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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
GLADYS KENDRICK,)
)
Complainant,)
)
vs.) No. 05-0660
)
NORTHERN ILLINOIS GAS COMPANY)
d/b/a NICOR GAS COMPANY,)
)
Respondent.)
)
COMPLAINT AS TO)
BILLING/CHARGES IN COOK)
COUNTY, ILLINOIS.)

Chicago, Illinois
November 21st, 2005

Met, pursuant to notice, at 1:00 p.m.

BEFORE:

MS. EVE MORAN, Administrative Law Judge

1 APPEARANCES:

2 MR. RICHARD DAVID GRISSOM, JR.
3 6400 South Stewart Street
4 Suite 3
5 Chicago, IL 60621
6 (312) 282-2655
7 for Complainant;

8 MR. RICH THOMETZ
9 1844 Ferry Road 7W
10 Naperville, IL 60563
11 (630)399-0770
12 (Telephonically)
13 for the Respondent.

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
Gladys					
Kendrick	30,55,61				43,60,62
	62,	76	78		63

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
Complainant's	Exhibits 1 - 9	

1 JUDGE MORAN: Pursuant to the direction of the
2 Illinois Commerce Commission, I call Docket 05-0660.
3 This is Gladys Kendrick versus Northern Illinois Gas
4 Company, doing business as, Nicor Gas Company. It is
5 a complaint as to billing/charges in Cook County
6 Illinois.

7 May I have the appearances for the
8 record, please. I have in the room with me
9 Ms. Kendrick and her attorney. Please state your
10 name and your address.

11 MR. GRISSOM: Good afternoon. Richard David
12 Grissom, Jr., attorney for Gladys Kendrick.

13 JUDGE MORAN: And your address, sir?

14 MR. GRISSOM: 6400 South Stewart, Suite 3;
15 Chicago, Illinois 60621.

16 JUDGE MORAN: And your telephone number?

17 MR. GRISSOM: (312)282-2655.

18 MR. THOMETZ: Richard Thometz, attorney for
19 Northern Illinois Gas Company. 1844 Ferry,
20 F-e-r-r-y, Road. Naperville, Illinois 60563.

21 JUDGE MORAN: And your telephone number, sir.

22 MR. THOMETZ: (630)388-2457.

1 JUDGE MORAN: Okay. Thank you.

2 This case was first up for status on
3 November 3rd, 2005. That's the date that I set it
4 on. Evidently, Mr. Grissom informs me that he never
5 received notice of that status date. And, therefore,
6 did not appear. He has, however, received notice of
7 the continuance to today's date that I also sent out
8 through the Clerk's office.

9 However, in the last 15 minutes we
10 noticed that there was no one here from Nicor. I was
11 able to obtain Mr. Thometz's telephone number and
12 called him. And I found out that, number one, he has
13 filed an appearance, although it does not appear on
14 e-docket. Number two, that he did not get notice of
15 today's continuance of hearing, even though
16 Mr. Grissom did.

17 So, there's a little bit of confusion.
18 I will make some inquiries into the Clerk's office
19 and try and make sure that this does not happen
20 again.

21 MR. THOMETZ: I also just checked e-docket and
22 the appearance isn't on file on e-docket. So I'll

1 refile today.

2 JUDGE MORAN: Okay. And could you also please
3 send me a copy of that appearance?

4 MR. THOMETZ: Sure.

5 JUDGE MORAN: All right. Thank you.

6 Now, I am not sure that the parties
7 have had an opportunity to talk about this case. It
8 may be difficult because Mr. Thometz is here by
9 telephone. However, I'm going to ask the parties to
10 make what reasonable efforts they can to discuss this
11 case.

12 I will tell you my concerns having
13 read the pleadings and the limited amount of
14 information that I can gather from what is on
15 e-docket.

16 I am concerned as to whether the
17 complainant -- the complaint itself is sufficient and
18 timely for action. I'm concerned that there has
19 been, from what I understand, some action in the
20 Circuit Court involving this case. In fact, the
21 complaint is -- or is being presented as mostly the
22 same as the complaint in the Circuit Court. And yet,

1 I do not have -- or I do not see an order from the
2 Circuit Court on that complaint.

3 These are my thoughts: I believe that
4 Ms. Kendrick is certainly familiar with her
5 complaint, as is her counsel. I believe Mr. Thometz
6 is also familiar with the complaint.

7 And I believe you have someone there?

8 MR. THOMETZ: I do, Judge. I have the billing
9 investigator here.

10 JUDGE MORAN: Okay.

11 MR. THOMETZ: And, so, you know, we have spent,
12 I mean, numerous hours trying to work this out with
13 Ms. Kendrick. It's maybe a year worth of this.

14 And I'm sure they'll agree that we really have spent
15 a tremendous amount of time trying to satisfy

16 Ms. Kendrick and come to some kind of
17 agreement on this.

18 JUDGE MORAN: Okay. Have you spoken with
19 Mr. Grissom?

20 MR. THOMETZ: Yes, several times.

21 JUDGE MORAN: Okay. So --

22 MR. THOMETZ: We were in Circuit Court. We

1 were in Chancery. We were in -- this has been for
2 maybe a year or so.

3 JUDGE MORAN: Okay. Has anybody here then
4 prepared a jurisdictional statement for this Court --

5 MR. GRISSOM: I have not.

6 JUDGE MORAN: -- or for this Commission.

7 Have you Mr. Thometz?

8 MR. THOMETZ: No.

9 JUDGE MORAN: Okay. What is the date of the
10 cause of action here?

11 MR. GRISSOM: Well, the initial cause of action
12 goes back to Mrs. Kendrick's initial complaint of --
13 give me a moment -- Ms. Kendrick filed a pro se
14 complaint dated --

15 MR. THOMETZ: April 2nd, 2004.

16 MR. GRISSOM: Thank you.

17 JUDGE MORAN: Okay. April 2nd, 2004, there was
18 filed a complaint. Was that filed in the Circuit
19 Court or was that filed with the Commission?

20 MR. GRISSOM: Circuit Court.

21 JUDGE MORAN: Okay. And what action did --
22 occurred in the Circuit Court?

1 MS. KENDRICK: That was an injunction to keep
2 them from turning off my gas.

3 MR. THOMETZ: Would you like me to answer?

4 MR. GRISSOM: Go ahead, Richard.

5 JUDGE MORAN: Whoever has the information for
6 me.

7 MR. THOMETZ: We went -- it was filed in
8 Chancery. We went before the, Judge. He had told --
9 the Judge had urged us to go in the hall and talk to
10 see if we can settle this.

11 JUDGE MORAN: Right.

12 MR. THOMETZ: I had filed a motion to dismiss
13 based upon certain defects in the complaint. And
14 Ms. Kendrick then hired David.

15 JUDGE MORAN: Mm-hmm.

16 MR. THOMETZ: So the complaint was amended.
17 And essentially the Judge said -- we had come to a
18 settlement of sorts, and we thought we were through.
19 But Ms. Kendrick wasn't satisfied, so she had hired
20 David. David came in. The Judge again asked us to
21 talk amongst ourselves. We had a couple court dates
22 in the hall talking, trying to come to a resolution.

1 And we were -- we had come to some kind of resolution
2 as to the Chancery matter. Then Richard had wanted
3 us to give her some money --

4 JUDGE MORAN: Damages.

5 MR. THOMETZ: -- and it was no longer a
6 Chancery matter. And Mr. Grissom, I believe, filed a
7 motion to transfer the venue to the 6th Municipal
8 District into the small claims court.

9 Am I correct, Mr. Grissom?

10 MR. GRISSOM: That is correct, Mr. Thometz.

11 JUDGE MORAN: Okay.

12 MR. THOMETZ: So then we went to the small
13 claims court in Markham to file a motion to --

14 JUDGE MORAN: Hold on, Mr. Thometz --

15 MR. THOMETZ: -- upon the Illinois Commerce
16 Commission having exclusive jurisdiction. And that's
17 how it comes before your Honor.

18 JUDGE MORAN: Okay. I need you to stop talking
19 when I start talking.

20 Okay. Here's my question: Is there
21 an order from the Circuit Court?

22 MR. GRISSOM: No. The only order from the

1 Circuit Court that we have is an order of voluntary
2 dismissal.

3 JUDGE MORAN: Okay. So there is an order.
4 It's just voluntary dismissal?

5 MR. GRISSOM: Yes.

6 JUDGE MORAN: Okay. That's from the Chancery
7 action?

8 MR. GRISSOM: Actually, there are two orders.

9 JUDGE MORAN: Okay.

10 MR. GRISSOM: One order was an order for the
11 defendant to -- for us to go to trial on 6/15/05.
12 And then my subsequent order -- well, the order from
13 the Judge on my motion of voluntary dismissal.

14 JUDGE MORAN: Okay. And this was based on --
15 is this based on the complaint that I have attached
16 in front of me?

17 MR. GRISSOM: Yes.

18 JUDGE MORAN: Okay. So now you're saying there
19 is a second order --

20 MR. GRISSOM: Those --

21 JUDGE MORAN: -- or are those the only two
22 orders?

1 MR. GRISSOM: Here's the third order. This is
2 for status set for --

3 JUDGE MORAN: Okay. And at no time prior to
4 that have you been in front of the Commission?

5 MR. GRISSOM: No, I haven't. That's correct.

6 JUDGE MORAN: Okay. And, so, the first action
7 in this case was on April 2nd, 2004. And that was in
8 the Circuit Court. And that was in the Chancery
9 Division?

10 MR. GRISSOM: Yes.

11 JUDGE MORAN: Okay. Now you're telling me that
12 there was a transfer. Was it a transfer of the same
13 action?

14 MR. GRISSOM: Yes. Well, in Chancery, as
15 Mr. Thometz, just stated, we reached an impasse in
16 that Nicor was unwilling to negotiate any further.
17 They had made their final offer to Ms. Kendrick as
18 far as settlement of the complaint.

19 Ms. Kendrick was unwilling to accept
20 the terms of that offer. She was, as Mr. Thometz
21 stated, was going to sue for money damages. And, at
22 that point, the Judge directed me to remove the case

1 from Chancery to the law division --

2 JUDGE MORAN: Okay.

3 MR. GRISSOM: -- at which time I motioned to
4 transfer the case to the 6th District in Markham.

5 JUDGE MORAN: Okay. So you took a voluntary
6 dismissal in Chancery. Am I clear?

7 MR. GRISSOM: Transfer from Chancery.

8 JUDGE MORAN: Okay. Transfer from Chancery
9 to...

10 MR. GRISSOM: The 6th District --

11 JUDGE MORAN: Okay. 6th District.

12 MR. GRISSOM: -- law.

13 JUDGE MORAN: Law, Municipal.

14 MR. THOMETZ: I have something to add if I
15 could --

16 JUDGE MORAN: Okay. Hold on. I'm trying to
17 get -- I just want facts.

18 MR. THOMETZ: Sure.

19 JUDGE MORAN: I don't want argument. I don't
20 want opinions. I just want facts. Because I'm
21 having a problem here.

22 Okay. Now, what happened in the 6th

1 District --

2 MR. GRISSOM: Well, ultimately --

3 JUDGE MORAN: -- when this case was
4 transferred.

5 MR. GRISSOM: We were preparing for trial. And
6 during my research for -- in preparation for trial, I
7 discovered that the Trial Court did not have
8 jurisdiction over this type of cause.

9 JUDGE MORAN: Right.

10 MR. GRISSOM: And, at that point, I motioned
11 the Court for a voluntary dismissal, and then filed a
12 formal complaint with the ICC.

13 JUDGE MORAN: Okay. So we have a voluntary
14 dismissal in Chancery, voluntary dismissal in the law
15 division.

16 MR. GRISSOM: Yes. There was no dismissal in
17 Chancery -- well, I don't know if it was a transfer.

18 JUDGE MORAN: Okay. That was transfer.

19 MR. GRISSOM: Yes.

20 JUDGE MORAN: Okay.

21 MR. THOMETZ: The Chancery issues have been
22 resolved.

1 JUDGE MORAN: Okay. All right. Now, is there
2 an order or some disposition from the 6th District?

3 MR. GRISSOM: No -- well, there's an order of
4 voluntary dismissal, but no other order than that.
5 No other orders than the ones I've shown you this
6 afternoon.

7 JUDGE MORAN: Okay. And these are -- are these
8 from -- I'm still confused.

9 MR. GRISSOM: Those are from the 6th District.

10 JUDGE MORAN: These are from the 6th District?

11 MR. GRISSOM: Yes.

12 JUDGE MORAN: Okay. That's better. Now I
13 understand a little bit of that.

14 The action that was first taken in
15 this case in the Court system, in the Circuit Court
16 system --

17 MR. GRISSOM: Yes.

18 JUDGE MORAN: -- was on April 2nd, 2004?

19 MR. GRISSOM: I'm looking for that file.

20 Ms. Kendrick, what did the Judge
21 instruct you to do when you filed your first --

22 MS. KENDRICK: That was an injunction to keep

1 them from turning off my gas because I refused to pay
2 the tenants' gas bill.

3 MR. GRISSOM: And the Judge instructed you to
4 revise your complaint -- or to file an amended
5 complaint?

6 MS. KENDRICK: Yeah.

7 JUDGE MORAN: Who's got a copy of that initial
8 pleading?

9 MR. THOMETZ: I do.

10 JUDGE MORAN: You, Ms. Kendrick, initiated that
11 action?

12 MS. KENDRICK: Yeah.

13 JUDGE MORAN: Okay. You do have a copy of
14 that, Mr. Thometz?

15 MR. THOMETZ: I do, Judge.

16 JUDGE MORAN: All right. I'm going to need
17 that.

18 MR. THOMETZ: Okay. No problem. I could fax
19 it right now if you'd like.

20 JUDGE MORAN: Yes, you can do that.

21 MR. THOMETZ: All right. Can I have a fax
22 number?

1 JUDGE MORAN: Sure. (312) 814-7289.

2 MR. THOMETZ: All right. I'll have it faxed
3 right now.

4 JUDGE MORAN: All right.

5 MR. THOMETZ: Do you need a cover letter,
6 Judge, or will it come straight to you?

7 JUDGE MORAN: Oh, no. No. No. Just send it.

8 MR. THOMETZ: Okay. All right it's being sent.

9 JUDGE MORAN: Okay. Let me ask my next
10 question.

11 When this case was transferred from
12 Chancery to the law division, was there any amendment
13 to the pleading?

14 MR. GRISSOM: No.

15 JUDGE MORAN: Okay. And why? Because this
16 initial pleading also asked for money relief?

17 MR. GRISSOM: Yes.

18 JUDGE MORAN: Okay. All right.

19 Now, does anybody have a copy of the
20 final order from the law division other than these?
21 Is there anything else other than these three?

22 MR. GRISSOM: No, those are the only orders

1 issued by the Court.

2 JUDGE MORAN: All right.

3 MR. THOMETZ: You have the June 15th order;
4 correct?

5 JUDGE MORAN: I have an April 21st, 2001 order,
6 a June 8th, 2005 order and a June 15th, 2005 order.

7 MR. THOMETZ: All right.

8 JUDGE MORAN: Now, I have some questions for
9 you Mr. -- wait, no, I still have a question as to
10 the cause of action in this case. I mean, I
11 understand that you're saying that April 2nd, 2004 is
12 the date that something was filed in court. But
13 that's not the cause of action.

14 The cause of action is when -- what is
15 the date of the alleged harm for Ms. Kendrick?

16 MR. GRISSOM: Well, there are numerous --

17 JUDGE MORAN: Yes.

18 MR. GRISSOM: -- dates.

19 JUDGE MORAN: Yes. I need those dates.

20 And these are all three separate
21 allegations; am I correct?

22 MR. GRISSOM: Correct.

1 JUDGE MORAN: Okay. Give me the date of the
2 first, the earliest in the first allegation.

3 MR. GRISSOM: Do you need a specific date of
4 the month or will the month and the year do?

5 JUDGE MORAN: Right now we can go with the
6 month and the year. But it may be necessary to have
7 the specific date. Now --

8 MR. GRISSOM: Okay.

9 JUDGE MORAN: Okay. Give me a date.

10 MR. GRISSOM: October 30th, 2002.

11 JUDGE MORAN: October 30th, 2002. Okay.

12 MR. GRISSOM: January 2004.

13 JUDGE MORAN: Mm-hmm.

14 MR. GRISSOM: January 2001.

15 JUDGE MORAN: Okay. January 2001. So now
16 we're going backwards.

17 MS. KENDRICK: It's the first one.

18 JUDGE MORAN: Okay.

19 MR. GRISSOM: March 2001.

20 JUDGE MORAN: And these are all times where
21 Ms. Kendrick was suffering from an injury --

22 MR. GRISSOM: Yes.

1 JUDGE MORAN: -- or became aware of an injury
2 that she had suffered --

3 MR. GRISSOM: Yes.

4 JUDGE MORAN: Okay.

5 MR. GRISSOM: February 2002.

6 JUDGE MORAN: Mm-hmm.

7 MR. GRISSOM: Those are the dates in the
8 complaint.

9 JUDGE MORAN: Okay. Mr. Thometz, let me ask
10 you something.

11 MR. THOMETZ: Sure.

12 JUDGE MORAN: Under what sections of the
13 statute or the administrative rules does this
14 Commission's authority spring from in this case?

15 MR. THOMETZ: You know, a big part of it was
16 the moratorium. Because what was going on was --

17 JUDGE MORAN: What moratorium?

18 MR. THOMETZ: Section -- Part 280.

19 JUDGE MORAN: Okay.

20 MR. THOMETZ: But what happened was
21 Ms. Kendrick's tenants would move out, and the gas
22 would be put back into her name during the winter

1 months.

2 JUDGE MORAN: Mm-hmm.

3 MR. THOMETZ: Ms. Kendrick had -- on one
4 account had said -- asked that this account stay
5 password protected so that we would not put the gas
6 back in her name on that account.

7 The problem was she believed that this
8 was the arrangement with all of her accounts. That's
9 not the case.

10 JUDGE MORAN: You're not telling me -- I don't
11 want to go into Ms. Kendrick. I'm saying take the
12 situation here where we have -- you've read the
13 complaint. Under what authority is that complaint
14 being filed and being viable with this Commission?

15 MR. THOMETZ: I have no idea.

16 JUDGE MORAN: Okay.

17 MR. THOMETZ: I don't believe it alleges we've
18 violated any Commerce Commission codes.

19 JUDGE MORAN: And that's what I'm seeing. And
20 I want to know if there is something out there.

21 Under what section can Ms. Kendrick
22 get relief?

1 MR. THOMETZ: None.

2 JUDGE MORAN: Is there a provision in the Act
3 or under our rules that allow recovery for the harm
4 being alleged here?

5 MR. THOMETZ: No.

6 MR. GRISSOM: Yes, there is.

7 JUDGE MORAN: Okay. Hold on. You'll get a
8 chance.

9 Is there, that you know of, a statute
10 of limitation on getting relief under any section,
11 any of the sections that you're familiar with, that
12 this action might qualify for?

13 MR. THOMETZ: I'm not familiar. I'd have to
14 look.

15 JUDGE MORAN: Okay. I'm going to put these
16 same questions to Mr. Grissom.

17 MR. GRISSOM: Yes.

18 JUDGE MORAN: I need to know what section of
19 the code or the statute is being alleged as being
20 violated here?

21 MR. GRISSOM: Well, Judge Moran, in our formal
22 complaint we state that the specific section of the

1 law that's involved is 220 ILCS5/9-252.1 Subject
2 Refunds for Overcharges, that section allows for the
3 Illinois Commerce Commission to issue a refund when
4 the Commission determines that a public utility has
5 overcharged a customer.

6 JUDGE MORAN: Okay. And is there a statute of
7 limitations tied to that provision?

8 MR. GRISSOM: Not in my reading. I did not
9 find a statute of limitations, no.

10 JUDGE MORAN: Okay. And that's 220 ILCS --

11 MR. GRISSOM: Yes.

12 JUDGE MORAN: -- 5/9- --

13 MR. GRISSOM: 252.1 and 253.

14 JUDGE MORAN: Okay. Mr. Thometz, do you know
15 of a statute of limitations that applies with these
16 statutes?

17 MR. THOMETZ: Not offhand, Judge.

18 JUDGE MORAN: Okay. The attorneys here will
19 provide a statement of jurisdiction that covers the
20 sections of the code -- or the statute, I'm sorry,
21 that are being invoked in this case and will do the
22 research on whether there is any statute of

1 limitations for pursuing an action under that
2 section. Because I'm looking at some old dates here
3 and I certainly know from previous experience in
4 telecom cases that there were, in fact, statute of
5 limitations.

6 And it is necessary that the attorneys
7 show, on both sides, that this Commission has the
8 jurisdiction to hear this case. It should always be
9 the first question answered in any case.

10 Now, let me proceed to ask
11 Ms. Kendrick do you work?

12 MS. KENDRICK: Yes, I do.

13 JUDGE MORAN: You do.

14 You're here, and I believe that NI GAS
15 has someone that they would want me to hear from.

16 Is that true, Mr. Thometz?

17 MR. THOMETZ: Well, Judge, I have a billing
18 investigator here who is aware of all the facts of
19 the case and what happened in terms of Nicor and what
20 we did. I don't know if you want to hear kind of our
21 story.

22 JUDGE MORAN: Well, okay, it's not just your

1 story. This would be your testimony.

2 MR. THOMETZ: Sure. I have somebody here.

3 JUDGE MORAN: Let me you take all to where I'm
4 going with this.

5 MR. GRISSOM: Yes.

6 JUDGE MORAN: I'm trying to decide even without
7 a jurisdictional statement, which I'm a little
8 concerned about because this case was filed in
9 Circuit Court first and not here. And some of those
10 dates seem strangely old to me.

11 MR. GRISSOM: Yes.

12 JUDGE MORAN: However, there may have been --
13 there may be other things there that I'm not looking
14 at yet to save the case.

15 MR. GRISSOM: Would it be useful to check to
16 see if the fax has come across yet?

17 JUDGE MORAN: Yes. I will do that. But let me
18 continue my thought here.

19 I'm concerned that Ms. Kendrick is
20 here, that Ms. Kendrick is a working woman. And I'm
21 wondering if we should not take testimony today so
22 that Ms. Kendrick doesn't need to come back.

1 Obviously, if we don't have any jurisdiction to hear
2 the case, that's going to be for naught. At the same
3 time, if, in fact, the filings by the attorneys show
4 that we do have jurisdiction, we'll have that
5 testimony, and that record will be built.

6 It's up to you. Realizing that there
7 has been some mess-up here where we don't have NI
8 GAS's attorney here in person. We don't have their
9 witnesses or their potential witnesses here in
10 person.

11 I'm going to leave it to you all to
12 work out what you think is the fairest and the best
13 way to proceed in this case. I'm taking note of the
14 fact that you're here, Ms. Kendrick.

15 THE WITNESS: Okay.

16 JUDGE MORAN: Okay. We could possibly just
17 take testimony from Ms. Kendrick today. We could
18 take all the testimony today.

19 How do you all feel about it?

20 Let's go off the record and discuss
21 this so that everybody is more comfortable doing so.

22

1 (Whereupon, a discussion was had
2 off the record.)

3 JUDGE MORAN: The parties have all indicated to
4 me that they are ready to proceed in this case. And
5 I'm trying to save Ms. Kendrick time from taking
6 another day off work.

7 So we will do that, and we're taking a
8 10-minute break at 2:10. We will reconvene and the
9 witnesses will be sworn. In fact, I can do that
10 right now.

11 Are your there witnesses, Mr. Thometz?

12 MR. THOMETZ: She just went to get a file.

13 JUDGE MORAN: Okay. I'll swear in the
14 witnesses when we return. Thank you.

15 (Whereupon, a recess was taken.)

16 JUDGE MORAN: There is no motion to dismiss
17 pending before me on any -- on the section here noted
18 that being 220 ILCS5/9-252. However, that is a
19 matter that goes to the Commission's authority to
20 hear the case; and, therefore, it needs to be
21 addressed by me regardless of whether anyone has
22 raised it.

1 MR. THOMETZ: And, Judge, when you -- if you
2 want to discuss it now, I'd like to orally move to
3 dismiss the counts in that complaint in which
4 Mr. Grissom has named five different dates. And I
5 would orally move to dismiss the case -- the dates or
6 the counts which are not within the statute of
7 limitations based upon the Commerce Commission not
8 having jurisdiction according to statute because --

9 JUDGE MORAN: I'll note your oral motion,
10 because it's not acceptable to me at this time.

11 MR. THOMETZ: All right.

12 JUDGE MORAN: I will need thorough examination
13 of just what happened in this case. And if anything
14 happened that will -- whether a reinvestment of this
15 Commission is possible, in light of the fact that
16 there was activity at the Circuit Court. I am
17 certainly not clear as how this case has evolved.
18 And maybe some of that will appear in the testimony.
19 And I'll have a record on that. But it is still
20 matters that both of you need to address. And I want
21 you to do so in good faith.

22 Okay?

1 MR. GRISSOM: Okay.

2 MR. THOMETZ: Yes, Judge.

3 JUDGE MORAN: All right. But that is, in fact,
4 the language that has been haunting me throughout
5 this case.

6 Okay. With that, let us go to
7 hearing. I'm going to swear the witnesses who will
8 be testifying.

9 MR. THOMETZ: From Nicor I have Cheryl Bowers.
10 Last name is B-o-w-e-r-s.

11 JUDGE MORAN: Okay. And for the complainant.

12 MR. GRISSOM: For the complainant, Judge,
13 Gladys Kendrick.

14 JUDGE MORAN: And would you both raise your
15 hands. I'm going to swear you both in.

16 (Witness sworn.)

17 JUDGE MORAN: Thank you.

18 Okay. We will proceed with
19 Ms. Kendrick. And you want to identify your witness.
20 Put her name, address and all that in for the record.

21

22

1 GLADYS KENDRICK,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. GRISSOM:

7 Q For the record, Ms. Kendrick, would you
8 state your full name.

9 A My name is Gladys G. Kendrick. The address
10 is 20140 Lake Park Drive; Lynwood, Illinois,
11 L-y-n-w-o-o-d. The zip is 60411.

12 You need the phone number?

13 JUDGE MORAN: Yes.

14 THE WITNESS: Phone is (708) 474-1901.

15 BY MR. GRISSOM:

16 Q Thank you, Ms. Kendrick.

17 Ms. Kendrick, before we proceed with
18 any specific claims in the complaint, I'd like to
19 address the issue raised by Judge Moran regarding
20 Statute 5/9-252.1. Specifically, that statute reads
21 in part, "Any complaint relating to an incorrect
22 billing must be filed with the Commission no more

1 than two years after the date the customer first has
2 knowledge of the incorrect billing."

3 Just so we can establish that we are
4 within this time line of two years, what was the most
5 recent claim you're making that the Illin- -- that
6 Nicor overchar- -- made a mistake in charging you,
7 most recently?

8 A Most recently I got the ones that I just
9 got. Here's one I just got from Cal City and also
10 from -- Cal City.

11 Q Specifically, what is the mistake that
12 you're claiming Nicor made?

13 A Okay. They billed me for Mr. Fernando.
14 Mr. Fernando had Meter 3864321. And that was for
15 November, December. And they billed me for
16 Mr. Fernando.

17 Q Is Mr. Fernando your tenant?

18 A He was the tenant there.

19 Q Is the gas account --

20 JUDGE MORAN: Excuse me, a tenant where?

21 THE WITNESS: Oh, I'm sorry. 144 154th Place,
22 Calumet City.

1 JUDGE MORAN: Okay. Counsel, could you lead
2 your witness into giving me more of the foundation.
3 I'm assuming that she owns some buildings. I'm
4 assuming that there may be buildings at different
5 addresses. That there will be different tenants. If
6 you could lay that whole thing out with your witness.

7 BY MR. GRISSOM:

8 Q Mrs. Kendrick, do you own rental property?

9 A Yes, I do.

10 Q What are the addresses of the rental
11 property that you own that are the subject of this
12 complaint?

13 A 144 154 Place, Calumet City. But I don't
14 know the zip code.

15 JUDGE MORAN: That's okay.

16 THE WITNESS: And the other one, 1107 9th
17 Street, Ford Heights. That zip is 60411.

18 BY MR. GRISSOM:

19 Q That address, please, of the second rental
20 property?

21 A 1107 9th Street, Ford Heights.

22 Q I see. And who are the tenants? Do you

1 have tenants in those properties at this time?

2 A Yes, I do.

3 Q What are the names of the tenants in those
4 properties?

5 A Curry Vivarette.

6 Q In which property does she reside?

7 A Apartment 1 West.

8 Meter number?

9 Q No. In which of the properties? 1107 9th
10 Street?

11 A Right.

12 Q I see. And who is the tenant in the other
13 property, 144 154th Street?

14 A Mr. Fernando Medina, M-e-d-i-n-a.

15 Q I see.

16 A Another one was Janet Young, J-a-n-e-t.

17 Q How long are those -- excuse me for
18 interrupting you, Ms. Kendrick.

19 In the interest of clarity, did
20 Mr. Fernando and Janet Young occupy the rental
21 property at 144 154 Street at the same time?

22 A Yes.

1 Q They did. So they were tenants at the same
2 time?

3 A Yes.

4 Q Okay.

5 A But Janet Young did move out.

6 Q Okay. Well, let's deal with this -- let's
7 deal with the most recent overcharge mistake by
8 Nicor.

9 Will you please state the mistake in
10 dollar amount and why -- specifically why it is a
11 mistake.

12 A Okay. The most recent mistake was at 144
13 154 Place. I was billed for Meter No. 3864321. That
14 meter was occupied by Mr. Fernando Medina.

15 Q Let me just be clear on this.

16 There's a Meter No. at 15 -- 144 154th
17 Street?

18 A 154 Place.

19 Q And that meter number, please?

20 A That meter number is 3864321.

21 Q And in whose name is that account
22 registered?

1 A That account was in Fernando Medina
2 F-e-r-n-a-n-d-o, M-e-d-i-n-a.

3 Q Thank you.

4 And how is it that you came to be
5 billed for an account in the name of Mr. Fernando --
6 for the record and also for clarification, what is
7 the meter number for your account?

8 A The meter number for my account at that
9 time.

10 Q For Gladys Kendrick's account?

11 A At that time should have been 2931131.

12 JUDGE MORAN: 29329?

13 THE WITNESS: 2931131.

14 BY MR. GRISSOM:

15 Q I see.

16 JUDGE MORAN: Thank you.

17 BY MR. GRISSOM:

18 Q And the mistake -- you were saying you were
19 billed for?

20 A I was billed for Mr. Medina's meter. I
21 have the other -- the other meter 2931131, I had that
22 temporarily in my name because the tenant had just

1 moved out, and we were not using any gas or anything.

2 I received a bill --

3 Q What is the date of that bill?

4 A That bill was -- that was the January 6th
5 bill.

6 MR. THOMETZ: Can we get an amount as well?

7 BY MR. GRISSOM:

8 Q The amount of the bill, please?

9 A This one was \$103.39.

10 Q January 6th, 2005?

11 A 2005.

12 Q Okay.

13 JUDGE MORAN: That was \$103 and how many cents?

14 THE WITNESS: 39.

15 JUDGE MORAN: 39.

16 BY MR. GRISSOM:

17 Q Okay. What would be the next mistaken
18 bill?

19 A The meter -- Mr. Fernando, who occupied the
20 meter that I just gave you, was billed \$39.07. But
21 he had a family -- a wife that was at home all day.

22 Q Yes.

1 A And their bill was \$39.07. The unoccupied
2 bill was \$103.39.

3 Q Let me understand that correctly,
4 Ms. Kendrick. Are you saying that the entire gas
5 bill for this billing period of January the 6th, do
6 you say? For that billing date? The billing was
7 what?

8 A This billing date -- let me go to the
9 billing date on that date. The date of issue, that
10 was January 6th.

11 Q January 6th, 2005.

12 Are you saying, then, that a Nicor Gas
13 bill in account number -- in Meter No. 3864321 came
14 to your residence instead of Mr. Fernando's?

15 A Yes.

16 Q I see.

17 And another bill -- a separate bill
18 went to Mr. Fernando's house in the amount of?

19 A \$39.

20 Q Okay. Your claim is that you should not
21 have been billed for any charges to that meter?

22 A Right.

1 Q I see.

2 Let's go on to the next mistake --

3 MR. THOMETZ: Can I clarify -- is there a --
4 does she have a copy of that bill there?

5 MR. GRISSOM: Yes, we do.

6 JUDGE MORAN: Do you want to mark it as an
7 exhibit and then we can fax it?

8 MR. GRISSOM: We do.

9 Which one did you just speak on?

10 JUDGE MORAN: You know what, hold on. I'm
11 going to get a fax form. You can mark this, and then
12 I'm going to see if someone will help me with these
13 faxes.

14 MR. THOMETZ: If I could get all your exhibits,
15 maybe that would help.

16 MR. GRISSOM: Okay.

17 (Whereupon, a recess was taken.)

18 MR. GRISSOM: Should I make copies, Judge
19 Moran?

20 JUDGE MORAN: That -- yeah. Because they
21 probably won't go in the fax machine like that. We
22 might have a problem.

1 BY MR. GRISSOM:

2 Q The date of the bill and the amount of the
3 mistake, Ms. Kendrick?

4 A That bill came from January, \$103.39.

5 Q Okay. Was that Mr. Fernando's bill? We
6 just had a bill in that amount.

7 A Oh, that was Mr. Fernando's, okay.

8 The other one was 39, and you have it.
9 I don't know where it is here.

10 Q \$39 and some?

11 A 39 and some cents.

12 MR. THOMETZ: Just for clarification, it says
13 on the top that Gladys Kendrick bill --

14 JUDGE MORAN: What are we referring to? Are
15 you referring to Exhibit 1?

16 MR. THOMETZ: I'm sorry, Judge.

17 JUDGE MORAN: Thank you.

18 MR. THOMETZ: Exhibit No. 2, which is the
19 exhibit for \$103.39.

20 JUDGE MORAN: Okay.

21 MR. THOMETZ: And at the top it's service for
22 Gladys Kendrick.

1 JUDGE MORAN: Is that what's reflected on that
2 exhibit?

3 MR. GRISSOM: Exhibit 1?

4 JUDGE MORAN: Mm-hmm.

5 MR. GRISSOM: Yes.

6 Well, what we want to do here is just
7 establish the amount -- the mistakes that come within
8 a two-year period.

9 JUDGE MORAN: Okay.

10 MR. THOMETZ: You're saying this is a bill for
11 a Mr. Fredricks. I have nothing here -- I have no
12 indication that that's the case.

13 MR. GRISSOM: Fredricks. I didn't use the name
14 Fredricks.

15 MR. THOMETZ: What was the name of the tenant?

16 MR. GRISSOM: Fernando.

17 MR. THOMETZ: Okay. I don't have anything
18 showing for a Fernando. So --

19 MR. GRISSOM: Well --

20 JUDGE MORAN: Does the meter relate to
21 Mr. Medina? Is that Mr. Medina's meter?

22 THE WITNESS: Yes, that was his meter.

1 JUDGE MORAN: This 3864321, is that the meter
2 that is appearing on Exhibit 1?

3 MR. GRISSOM: Yes, Judge Moran.

4 JUDGE MORAN: Okay. And that is the meter that
5 you claim is registered to Mr. Medina; right.

6 THE WITNESS: Yes.

7 JUDGE MORAN: Okay.

8 MR. GRISSOM: And --

9 JUDGE MORAN: Are you following that,
10 Mr. Thometz?

11 MR. THOMETZ: Yes, Judge. Only that we don't
12 have him as a customer of record at that time, at
13 that address.

14 JUDGE MORAN: Okay. Do you have him as a
15 customer of record in the previous months?

16 MR. THOMETZ: We have him on the first floor
17 property, Judge.

18 JUDGE MORAN: On the first floor.

19 Okay. You know what, let's -- do you
20 mind if I ask your witness some questions?

21 MR. GRISSOM: No, I don't.

22 JUDGE MORAN: Okay. I think we need a little

1 more background.

2 Ms. Kendrick, don't look at those
3 papers. You're going to talk to me.

4 THE WITNESS: Okay.

5 EXAMINATION

6 BY

7 JUDGE MORAN:

8 Q As I understand it, you own two buildings?

9 A Yes.

10 Q Okay. And one building is at 144 154th
11 Place?

12 A Yes.

13 Q Okay. We'll call that the 154th Place
14 Building. Okay?

15 Now, how many units are in that place?

16 A Three.

17 Q Okay. And who lives on the first floor? I
18 assume there are three floors going up --

19 A At this time.

20 Q Just right now?

21 A Who lives there now?

22 Q Yes.

1 A In apartment one is Latalia Fort, F-o-r-t.

2 Q Okay. A Mr. Fort?

3 A Mrs.

4 Q Mrs. Fort?

5 A Mm-hmm.

6 Q Okay. And in that unit -- how long has

7 Mrs. Fort lived there?

8 A Ms. Fort moved there in -- she moved in

9 September.

10 Q Okay. September of this year?

11 A Right.

12 Q Okay. She moved in -- all right. And who

13 lived there previous to Ms. Fort?

14 A Mr. Fernando.

15 Q Mr.?

16 A Mr. Fernando Medina.

17 Q Okay. Mr. Medina.

18 Okay. And when did he move out?

19 A He moved out in July -- no, he moved out in

20 August. That's right. In August.

21 Q Okay. He moved out in August of 2005. And

22 Ms. Fort moved in in September 2005?

1 A Right.

2 Q Okay. Great.

3 And how long had Mr. Medina lived
4 there about?

5 A Mr. Medina moved in in September of 2004.

6 Q Okay. And previous to Mr. Medina living
7 there, who lived there in that same apartment? Do
8 you remember?

9 A Yeah, I'm trying to think of the names
10 because it was vacant almost a year.

11 Q Okay. So it was vacant before Mr. Medina
12 moved in there for some time?

13 A Right. Right.

14 Q Okay. All right. Now, let's go to the
15 second -- how -- excuse me, this 154th Street
16 building, is it a three-flat? Is it...

17 A It's a three-unit --

18 Q Three units --

19 A -- two apartments on the first floor and
20 one on the second.

21 Q Okay. So who also lives on the first floor
22 in the second apartment?

1 A Okay. A gentleman lives there by the name
2 of Zariief Kendrick.

3 Q Okay. Z-o --

4 A Z-a-r-i-e-f.

5 Q Ken?

6 A Kendrick, K-e-n-d-r-i-c-k.

7 Q Oh, all right.

8 And when did he move in?

9 A He moved in -- he's been there like -- he
10 moved in November of '04.

11 Q Okay. November 2004.

12 And who lived there before then? Or
13 was it vacant, or do you remember?

14 A Yeah, it was vacant for a good while. The
15 young man's name was Moutry that lived there.

16 Q Okay. So previous to Mr. Kendrick there
17 was a man named Moutry, M-o-u-t-r?

18 A Y.

19 Q Okay. And between the time that Mr. Moutry
20 lived there and Mr. Kendrick lived there, there was a
21 period of vacancy?

22 A Yes.

1 Q For how long?

2 A Over a year.

3 Q Now, okay. We've sort of covered the first
4 floor and the two apartments on that first floor.
5 Let's go to the second floor. You have a tenant
6 there?

7 A That's right.

8 Q Okay.

9 A The young lady that lived there was Janet
10 Young.

11 Q Okay. And what period of time was Janet
12 Young a tenant there?

13 A She moved there in '03, June of '03. And
14 she stayed until the end of October of '04.

15 Q Okay. And after she moved out in October
16 '04, what happened to that -- was it --

17 A It was vacant until January and that's
18 Nathan.

19 Q It was vacant January 2005?

20 A Of '05, yes.

21 Q And who is living there now?

22 A Who lives there now or who moved in after?

1 Q Who moved in there in January 2005?

2 A That was Nathan.

3 Q Nathan?

4 A We call him Nathan.

5 Q N-a-t-h-a-n. And the last name is?

6 A Her last name is Nathan. Her first name is
7 Nicole, N-i-c-o-l-e.

8 Q Okay. I'm so sorry.

9 All right. She moved there in January
10 or February?

11 A She moved in in January.

12 Q Okay. And is she still there?

13 A No, she's --

14 Q So where -- when did she vacate the
15 premises?

16 A She left in July.

17 Q Okay. So she was only there from January
18 2005 to July 2005.

19 And then what happened?

20 A Now, I have a new tenant who is moving in.

21 Q Okay. So from July 2005 it's been empty?

22 A I have a new tenant that's in now.

1 Q Oh, now. When did that new tenant move in?

2 A She moved in -- I'm trying to think. She
3 moved in this August -- she moved in in September.
4 She moved in in September.

5 Q Okay. September 2005. And what is her
6 name, please?

7 A Her name -- I'm trying to get her last
8 name. I'll think of her last name.

9 Q Okay. What's her first name for the
10 moment?

11 A She calls herself Jay, J-a-y.

12 Q Okay. All right. So you will think of
13 her -- somehow refresh your memory to give me that
14 name?

15 A I will.

16 Q Okay. Now, let me ask you about the
17 meters. As far as you know, there are meters for
18 these different apartments in your building?

19 A That's right.

20 Q Okay. And those meters have a certain
21 number?

22 A Right.

1 Q And do the numbers change when a tenant
2 moves in or out, or is the meter number always the
3 same?

4 A The meter number is always the same.

5 Q Okay. The meter number is the same, but
6 they probably have a different customer number, as
7 you know it?

8 A Yeah.

9 Q Okay. So this number that you had
10 testified to just a few minutes ago, 3864321, is that
11 the meter number for that floor where Mr. Medina
12 lived --

13 A Right.

14 Q -- that first floor?

15 A 1 front. 1F.

16 Q Right.

17 Okay. That's first floor front and
18 the other one is second floor rear; right?

19 A Right.

20 Q Okay. And, so, that other number that you
21 had mentioned in your testimony, the 2931131 --

22 A That's upstairs.

1 Q -- that's the meter that would be for the
2 first floor rear?

3 A No. 2911 is upstairs, second floor.

4 Q Okay. So that's the second floor
5 apartment. Okay.

6 Okay. And then do you -- is there a
7 meter number for the first floor rear apartment?

8 A Yeah. It's 299, first floor. I know the
9 first few digits are 299. That's how I keep up with
10 them.

11 Q Okay.

12 A Okay. Let's see if I have it. Probably
13 have 299 in here. 2995662.

14 Q Okay. All right. So now I believe we've
15 established who the tenants were for at least a
16 reasonable period of time. And I don't know exactly
17 where your case is going. And, so, I'm not going to
18 go any further with this. I'm going to let your
19 attorney establish if there is a need to go back
20 further in time with the residents in these
21 apartments.

22 Let me ask you, what is the problem

1 that has occurred, or what is your complaint, in
2 essence, and how does it involve any of these
3 apartments or meters?

4 A Okay. My complaint is that they billed me
5 for the wrong meter.

6 Q Okay. "They" being who? Nicor?

7 A Nicor.

8 Q Okay.

9 A Nicor bills me for the wrong meter. When
10 tenants move in, they're given their meter number --

11 Q Okay.

12 A -- and they called that in.

13 Q Okay. So any one of these tenants that
14 comes in calls for service. Is that what you're
15 telling me?

16 A Right. They have to have their own service
17 turned on.

18 Q From Nicor. And you tell them that --

19 A Right.

20 Q -- you know, you're renting the apartment
21 without heat?

22 A Without heat.

1 Q So what is it? They have individual
2 heating?

3 A Right.

4 Q Are there individual heating units?

5 A Yes, it is.

6 Q Okay. And, so, you inform the tenant that
7 they have to sign up for their own service and you
8 give them the meter number?

9 A Right.

10 Q Okay. And you don't live in this building
11 at all, do you?

12 A No, I don't.

13 Q All right. Can you tell me then,
14 specifically, with what meter was there a problem
15 that Nicor is billing you and how do they bill you?

16 A 386 and 2911.

17 Q Mm-hmm.

18 A That's -- there's a problem there. I had
19 2911 for December because no one lived there. And
20 they billed me for 386. And they billed Mr. Fernando
21 for 293.

22 Now, even though we wrote letters. I

1 called them on it. Mr. Fernando called. I called
2 them, and they did nothing. I asked them to correct
3 the billing, and they never corrected it. Because I
4 paid for the overbilling.

5 MR. GRISSOM: May I --

6 THE WITNESS: Here is a copy of the letter --

7 JUDGE MORAN: Absolutely. This is your
8 witness.

9 MR. GRISSOM: Just so I'll have my notes
10 correct here, how far back did we go with the
11 residency of the tenants?

12 JUDGE MORAN: We go back in 2004 on the third
13 floor.

14 MR. GRISSOM: Yes.

15 JUDGE MORAN: I'm sorry, that isn't the third
16 floor.

17 THE WITNESS: The second floor? Is that it?

18 JUDGE MORAN: First floor front.

19 MR. GRISSOM: Yes. 2004 on first floor front.
20 And?

21 JUDGE MORAN: And we go back to 2003 --

22 MR. GRISSOM: Yes.

1 JUDGE MORAN: -- on the first floor rear. And
2 we go back to June 2003 --

3 MR. GRISSOM: Yes.

4 JUDGE MORAN: -- on the second floor.

5 MR. GRISSOM: Thank you.

6 JUDGE MORAN: And understand that you may
7 have -- and I will allow you to go back.

8 MR. GRISSOM: Yes.

9 JUDGE MORAN: Let's work on the difficulties
10 that we're experiencing in this time frame first --

11 MR. GRISSOM: Certainly.

12 JUDGE MORAN: -- otherwise it's going to be
13 overwhelming.

14 MR. GRISSOM: Certainly.

15 FURTHER DIRECT EXAMINATION

16 BY

17 MR. GRISSOM:

18 Q Ms. Kendrick, I want to get to the heart of
19 the matter here. I'd like to ask you a hypothetical
20 question, if I could.

21 What would it take, in your
22 estimation -- strike that.

1 What would amount to Nicor correcting
2 this problem? You've written letters, and you've
3 called. There's been no correction, is your
4 testimony.

5 What would Nicor have to do to correct
6 these problems, as you see it, as simply as you can
7 put it?

8 A Okay. Very simply, bill the people for the
9 meter numbers that they give them when they call in.
10 Because they've said they've called in, and Nicor has
11 said to them, that's not -- "Which apartment are you
12 in? That's not your meter number?"

13 Q I see.

14 A And I'd like my money back for what I've
15 paid in there.

16 Q I see. So do I understand you to say,
17 then, that these tenants, when they begin occupancy
18 in these units, they're calling Nicor and telling
19 Nicor to turn the gas on in their names?

20 A Right.

21 Q And Nicor is or is not doing that?

22 A They turn it on.

1 Q They turn on the gas in their names?

2 A Mm-hmm.

3 Q But the problem arises when you -- but as
4 you see it, Ms. Kendrick, the problem arises when the
5 actual bill comes, the gas service -- or I should say
6 the billing amount --

7 MR. THOMETZ: Judge, I'm going to object. I
8 think he's leading a little bit too much. I'd like
9 to hear what --

10 JUDGE MORAN: I'm going to overrule that
11 objection. I don't have a problem with this.

12 MR. GRISSOM: Thank you, Judge.

13 BY MR. GRISSOM:

14 Q So if I understand you correctly, what
15 you're saying is your problem arises when the -- in
16 the billing amounts because the billing amounts do
17 not reflect -- or I should say the billing amounts
18 are charging you for gas service when the tenant
19 should be receiving the bill?

20 A Absolutely. I'm being charged for gas that
21 tenants are using. Instead of billing the tenants,
22 they bill me.

1 Q And you do not reside in these buildings?

2 A Right.

3 Q How is it, then, as you see it, that you're
4 getting billed if you don't live in the building?
5 Can you clarify for the Judge how you believe you're
6 getting billed for -- what mistake is being made in
7 terms of you getting billed for service when you
8 don't live in the building?

9 A Okay. Sometimes the tenants, I guess, call
10 them and tell them they're moving --

11 Q Yes.

12 A -- and the tenants don't move. They stay
13 there. They know the system, they can stay for so
14 long. And then they move out.

15 Q Yes.

16 A And they are using gas while they're there.

17 Q Yes.

18 A And Nicor bills me because the tenant
19 called them in July, and say I'm moving out July the
20 30th --

21 Q Yes.

22 A -- the tenant stays there until the end of

1 October.

2 Q Yes.

3 A Then Nicor bills me --

4 Q I see.

5 A -- for the tenants gas.

6 JUDGE MORAN: Okay. And that has happened when
7 and where? Has it happened at this 154 Place?

8 THE WITNESS: 144 -- yes, it has.

9 JUDGE MORAN: Okay. In terms of who?

10 THE WITNESS: In terms of Dominique Moore, who
11 moved out in 2002. I think that was October --
12 November. She moved out November 2002.

13 JUDGE MORAN: Where did she live? First floor
14 front? First floor? Or the second floor?

15 THE WITNESS: First floor front. Dominique
16 Moore.

17 JUDGE MORAN: Okay.

18 BY MR. GRISSOM:

19 Q I see.

20 A And I was billed for her. I could go back
21 farther to Evelyn Jones, who moved out -- I believe
22 she moved out in 2001.

1 Q I see.

2 FURTHER EXAMINATION

3 BY

4 JUDGE MORAN:

5 Q And where did she live?

6 A She lived in the rear, 299.

7 Q Okay.

8 A And I was billed for her. She told them
9 she was moving out in February. She moved out the
10 last of March.

11 MR. GRISSOM: I see.

12 BY JUDGE MORAN:

13 Q Okay. So, in other words, something
14 happens that when a tenant moves out there's a -- the
15 billing reverts to you somehow?

16 A That's what they're doing.

17 And did -- I called them in -- I think
18 it was '96. And it was their -- one of their
19 representatives who told me, "Why don't you come up
20 with a code, a password. So that if a person does
21 not give that password, we'll know it's not you. And
22 we will not turn the gas on. We'll just cut the gas

1 off then if they don't give us that password."

2 That was an agreement. And they told
3 me to do that, and I did that. Because that had gone
4 on before earlier in '95.

5 Q Okay. When did you have this agreement
6 with Nicor?

7 A In '96.

8 Q And who is that agreement with?

9 A I am not sure of the name, but -- I'm not
10 sure. But they have it in the record.

11 Q Okay.

12 FURTHER DIRECT EXAMINATION

13 BY

14 MR. GRISSOM:

15 Q Has this been an ongoing problem?

16 A Yes, it's been an ongoing problem.

17 Q To the present?

18 A Yes. And I just got tired of paying them.
19 Because they threatened to turn my gas off at my
20 house if I didn't pay them for the tenant's gas.

21 JUDGE MORAN: And where do you live?

22 THE WITNESS: I live at 20140 Lake Park Drive

1 Lynwood, Illinois.

2 FURTHER EXAMINATION

3 BY

4 JUDGE MORAN:

5 Q Okay. And do those bills come to you from
6 these buildings that you own?

7 A Yeah, they come there, and some come to my
8 mailbox.

9 Q Okay. You also have a post office box?

10 A Post office.

11 Q Okay.

12 MR. GRISSOM: I have a question, if I may.

13 JUDGE MORAN: Absolutely.

14 FURTHER DIRECT EXAMINATION

15 BY

16 MR. GRISSOM:

17 Q Ms. Kendrick, in the past two years, what
18 would you estimate would be the amount of mistaken
19 charges you have paid as a result of this problem you
20 just described?

21 A In the past two years?

22 Q In the past two years, what would you

1 estimate?

2 A Probably somewhere between 400 and \$500.

3 MR. GRISSOM: Okay. We rest, Judge Moran. No
4 further questions.

5 FURTHER EXAMINATION

6 BY

7 JUDGE MORAN:

8 Q Okay. We've gone through the 154th Place
9 building. I want you to take me through the 9th --

10 A 9th Street.

11 Q 9th Street building, if, in fact, you were
12 experiencing those types of problems or similar
13 problems? And before I ask you or your attorney asks
14 you any questions, I'd like to know the setup of that
15 building.

16 Okay. You don't live there either?

17 A Right.

18 Q Good. Okay. And how many apartments are
19 there?

20 A Three units.

21 Q Three units.

22 And how are they laid out?

1 A One -- they're two on the first floor and
2 one on the second floor.

3 Q Okay. So it's pretty much the same as the
4 other building?

5 A Same.

6 Q Okay. So let's see, first floor rear, who
7 lives there now?

8 A The Vivarettes live in 1 West.

9 THE REPORTER: Your Honor, was it the
10 Barrettes?

11 JUDGE MORAN: You know, I didn't hear that. So
12 I was going to ask Ms. Kendrick to repeat that for me
13 also.

14 THE WITNESS: Oh, Vivarette?
15 V-i-v-a-r-e-t-t-e.

16 JUDGE MORAN: V-i-v-

17 THE WITNESS: -- a-r-e-t-t-e.

18 BY JUDGE MORAN:

19 Q Okay. And this is Mr. or Mrs.?

20 A Mrs.

21 Q Oh, okay.

22 A Curry Vivarette.

1 Q Okay. Mr. and Mrs. Vivarette live on the
2 first floor. And when did they move there?

3 A They've been there three years. They moved
4 in July of '02, I believe.

5 Q From July '02 to the present?

6 A Right.

7 Q Okay. Prior to their living there, who was
8 your previous tenant in that space?

9 A Lanese Jones, L-a-n-e-s-e.

10 Q Lanese Jones?

11 A Mm-hmm.

12 Q And when did she move in there?

13 A She moved in probably in 2- -- I think she
14 moved in in '99.

15 Q Okay. And how long did she live there?

16 A She stayed there until February of 2002.

17 Q Okay. So she stayed there till February
18 2002. So from March 2002 until --

19 A It was vacant.

20 Q It was vacant. Okay.

21 And was there -- what did you do then?

22 Did you have gas there to heat the apartment?

1 A No, it was turned off.

2 Q What do you do when there's a vacancy like
3 that?

4 A Same thing. Because gas is very expensive.

5 Q Right. Right.

6 A I've had -- I have a 220 line that's put in
7 for electrical heat.

8 Q Okay.

9 A And that's what I use.

10 Q Oh, so you just keep electric heat in
11 there?

12 A Mm-hmm, to keep the pipes warm. That's all
13 we need to do.

14 Q Right. Okay.

15 Now, did you have a problem with Nicor
16 in this apartment?

17 A With Vivarette, yes. That's one you've got
18 over there where instead of billing them, they billed
19 me.

20 MR. GRISSOM: You marked Vivarette on there,
21 didn't you?

22 THE WITNESS: Yeah, it's on there.

1 BY JUDGE MORAN:

2 Q And you have a number for that meter in
3 that Vivarette apartment?

4 A The Vivarette apartment is 201 A2-47.

5 Q 47, okay.

6 A And they billed me right away when the
7 people move in. They haven't received a bill. They
8 never billed them.

9 Q They never billed who?

10 A The Vivarettes. The didn't bill them.
11 They billed me instead of billing them. That was
12 12/1/03; and then it went on. And when I informed
13 them that they were billing me, they called and got
14 it corrected and paid their bill. But they were
15 billing me. They never billed the Vivarettes.

16 Q Okay. But that's not a problem now.
17 Somehow that's been straightened out, or not?

18 A That one has been straightened out.

19 Q Okay. So, then I'm not that interested.

20 A Okay. Then this one (indicating).

21 Q Do you have any -- or have you had any
22 problem with that first floor rear apartment in terms

1 of Nicor relevant to your complaint?

2 A I have -- well, I don't know which one
3 because they sent me a bill for 2001 telling me that
4 I owe them and they never gave me a meter number. So
5 I never knew to who that belonged.

6 Q Okay. But that isn't part of this
7 complaint.

8 A Okay.

9 Q So now we're going to go --

10 A Right now they are billing me -- this is
11 Meter 228505 --

12 Q Okay. Hold on. What is that for? A
13 different apartment?

14 A Yeah.

15 Q I'm going through my apartments here.

16 A All right.

17 Q Now, we're at the first floor front?

18 A No, first floor. That one is east and
19 west.

20 Q Oh, okay. So the Vivarette apartment is --

21 A Is west.

22 Q Okay. We're going to call that first floor

1 west. Okay. And this is the first floor, east --
2 and next time you're bringing in pictures.

3 Okay. Who lives there now,
4 Ms. Kendrick?

5 A East? Wade.

6 Q All right. Mr. and Mrs. Wade?

7 A Well, Mr. Wade.

8 Q Mr. Wade. Okay. Great.

9 And what is the meter number in that
10 apartment?

11 A The meter number is 2285051.

12 Q 22850 --

13 A 51.

14 Q -- 51.

15 Okay. And Mr. Wade has been living
16 there since when?

17 A Mr. Wade moved in in August, August 9th.

18 Q August 2005?

19 A Right.

20 Q Oh, okay. And prior to Mr. Wade, who was
21 the tenant, or was it vacant?

22 A It was vacant for a year.

1 Q Okay. And prior to the vacancy, who lived
2 there? Who was in that last apartment before it
3 became vacant?

4 A The Joneses lived there before.

5 Q Okay. Mr. and Mrs. Jones?

6 A Michael Jones.

7 Q Michael Jones?

8 A Michael and -- well, Mr. and Mrs. Jones.

9 Q Okay. And how long did they live there?

10 A They lived there three years.

11 Q Okay. All right. And have -- your
12 complaint, does it somehow relate to this apartment?

13 A Yes, it does.

14 Q Okay. Explain to me how.

15 A February of 2005 I ordered the gas cut
16 off --

17 Q Mm-hmm.

18 A -- because I installed that electrical
19 system. And paid the bill for then. I did not get
20 billed for March and April because the gas was not
21 there.

22 MR. THOMETZ: Is that in 2005, I'm sorry?

1 THE WITNESS: Yeah, we're in 2005.

2 MR. THOMETZ: Is that in the complaint?

3 THE WITNESS: No, this is the most recent.

4 MR. THOMETZ: Yeah, okay.

5 THE WITNESS: Just showing that, you know, that
6 they are still doing the same thing.

7 JUDGE MORAN: Okay. I'm allowing it.

8 THE WITNESS: Okay. I was billed -- I received
9 the bill for \$170. The gas was not on. I had them
10 to cut it off. So I don't understand why I'm getting
11 a bill for that. It says, "Total current bill was
12 \$72.66." That was for August -- "Date issued, August
13 the 16th."

14 That building had nobody in there, and
15 there was no gas on.

16 BY JUDGE MORAN:

17 Q And that was for --

18 A We were renovating the apartments. There
19 was no heat on. There was no heat in there.
20 Everything was disconnected.

21 Q Okay. So how -- you got one bill for there
22 or what?

1 A I've got it here. It says, "Total current
2 bill, \$72." Then they have another bill up here for
3 \$97. I haven't used the gas. I haven't used
4 anything.

5 Q Okay. You would probably want to make
6 copies of those bills.

7 THE WITNESS: I think you did, didn't you?

8 JUDGE MORAN: Or did you?

9 MR. GRISSOM: I did not --

10 THE WITNESS: Look in there for \$170.60.

11 MR. GRISSOM: I have Exhibits 1 through 7.

12 THE WITNESS: Just look down there at the
13 billing and see if you have it?

14 MR. GRISSOM: No, I don't have it. I'll make a
15 copy of it. Any others?

16 THE WITNESS: Here's a copy.

17 MR. GRISSOM: Oh, I do have a copy. Yes, I
18 have a copy.

19 JUDGE MORAN: Okay. And that bill is what?
20 Complainant's Exhibit what?

21 MR. GRISSOM: Complainant's Exhibit 6.

22 BY JUDGE MORAN:

1 Q All right. Okay. Now, let's talk about
2 the second floor apartment.

3 A Okay. Mr. Jones moved upstairs. The
4 person that was in that apartment downstairs moved
5 upstairs.

6 Q Okay. Mr. and Mrs. Jones moved up there?

7 A Right.

8 Q When did they move up there?

9 A They've been up there now about almost five
10 years, four years. They've been up there at least
11 three to four years.

12 Q Okay. And previous to their living
13 there --

14 A I can't remember --

15 Q -- do you remember?

16 A -- who was there previous to their moving
17 there --

18 Q Okay.

19 A -- because it was vacant.

20 Q Do you have a number for that meter?

21 A That was the one I just -- no, I don't have
22 the number for the second floor meter.

1 Q Okay. Is there any problem?

2 A No problem with the second floor.

3 Q No problems. That's great. We don't have
4 to worry about it. Great.

5 So really the only problem in that
6 building concerns the first floor east apartments?

7 A Right.

8 Q Okay. Great.

9 And the problem with the 154th Place
10 concerns which apartments?

11 A 2931131.

12 Q Which is the --

13 A 1 rear.

14 Q Second floor?

15 A No, that's 1 rear.

16 Q Oh, okay.

17 A 386.

18 Q I have 2995662 as the first floor rear?

19 A 299 is rear. Okay. I'm sorry.

20 2931131 is upstairs, second floor.

21 Q Second floor; right.

22 A I'm getting confused.

1 Q All right. 3864321 is 1 front?
2 A Right.
3 Q And which of those do you have a concern
4 with?
5 A 386293.
6 Q I don't have that number.
7 A No, you have 293.
8 Q I have 2931131.
9 A That's it. I just gave you the first --
10 Q Okay. So the second floor?
11 A The second floor.
12 Q The only problems have occurred on the
13 second floor?
14 A Second floor and 386.
15 Q And the first floor front?
16 A Front.
17 Q Okay.
18 JUDGE MORAN: Do you have any further
19 questions?
20 MR. GRISSOM: I have none.
21 JUDGE MORAN: Okay. Then I'm going to allow
22 Mr. Thometz to do cross.

1 Do you want to take a break or are you
2 okay?

3 THE WITNESS: I'm fine.

4 JUDGE MORAN: All right. Mr. Thometz?

5 MR. THOMETZ: Yes.

6 JUDGE MORAN: Are you ready to do
7 cross-examination, please?

8 MR. THOMETZ: Yes.

9 JUDGE MORAN: Okay. Good.

10 CROSS-EXAMINATION

11 BY

12 MR. THOMETZ:

13 Q Ms. Kendrick, did you call and talk to
14 someone at Nicor about a password on your account?

15 A Yes, I did.

16 Q And who did you speak to?

17 A I really don't know. But your records --
18 it's in your records. It was in '96.

19 Q What property was that for?

20 A That was for both properties. She advised
21 me because I had had problems at both properties to
22 do that.

1 Q Okay.

2 MR. THOMETZ: Judge, I don't have any more
3 questions for Ms. Kendrick. I'd just like to move
4 on.

5 JUDGE MORAN: Okay. There's just one concern
6 that I have. You've got these exhibits --

7 MR. GRISSOM: Yes.

8 JUDGE MORAN: Do you want them to be put into
9 the record?

10 MR. GRISSOM: Yes.

11 JUDGE MORAN: Okay. Then I want you to go
12 through them --

13 MR. THOMETZ: And, for the record, I'm going to
14 object to some of the exhibits because they're not
15 based upon the time period that's listed in the
16 complaint. Some of these documents are from 2005.

17 JUDGE MORAN: Okay. I can note your objection.
18 I want them to be identified first because I don't
19 know what they are. And then I'll consider your
20 objection.

21 Okay. Mr. Grissom, can you identify
22 what they are?

1 MR. GRISSOM: Yes.

2 Judge -- well let me ask Ms. Kendrick.

3 REDIRECT EXAMINATION

4 BY

5 MR. GRISSOM:

6 Q Ms. Kendrick, do you recognize this bill
7 marked Complainant's Exhibit 1?

8 A Yes, I do.

9 Q What is it?

10 A It's the bill that should have gone to
11 Mr. Fernando Medina, Meter No. 3864321. And it was
12 billed to Gladys Kendrick.

13 Q Thank you, Ms. Kendrick.

14 MR. GRISSOM: Judge, I'd like to submit this
15 bill as Complainant's Exhibit 1.

16 JUDGE MORAN: Okay. And you're objecting to
17 that Mr. Thometz?

18 MR. THOMETZ: Yes. I don't think we have a
19 proper foundation that this bill belongs to Fernando
20 Medina. I have had no documentation whatsoever
21 showing that that's the case. I don't have a lease
22 with Mr. Fernando Medina. I have nothing.

1 JUDGE MORAN: Okay.

2 MR. GRISSOM: Well, we'll be submitting it as
3 an exhibit just based on it being a Nicor Gas bill to
4 Gladys Kendrick.

5 THE WITNESS: This is where they billed him for
6 the meter I should have been responsible for. There
7 is his name on the wrong meter (indicating).

8 MR. GRISSOM: We'll submit this as
9 Complainant's Exhibit -- is this my copy?

10 THE WITNESS: Yeah.

11 MR. GRISSOM: We'll submit this as Complainant
12 Exhibit 9.

13 JUDGE MORAN: Okay. And I will fax that over.
14 I'm not going to rule on the exhibits until the end
15 of the case.

16 How about that?

17 MR. THOMETZ: Judge, let me ask you this
18 procedurally, are we going to finish today, in terms
19 of are you going to make a ruling today?

20 JUDGE MORAN: Oh, God no.

21 MR. THOMETZ: Are we going to have another
22 hearing?

1 JUDGE MORAN: Well --

2 MR. THOMETZ: I mean, I would like to get it
3 wrapped up today. That's what I'm saying. This is,
4 in fact, the hearing; isn't it?

5 JUDGE MORAN: This is the actual -- yes, this
6 is the evidentiary hearing for the case.

7 MR. THOMETZ: Excellent.

8 JUDGE MORAN: Okay. There are still filings
9 that you will both make for me in addition to any
10 briefs that you want to make on the hearing. But
11 this is -- yes, this is the evidentiary case.

12 MR. THOMETZ: All right. Thank you, Judge.

13 JUDGE MORAN: Okay. But what I'm saying is I'm
14 not going to make a ruling on these exhibits until
15 the end of the case because now there's an Exhibit 9.
16 You haven't seen that; right.

17 MR. THOMETZ: I haven't.

18 JUDGE MORAN: So we can do that separately.
19 But I do want Mr. Grissom to identify these exhibits
20 for the record so we know what we're all looking at
21 and so we're all looking at the same thing.

22 MR. THOMETZ: All right, Judge.

1 JUDGE MORAN: Okay? Thank you.

2 MR. THOMETZ: Do you want me to object
3 individually to each exhibit?

4 JUDGE MORAN: You can do that at the end when
5 we've got all the exhibits. Please let Mr. Grissom
6 identify these.

7 MR. THOMETZ: All right.

8 MR. GRISSOM: Judge, I'd like to submit this
9 first bill that Ms. Kendrick just identified as
10 Complainant's Exhibit 1.

11 JUDGE MORAN: Okay. Thank you.

12 FURTHER REDIRECT EXAMINATION

13 BY

14 MR. GRISSOM:

15 Q Ms. Kendrick, do you recognize this bill?
16 Will you state date --

17 A Yes, I do. The date, January 6th, 2005,
18 Meter No. 3864321, billed to Gladys Kendrick. And
19 that should have been to Mr. Medina for \$103.39.

20 MR. GRISSOM: Thank you.

21 Judge Moran, I'd like to submit this
22 bill as Complainant's Exhibit 2.

1 BY MR. GRISSOM:

2 Q Ms. Kendrick, briefly, do you recognize
3 that bill?

4 A Yes --

5 Q What is it?

6 A -- I recognize this bill. It's a bill for
7 Meter 3864321, billed to Gladys Kendrick. It should
8 have been to Mr. Medina.

9 Q And the date?

10 A The date is 3/2/05 for 339.50.

11 MR. GRISSOM: Your Honor, I'd like to submit
12 that as Complainant's Exhibit 3.

13 JUDGE MORAN: Okay.

14 BY MR. GRISSOM:

15 Q Do you recognize this bill, Ms. Kendrick?

16 A Yes. This is for Meter 2931131. And that
17 was for August the 30th, billed to Gladys Kendrick.
18 And that should have gone to Janet Young, who
19 occupied that meter at that time for \$858.35.

20 Q Thank you, Ms. Kendrick.

21 MR. GRISSOM: We'd like to submit that as
22 Complainant's Exhibit 5.

1 BY MR. GRISSOM:

2 Q Do you recognize this bill, Ms. Kendrick?

3 JUDGE MORAN: Four.

4 MR. GRISSOM: Exhibit 4. I beg your pardon.

5 THE WITNESS: Yes, I do this is 11 -- what's
6 the meter number? The meter number is faded out.

7 BY MR. GRISSOM:

8 Q Let's identify it by the date.

9 A Okay. The date is 96 -- this is issued
10 August 16, 2005 for 1107 9th Street, \$170.

11 Q Thank you. I'll read the --

12 A Okay.

13 MR. GRISSOM: Judge Moran, we'd like to submit
14 this as Complainant's Exhibit 6. This is for Account
15 No. 4046200772, to the best -- strike that.

16 To meter number -- we cannot make out
17 the meter number on this.

18 JUDGE MORAN: Okay, let me --

19 THE WITNESS: Here's the meter number
20 (indicating). There it is.

21 MR. GRISSOM: Your Honor, I'd like to note, for
22 the record, that that meter number on Complainant's

1 Exhibit 6 is 2285051.

2 JUDGE MORAN: Okay. And how can you tell?

3 MR. GRISSOM: We can tell because Ms. Kendrick
4 just presented me with the original bill.

5 JUDGE MORAN: Okay. And that is 22?

6 MR. GRISSOM: 2285051.

7 JUDGE MORAN: 5051.

8 MR. GRISSOM: Yes, your Honor.

9 JUDGE MORAN: I am making note of it on the
10 copy that you have given me.

11 MR. GRISSOM: Thank you.

12 JUDGE MORAN: Okay.

13 BY MR. GRISSOM:

14 Q Ms. Kendrick, do you recognize this bill?
15 If so, briefly state what it is.

16 A Yes, I do. That is the bill for October
17 the 6th, 2005 for \$67.33.

18 Q For what meter number?

19 A That same meter number.

20 Q Would you read it.

21 A Meter No. 2285051.

22 Q Thank you.

1 MR. GRISSOM: Judge, we would like to submit
2 this bill as Complainant's Exhibit 5.

3 JUDGE MORAN: Okay.

4 BY MR. GRISSOM:

5 Q And do you recognize this bill,
6 Ms. Kendrick?

7 JUDGE MORAN: And this was what previously?

8 MR. GRISSOM: It was previously 5. Am I in
9 order? Have I submitted 1 through 6?

10 JUDGE MORAN: It was previously 5, so it's
11 still 5?

12 MR. GRISSOM: Yes.

13 JUDGE MORAN: I just want to make sure that
14 we're not changing anything. Okay. Great.

15 THE WITNESS: Okay. This is dated July the
16 11th, 2005.

17 BY MR. GRISSOM:

18 Q For what meter number?

19 A For Meter No. 2285051.

20 MR. GRISSOM: Judge Moran, we'd like to submit
21 this bill as Complainant's Exhibit 7.

22 BY MR. GRISSOM:

1 Q Ms. Kendrick, do you recognize that bill?

2 If so, state the date and the meter number, please.

3 A The date is September 8th, 2005. The meter
4 number is 2285051.

5 Q Thank you.

6 MR. GRISSOM: Judge, we would like to submit
7 this bill as Complainant's Exhibit 8.

8 BY MR. GRISSOM:

9 Q And, finally, Ms. Kendrick, do you
10 recognize that bill?

11 A Yes, I do.

12 Q And what is it?

13 A This one is Meter No. 2931131. It was
14 billed to Mr. Fernando, November 4th.

15 Q The account number?

16 A The meter number is 2931131.

17 Q Thank you.

18 MR. GRISSOM: And we would like to submit that
19 as Complainant's Exhibit 9.

20 JUDGE MORAN: Okay. And this is the new one
21 that Nicor wouldn't have yet?

22 MR. GRISSOM: Yes. That's correct. Nicor does

1 not have Complainant's Exhibit 10.

2 JUDGE MORAN: Yes. Identify those for the
3 record. Give it to me, and then I will have it
4 faxed.

5 BY MR. GRISSOM:

6 Q Would you identify that bill, please,
7 Ms. Kendrick?

8 A This is Meter No. 2931131. And it was
9 billed to me for January 7th, 2003.

10 Q Thank you.

11 MR. GRISSOM: Judge Moran, we would like to
12 submit this bill as Complainant's Exhibit 10.

13 JUDGE MORAN: Okay. Thank you.

14 MR. GRISSOM: That would conclude our exhibits,
15 your Honor.

16 JUDGE MORAN: Okay. And you have nothing more
17 to put into evidence in terms of documents?

18 MR. GRISSOM: That's correct.

19 JUDGE MORAN: Okay. Mr. Thometz, you have the
20 first eight. I'm going to have the Exhibits 9 and 10
21 faxed to you. Okay?

22 MR. THOMETZ: All right, Judge. And for the

1 record, I'm objecting to the exhibits on the basis
2 that none of the exhibits are -- have anything to do
3 with anything prayed for in the complaint.

4 JUDGE MORAN: Okay. Do any of these -- are --
5 is that true?

6 MR. GRISSOM: No, it's not true.

7 Although the specific bills are not
8 prayed for in the complaint, they are a part of the
9 original complaint because the account numbers
10 referred to in the complaint are the same account
11 numbers for which those bills reflect billings.

12 MR. THOMETZ: Judge, in the beginning of the
13 hearing he listed five dates. October 2002, January
14 2004, January 2001, March 2001, February 2002.

15 JUDGE MORAN: Yes, I understand that.

16 MR. THOMETZ: All of those bills are for
17 2005 --

18 JUDGE MORAN: Okay.

19 MR. THOMETZ: -- or 2003.

20 MR. GRISSOM: Well --

21 JUDGE MORAN: Are you alleging some kind of
22 continuing harm in this situation?

1 MR. GRISSOM: Exactly. Due to the nature of
2 this complaint and the mistake has not been
3 corrected, we have no recourse but to submit bills
4 that show the continuing existence of the result of
5 this mistake. And those are those bills.

6 MR. THOMETZ: My only objection is the relief
7 is not prayed for in the complaint that he's asking
8 for now.

9 JUDGE MORAN: Are you amending the complaint
10 with these now?

11 MR. GRISSOM: I would like to motion to make an
12 oral amendment to the complaint to include the
13 continuing ongoing mistakes and billing by Nicor to
14 the accounts in those bills.

15 MR. THOMETZ: Then I have no documentation
16 because there was nothing -- we don't have the
17 document for the present bills, for present period of
18 time. All we have is for what he asked for in the
19 complaint. So I don't have any documentation
20 relating to any of the new stuff that he's amending
21 in his complaint now at the evidentiary hearing.

22 JUDGE MORAN: Okay. We can have another

1 hearing to allow you to do that.

2 MR. THOMETZ: All right.

3 JUDGE MORAN: Okay. That's not a problem.

4 MR. GRISSOM: Okay.

5 JUDGE MORAN: Okay. And if for some reason
6 Ms. Kendrick wouldn't be available, Counsel, you will
7 come in and we will maybe work out a full
8 arrangement.

9 MR. GRISSOM: That's fine.

10 JUDGE MORAN: Is that fair to everybody?

11 MR. GRISSOM: Do I understand you, Judge Moran,
12 to say we're going to have another hearing to amend
13 the complaint?

14 JUDGE MORAN: No, we're having another hearing
15 because they're not -- Nicor is not prepared to
16 address the allegations that you have.

17 MR. GRISSOM: I see.

18 MR. THOMETZ: Judge, I feel that we haven't --
19 we have not addressed any allegations in his
20 complaint that is before us today.

21 JUDGE MORAN: Okay.

22 MR. THOMETZ: I can put on some testimony

1 regarding what has happened in his complaint and
2 address that and address some facts here. But you
3 know he's come up -- he's changed the game.

4 JUDGE MORAN: Okay. And if there is a change
5 in the game plan, I will allow you to change your
6 game plan and address the new allegations.

7 MR. THOMETZ: All right. And is there a way I
8 could get a written -- a new complaint writing
9 exactly what the complaint is complaining about so we
10 know what document to provide?

11 JUDGE MORAN: Sure.

12 MR. GRISSOM: Yes.

13 JUDGE MORAN: I will allow counsel to make a
14 filing of an amended complaint to conform with the
15 evidence presented today. Would that be --

16 MR. GRISSOM: Yes.

17 JUDGE MORAN: Is that reasonable for both of
18 you?

19 MR. GRISSOM: Yes.

20 JUDGE MORAN: We have heard Ms. Kendrick
21 testifying to --

22 MR. THOMETZ: Judge -- you know, as a

1 suggestion, Judge, it may be better just to wait
2 until I know what the complainant is complaining
3 about before I present my witness.

4 JUDGE MORAN: Okay. So you don't want to do
5 anything today?

6 MR. THOMETZ: I'd rather not.

7 JUDGE MORAN: That's fine. That will also give
8 the parties time to address the complaint that exists
9 in terms of timeliness. But also in terms of what is
10 being produced today which it seems like there may be
11 a continuing harm here.

12 MR. GRISSOM: That's fine, your Honor.

13 JUDGE MORAN: Okay.

14 MR. THOMETZ: All right. Do we set another
15 date, your Honor?

16 JUDGE MORAN: Yes, that's exactly what we're
17 going to do. And that will also give the parties
18 time to get all their exhibits together.

19 Also, I may have some questions for
20 Ms. Kendrick at the end of Nicor's case. Once I get
21 a better handle on everything that's been going on
22 here and once the attorneys have made their

1 pleadings.

2 MR. GRISSOM: Yes.

3 JUDGE MORAN: So I do want you to be available.
4 I don't hold you to the strict rule, one party goes
5 the other party goes. If I see something that isn't
6 developing and I see it's necessary for me to make a
7 decision, I will pursue it. Okay?

8 MR. GRISSOM: Thank you. What dates are
9 available?

10 JUDGE MORAN: Okay. What is everybody
11 interested in?

12 MR. GRISSOM: I would like a -- if it were okay
13 with Ms. Kendrick and counsel for Nicor, I'm
14 requesting a Thursday afternoon.

15 MR. THOMETZ: Let me look at my calendar.

16 JUDGE MORAN: And an afternoon might be better
17 for you to get here.

18 THE WITNESS: Can we go to January? I've got
19 so much going on.

20 MR. GRISSOM: January 5?

21 MR. THOMETZ: Can I also get faxed those last
22 two exhibits?

1 JUDGE MORAN: Yes. I'm going to get them to
2 you. Hold on.

3 (Whereupon, a recess was taken.)

4 JUDGE MORAN: We've tentatively agreed on
5 January 26.

6 MR. GRISSOM: January 26th, Judge Moran. At
7 what time would that --

8 JUDGE MORAN: Okay. January 26. Christ,
9 that's the next year.

10 MR. GRISSOM: Yes.

11 JUDGE MORAN: No, wonder I don't have my
12 calendar.

13 Okay. January 26th, sure. I have
14 nothing set for that time.

15 MR. GRISSOM: Okay. What time?

16 JUDGE MORAN: What time would be good for you?

17 THE WITNESS: 1:00 again.

18 JUDGE MORAN: Is that good? 1:00 a good time?

19 MR. GRISSOM: 1:00 o'clock is good for me, yes.

20 JUDGE MORAN: Okay. Mr. Thometz, 1:00 o'clock?

21 MR. THOMETZ: Yeah, that's -- is it enough time
22 to get done?

1 JUDGE MORAN: Pardon me?

2 MR. THOMETZ: Do you think we'll have enough
3 time to wrap up about 4:30. Maybe we should go a
4 little earlier. I just want to make sure we can get
5 it done.

6 JUDGE MORAN: Okay.

7 MR. THOMETZ: Because we would be here maybe a
8 couple hours more today if this kept going. I just
9 want to make sure we finish.

10 JUDGE MORAN: Well, I will get a reporter --
11 well, can anybody stay after 4:30? I mean, I'm not
12 thinking of 4:30 as the cut-off time.

13 MR. THOMETZ: Okay. I wasn't sure if that's
14 when things closed up there.

15 JUDGE MORAN: No. I'll make a request and let
16 the court reporters know that we may be going longer
17 than the 5:00 o'clock time. And let's all be
18 prepared to stay until it's finished. How about
19 that?

20 MR. GRISSOM: Okay. That's fine.

21 MR. THOMETZ: Okay.

22 JUDGE MORAN: Okay. These have been sent.

1 Okay. Exhibits 9 and 10 have been sent.

2 MR. THOMETZ: All right.

3 JUDGE MORAN: Now, as I said before, this
4 complaint troubles me. And it troubles me because I
5 don't know the history of the case.

6 MR. GRISSOM: Yes.

7 JUDGE MORAN: I don't know the history of the
8 case well enough in terms of what happened in
9 chancery and the law division. I see there's orders
10 there. I see there is a dismissal without prejudice.
11 I do believe -- and I'm going to be very frank with
12 you all -- that there's a two-year statute of
13 limitations.

14 However, I am never sure exactly how
15 the filing of an action in Circuit Court affects
16 that. So that is something that I do want the
17 parties to research and tell me.

18 MR. GRISSOM: Yes, your Honor.

19 JUDGE MORAN: I realize that in some cases that
20 could be considered as holding the statute. In
21 certain cases that could be considered as not
22 telling. And usually I expect a Court to indicate

1 what its perception -- or to give this Commission
2 some guidance in terms of how it's going to be
3 treated.

4 I want the parties here to address
5 that. Okay?

6 MR. GRISSOM: Yes, your Honor, we will.

7 JUDGE MORAN: Because if we do have
8 jurisdiction over these earlier allegations by
9 Ms. Kendrick, then they should be dealt with.

10 MR. GRISSOM: Okay.

11 JUDGE MORAN: If nothing else, what I have seen
12 here is many of the same types of allegations that
13 were presented in this complaint.

14 MR. GRISSOM: Yes.

15 JUDGE MORAN: I mean, we're not going off on a
16 different tangent. They seem to be the same. And
17 because they're continuing, there is that type of
18 action that may have all of it viable. And that's
19 why I'm giving a lot of leeway in this case both to
20 the complaint and to the respondent. Okay.

21 But these are concerns that I have,
22 things that I am interested in. We're trying to do

1 justice in this case. And we're just trying to
2 figure out how to do that.

3 I'm going to need the parties to do a
4 lot of work in this case, quite frankly.

5 MR. GRISSOM: Okay.

6 JUDGE MORAN: But the -- hopefully it's to a
7 good end.

8 MR. GRISSOM: It will be.

9 JUDGE MORAN: Now, does anybody have any
10 questions for me?

11 MR. THOMETZ: No, Judge.

12 JUDGE MORAN: And can you have those comments
13 or briefs or whatever we're going to call them on the
14 law to me before the hearing?

15 MR. GRISSOM: I will, your Honor.

16 How soon before the hearing?

17 JUDGE MORAN: Let's see, if the 26th is a
18 Thursday, how about you have it to me the Monday
19 before then?

20 MR. GRISSOM: That's fine.

21 JUDGE MORAN: Do you understand, Mr. Thometz?

22 MR. THOMETZ: What do you want? You want a

1 brief about the statute of limitations?

2 JUDGE MORAN: The statute the case is being
3 brought under, the statute of limitations as to how
4 it relates to this particular situation where you
5 have had an action filed in court and now being
6 brought here.

7 MR. THOMETZ: All right.

8 JUDGE MORAN: It gets a little more complicated
9 here because it's -- well, usually a cause of action
10 accrues on a date certain, it seems to me that there
11 may be continuing harm here which may then make it
12 viable for the entire period.

13 Those are heavy concepts. They
14 usually don't come in a complaint case, but they're
15 here, and they need to be faced.

16 MR. THOMETZ: When would you like these by,
17 Judge?

18 JUDGE MORAN: I would like this done by the
19 Monday before the hearing. That way we'll know
20 exactly where we're going in this case.

21 MR. THOMETZ: All right.

22 JUDGE MORAN: How far back, how far forward and

1 everything else in between. Okay?

2 MR. GRISSOM: Okay. Well, I'm all set.

3 JUDGE MORAN: All right. Then with that, we
4 will continue this case to January 26th, 2006 at the
5 hour of 1:00 p.m., and with the expectation that we
6 will be running -- that this hearing will take some
7 time and that we will have court reporters available
8 to continue this case. It's on the 26th for as long
9 as it takes, and we're all agreed on that.

10 MR. GRISSOM: We are.

11 MR. THOMETZ: Thank you, Judge.

12 JUDGE MORAN: Thank you. And your briefs will
13 be in the Monday before the 26th. All right.

14 MR. GRISSOM: Thank you, Judge Moran.

15 (Whereupon, the above-entitled
16 matter was continued to January
17 26, 2006, at 1:00 p.m.)

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