am using it
15 for. Those bills, some of those bills, are showing
16 a fluctuation, a discrepancy in charges. It is
17 showing prior to the January they said I owed this
18 amount. You know how warm it was. It doesn't take
19 a rocket scientist to figure out that we have had a
20 nice winter. And then you go beyond that and you
21 see the comparisons, how can I be paying that much
22 in gas. I just don't see it. That's all I am using

1 it for, is comparison, for you to look at it
2 yourself, the Commission or whoever is going to look
3 at it at the Commission and see the comparisons.
4 The attorney here, he pointed out himself that most
5 bills stay consistent. He was trying to point that
6 out when he was questioning me, I thought. And
7 that's what I got from him and that shows a
8 fluctuation.

9 JUDGE ALBERS: Okay, Mr. Pierce. I am going to
10 let this in but you understand though that just
11 because any particular document has been admitted
12 into the record does not mean it is going to be
13 accorded the same weight as every other document.

14 MR. PIERCE: All right.

15 JUDGE ALBERS: Looking at Complainant's Exhibit
16 K, this is your response to Mr. Fitzhenry's data
17 request, is that correct?

18 MR. PIERCE: Yeah, it just basically shows you
19 there that I had plans on seeking counsel prior to
20 today and I was still planning on speaking to
21 counsel. That's basically what it is about. Some
22 of the other information there is relevant but

1 that's especially what my thoughts were, just to
2 confirm my thoughts with you and show you what I
3 wrote back to his answers to my complaint, my
4 response.

5 JUDGE ALBERS: Okay. Mr. Fitzhenry, why is his
6 responses to your data requests not relevant?

7 MR. FITZHENRY: First of all, it is not a
8 complete response. The documents that were attached
9 are provided here so if it is to be allowed in, it
10 should be allowed in with that understanding.
11 Nothing in going over this document again suggested
12 in any way that he might retain counsel but even if
13 it is, then why is that relevant? I am sort of
14 lost.

15 JUDGE ALBERS: My only comment is the same as
16 last time. I will hold off on final ruling until we
17 hear from the company as far as Complainant's
18 Exhibit G. Is there any objection to the admission
19 of Company Cross Exhibit A and B?

20 MR. PIERCE: I should object because he is
21 doing the same thing with the information I am
22 trying to submit to show comparisons. So I should

1 object to it but I am not going to object to it.

2 JUDGE ALBERS: Okay. All right. Thank you,
3 Mr. Pierce.

4 Mrs. Pierce, if you would like to take the
5 stand?

6 MS. PIERCE: Well, actually, I don't think I
7 need to because I think my husband did an excellent
8 job explaining what I want to say. I just wanted to
9 touch on the harassment part from the company
10 itself. But since that's not an issue or that's not
11 what the complaint is about, I don't believe --

12 MR. PIERCE: Yes, it is. You can go up there.
13 Yes, it is.

14 MS. PIERCE: Didn't you say that it was -- the
15 harassment part was not -- this was --

16 JUDGE ALBERS: Well, we are looking at whether
17 or not -- what's the appropriate rate to be charged,
18 commercial or residential.

19 MR. PIERCE: And didn't the complaint also say
20 harassment?

21 JUDGE ALBERS: You actually did mention at the
22 bottom, yes. What do you want the Commission to do

1 about this and you said --

2 MR. PIERCE: Stop the harassment.

3 JUDGE ALBERS: Yes, you discussed harassment.

4 Do you want to have a few moments to discuss those
5 concerns?

6 MS. PIERCE: Do I have to go up there?

7 MR. PIERCE: Yeah, I want to ask you a few
8 questions.

9 MR. FITZHENRY: Judge, I want the record to
10 show again my continuing objection to arguments or
11 claims about company harassment. You pointedly
12 asked Mr. Pierce at the status hearing what his case
13 was about, and I wouldn't mind if it spilled out
14 over to other related areas regarding the January
15 billing or the fact he should or should not be in a
16 commercial rate. But this is really way beyond what
17 he told all of us last month.

18 JUDGE ALBERS: I agree with that. However, in
19 light of their being mention of that in the --

20 MR. FITZHENRY: And also I think it puts the
21 company in a difficult position, not you personally,
22 by this ruling because if the harassment is

1 suggested that I was responsible for it in some way,
2 then maybe I should be a witness and I should have
3 had another lawyer here to put me on the stand to
4 explain away why the company doesn't believe that my
5 actions were consistent with its policies and so
6 forth. Obviously, I can't put myself on the stand.

7 JUDGE ALBERS: Right. But until I -- not
8 knowing what this person is going to say, I don't
9 know if this is going to be a problem or not.

10 MR. FITZHENRY: Mr. Pierce did say under oath
11 that he thought that I was one of the persons
12 harassing him.

13 JUDGE ALBERS: That's true.

14 MR. FITZHENRY: And he has pointed to the
15 letter that settled the prior case as evidence of
16 harassment.

17 JUDGE ALBERS: Okay. Well, we will go ahead
18 and hear this little bit. So, Mrs. Pierce, please
19 have a seat.

20 JUDGE ALBERS: Go ahead, Mr. Pierce.

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SHARI PIERCE

called as a Witness on behalf of Complainant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PIERCE:

Q. Just basically state do you feel that we should have been charged, being the treasurer of the church, do you feel that we are being overcharged?

A. Yes, I do.

Q. Why do you feel that we are being overcharged?

A. Well, just like you stated, you know, we were disconnected and we had to come up with the \$450 which would have been payment to the gas company for the settlement for the prior case. But right after paying that we get a bill two weeks later for \$700.

Q. Right.

A. Anyone in here would complain. I mean, it was just ridiculous. That's why I feel that way.

Q. Do you feel that this was kind of like

1 harassment coming from the company?

2 A. Yeah, I do know -- I guess that's your area
3 of dealing with stuff like this and I don't like to
4 because I feel like I am just too emotional for it.
5 But I feel like we are being harassed simply because
6 of what happened yesterday at our home residence.
7 That's what I want to bring up. We have been there
8 for four years and we have never had any of our
9 utilities turned off. But yesterday our gas was
10 turned off because of non-payment from these, from
11 this company.

12 JUDGE ALBERS: You are talking about May 16
13 yesterday?

14 A. Yesterday, yes. And we didn't even know
15 that it was off. We didn't receive the statement
16 saying that they were threatening to turn it off.
17 Although we talked to them and they said that they
18 mailed it. We were at home all day. I did not know
19 it was off until I started to prepare dinner. And
20 then we discovered that it was off. And we had to
21 rush and God gave us favor with the technician who
22 came out at 9 o'clock and turned it back on. So it

1 was only off for two or three hours. But four years
2 of living there and that's never happened. But my
3 husband's name is on the utility and now I am
4 thinking that they are associating the two, from
5 Jackson Street to Catalina Lane. And that's -- I
6 have four children at home. And that's why now I am
7 looking at it and I feel like I have to say
8 something and I think it's personal. That's all I
9 really wanted to say.

10 What's going on with the church, to me
11 would not -- you don't get a bill for \$400 and then
12 two weeks later a bill for \$700. It is just
13 uncommon. There is something wrong with the meters.
14 And I think the problem is that no one -- they don't
15 want to admit that they are wrong. They have
16 changed the meters two and three times. Obviously,
17 there is a problem.

18 So that's why, that's why I say now it has
19 got to a point of who wants to be wrong and who
20 wants to be right and who is wrong and all this
21 mess. And I just don't deal with that. Like I
22 said, really I am too emotional. But when it

1 strikes my family and my children, then I feel I
2 need to speak up and that's what it did last night.

3 And now they are telling us that we are
4 going to have to pay a deposit along with our bill,
5 even though this only happened one time and it was
6 not our fault, although they are saying they sent
7 out the statement. Now they are saying we have to
8 pay a deposit. We haven't received notice of what
9 that deposit will be but it won't surprise me -- it
10 will surprise me if it is anything less than \$500.
11 That's why I think it has gotten out of hand and
12 personal.

13 I don't think we should have to pay a
14 deposit. I don't think we should have to. You're a
15 representative for CILCO, I don't know your policy
16 but if we have been living there for four years and
17 never had an interruption and we got the service
18 turned back on within a matter of hours, I don't see
19 why we should have to pay a deposit. But I know
20 this will be an issue next month. That's what I am
21 saying.

22 Q. I know that he has a continuous objection -

1 A. Well, I probably need to be --

2 Q. What I am saying is --

3 JUDGE ALBERS: Let me interject here at this
4 point. You know, by no means am I trying to
5 belittle your problem of whatever happened last
6 night. But given what was presented to me in the
7 form of Mr. Pierce's complaint, I have to be
8 focusing on the 1940 East Jackson Street property.

9 MS. PIERCE: That's why I didn't want to get up
10 here because I told you I wanted to address the
11 harassment issue. That's harassment. They are
12 coming to our home now. They are coming to Catalina
13 Lane where we live now, and his name is on the
14 lease. And that's why I am looking at it as a form
15 of harassment. They are going to find any little
16 thing now to harass us with. Like I said, the
17 deposit, that's a continuation. Why should we have
18 to pay a deposit now?

19 BY MR. PIERCE:

20 Q. The question I have for her to answer so it
21 won't seem like -- you know, I am not troubled with
22 what she says. She says, of course, you are

1 JUDGE ALBERS: Mr. Fitzhenry, if you would like
2 to call your first witness?

3 MR. FITZHENRY: Yes, Your Honor, we would like
4 to call Jon Stowell, please.

5 (Whereupon there was
6 then had an
7 off-the-record
8 discussion.)

9 JUDGE ALBERS: Would you state your name,
10 please?

11 THE WITNESS: Jon Stowell, S-T-O-W-E-L-L, first
12 name is J-O-N.

13 MR. FITZHENRY: You ready to proceed, Your
14 Honor?

15 JUDGE ALBERS: Please.

16 JON STOWELL

17 called as a Witness on behalf of AmerenCILCO, having
18 been first duly sworn, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. FITZHENRY:

22 Q. Mr. Stowell, please state your business

1 address.

2 A. I operate AmerenCILCO's gas operations
3 facility at 1100 Monarch Street, it is Peoria,
4 Illinois.

5 Q. What is your job title?

6 A. I am the crew leader of the gas meter
7 repair and testing facilities. I have been at CILCO
8 for 25 years. I have been in the metering area for
9 15 years. For ten of those years was a repairman
10 technician, and my responsibilities involved the
11 repair and testing of thousands of commercial and
12 residential gas meters. The last five years I have
13 been the crew leader.

14 Q. I am sorry?

15 A. Overseeing all operations of the meter
16 shop.

17 Q. Did you have cause to be inspected the
18 meter located at 1940 East Jackson?

19 A. Yes, I did.

20 Q. And when was that?

21 A. That was May 4 I received the meter and the
22 meter has to sit overnight in our testing facility

1 to acclimate to the temperature.

2 Q. Before you go on to explain the testing
3 procedure, let me ask you a few questions if I
4 could.

5 JUDGE ALBERS: One from me first, May 4 of this
6 year?

7 THE WITNESS: Yes, sir.

8 BY MR. FITZHENRY:

9 Q. And at whose request were you asked to pull
10 the meter and test it?

11 A. I had heard from a supervisor in the
12 southern division, Springfield area that a meter was
13 going to be removed.

14 Q. Was that due in part to the litigation that
15 we are here today about?

16 A. Yes, sir.

17 Q. And so proceed. Now you are going to
18 explain about what you actually did?

19 A. Upon receipt of the meter and other meters,
20 they sit overnight in our climate controlled
21 environment for a minimum of 12 hours. And the next
22 day that particular meter was tested --

1 Q. I am sorry, what's the purpose of it
2 sitting over night?

3 A. In the temperature controlled environment
4 it acclimates the meter to the room temperature.
5 Temperature affects the accuracy of the meter and
6 actually our meters are all temperature compensated.
7 There is a bi-metal component in the meter to help
8 in that regard.

9 Q. When we are referring to the meter, I am
10 sure everybody has been wondering what this is over
11 here in the corner. Is this in fact the meter that
12 you had pulled and tested?

13 A. Yes, it is.

14 Q. Is this the meter that was at 1940 East
15 Jackson?

16 A. Yes, it is.

17 Q. Just for the record, refer to that as
18 Company Exhibit A. I don't intend to --

19 JUDGE ALBERS: You don't want to admit that
20 into the record?

21 MR. FITZHENRY: I don't have three of them.

22 JUDGE ALBERS: Okay.

1 BY MR. FITZHENRY:

2 Q. So the next day you were able to begin the
3 testing procedure?

4 A. Yes. All meters that enter and leave our
5 facility are given two tests. The first test is
6 called an open test and that is a hundred percent of
7 the capacity of the meter. It is basically if you
8 have -- it is a high volume test, if you would have
9 your furnace on and everything. And then the second
10 test is called a check test and it is 30 percent of
11 the capacity of the meter. It would be like if you
12 had your pilot lights on. So there is two
13 indicators of the accuracy of the meters. Those
14 figures are added together and divided by two for
15 the composite accuracy of the meter. And this
16 meter, it tested at 99.97 percent accurate. It is
17 only about a one-year old meter and it appears to be
18 in near perfect condition.

19 Q. The testing accuracy of 99.97 percent, is
20 that considered acceptable in industry standards?

21 A. It is more than acceptable. Industry
22 standards, meters that leave the facility could be

1 two percent slow or one percent fast. Our meters
2 typically are less than a half percent fast or slow
3 when we introduce them. This meter, the factory
4 test on this matter was 100.1 percent which means it
5 was one-tenth of one percent fast which is nearly
6 perfect. So since it is a factory test to our test,
7 it actually slowed down a couple tenths.

8 I would like to add also that we did
9 receive new testing equipment in our facility. We
10 have PC Kruegers (sp) from Enerject (sp) Economics
11 that were installed in November of 2003 and also we
12 are recertified every three years on our testing
13 equipment and that was also done last year.

14 Q. Let me show you what has been previously
15 marked and admitted into evidence as Mr. Pierce
16 Exhibit J and ask if you are familiar with that
17 document in any way?

18 A. Yes, I am. This is a standard form letter
19 that is sent out to customers detailing the test
20 that we performed in the meter shop.

21 Q. So it is correct that Mr. Pierce did
22 formally request that the meter be tested, is that

1 your understanding?

2 A. Yes.

3 Q. This is just a form letter that the company
4 uses?

5 A. Correct.

6 Q. And does the form letter correctly describe
7 the accuracy or the testing results from the testing
8 of the meter?

9 A. Yes, it does.

10 Q. Now, you indicated that this meter was less
11 than a year old or thereabouts?

12 A. Yes.

13 Q. Is it your understanding this is the meter
14 that was in place in January 2005?

15 A. Yes, it was.

16 Q. Bear with me one minute, Your Honor. I
17 have got way too many papers out here. Now, again
18 referring back to Mr. Pierce's Exhibit J, does it
19 identify a meter number?

20 A. Yes, it is meter number 20412085.

21 Q. And is the meter number also placed on the
22 customer's bill?

1 A. I haven't had an opportunity to look at the
2 customer's bill.

3 Q. I am going to show you what will -- it may
4 be part of Mr. Pierce's Group Exhibit I but I for
5 purposes of the record being clear we will mark this
6 as Company Exhibit B. And show you what purports to
7 be the January 2005 bill and ask if the meter number
8 that's shown there is the same meter number that's
9 identified in Mr. Pierce's Exhibit J?

10 A. Yes, it is.

11 Q. What is the life expectancy of a meter such
12 as this?

13 A. Typically a meter will last over 30 years.

14 Q. Now that you have pulled the meter can it
15 be put back in service?

16 A. That particular meter would be reintroduced
17 with little to no effort as far as repair because of
18 the accuracy and the age. We would basically do a
19 leak test on it, and we would be able to reintroduce
20 that meter.

21 Q. And the meter that was put in place of this
22 one, would it be the same kind and type?

1 A. I would believe that it would be a new
2 American meter.

3 Q. Do you have an opinion as to whether or not
4 the meter as of January 2005 was testing accurately?

5 A. I believe that the meter was testing
6 accurately.

7 Q. And that would be based on your testing
8 earlier this month, correct?

9 A. That and my history within the department
10 of working with these meters, and also when these
11 meters come in as new I have to have factory tests
12 but I also do a sample test of the meters that come
13 in to confirm their accuracy, and these are among
14 the best meters in the industry.

15 Q. Again you explained earlier some of the
16 testing surrounding this particular meter and that
17 you had to bring it into a field office. Those are
18 my words. Why can't those meters be tested in the
19 field at the premises, for example, or can they?

20 A. By Commerce Commission rules I don't
21 believe they can. They will need to sit overnight
22 and be acclimated in order to be testes.

1 Q. Now, this kind of meter -- is this the kind
2 of meter that can also be suitable for a commercial
3 account?

4 A. Yes, it could.

5 Q. Does it have a particular type or, you
6 know, American what?

7 A. This is an American 250. It is a
8 temperature compensated American 250 and the 250
9 signifies the capacity of the meter in cubic feet.

10 Q. Just curious, how many of these kind of
11 meters might be in service today in the AmerenCILCO
12 service area, if you know?

13 A. AmerenCILCO, there is going to be tens of
14 thousands. This year I have ordered 6,500 that we
15 will be using. Last year we ordered 7,500. And I
16 think we have started purchasing those in bulk in
17 1994 so there would be tens of thousands of those
18 out of our 212,000 meters.

19 MR. FITZHENRY: That's it, Your Honor. I have
20 no questions for him.

21 JUDGE ALBERS: Do you have any questions of
22 what he just said?

1 MR. PIERCE: Yes, I do.

2 CROSS EXAMINATION

3 BY MR. PIERCE:

4 Q. My first question would be to him is you
5 said -- I noticed that you said that you would have
6 to take them in to be tested. They could not be
7 tested in the field, is that what you said?

8 A. Yes, sir.

9 Q. Okay. Have you had in the past ever
10 experienced any defective meters?

11 A. Yes, in the past we have experienced some
12 defective meters. AmerenCILCO has meters from about
13 four or five different manufacturers, tens of
14 different sizes and many different years of
15 manufacture. We have a lot of older meters in our
16 system. We have meters that are still performing
17 accurately that have been manufactured in the 1960s
18 and the 1970s. Typically they last 30 years, but in
19 fact they can last longer. They are mechanical in
20 nature and typically they will slow down rather than
21 speed up.

22 Q. They will slow down rather than speed up?

1 A. Rather than speed up because they are
2 mechanical in nature.

3 Q. Okay. Another question would be for what
4 reason would you suggest -- I mean, are you the one
5 that makes the decision whether or not a meter be
6 changed at a residence or at a building per se? Do
7 you make that decision?

8 A. I don't make those particular decisions.
9 Typically most of the meters that come into our
10 meter shop come in to be sample tested for their
11 accuracy. But, no, that is not a decision that I
12 make.

13 Q. Then I can't ask you the question I was
14 going to ask. But you said -- on a percentage-wise
15 could you give me a percentage-wise yearly how many
16 defective meters that you experience?

17 A. Without researching the figures, I wouldn't
18 be able to come up with a good number. But that
19 would be something maybe customer service at some
20 point could come up with you. I would say that the
21 greater percentage of the meters that you may term
22 defective would be either slow or non-registering

1 rather than meters that would be subject to a
2 refund. A meter would have to test at four percent
3 fast to get a refund. And I am not -- I don't deal
4 with the billing aspect, the customer service type
5 aspect. I just do the testing.

6 Q. So the only thing you do do is the testing.
7 You don't know when the company decides to change a
8 meter. Do you know when they decide to change -- do
9 you have that information when they want to change a
10 meter?

11 A. I have information regarding the sample
12 type testing that is performed and so I do have
13 information on the sample type testing on when there
14 are scheduled exchanges. Basically it is
15 maintenance work.

16 Q. But you don't say this piece needs to be
17 changed?

18 A. No, sir.

19 Q. Okay.

20 A. A computer picks most of the meters to be
21 exchanged.

22 Q. You said something about it being slow is

1 the only way that you would -- you said when they
2 get bad, that they -- what difference would that
3 make on a bill if the computer is slow? What kind
4 of difference would that make? Would that raise
5 your bill or would it lower your bill?

6 A. No. If a meter would slow down, it would
7 retard the usage and you wouldn't be charged as
8 much.

9 Q. Now ,that's -- I want that question to stay
10 in my commission, what he just said there. Now, you
11 said that when it goes slow, it will not keep track
12 of the cost like it should, right? Is that what you
13 said?

14 A. If a meter would slow down, it would not --
15 it would not -- it would still show the usage but it
16 would be a little bit slower.

17 Q. A little bit slower. It would show usage
18 but would it show the usage accurately?

19 A. It would be accurate usage.

20 Q. It would be accurate usage, but it would be
21 slower. I don't understand that. How can it be
22 accurate if it is slower?

1 A. The meter itself is showing the accurate
2 amount of usage. It is just a little bit slower.

3 Q. Would that affect the charges?

4 A. If a meter was slower?

5 Q. Right.

6 A. If a meter was slower, you would probably
7 end up over time paying less. However, typically
8 these meters --when I said a meter is slower, I am
9 talking in tenths of one percent, maybe a percent.
10 I mean, if a meter is two percent slow, in my mind
11 it is a little slow. It would have almost a
12 negligible impact on the bill over time.

13 Q. What about have you ever had anything go
14 fast?

15 A. There are some that go fast.

16 Q. What kind of effect would that have on a
17 bill?

18 A. If a meter goes fast, it would accelerate
19 usage and the customer would get a rebate. It would
20 have to be over four percent fast, and it's a
21 Commerce Commission guideline, and the customer
22 service personnel would work up a rebate.

1 Q. And that would make the charges go higher,
2 right, if it went fast?

3 A. It would be fast.

4 MR. PIERCE: No further questions.

5 EXAMINATION

6 BY JUDGE ALBERS:

7 Q. Okay. Just very briefly, do you happen to
8 know if from the records you have seen regarding
9 this particular meter how long it had been in
10 service before you tested it?

11 A. This particular meter I am not sure what
12 the set date was. I know that the factory test was
13 in April of '04, and after that point we received
14 the meter and it was sent to Springfield for -- sent
15 to Springfield and just sat there until today.

16 MR. PIERCE: You are not an inspector, you are
17 not a field person, right?

18 THE WITNESS: No, sir.

19 MR. PIERCE: Okay. Well, I had a question
20 about something that's for a field person.

21 JUDGE ALBERS: Do you have any redirect?

22 MR. FITZHENRY: No, I don't, Your Honor.

1 JUDGE ALBERS: Thank you, Mr. Stowell.

2 (Witness excused.)

3 MR. FITZHENRY: Your Honor, I call Michelle
4 Rice, please.

5 JUDGE ALBERS: I will just mention to the
6 parties here briefly, I need to leave here at a
7 quarter after 12. If we need to reconvene, that's
8 fine. I am just letting you know.

9 MR. FITZHENRY: Are you coming back?

10 JUDGE ALBERS: Yes, I will return. I am not
11 going to leave you hanging, but --

12 MR. FITZHENRY: Are we ready to proceed?

13 JUDGE ALBERS: Please.

14 SUSAN MICHELLE RICE

15 called as a Witness on behalf of AmerenCILCO, having
16 been first duly sworn, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. FITZHENRY:

20 Q. Ms. Rice, would you please state for the
21 record your name and your business address.

22 A. My name is Susan Michelle Rice. My

1 business address is 300 Liberty Street in Peoria. I
2 work in our customer accounting department which is
3 basically billing.

4 Q. Okay. Can you tell us a little bit about
5 what you do at CILCO?

6 A. I work on accounts that hit some type of a
7 billing queue or there is something that we need to
8 look at a little bit more before sending a bill out.

9 Q. And are you familiar with the account at
10 1940 East Jackson?

11 A. I am.

12 Q. Now, as I understand it there is two
13 different accounts there, is that right?

14 A. That's correct.

15 Q. And we are here today about the commercial
16 account?

17 A. Right.

18 Q. Now, is an account number provided to each
19 commercial account?

20 A. Yes.

21 Q. And for the one here that's in dispute, can
22 you tell us what that account number is?

1 A. It is 2869088001.

2 Q. And are you familiar with the billing
3 history surrounding this particular account?

4 A. I am.

5 Q. Have you been able to examine other usages
6 in January and prior years with respect to this
7 account?

8 A. Yes.

9 Q. Could you tell the Judge what you have
10 found, let's say, for January 2004?

11 A. This account was billed in January 2004,
12 727 therms.

13 Q. Just so I am clear, the amount of therms
14 that were used in January 2005 is what amount?

15 A. 729.

16 Q. And what about January of 2003?

17 A. It was 582.

18 Q. Okay. And does your account history go
19 back further in terms of any January usages?

20 A. I do have history back further. This
21 account, though, was not in Mr. Pierce's name prior
22 to that time.

1 Q. Okay. Now, you were here when Mr. Pierce
2 testified, correct?

3 A. Yes.

4 Q. And he has talked about variations or
5 fluctuations in his bill or the therms being used,
6 remember some of his answers?

7 A. Yes, that is very typical.

8 Q. Why is that?

9 A. Well, the heat season, I mean, if you are
10 heating a building with gas or electric, typically
11 your usage will go up during the cold part of the
12 year. You know, just like air conditioning through
13 the summer, if you have electric air conditioning,
14 your electric usage goes up through the summer. It
15 is a very typical pattern.

16 Q. I believe in his Group Exhibit I and the
17 information he provided the company he, for example,
18 provided a bill May-June of 2004. Do you happen to
19 have that there in front of you?

20 A. I do.

21 Q. And how many therms were consumed in that
22 billing cycle?

1 A. May to June of 2004 was 18.

2 Q. And what about from, say, around June to
3 July?

4 A. There was a meter exchanged during that
5 period. But from June 16 to July 17 of 2004 was 14.

6 Q. Okay. So when you testified earlier about
7 variations not being uncommon, is that sometimes
8 drive by, for example, seasonal differences?

9 A. Very much so.

10 Q. For an account of this kind is it
11 unreasonable to see in the summer months the kind of
12 therms being consumed as you just testified?

13 A. Yes. Typically we would not know what
14 exactly each house has, but in this case we are
15 aware that there is -- there are two furnaces so
16 this 10 and 15 therms through the summer is probably
17 just your pilot lights.

18 Q. Okay. Let's go back to the January 2005
19 billing that you mentioned in your testimony that
20 there were over 700 some therms consumed. Now,
21 there is a particular rate that's applied to that
22 gas usage in determining at least a portion of the

1 bills, is that correct?

2 A. Correct.

3 Q. And under what rate is this account?

4 A. The rate is on 550.

5 Q. And could you generally describe your
6 understanding about the availability provisions
7 under that rate?

8 A. Rate 550 is a commercial rate that is our
9 smallest commercial rate. It is for non-residential
10 customers with small usage.

11 Q. And are you familiar with Rate 510?

12 A. I am.

13 Q. And what rate is that?

14 A. That's a residential gas service rate.

15 Q. And are you familiar with the availability
16 provisions under Rate 510?

17 A. I am.

18 Q. And what are they?

19 A. That rate is available to individually
20 metered customers using gas service primarily for
21 single family residences or individual apartments.

22 Q. And again you were here earlier today when

1 Mr. Pierce gave testimony about the particular
2 structure and how it is used?

3 A. Correct.

4 Q. Do you have an opinion as to whether or not
5 based on his testimony whether his structure meets
6 the criteria of a Rate 510?

7 A. Because it is not a single family residence
8 or individually metered for each part, if they were
9 considered individual apartments, that would be
10 considered a commercial rate.

11 Q. So let me understand that. When I think of
12 a typical apartment building, using two kinds of
13 metering, one what might be called a master meter
14 and where the landlord pays the charges, is that
15 correct?

16 A. Correct.

17 Q. In that case what rate would apply?

18 A. If it say has four apartments and it is all
19 metered through one meter, that's a commercial rate.

20 Q. Would that be the Rate 550?

21 A. It could be. If they had a higher usage,
22 it could change rates.

1 Q. But if you had an apartment building where
2 each of the individual units had their own meter,
3 what rate then might apply?

4 A. That would probably be residential rates
5 for each individually metered house.

6 Q. Now, does Rate 510 also speak to multiple
7 dwelling units?

8 A. Just to the degree where if they are
9 individually metered on individual apartments, then
10 510 is available.

11 Q. Does Rate 510 in any way reference Rate 550
12 to your knowledge?

13 A. Not that I am aware of.

14 Q. Okay. Do you have a copy of the tariff
15 there in front of you?

16 A. I do.

17 Q. Do you have both pages?

18 A. I do. Oh, I am sorry, it does reference
19 that.

20 Q. Could you tell us what that reads?

21 A. It says Multiple Dwellings or Apartment
22 Houses, gas service provided to a building

1 containing multiple dwellings or it is an apartment
2 house through one meter shall be billed under Rate
3 550, Small General Gas Service, or Rate 600,
4 General Gas Service.

5 MR. FITZHENRY: Okay. Your Honor, even though
6 the tariffs are a matter of public record, I think
7 it might be helpful for you and Mr. Pierce to have
8 copies of them. Here is Rate 510. I am not going
9 to ask for them to be marked.

10 MR. FITZHENRY: That's all we have for
11 Ms. Rice.

12 JUDGE ALBERS: Do you have any questions,
13 Mr. Pierce?

14 MR. PIERCE: Yes, I do. Thank you.

15 CROSS EXAMINATION

16 BY MR. PIERCE:

17 Q. She mentioned that there was a prior
18 account before I took residence in the building.
19 Were those people being charged commercial rate?

20 A. Yes.

21 Q. Prior to me moving in they were charged
22 commercial rates?

1 A. That's correct.

2 Q. Okay. Now, you said that you charge a
3 commercial rate under one meter. Ain't that what
4 you just said?

5 A. I am not sure.

6 Q. Commercial rates, okay, like say if an
7 apartment was renting at the time -- you know, I am
8 not renting but if someone was renting out a
9 dwelling space and they had one meter, then you
10 would charge commercial rates?

11 A. If that were primarily for a single family
12 dwelling.

13 Q. Primarily for a single family dwelling you
14 would charge commercial rates?

15 A. Oh, I am sorry, no. Commercial rates are,
16 you know, the same what we just said. You are
17 saying you want --

18 Q. You said -- I was understanding you just
19 said a few minutes ago that if you had one meter and
20 you had people living there, one meter which I guess
21 would probably control all the gas flow to that
22 building, then you would charge commercial rates?

1 A. Yes.

2 Q. If the landlord --

3 MR. FITZHENRY: You have to wait until he
4 finishes asking the question.

5 Q. If the landlord is paying the gas service?
6 I understood that you said that.

7 A. If the landlord were paying the gas
8 service, that would probably be a commercial rate.

9 Q. Okay. And you said now the residential
10 rate would be if you had individual meters for each
11 dwelling in that building, then you would have
12 residential rates, right? Is that what you said?

13 A. Correct.

14 Q. Then they would be charged residential
15 rate. But on one meter they would be charged the
16 commercial rate?

17 A. If it is serving multiple dwellings.

18 Q. 1940 East Jackson Street has two meters.
19 One of those meters is hooked up to a water heater.
20 Is that water heating being charged commercial
21 rates?

22 A. No, sir.

1 Q. Well, then why would -- my question to you
2 is if you are not going to charge me commercial
3 rates for the water heater, why are you charging me
4 commercial rates for the other meter?

5 A. I believe that that meter is on the wrong
6 rate. It is not unusual for things to change in a
7 premise over time. At some point that water heater
8 may have served only the residential type part of
9 the house or of the building. We don't know when
10 people change things inside a premise. A customer
11 is always welcome to request us to investigate for a
12 rate change.

13 Q. I am not asking for a rate change. I feel
14 that you are being fair with me with the water
15 heater, what I am paying for that. That is
16 residential because that's exactly right. I don't
17 take showers or nothing over there. The homeless
18 men do. I use that basically for them and, yeah, I
19 drink some of the water over there. My family
20 don't. So but what I am saying is this, basically
21 what I am saying is we have two meters there. One
22 of them is being charged residential rate and then

1 the other one is commercial rates. I don't
2 understand that. That's the point I was trying to
3 bring up.

4 MR. FITZHENRY: Your Honor, this is
5 Mr. Pierce's opportunity to ask questions of our
6 witness and now he is giving statements repeatedly.
7 So I object to -- if that's questioning, I object to
8 it.

9 MR. PIERCE: I asked a question, why one meter
10 is being residential rate, why isn't the other one
11 being residential rate. Could you answer that
12 question for me?

13 MR. FITZHENRY: She has answered the question.

14 JUDGE ALBERS: She has answered the question.

15 MR. PIERCE: Could you answer it again?

16 MR. FITZHENRY: I object.

17 JUDGE ALBERS: Please answer the question
18 again. He said he didn't hear you.

19 THE WITNESS: I believe that the residential
20 rate should be a commercial rate. I believe that it
21 at some point was changed in the history of that
22 premise and the rate never got changed. That does

1 not mean that the commercial rate is inaccurate. I
2 believe the residential rate is inaccurate.

3 BY MR. PIERCE:

4 Q. Another question. And this is prior to.
5 It deals with the same issue here about the rates,
6 you know, how much I am being charged. And prior to
7 that, because of those two meters being there, the
8 meter reader was reading it wrong. That's what I
9 got from your office.

10 MR. FITZHENRY: Objection, Your Honor, this is
11 not cross examination. He has a right to ask
12 questions based on the witness's testimony here this
13 morning, not give statements about matters that are
14 not pertinent to this case.

15 JUDGE ALBERS: You need to limit your questions
16 to what she has testified about.

17 MR. PIERCE: My question then is this. If you
18 have two meters -- now this is a question -- if you
19 have two meters how can a trained technician make a
20 mistake on readings?

21 MR. FITZHENRY: Objection, Your Honor. What
22 does that have to do with this case or her

1 testimony? I think it is --

2 JUDGE ALBERS: Okay. That's what I needed. I
3 need to know why.

4 MR. FITZHENRY: Your gestures were understood.

5 JUDGE ALBERS: I don't recall her testifying
6 about anyone making a meter reading error.

7 MR. PIERCE: But she -- Your Honor, she stated
8 that she handles the bills and that if there is a
9 problem with that bill that's part of her job to
10 observe and check that bill out. My question, maybe
11 it is the wrong question, okay, to ask her how can a
12 technician make a mistake on reading the meters if
13 there is two meters there. I asked her the
14 question. If she can't answer the question, that's
15 fine. Maybe I need to ask the next witness that he
16 has. But, you know, that's a question. I don't
17 know how mistakes could have been made.

18 MR. FITZHENRY: Same objection, and I will add
19 further it assumes facts not in evidence.

20 JUDGE ALBERS: Mrs. Rice, you don't ever -- do
21 you ever become involved with the actual reading of
22 meters?

1 or synagogues or temples within CILCO's service
2 territory are typically charged a commercial rate?

3 A. Yes, typically, yes.

4 Q. Do you know which commercial rate it would
5 be?

6 A. Depending on usage or -- I don't know if
7 usage is the right word, but I believe depending on
8 pressure served it could be 510, most of the time,
9 or 550, I am sorry. It could if they have a higher
10 pressure or a higher usage go up to a higher rate.

11 Q. Okay. Just I want to be clear now since
12 the 510 or 550 distinction is important here?

13 A. 550, the commercial rate, is generally what
14 they are served at.

15 Q. You are not aware of any churches or
16 synagogues being charged the 510, the residential
17 rate?

18 A. No.

19 JUDGE ALBERS: All right, thank you.

20 THE WITNESS: I am sorry I said that wrong.

21 JUDGE ALBERS: I just want to make sure we are
22 clear. Do you have any, Mr. Pierce?

1 MR. PIERCE: I have a question after that
2 question.

3 JUDGE ALBERS: Well, we have to cut it off
4 somewhere, Mr. Pierce.

5 MR. PIERCE: You brought up something that I
6 wanted to ask. You brought up other churches and I
7 wanted to ask her -- can I ask her the question?
8 Can I ask her the question?

9 JUDGE ALBERS: What is your question?

10 BY MR. PIERCE:

11 Q. My question is, are you aware of any other
12 churches being operated in the way that mine is
13 being operated, in other words residence/church?
14 You have a residence or people like using their
15 basement for churches or their garages for churches.
16 Are you aware of anybody else that is doing that and
17 if they are doing that, what are they charged?

18 A. I don't know of a specific example in my
19 mind. However, even somebody's own garage, if it is
20 metered separately, it is not a single family
21 dwelling. Therefore, it is commercial. I mean,
22 residential rates are for single family dwellings.

1 This clearly isn't.

2 Q. So I guess again if it was my house and I
3 was having church in my basement, would I be billed
4 commercial rates?

5 A. If it were your house and there were one
6 meter serving the whole premise, it could probably
7 be residential in that case.

8 MR. PIERCE: No further questions.

9 JUDGE ALBERS: Any redirect?

10 MR. FITZHENRY: No. Would you want to take a
11 break now?

12 JUDGE ALBERS: I am thinking that might be
13 prudent.

14 MR. FITZHENRY: Should we return and if so
15 what time?

16 JUDGE ALBERS: First, thank you, Ms. Rice. You
17 may step down.

18 (Witness excused.)

19 Well, why don't we return -- just basically
20 take roughly an hour for lunch and be back here say
21 20 after 1:00.

22 MR. FITZHENRY: Very well, thank you.

1 AFTERNOON SESSION

2 (Whereupon the hearing

3 was in recess until

4 1:20 p.m.)

5 JUDGE ALBERS: We shall now reconvene.

6 MR. FITZHENRY: Your Honor, I would call

7 Mr. Michael Fix, please.

8 JUDGE ALBERS: Is that F-I-X?

9 MR. FITZHENRY: F-I-X.

10 MICHAEL J. FIX

11 called as a Witness on behalf of AmerenCILCO, having

12 been first duly sworn, was examined and testified as

13 follows:

14 DIRECT EXAMINATION

15 BY MR. FITZHENRY:

16 Q. Good afternoon. Please state your full

17 name and your business address for the record.

18 A. Michael J. Fix, 825 North MacArthur,

19 Springfield, Illinois for AmerenCILCO.

20 Q. And what is your position with AmerenCILCO?

21 A. Lead inspector.

22 Q. And can you tell us briefly what you do as

1 a lead inspector?

2 A. I go to people's homes, investigate bill
3 complaints, look at properties, inspect them to see
4 what conditions they are in, try and find out why
5 the bill was so high or so -- not low but why the
6 bill was so high, as to what's wrong, you know, as
7 far as the property goes, if there was anything that
8 can be done to improve the property to make the bill
9 lower.

10 Q. How long have you been doing this sort of
11 work?

12 A. Approximately 12 years.

13 Q. Do you have any training or education in
14 terms of inspecting properties and structures as you
15 are describing?

16 A. No, sort of a jack of all trades. I built
17 block homes, did a little bit of electrical work,
18 plumbing work. But as far as having a license, no.

19 Q. Did you have the occasion to inspect the
20 premises at 1940 East Jackson?

21 A. Yes, I did.

22 Q. And at whose request?

1 A. Mr. Pierce's.

2 Q. Mr. Pierce asked you or did somebody from
3 the company?

4 A. Well, okay, I had an order through our OAS
5 system which is our regional analysis system where
6 we get our orders through, and the order came up
7 that Mr. Pierce had requested somebody to come in
8 and inspect the -- talk to him about the bill.

9 Q. And when did you conduct this inspection?

10 A. February 16, 2005.

11 Q. Was Mr. Pierce present during your
12 inspection?

13 A. Yes, he was.

14 Q. I am going ask you to tell Judge Albers
15 here and the Commission what you found during your
16 inspection. But let me preliminarily ask you did
17 you take any pictures of the premises as you were
18 conducting your inspection?

19 A. Not as I conducted the inspection. I did
20 before the inspection.

21 Q. Okay. Let me show you what is marked as
22 Company Group Exhibit B. First ask you whether or

1 not these are the pictures that you took prior to
2 your inspection?

3 JUDGE ALBERS: Did you say B?

4 MR. FITZHENRY: C.

5 JUDGE ALBERS: That's where I thought we were
6 at, is C. Thank you.

7 BY MR. FITZHENRY:

8 Q. There is nine photos depicted. They are
9 numbered 1 through 9, I believe.

10 A. Yes, they are.

11 Q. Do they accurately portray or represent
12 what you saw at the time of your inspection?

13 A. Uh-huh, yes.

14 Q. Why don't you tell us in your own words,
15 Mr. Fix, what you saw, and when you can amplify your
16 explanation by referring to one of the pages in
17 Company Group Exhibit C, would you please do so?

18 A. Yes. I met with Mr. Pierce. I explained
19 to him how to read a gas meter when I first arrived
20 there. Then we went inside. I did an inspection of
21 the property. The property that I saw, the building
22 itself was in very bad need of repair. On the

1 second floor there was a window on the south end of
2 the building that was completely -- that was a
3 double hung window. The top pane was completely
4 gone, and the outside bottom storm windowpane was
5 completely gone, allowing air flow to come directly
6 into the building.

7 Q. Let me just stop you for a second. Would
8 this have been a portion of the building that would
9 have been served by the furnaces that you heard
10 earlier testimony about?

11 A. Yes.

12 Q. Thank you. Please continue.

13 A. This was also the part of the building
14 where the homeless shelter is.

15 Q. All right. Thank you.

16 A. There was a bathroom there. The window in
17 the bathroom was, I believe it was, aluminum frame
18 window. I remember seeing cracks in the corners of
19 the windows and stuff to the outside.

20 JUDGE ALBERS: Before you go any further, are
21 any of these windows visible in any of these
22 pictures?

1 THE WITNESS: It would be the window back here
2 in the back.

3 BY MR. FITZHENRY:

4 Q. You are going to have to refer to the page
5 number.

6 A. I am sorry, page number 9.

7 Q. Is this the bathroom window that you just
8 referred to?

9 A. No, this would be the window that I
10 referred to as the panes missing.

11 Q. The first window you talked about?

12 A. Yes.

13 Q. So again when you go through and talk about
14 your inspection, your findings, if there is a
15 picture in Company Group Exhibit C that can help us
16 understand what you saw, would you please refer to
17 that?

18 A. I understand, yes.

19 Q. So you are looking at page 9?

20 A. Page number 9.

21 JUDGE ALBERS: Did you get a copy of these,
22 Mr. Pierce? I wasn't paying attention when they

1 handed them out.

2 MR. PIERCE: Yeah.

3 A. Okay. The window to the left of the large
4 window there is the bathroom window, I believe, that
5 I was referring to as being the aluminum window with
6 no storm window or anything, that I could see the
7 daylight through the corners of the frames and
8 stuff.

9 The thermostat for the furnace was also, as
10 Mr. Pierce had also said, on the second floor of
11 this building. When we looked at the thermostat,
12 the thermostat was turned down as far as it would go
13 but it was not completely off. Therefore, the
14 furnace would actually run, even though -- I mean,
15 when it is ten degrees outside and the thermostat is
16 set on 55, you have direct air coming into the
17 building.

18 Q. Were the furnaces running at any time when
19 you were conducting your inspection?

20 A. Yes, they were.

21 Q. All right. Thank you. Please continue.

22 A. There was numerous windows upstairs that

1 were covered with black garbage bags taped to the
2 walls, and I really couldn't get a good look at
3 those windows. I didn't want to take the garbage
4 bags down. There was also, I believe, a window up
5 there that had a crack in it. A lot of the windows
6 inside the homeless shelter on the first and second
7 floor both, like I said, they were the old double
8 hung windows. The glazing was missing in a lot of
9 the areas, a lot of air leakage around them.

10 Q. Let me interrupt you again, Mr. Fix. The
11 garbage bags or plastic bags that surrounded the
12 windows, are they considered to be a good source of
13 insulation?

14 A. No.

15 Q. Thank you.

16 A. There was also a room on the second floor.
17 I believe there was a bedroom that the ceiling of
18 the room followed the contour of the roof line. In
19 other words, the ceiling came down like this,
20 (indicating). It had paneling nailed along the
21 contour of the roof. I tried to peer behind those.
22 I could not find any insulation or anything behind

1 those which, therefore, tells me that it was not
2 insulated. I asked Mr. Pierce if I could see the
3 attic, if the attic was insulated. He said that he
4 thought that it was very well insulated. I asked if
5 I could see the attic, and we could not find any
6 place, any access point to the attic. There was no
7 access whatsoever. That tells me that there is
8 probably very little insulation up there, being such
9 an old building.

10 The first floor was -- the door, the front
11 door, the main door, which would be -- let's see if
12 we can find it here, page 5, it is very black in
13 there. But the front door would be to the right of
14 just looking over the top of the car hood there. It
15 was in very bad need of weather stripping. You
16 could see daylight around the whole door frame. The
17 threshold of that door was also rotted out and you
18 could see the outside. You could see the sidewalk
19 from the inside, the outside.

20 The thermostat to the church was also in
21 this portion of the building which also let's me
22 believe that when it is as cold as it was outside,

1 that that thermostat in that part of the building
2 was also going to be running for the church, even
3 though that furnace for this thermostat controlled
4 the church or went to the church, it was in the cold
5 part of the building. Therefore, that cold air that
6 is in that part of the building is going to cause
7 that thermostat to run for the church part.

8 Q. Now, that thermostat that you are speaking
9 of right now, do you remember if it was locked or
10 not at the time of your inspection?

11 A. I remember the lock box being on there, but
12 to be completely honest, I cannot recall if it was
13 locked or not. It was vacant when I was there.

14 Q. What do you mean by vacant?

15 A. There was nobody living there, no homeless
16 people.

17 Again, on the first floor, there was a
18 bathroom down there. There was a vent going through
19 the wall to the back side of the house which would
20 be page 4 again. But again with as dark as this
21 picture is you really can't see it. It would be all
22 the way to the left side.

1 Q. Would it be underneath the bathroom window
2 that you described earlier?

3 A. No, it would be to a lower part. Do you
4 see where the door looks like it was blocked off?

5 Q. Yes.

6 A. The far left door, it would be back on the
7 other -- the building had an offset in it.

8 Q. Understood, thank you.

9 A. You could see daylight through this vent.
10 It appears that on your exhaust fans and stuff, they
11 have the flapper on the inside. It appears that the
12 flapper was either missing or hung up or broken,
13 allowing air flow into the building also. The
14 basement had a window in the northeast corner.
15 Again, it is really not that apparent. It is on
16 page 8. It would approximately be on the northeast
17 corner of the building, right in here.

18 Q. You are pointing to the lower right-hand
19 portion of that particular page?

20 A. Yes, uh-huh.

21 Q. Thank you.

22 A. The window frame appeared to be rotted out.

1 The window was hanging more or less open there,
2 allowing cold air in.

3 There was also in the basement, coming off
4 the main trunk line, a six-inch air duct that was
5 blowing hot air into the basement needlessly. I
6 explained, I believe, to Mr. Pierce that in an
7 instance like this, that the air from the furnace
8 when that fan is blowing, is going to take the path
9 of least resistance and, therefore, most of his air
10 is going to be coming out that six-inch duct instead
11 of having to go two flights up or whatever to the
12 upper stories.

13 I told Mr. Pierce what my recommendations
14 were as far as getting that pipe sealed up, the
15 windows sealed and the door frames fixed and
16 everything.

17 Q. Was it your opinion that these conditions
18 that you saw had been there for more than six
19 months, say?

20 A. I would say so, most of them, yeah. I
21 don't know about the broken -- I can't say that on
22 the broken window with the windowpanes missing. But

1 such as the air duct, the vent pipe, yes, and things
2 like this.

3 Q. Anything further on your inspection?

4 A. I believe that that was it.

5 Q. Let's just walk through the pictures here,
6 Company Exhibit C, and be sure we have covered
7 everything. It looks to me that pages 4 and 9 are
8 basically the same, is that correct?

9 A. Yes.

10 Q. All right. Let's look at page 1.

11 A. Uh-huh.

12 Q. What is it showing?

13 A. The building had a stone front on it,
14 veneer stone. Mr. Pierce had said that there had
15 been, I believe, if I remember right, a fire where
16 they had to tear that apart in order to put the fire
17 out.

18 Q. Does this --

19 A. And --

20 Q. Sorry.

21 A. Go ahead.

22 Q. No, please finish your statement.

1 A. They had put the fire out there and then
2 they had half way covered it with, it looks like,
3 some particle board or something.

4 Q. Is this an area where there might be air
5 leakage?

6 A. Oh, yes.

7 Q. Does this go into the first floor or the
8 basement?

9 A. It would probably go into the first floor.

10 Q. Ask you to look at page 2 and again what
11 does this show?

12 A. That is your bottom board that's rotted
13 out. The framework is rotted out, and that would
14 again be going into the basement also.

15 Q. Okay. So this is from the outside?

16 A. Yes, it is.

17 Q. Please look at page --

18 A. You can see the masonry work is all cracked
19 and everything also.

20 Q. Page 3, please, look at that again and tell
21 us what that shows.

22 A. That again is showing the masonry work is

1 all cracked. Some of the stones are missing. All
2 this can create air flow into the --

3 Q. All right. Then looking at pages 5 and 6
4 they look to be the same picture. Is that your
5 observation?

6 A. Yes.

7 Q. Page 7, what does it show?

8 A. This shows the -- it would be the south or
9 the west or the east side of the building, excuse
10 me, the east side of the building, the upper portion
11 being part of the homeless shelter, the bottom
12 portion being Mr. Pierce's office and the sanctuary
13 of the church.

14 Q. And then finally if you would look at page
15 8, what is it showing?

16 A. That again is just showing the other half
17 of the building. If you put page 7 and 8 sort of
18 together there, that would be the continuation of
19 the building. You can see where the air conditioner
20 is.

21 Q. Now, that which is on the second floor on
22 both pages 7 and 8, is that a siding that is shown?

1 A. Yes, it is.

2 Q. And what condition?

3 A. On the second floor, yes.

4 Q. What condition did you find the siding?

5 A. It was in fair condition. It was not the
6 best but it is in fair condition. There was also on
7 the west side of the building, southwest side of the
8 building, there was some of the eave boards were
9 missing. Again that would create air flow up into
10 the attic or the roof. And, you know, on a windy
11 day when you start getting wind, that air going up
12 in there, it's going to circulate, it is going to
13 create a suction, as far as there is no insulation
14 in that attic, to pull the heat from the building
15 out.

16 Q. Were you able to draw any conclusions based
17 on your inspection with regard to the quality of the
18 insulation of the building we are talking about?

19 A. As far as the homeless shelter part of it,
20 I would say it was very poorly insulated.

21 Q. And if a structure is poorly insulated, can
22 that contribute to increased gas usage, all things

1 being equal?

2 A. Definitely.

3 Q. Would you believe that that's what's
4 occurring here with this particular property?

5 A. Yes, I would.

6 MR. FITZHENRY: Thank you, Your Honor. That's
7 all the questions I have.

8 JUDGE ALBERS: Mr. Pierce, do you have any
9 questions?

10 MR. PIERCE: Yeah, I have several questions,
11 several questions for Mr. Fix.

12 CROSS EXAMINATION

13 BY MR. PIERCE:

14 Q. My first question is, are you an expert on
15 installations and buildings of this age? Are you
16 some type of expert? Do you have any certification?

17 A. I do not have any certification. No, I
18 don't.

19 Q. On insulation and so forth?

20 A. I have inspected numerous buildings
21 throughout my career, numerous houses. I have built
22 numerous houses and everything.

1 Q. Okay. But you are not an expert, right?
2 You have no certification?

3 A. I do not have a certification.

4 Q. On stating whether a house is well
5 insulated or not, right?

6 A. If I can see the insulation, I can tell if
7 it is insulated well or not.

8 Q. Okay. Now, you had mentioned we didn't see
9 the attic. I don't even know if there is an attic
10 that exists in that house. I haven't look that far.
11 I don't even know where to find the attic. You
12 know, the people I am leasing the building from
13 never told me there was an attic. My understanding,
14 and since you say you didn't see or you say there
15 was an attic, is that what you just said?

16 A. Yes.

17 Q. How come we weren't able to find this
18 attic?

19 A. Because you have a gabled roof there and
20 you have flat ceilings in your second story, so
21 there has to be space up there. There has to be
22 room for an attic.

1 Q. How cold was it when you came over there?

2 You can't remember how cold it was outside?

3 A. I did not remember the temperature.

4 Q. It was a pretty good day; it wasn't that
5 cold?

6 A. It wasn't that cold day, no.

7 Q. How familiar are you with this building,
8 particular building? Have you ever been over there
9 before I called you over there, before they sent you
10 over there? Have you been over there before?

11 A. I was over there one other time, I believe,
12 but not inside.

13 Q. Not because I called you, right?

14 A. No.

15 Q. For other reasons?

16 A. I was over there, I believe, when the other
17 gentleman that you had spoke of was there. I came
18 over and was watching the meters when he was inside
19 checking.

20 Q. When you came over there that day, did you
21 -- do you remember if anybody was there that was
22 living there or did I say to you there was nobody

1 living there at that time?

2 A. There was nobody living there at that time.

3 Q. And you did see a lock box on the first
4 floor thermostat, right?

5 A. Yes.

6 Q. This one particular vent that you are
7 talking about, the bathroom, that you said that
8 maybe was possibly missing a cover on it that was
9 causing air to get in?

10 A. Right.

11 Q. Wasn't there a door on that bathroom?

12 A. I do not remember.

13 Q. You don't. There is a door on that
14 bathroom which stays closed.

15 A. But may I also add that, even though that
16 door stays closed, that an interior door is not
17 weather tight.

18 Q. Now, you went into the basement. You said
19 there was two vents -- you said there was a vent
20 that was open, was it, or what did you say? How
21 many vents did you see?

22 A. One.

1 Q. One. And you said that was causing the
2 furnaces to be on even though they were off, right?

3 A. I never said that they were what was
4 causing the furnace to be on. I said that that was
5 creating a lot of lost heat that would be going
6 upstairs.

7 Q. Why would that cause a heat loss?

8 A. Because when your furnace runs and your fan
9 is running inside your furnace, when the air blows
10 out, it is going to take the path of least
11 resistance. That six-inch air duct being wide open
12 in the basement off the main trunk line, that air is
13 going to take the bath of least resistance and that
14 path would be the path of least resistance, rather
15 than going two flights, two stories up. So you are
16 losing a lot of heat right there.

17 Q. So you said that that possibly -- which I
18 don't know where you could come to that conclusion
19 -- was possibly happening for six months. You
20 didn't even live there. So how do you know how long
21 that vent was open?

22 MR. FITZHENRY: Your Honor, that misstates my

1 question to Mr. Fix and Mr. Fix's answer. The
2 question was the conditions that he saw, did he
3 think they would be there going back six months and
4 he said yes, except for the one that he identified.
5 That's not what Mr. Six answered.

6 JUDGE ALBERS: Sustained.

7 BY MR. PIERCE:

8 Q. Well, either way, from all the things that
9 you observed, I observed what you said, a garbage
10 bag was not a well insulation, and I agree with you
11 it was not a well insulation, but it was insulation.
12 It is plastic. Most plastic can stop the flow of
13 anything.

14 MR. FITZHENRY: You know, Judge --

15 MR. PIERCE: I am just leading up to my
16 question.

17 MR. FITZHENRY: Well, that would be fine if it
18 was a question. This is sort of rebuttal, a lot of
19 what we are hearing this afternoon.

20 JUDGE ALBERS: Yeah, don't forget, Mr. Pierce,
21 when we are all done with the AmerenCILCO witnesses,
22 you will have the opportunity to take the stand

1 again and testify as to what you believe.

2 BY MR. PIERCE:

3 Q. Okay. Well, all these things that you
4 observed, Mr. Fix, would you say that this could
5 cause a bill when both thermostats are off -- this
6 is a question -- both thermostats are off, to be as
7 high as they claim to be?

8 A. Yes, I do.

9 Q. This is not evidence, but I have got your
10 name here on one of these inspection sheets here.
11 And you came out and your remarks down here states,
12 "Meter Number 61176 serves two premises. Meter
13 Number 61175 serves one water heater. It appears
14 that meter reader has been reading Meter 61175 plus
15 reads Meter Number 61172. This is a church/home
16 combined." That's what you stated?

17 A. Uh-huh.

18 Q. I guess after you did your inspection?

19 MR. FITZHENRY: Let's stop. This statement,
20 again not a question, relates back to the prior
21 informal complaint that resulted in a formal
22 complaint for which there was a settlement when the

1 meter reader read the residential meter and applied
2 those terms to the commercial meter. It has nothing
3 to do again with this case which is intended to, I
4 thought, look at the January 2005 billing and
5 whether or not the terms that are shown on the bill
6 are proper or not and whether or not he is on a
7 commercial rate. We are sort of rehashing again
8 what we did this morning, Judge, getting back into
9 the old complaint cases. And, you know, if it
10 related again to Mr. Fix's inspection of the
11 property, that would be one thing but this does not,
12 and I object.

13 JUDGE ALBERS: Sustained. Let's try to keep it
14 focused on the complaint at hand.

15 MR. PIERCE: I don't have any further
16 questions, Your Honor.

17 JUDGE ALBERS: Okay. I don't think I have any
18 questions. Thank you, Mr. Fix.

19 Do you have any redirect?

20 MR. FITZHENRY: No, I want to move for the
21 admission of Company Group Exhibit C, please.

22 JUDGE ALBERS: Okay.

1 MR. PIERCE: I object to one of those photos.

2 JUDGE ALBERS: Okay, which one?

3 MR. PIERCE: The one -- well, there is more
4 than one. There is the first three, one, two and
5 three, because that has -- that's cosmetic work. It
6 has nothing to do with air flow. That's the
7 cosmetic work outside of the church building, so
8 that flow, there is no air flow.

9 MR. FITZHENRY: Mr. Fix testified that cracks
10 in the masonry and the lack of glazing and so forth
11 were in his opinion partially responsible for the
12 additional energy consumption and air flow from the
13 house going to the outside and so forth. It is
14 direct evidence of, in part, the company's case.

15 JUDGE ALBERS: I agree with Mr. Fitzhenry.
16 These appear to be fairly significant openings in
17 the exterior of the structure.

18 MR. PIERCE: Yeah, but that's cosmetic work.
19 That's not the actual structure of the building.
20 That's what I am trying to point out. It has
21 nothing to do with the flow of air. It is cosmetic.
22 That's all masonry cosmetic.

1 JUDGE ALBERS: I understand what you are
2 saying, Mr. Pierce, but I just from looking at the
3 pictures I can see behind the cosmetic work and see
4 what appears to be the wall itself behind what you
5 are referring to as the cosmetic work. And in light
6 of that it would suggest that there is some
7 significant structural concerns, if I could see the
8 inside of the structure from the outside.

9 MR. PIERCE: All right.

10 MR. FITZHENRY: I have no questions for
11 Mr. Fix.

12 JUDGE ALBERS: All right. Thank you, Mr. Fix.

13 (Witness excused.)

14 MR. FITZHENRY: Your Honor, I call Mrs. Suzanne
15 Murphy. You were sworn in earlier, were you not?

16 THE WITNESS: Yes, I was.

17 MR. FITZHENRY: May I proceed, Your Honor?

18 JUDGE ALBERS: Please.

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SUZANNE MURPHY

called as a Witness on behalf of AmerenCILCO, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FITZHENRY:

Q. Ms. Murphy, please state your full name and again your business address for the record.

A. Suzanne Murphy. My business address is AmerenCILCO, 300 Liberty Street, Peoria, Illinois.

Q. And what is your job duty or title at AmerenCILCO?

A. I am supervisor of the contact center. I have responsibility over a team in the call center as well as I have BRE technology and I also handle the informal complaints.

Q. The BRI technology?

A. BRE.

Q. What does that mean?

A. It's a telephone switch.

Q. Are you aware of the nature of the

1 complaint here that's before the Commission?

2 A. Yes, I am.

3 Q. Are you familiar with the account in
4 question and particularly Mr. Pierce's account?

5 A. Yes, I am.

6 Q. You were here earlier today when Mr. Pierce
7 testified, do you recall? Is that right?

8 A. Yes.

9 Q. Mr. Pierce gave testimony a couple
10 different times about meters having been pulled but
11 not at his request. Do you remember that testimony?

12 A. Yes, I do.

13 Q. Would you have been involved in those
14 meters having been pulled?

15 A. Yes, I was.

16 Q. And why was that?

17 A. I had ordered a meter test for those
18 meters, and because they are gas meters, they have
19 to be taken out in order to have them tested.

20 Q. Before you proceed further why don't you go
21 back to the point in time when once Mr. Pierce was
22 on the account, the first time that you recall that

1 the meter was pulled, why it was pulled and then the
2 next time and so forth?

3 A. Okay.

4 Q. Til you bring us to the present, please?

5 A. The first time would be an informal
6 complaint that was filed and opened on May 21 and it
7 was a --

8 Q. What year, please?

9 A. 2004. And it was a question for the bill
10 that was \$1552.

11 Q. You don't need to get into the details, but
12 it was because of an informal complaint?

13 A. Yes, he requested that the meter be tested.

14 Q. And the meter was tested?

15 A. Yes.

16 Q. When was the next time?

17 A. The next time would have been in February.

18 Q. This year?

19 A. Of 2005. Again, it was an informal
20 complaint. We scheduled a high bill complaint and
21 then we scheduled the meter test. The high bill
22 complaint was scheduled for February 14. We again

1 tested the meters because this went to the formal
2 complaint.

3 Q. Was there any other time where the meter
4 was pulled while Mr. Pierce --

5 A. Yes, just recently for the May, for the
6 formal complaint that was filed we tested it then.

7 Q. So is it fair to say that the three times
8 that the meters were pulled and tested was because
9 there was a billing dispute of some nature between
10 Mr. Pierce and the company?

11 A. Yes.

12 MR. FITZHENRY: Thank you. That's all the
13 questions I have.

14 CROSS EXAMINATION

15 BY MR. PIERCE:

16 Q. My question is this. You pulled the
17 meters. You pulled the meters because I asked you
18 to pull the meters?

19 A. On one of the informal complaints it did
20 state that you requested that the meters be tested.

21 Q. Okay. If you found that there is nothing
22 wrong with the meter, why didn't put it right back?

1 A. Because when they pull the meter out to go
2 test it, you have to put one back there. It is like
3 an exchange. You have to leave one there when you
4 take it. You can't leave an open meter with nothing
5 there. So they bring out a different meter and then
6 they put that and they go test the meter that was
7 out in the field.

8 Q. Even from the original meters that was
9 there when I moved in there, you took those back to
10 your office and you tested them and you kept them in
11 your office?

12 A. Yes, the original set of meters, yes, to
13 inspect them.

14 Q. And you found nothing wrong with them?

15 A. I don't know the meter test business.

16 MR. PIERCE: You didn't find nothing wrong with
17 them. That's it.

18 JUDGE ALBERS: Thank you.

19 (Witness excused.)

20 MR. FITZHENRY: Nothing further. That
21 concludes the witnesses the Company has.

22 JUDGE ALBERS: All right. Thank you.

1 Mr. Pierce, would you --

2 MR. PIERCE: I am just going to conclude on
3 this, that I will go up here and conclude if you
4 want me to or go to the witness stand or stay right
5 here.

6 JUDGE ALBERS: Go ahead and take a seat,
7 please.

8 MR. PIERCE: I have no witnesses. I would just
9 like to conclude and just say that I brought the
10 complaint formally because of the fact that I feel
11 that I am not being charged fairly and I stated
12 that. I don't think that I should be charged
13 commercial rates. From the witnesses that we have
14 had today, they say that other people that lived
15 there was charged commercial rates. I differ. I
16 don't believe that. And that's one reason why I
17 wanted to seek counsel.

18 I don't believe that the operation I have
19 over there, the thing I am doing over there is a
20 church. If I was living there with my family, I
21 would be charged commercial rates. I don't think
22 that's fair. I also don't think that they are being

1 honest. I am not calling everybody in this room a
2 liar, but I will say that there are a couple of them
3 here that are lying. And when they say that those
4 were the actual rates I should have been charged,
5 that's not true. I don't believe that.

6 No one was in that building when the
7 inspector came up, Mr. Fix, and the heat was turned
8 off. Whatever little cracks and stuff he found
9 could not cause that much usage. So I disagree.
10 And I am just going to state for the record, I wish
11 they had another gas company. When I build my
12 house, I may think about having some other
13 alternatives to fuel. And there is a just God.

14 JUDGE ALBERS: Okay. Would you have any
15 questions for Mr. Pierce?

16 MR. FITZHENRY: Well, Your Honor, I took that
17 to being his statement. I don't know that that's
18 intended to be --

19 JUDGE ALBERS: Testimonial nature?

20 MR. FITZHENRY: Testimony.

21 JUDGE ALBERS: Well, Mr. Pierce, did you have
22 any additional testimony?

1 MR. PIERCE: My testimony is I don't owe what I
2 owe them. It's just that simple. I do not owe them
3 that amount of money.

4 MS. PIERCE: I would like to add something, if
5 I may. I would just like to say, if the conditions
6 were the same as the gentleman stated six months
7 prior, then why wasn't the bills the same. The
8 billing fluctuated up, down, up, down, all over the
9 place. So if the same cracks was in, except for the
10 fire incident, they were there a year ago, two
11 years ago. So why didn't we see all of that then?

12 And as far as the meters being switched, I
13 have talked to people and since hear them say you
14 get your meter back. You don't replace the meter.
15 If the meter is fine, the company doesn't take the
16 meter and take it back to a laboratory or wherever
17 they go and test it. They -- if it checks out there
18 with the technician, then the meter was fine. You
19 don't physically take the meter back to have it
20 serviced or tested. And if it is serviced in that
21 manner, then there is something wrong with that
22 meter.

1 JUDGE ALBERS: Well, that sounded more like
2 testimony to me. Do you want --

3 MR. FITZHENRY: Well, you know, I wish I -- I
4 thought, I wasn't sure because most of it is hearsay
5 again and I am going to ask the Court to accord
6 whatever weight, if any, to Mrs. Pierce's
7 statement/testimony based on --

8 JUDGE ALBERS: I will accord the appropriate
9 weight to all of the evidence offered in this case
10 from both sides.

11 As far as the admission of particular
12 exhibits into the record then, Complainant's Exhibit
13 A, B.

14 MR. FITZHENRY: You are naming the ones that
15 have been admitted, correct?

16 JUDGE ALBERS: I haven't admitted any of them
17 yet. I am going to do that right now. So
18 Complainant's Exhibit A, B, Group Exhibit C, D, E,
19 F, I, J and K are admitted.

20 (Whereupon
21 Complainant's Exhibits
22 A, B, Group C, D, E, F,

1 I, J and K were
2 admitted into
3 evidence.)

4 JUDGE ALBERS: And Company exhibits, Company
5 Cross Exhibit A, Cross Exhibit B and Company Exhibit
6 B and Company Group Exhibit C are also admitted.

7 (Whereupon Company
8 Exhibits B, Group C and
9 Cross Exhibits A and B
10 were admitted into
11 evidence.)

12 JUDGE ALBERS: As I recall your Company Exhibit
13 A was the meter itself, correct?

14 MR. FITZHENRY: That's correct.

15 JUDGE ALBERS: That was more for identification
16 purposes.

17 MR. FITZHENRY: We did identify the tariffs in
18 the course of our examination. I provided you -- I
19 don't think they need to be made exhibits.

20 JUDGE ALBERS: They are publicly available,
21 yeah, through the Commission's Chief Clerk's office.
22 That's fine. I am not concerned about that.

1 MR. FITZHENRY: That's correct from the
2 Company's standpoint.

3 JUDGE ALBERS: Okay. As far as briefs,
4 Mr. Pierce, you indicated you would still be
5 intending to get an attorney.

6 MR. PIERCE: Yes, I am going to.

7 JUDGE ALBERS: Would you like an opportunity to
8 submit legal briefs later?

9 MR. PIERCE: Yes, I would.

10 JUDGE ALBERS: Okay. Well, we need to look at
11 our calendars then for that purpose to determine
12 dates for that. What legal issues do you believe I
13 should -- will I be reading about in those briefs?

14 MR. PIERCE: Well, not being an attorney you
15 asked me what legal aspects, I am putting one of
16 them as being harassment on their part from the get
17 go of these problems. So I don't know how I would
18 state that in legal terms. But one of them will be
19 harassment. The other will be whether or not I
20 should be charged commercial rates.

21 JUDGE ALBERS: Well, okay, let me put it to you
22 this way. The briefs are typically used to apply

1 the factual evidence that we have heard in the
2 hearing to the law and the rules.

3 MR. PIERCE: That's what I am saying. I am
4 going to apply everything that I submitted here
5 today as evidence to the law. Statements and
6 everything else that I made here today as evidence
7 to the law.

8 JUDGE ALBERS: Okay. How much time do you
9 think you would need to secure --

10 MR. PIERCE: An attorney?

11 JUDGE ALBERS: An attorney.

12 MR. PIERCE: I would need at least 30 days
13 because it is hard to find an attorney around here
14 in Springfield for me, I am being honest with you,
15 that it seems like that will go up against a big
16 company like this. So I might have to go, you know,
17 outside of Springfield to find an attorney.

18 JUDGE ALBERS: Well, I will grant you some
19 time. We can't put it off indefinitely.

20 MR. PIERCE: I said 30 days.

21 JUDGE ALBERS: That's fine. That's fine. I
22 was going to suggest that we do have initial briefs

1 due on 30 days then and then leave, oh, a week and a
2 half or so for reply briefs.

3 MR. PIERCE: I don't know what you are talking
4 about. That's what I am saying, you know.

5 JUDGE ALBERS: That's okay. Each of you get an
6 opportunity to file an initial brief if you so
7 choose, you know, applying the evidence we have
8 heard to the law. And then after seeing each
9 other's initial brief, you will each have an
10 opportunity to file what we call a reply brief,
11 explaining why you think the other side basically is
12 wrong about their application of the law to the
13 facts.

14 MR. PIERCE: Okay. I understand.

15 MR. FITZHENRY: So the initial brief will be
16 due on June 17?

17 JUDGE ALBERS: Is that a weekday? Yes, that's
18 a Friday. And we will look for reply briefs due
19 then, say --

20 MR. PIERCE: Initial brief due when?

21 JUDGE ALBERS: Initial brief due June 17.
22 That's 30 days from today.

1 MR. PIERCE: And now I need to get a copy of
2 that to you and then to him?

3 JUDGE ALBERS: You need to file a copy of that
4 with the Chief Clerk's office but you also have to
5 serve a copy of it on Mr. Fitzhenry and myself. So
6 mail a copy of it to both me and him but make sure
7 you file a copy with the Clerk's office as well.

8 MR. PIERCE: Okay. I can just come in and do
9 that or whatever?

10 JUDGE ALBERS: You can do that in person, yes.
11 And a reply brief due July 1.

12 MR. PIERCE: Okay.

13 JUDGE ALBERS: Okay. Anything further for
14 today?

15 MR. PIERCE: No, I am finished.

16 JUDGE ALBERS: All right. Then we will mark
17 the record heard and taken. And thank you,
18 everyone.

19 MR. FITZHENRY: Thank you, Judge.

20 HEARD AND TAKEN

21 (All exhibits were marked at a later time.)

22