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PROCEEDINGS

1
2 (Whereupon AmerenIP Exhibits 1 and 2
3 were marked for
4 purposes of
5 identification as of
6 this date.)

7 JUDGE WALLACE: Pursuant to the direction of
8 the Illinois Commerce Commission I now call Docket
9 04-0549. This is the complaint of Virgil L. Smith
10 versus Illinois Power Company concerning
11 disconnection in Eldorado, Illinois.

12 May I have appearances for the record,
13 please, starting with the Complainant?

14 MR. SMITH: Virgil Smith.

15 JUDGE WALLACE: And your address, please?

16 MR. SMITH: 2260 Raleigh Road, Eldorado,
17 Illinois.

18 JUDGE WALLACE: And your phone number, please?

19 MR. SMITH: (618) 273-9394.

20 JUDGE WALLACE: For the Company?

21 MR. FITZHENRY: Yes, Your Honor. On behalf of
22 Illinois Power Company, my name is Edward Fitzhenry.

1 My address is post office box --

2 JUDGE WALLACE: 66149?

3 MR. FITZHENRY: Yes, that's sounds correct, St.
4 Louis, Missouri 62103.

5 JUDGE WALLACE: Thank you. Let the record
6 reflect there are no other appearances at today's
7 hearing.

8 We should note that this matter is on
9 rehearing, this complaint having been filed, I
10 believe, in August of 2004. Due to service
11 difficulties on the part of the Commission the
12 matter was dismissed, but now it has been reopened
13 by the Commission and we are in the evidentiary
14 phase concerning the complaint.

15 There has been an amended motion to dismiss
16 filed by Illinois Power Company. I believe
17 Mr. Smith responded. I will take that motion with
18 the case. And there has been another motion
19 entitled Protective Order and/or Injunction. I will
20 also take that one with the case. And if the
21 Company wishes to file a response and Mr. Smith file
22 a reply, we will put that after the hearing.

1 Has there been any agreement reached on any
2 of the facts in this case that we can stipulate to?

3 MR. FITZHENRY: Can I proceed?

4 MR. SMITH: Go ahead.

5 MR. FITZHENRY: Your Honor, prior to the
6 hearing this morning Mr. Smith and I met and
7 reviewed various documents and exhibits that each of
8 us would like to make part of the record. We have
9 come to agreement that Petitioner's Group Exhibit 1
10 are documents for which the Company has no
11 objection. However, we, you know, reserve the right
12 to argue relevance and weight and materiality as we
13 deem appropriate.

14 By the same token, we have offered into
15 evidence Respondent's Exhibits 1 and 2. Mr. Smith
16 has indicated no objection to them being part of the
17 record, and I am assuming that he will reserve for
18 himself the right to argue weight, materiality and
19 relevance as well.

20 JUDGE WALLACE: All right. And Complainant's
21 Group Exhibit Number 1 is the packet that you handed
22 back to me?

1 MR. SMITH: Yes.

2 JUDGE WALLACE: And let me run through these
3 real quick. That would be a letter from the
4 Division of Specialized Care for Children dated July
5 3, 2003; a letter from Illinois Power Company dated
6 July 8, 2003; a letter from Illinois Power dated
7 June 30, 2004.

8 MR. SMITH: Yes.

9 JUDGE WALLACE: A letter from Illinois Power
10 dated April 13, 2004.

11 MR. SMITH: Yes.

12 JUDGE WALLACE: A letter from Illinois Power
13 dated May 11, 2004.

14 MR. SMITH: Yes.

15 JUDGE WALLACE: With some markings on the
16 bottom of the letter.

17 MR. SMITH: Yes.

18 JUDGE WALLACE: A document entitled Final
19 Notice from Illinois Power.

20 MR. SMITH: Yes.

21 JUDGE WALLACE: Apparently date issued labeled
22 June 14, 2004.

1 MR. SMITH: Yes.

2 JUDGE WALLACE: A document labeled Final Notice
3 Prior to Disconnection. Is that separate from the
4 other final notice?

5 MR. SMITH: They come together. They are
6 together.

7 JUDGE WALLACE: A document -- a photocopy of a
8 document from the Department of Internal Medicine of
9 Carbondale.

10 MR. SMITH: Yes.

11 JUDGE WALLACE: Certain copies of receipts. I
12 can't tell what these are.

13 MR. SMITH: Yes, those are the receipts of the
14 bills that were paid prior to the disconnect.

15 MR. FITZHENRY: That's Mr. Smith's contention.

16 JUDGE WALLACE: Okay. An e-mail labeled Virgil
17 and Joey Smith.

18 MR. SMITH: Yes.

19 JUDGE WALLACE: Apparently from the Consumer
20 Section of the Illinois Commerce Commission to
21 Mr. Smith.

22 Two pages of the Rules of the Illinois

1 Commerce Commission, Section 280.130.

2 MR. SMITH: Yes.

3 JUDGE WALLACE: A document from the First
4 Circuit, First Judicial Circuit, Saline County.

5 MR. SMITH: Yes.

6 JUDGE WALLACE: Granting guardian to Virgil L.
7 and Melody Smith dated -- it was filed June 20,
8 2002.

9 MR. SMITH: The photograph is our son Adam W.
10 Smith on life support.

11 JUDGE WALLACE: Okay. And then the second
12 picture?

13 MR. SMITH: Exhibit 20 is photos of his
14 additional equipment in his room, life support
15 equipment.

16 JUDGE WALLACE: The third picture is a photo of
17 the electric meter attached to your residence?

18 MR. SMITH: Yes.

19 JUDGE WALLACE: And what is the last picture?

20 MR. SMITH: 22 would be the same, although it
21 is just showing the tags on the meter itself.

22 JUDGE WALLACE: And there is agreement that we

1 will put this in as Complainant Group Exhibit 1?

2 MR. SMITH: Yes.

3 MR. FITZHENRY: Again subject to the caveat I
4 indicated at the outset.

5 JUDGE WALLACE: Okay. To save a certain amount
6 of time, do you need him to go through any of these
7 documents?

8 MR. FITZHENRY: No, I may ask Ms. Smith some
9 questions about some of the documents, but beyond
10 that there is no need for him to restate what they
11 are.

12 JUDGE WALLACE: So by prior agreement
13 Complainant's Group Exhibit 1 is admitted into
14 evidence consisting of the documents that we just
15 went through.

16 (Whereupon
17 Complainant's Group
18 Exhibit 1 was admitted
19 into evidence.)

20 JUDGE WALLACE: Also by prior agreement we have
21 Respondent's Exhibit 1 and 2, Exhibit 1 being a life
22 support registry document and a life support

1 questionnaire, and Exhibit 2 being a document
2 entitled NPSO process guide. And you agree to the
3 admission of these, Mr. Smith?

4 MR. SMITH: Yes.

5 JUDGE WALLACE: All right. Respondent's
6 Exhibits 1 and 2 are admitted into the record.

7 (Whereupon AmerenIP
8 Exhibits 1 and 2 were
9 admitted into
10 evidence.)

11 JUDGE WALLACE: Is there anything else that we
12 need to bring up at this time?

13 MR. SMITH: I have another additional photo.
14 It was submitted to us last night. We want it here
15 as evidence as well. During the course of the
16 examination of the witnesses who are here, it will
17 be presented. Shall we present it as evidence at
18 that time or shall we do it at this time?

19 MR. FITZHENRY: I haven't seen it so I don't
20 know.

21 JUDGE WALLACE: Does it add anything?

22 MR. SMITH: Significantly.

1 JUDGE WALLACE: Okay. Well, then if
2 Mr. Fitzhenry hasn't seen it, he obviously doesn't
3 agree to it. He can bring issue.

4 MR. SMITH: Presenting it to the Court itself,
5 this is the original. Obviously copies can be made.

6 JUDGE WALLACE: What I was going to say is you
7 can attempt to establish a foundation and introduce
8 it through your witness.

9 MR. SMITH: Right.

10 JUDGE WALLACE: All right. Anything further?

11 MR. FITZHENRY: Your Honor, I think, and
12 Mr. Smith will correct me if I am wrong, in terms of
13 his case he would say that his wife Ms. Smith would
14 basically state what's in the complaint, an incident
15 report that's been filed with the Commission. And
16 do I have that correctly, Mr. Smith?

17 MR. SMITH: Yes. Possibly additional adding to
18 that incident report and the time of event of it
19 because there was some additional small talk between
20 the two parties that may be questionable and brought
21 up that is not in the incident report itself of the
22 service person saying something or she saying

1 something that obviously is omitted. I indicated
2 that in my response to the questions for data, that
3 there may be additional information that was not
4 known, that is unknown. Only through interrogation
5 we discovered that there are other things that they
6 said that would be pertinent to the case today.

7 MR. FITZHENRY: In our discussion before the
8 hearing this morning, I don't think Mr. Smith
9 intended to call his wife as a witness and she
10 would, you know, be asked to answer questions that
11 he would pose to her. And so in order to short
12 circuit that, I have said that, you know, we could
13 stipulate as to what she would testify to orally
14 would be what's stated in the complaint and incident
15 report and, of course, I do intend to ask her some
16 questions. And I suppose if then Mr. Smith wanted
17 to follow up and ask her questions about the
18 conversation that she had with servicemen, that
19 would be appropriate in redirect examination, if
20 that procedure is acceptable to you.

21 JUDGE WALLACE: All right. Would all the
22 witnesses please stand?

1 (Whereupon the
2 Witnesses were duly
3 sworn by Judge
4 Wallace.)

5 JUDGE WALLACE: Thank you. Be seated.

6 Mr. Smith, you are the complainant so we
7 will start with you.

8 MR. SMITH: Your Honor, I would like to call to
9 the witness stand, if I may, Mr. Burnett, the
10 service personnel from AmerenIP, as my first
11 witness.

12 MR. FITZHENRY: Well --

13 JUDGE WALLACE: All right, just a minute.
14 Let's go off the record.

15 (Whereupon there was
16 then had an
17 off-the-record
18 discussion.)

19 JUDGE WALLACE: Let's go back on the record.

20 Well, why don't we call Melody Smith to the
21 stand.

22

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4

MELODY JO SMITH

5

called as a Witness on behalf of Complainant, having

6

been first duly sworn, was examined and testified as

7

follows:

8

JUDGE WALLACE: And would you state your name

9

for the court reporter?

10

MS. SMITH: Melody Jo Smith.

11

JUDGE WALLACE: And your address, please?

12

MS. SMITH: 2260 Raleigh Road, Eldorado,

13

Illinois.

14

JUDGE WALLACE: And you have been present

15

during some discussions between Mr. Smith and

16

Mr. Fitzhenry?

17

MS. SMITH: Just today?

18

JUDGE WALLACE: Just now.

19

MS. SMITH: Yes.

20

JUDGE WALLACE: And they agree that you would

21

testify to the facts contained in the complaint and

22

the incident report?

1 MS. SMITH: Yes.

2 JUDGE WALLACE: All right. And except with
3 some clarification or additional information, the
4 information contained therein would be your
5 statement?

6 MS. SMITH: Yes.

7 JUDGE WALLACE: Now, as I understood it
8 Mr. Fitzhenry has some questions and then you can
9 ask some additional questions.

10 MR. SMITH: Yes, I have no questions at this
11 time. Go ahead.

12 MR. FITZHENRY: May I proceed?

13 MR. SMITH: Yes.

14

15 CROSS EXAMINATION

16 BY MR. FITZHENRY:

17 Q. Good morning, Mrs. Smith. A little
18 nervous?

19 A. Very.

20 Q. Well, I will try to be as nice as I am.

21 A. Okay.

22 Q. Am I correct that you first took service at

1 your home in Eldorado in about June of 2003?

2 A. Yes, that sounds about right.

3 Q. And the account is in your name?

4 A. Yes.

5 Q. And at the time that you initiated electric
6 service from AmerenIP, IP at that time, did you seek
7 to apply or make an application for a life support
8 registry?

9 A. Yes.

10 Q. I am going to show you what has been
11 previously marked as Respondent's Exhibit 1 and
12 first of all ask if this document is in any way
13 familiar to you?

14 A. Yes. This looks like forms that basically
15 were sent or we were made aware of through the
16 Division for Children initially and I really have
17 not seen this probably other than the first time
18 that she showed it to us. But yes.

19 Q. This is the information on page 2 of this
20 exhibit that your physician provided in order for
21 your home to be under the life support registry?

22 A. Yes.

1 Q. Now, you probably need a chance to look at
2 it too closely, but it does state here on the form
3 that being listed on this registry does not
4 guarantee the customer will not be disconnected for
5 non-payment, does it not?

6 A. Yes, it does.

7 Q. Was that your understanding at the point in
8 time that you applied to be eligible for the life
9 support registry?

10 A. Yes.

11 Q. Do you know the difference between the life
12 support registry and being issued a medical
13 certificate?

14 A. No, I don't.

15 Q. Do you think they are one and the same?

16 A. I would assume that the life support
17 registry is what the power company has on file on
18 the people that live in the community that are on
19 life support, is what I would assume. And what was
20 the other? Medical what?

21 Q. The medical certificate.

22 A. The medical certificate, I would assume the

1 medical certificate is what the doctor fills out
2 stating that this is what that person requires and
3 why, that they require uninterrupted service.

4 Q. Even though you just read back to me or you
5 agree with me that the form for life support
6 registry states in black and white that it does not
7 guarantee uninterrupted service for non-pay?

8 A. Even though.

9 Q. Now, according to the exhibits that you
10 have introduced into the record, in April 2004 is it
11 correct that you first became aware that Illinois
12 Power was considering disconnecting service at your
13 home?

14 A. I am sorry, when?

15 Q. April 13, 2004.

16 A. Yes.

17 Q. And I can show this to you. Does it not
18 state here that the Company is aware that someone in
19 your home is on life support equipment?

20 A. Uh-huh.

21 Q. However, if the bill is not paid it can
22 still be disconnected?

1 A. Yes, that's what it says.

2 JUDGE WALLACE: Which one did you show?

3 Q. April 13, 2004. So you knew in April that
4 if payment wasn't forthcoming or if there wasn't
5 some agreement reached with Illinois Power Company,
6 that despite the fact that your son was on life
7 support equipment that there could be a disconnect?

8 A. I knew in April that that's what they are
9 saying. That even though he was on life support, if
10 you can't pay your bill, they can disconnect you.

11 Q. And it is correct, is it not, that in May
12 and June you received various notices, in fact your
13 own exhibits show this, that there was likely to be
14 a disconnect in the event payment wasn't
15 forthcoming?

16 A. Well, we had been talking back and forth
17 with the power company. We didn't just sit back and
18 take notice stating that, yeah, we are not going to
19 do anything and let them disconnect us.

20 Q. Well, in fact, on one of the exhibits, and
21 I will show this to you again, the May 11, 2004,
22 there is a handwritten note at the bottom of the

1 page. Is that your handwriting?

2 A. No, it is not. I didn't speak to them
3 then. My husband spoke to them.

4 Q. That's his writing. So according to
5 Mr. Smith's note here at the bottom of the letter
6 dated May 11, 2004, it indicates that if \$650 was
7 not forthcoming and a letter from the doctor
8 concerning your son's condition, that there might be
9 a disconnect; does that sort of refresh your
10 recollection as to some of the back and forth
11 conversations that you had?

12 A. Yes.

13 Q. Now, there was a final notice issued and it
14 is part again of your exhibit indicating a date of
15 June 14, correct?

16 A. When it was mailed, yes.

17 Q. And what did you do at that point in time
18 in terms of trying to avoid the disconnect after you
19 received this final notice?

20 A. On June 22 we paid \$1200 to them.

21 Q. And would you agree that at that point in
22 time the indebtedness was over \$2,000?

1 A. Yes.

2 Q. And would you agree that the notice and
3 several notices that you received that are part of
4 your own exhibit indicate that full payment is
5 required?

6 A. Right, but they also when you talk to them
7 say we can work something out, let's work something
8 out. Also, you should also have on that that on
9 June 2 we also made a \$301 payment. So it is not
10 like all of a sudden we came up with \$1200.

11 Q. But even then the entire account balance
12 had not been paid, correct?

13 A. Correct.

14 Q. And also according to Mr. Smith's note
15 there would be a need for another statement from a
16 doctor?

17 A. I think that they requested it. I am not
18 even sure that it was actually time for another.
19 Because I think they periodically ask for them. I
20 don't know if it is once a year it has to be updated
21 or how it works or at least this once. I am really
22 not sure.

1 Q. So it is your understanding, at least it is
2 your belief, that on a once-a-year basis all that
3 you are obligated to do is put forth some sort of
4 medical documentation substantiating your son's
5 condition?

6 A. Right, showing that he still requires life
7 support.

8 Q. And by so doing then he is sort of enrolled
9 in a life support registry?

10 A. That they are aware that there is someone
11 in our home. If that's what the life registry does,
12 yes.

13 Q. Now let's, moving up to later in June, you
14 became aware that the power was in fact
15 disconnected?

16 A. Yes, I was home.

17 Q. You were home. And according to your
18 incident report the power went off, you looked
19 outside and you saw the service man?

20 A. Yes. Well, I flicked on my lights and then
21 I was going to go to the circuit breaker but my
22 kitchen window is there and I looked out and saw the

1 power truck in my neighbor's driveway and thought
2 there must have been a problem.

3 Q. Did you see Mr. Burnett there?

4 A. Yes.

5 Q. Did you have a conversation with him?

6 A. Yes.

7 Q. What did you talk about?

8 A. Well, I went out and asked if the power was
9 going to be out very long. I assumed he was working
10 on the line because he was in my neighbor's
11 driveway, not our driveway. And he said no, your
12 power has been disrupted for non-payment. I said
13 there has got to be a mistake, I just made a payment
14 two days ago. He said, well, they are saying we
15 didn't pay and, you know, that kind of stuff. So I
16 said would you please stay here, by that time he was
17 in my driveway, and let me go and get my receipts.
18 And I did and I came back and showed them to him and
19 he proceeded to call somebody, a man on a walkie
20 talkie.

21 Q. Were you able to overhear their
22 conversation?

1 A. Yes.

2 Q. And what was said?

3 A. He said that this lady has receipts right
4 here in her hand and explained how much they were
5 and so forth, and the gentleman said that there is
6 still 800 and something dollars required before the
7 power can be turned back on.

8 Q. Then what happened?

9 A. And then I explained to him that we are not
10 talking a G-tube, we are not talking just oxygen.
11 We are talking I have to have electricity for my son
12 to breathe.

13 Q. And then what happened?

14 A. And then Mr. Burnett, I guess is his name,
15 apologized and left. And I went in the house and I
16 called my husband.

17 Q. Now, in your complaint there is basically
18 two rules or laws that you claim AmerenIP violated.
19 Do you know that? One of them is with regard to the
20 Administrative Code that says that the utility must
21 attempt to give notice when it is going to
22 disconnect the customer. Do you understand that?

1 A. Yes.

2 Q. If Mr. Burnett testifies later this morning
3 that he knocked on the door and you didn't hear him,
4 is that a possibility?

5 A. I don't think it is a possibility. The way
6 that my house is set up, our living room, dining
7 room, kitchen is basically one great room and the
8 foyer is right there. Here is the room and there is
9 the foyer. I would have heard him and I would have
10 heard the door bell with no problem no matter which
11 room I was in.

12 Q. So if he says later this morning that he
13 knocked on the door, nobody answered --

14 A. I would say that is probably not so.

15 Q. Getting back to this rule where the utility
16 is obligated to attempt to give you notice to
17 disconnect, do you like that rule?

18 A. I am sorry?

19 Q. Do you like that rule?

20 A. Yes.

21 Q. Do you think a utility should have to give
22 notice or just attempt to give notice of a

1 disconnect?

2 A. I think they should do both.

3 Q. But the rule says they just have to attempt
4 to give notice. Do you agree with that?

5 A. Yeah.

6 Q. It is in your complaint?

7 A. I think they need to give -- yeah, at least
8 attempt, yes.

9 Q. You think the rule should be changed in any
10 way?

11 A. The rule about attempting to give notice?

12 Q. Yes.

13 A. I think that the rule should be that they
14 definitely get ahold of the people, yes.

15 Q. But the rule doesn't read that way today,
16 correct?

17 A. Right.

18 Q. So in part one of the issues that you bring
19 to this Commission is your dislike of the rule,
20 would that be a fair characterization?

21 A. I don't know -- I don't know that it is a
22 dislike for the rule so much as I feel that it is an

1 unsafe rule.

2 Q. The other part of your complaint says that
3 you believe that the Company has violated Section
4 8-204 of the Public Utilities Act. Do you recall
5 that?

6 A. Do you want to tell me what that is?

7 Q. Well, it says that the utility is required
8 to maintain a life support registry. Do you have
9 reason to believe that in this instance AmerenIP did
10 not maintain a life support registry?

11 A. I don't think that they did everything that
12 was required of them.

13 Q. What is required of them?

14 A. It is my understanding that you are
15 supposed to have proper notification on your meter
16 that states that there is someone on life support in
17 your home. Is that correct?

18 Q. Well, that's your understanding.

19 A. That's my understanding.

20 Q. Based on what?

21 A. Based on my son being on the ventilator for
22 18 years or so, and we have always had it on our

1 meter, always had it on there.

2 Q. In this case you had a white tag with a
3 little red cross?

4 A. Yes.

5 Q. And do you believe that that tag is
6 inappropriate in some way?

7 A. Yes, I do.

8 Q. What tag do you think should have been on
9 the meter?

10 A. I think it should have been red tagged and
11 there should have been a sticker on there that says
12 do not interrupt service, at least without finding
13 out why there is more than just something that can
14 be easily rectified if the power goes off.

15 Q. How do you reconcile the statement that
16 there should be a tag on the meter that says there
17 should be no interruption when in fact when you
18 first submitted documentation to AmerenIP it states
19 clearly that this does not guarantee uninterrupted
20 service when there is no payment?

21 A. I think they should take into account any
22 effort that was made for the payment. It is not

1 like we just did not want to pay our bill. I think
2 you are putting a price on somebody's life when you
3 do that.

4 Q. Now, again I don't mean to quarrel with
5 you, but what do you think should be -- do you
6 believe that that is grounded in any law, rule or
7 regulation?

8 A. I don't believe it is, and I believe that
9 the law needs to be changed.

10 Q. Again, this goes back to my earlier
11 question again trying to understand your's and
12 Mr. Smith's concerns. You don't like some of the
13 laws and some of the rules that the Commission has
14 in front of it?

15 A. I don't think they are safe.

16 Q. You don't think they are safe. But you
17 think many of these laws or rules should change?

18 A. I do.

19 Q. Now, you do agree that during one or more
20 telephone conferences with Illinois Power Company
21 personnel that you were advised of the medical
22 certificate requirements?

1 A. I don't know if I had the conversation with
2 them, but I know I have at some point. But as a
3 rule my husband always dealt with that.

4 Q. Well, this was information provided to me,
5 to the Company, in discovery and the answer is yes?

6 A. Okay. I have talked to them before but not
7 on a regular basis. Every time it was referred to
8 Virgil.

9 Q. What do you understand to believe the
10 medical certificate requirements?

11 A. That we have to get from the doctor?

12 Q. Whatever you think they are, what do you
13 believe to be the medical certificate requirements?

14 A. That we have to have a statement from the
15 doctor stating what type of medical problems that in
16 our case our child has in order for the power
17 company to be aware that this type of person lives
18 in that residence.

19 Q. I am going to show you a couple documents
20 again from Group Exhibit 1. And this is the
21 document that's on the Department of Internal
22 medicine letterhead dated June 22, 2004. How can I

1 tell by looking at this document that AmerenIP ever
2 received it?

3 A. Well, from looking at that you can't.

4 Q. Okay. But did you take possession of this
5 document on or about June 22? Did you have it in
6 your hand at some point?

7 A. No, I did not.

8 Q. Do you know who did?

9 A. It probably went -- I was under the
10 impression it had been faxed over from Dr. Martin's
11 office to Illinois Power.

12 Q. Do you recall any conversations with
13 AmerenIP personnel indicating that they did not
14 receive a fax from his office around this point in
15 time?

16 A. Did I have a conversation with them?
17 Actually, yes, I did. And she said that she did not
18 believe that they received it. And I called the
19 doctor's office and they said that they had in fact
20 two days prior faxed it to them.

21 Q. How do we know that? How can we make sure
22 that Mr. Wallace knows that, that the Commission

1 knows that the Company actually did have it on June
2 22 or June 23 or whenever?

3 A. Well, at the doctor's office when they fax
4 things, they get their paper back and, you know,
5 they keep them. That's the only way that I know.
6 Because I did not fax it to them.

7 Q. All right. You don't have that statement
8 that you get back from the fax machine that shows
9 the date it was sent?

10 A. That's what I am saying. The doctor's
11 office faxed that. I did not fax that. So they
12 should have the statement, if they keep them.

13 Q. We don't have that here today?

14 A. No.

15 Q. And we also have as part of your exhibit
16 various receipts, I guess, showing dollars being
17 paid somewhere. And, again, we will have other
18 testimony about the payment history. But what on
19 here can tell me that these are moneys that were
20 paid to AmerenIP?

21 A. Can I look at it?

22 Q. Sure. Now, I am not trying to trip you up.

1 I know that you said that you made a payment of 1200
2 and \$300, and I think we agree with that but again I
3 just want to be sure that --

4 A. The only think for me to know, the only
5 thing that I know by looking at it is we do not use
6 Burnett's bank. We went to Burnett's bank to make
7 the payment but that is not our bank a.

8 Q. Now, on June 24, that morning your meter
9 was disconnected and it was reconnected later that
10 day?

11 A. Uh-huh.

12 Q. Do you know what happened between the point
13 in time it was disconnected to the point in time it
14 was reconnected that caused it to be reconnected?

15 A. I called my husband. He spoke with
16 somebody at the power department. I don't know who
17 he spoke with or what took place. No, I don't.

18 Q. Do you know anything about the medical
19 certificate having been issued that day?

20 A. I do know that they had called and said
21 yes, they do have it, yeah.

22 Q. So it is your understanding that at least

1 on June 24 AmerenIP had the doctor's statement?

2 A. Yes.

3 Q. Now, I think in your packet again there is
4 a letter June 30, am I right?

5 MR. SMITH: Is there a June 30 letter?

6 JUDGE WALLACE: There is a June 30 letter from
7 Illinois Power to Mrs. Smith.

8 Q. Okay. I'll find my copy. Yes, I have it
9 here. Now, again this is part of your own evidence
10 here. And that's a letter you received on or about
11 June 30, correct?

12 A. June 30 of 2004, yes.

13 Q. Now, again you stated earlier that you
14 believe that this life support registry is something
15 that you have to apply for on an annual basis?

16 A. Well, I believe it is annual or every six
17 months.

18 Q. Does that letter suggest to you that it is
19 an annual process?

20 A. Yes.

21 Q. We talked earlier that you first began
22 taking services around June of 2003 and that's the

1 first time you applied for certification for the
2 life support registry?

3 A. We took service in July. It would have
4 been in July. But at that time all of these papers
5 that would go to power, telephone, anything like
6 that was done through the Division of Crippled
7 Children because he was still with them. We didn't
8 do this ourselves.

9 Q. They would complete the questionnaire?

10 A. They would do all that and deal with the
11 doctor and deal with the power company to make sure
12 that they had these things.

13 Q. How do you reconcile, if you can, that
14 AmerenIP received Dr. Martin's note on June 24 but
15 yet six days later you are asked to recertify for
16 the life support registry on an annual basis?

17 A. I can't answer that.

18 Q. It goes back to my earlier question. In
19 your mind you cannot distinguish or you don't know
20 of any distinction between the life support registry
21 and the issuance of the medical certificate?

22 A. No.

1 MR. FITZHENRY: Thank you, Ms. Smith. That
2 wasn't so bad, was it?

3 JUDGE WALLACE: Mr. Smith?

4 MR. SMITH: Yes, thank you.

5 REDIRECT EXAMINATION

6 BY MR. SMITH:

7 Q. Would you state for the Commission here
8 what your profession is?

9 A. I am a nurse.

10 Q. So you are well aware of requirements to
11 sustain life and the life support system regarding
12 what --

13 A. As far as the medical necessity of what
14 needs to be done, yes.

15 Q. And for the record the questions were asked
16 of you this morning was that was you aware of any
17 rules, regulations, tariffs, what have you, I being
18 the one that filed the complaint and being your
19 husband was well educated on that where you
20 apparently -- did you have any knowledge of the
21 questions that he was asking about the rules and
22 regulations?

1 A. No, very little.

2 MR. SMITH: Just let the record show that Mrs.
3 Smith was unaware of having knowledge of these rules
4 and regulations even. And the reason is that I
5 myself am the one that is doing the -- is the
6 Complainant and would have all that knowledge and
7 follow through with it. You made mention that all
8 the notifications prior to -- actually, when we
9 first moved into the residence there, was done by
10 Specialized Care for Children. They themselves
11 endorsed the necessity, medical necessity, through
12 the medical related contacts for a life support
13 registry?

14 A. That's correct. They always did that.

15 Q. Although your name is on the account, then
16 you agree that I am the one that has made most
17 contact, made communications, with Illinois Power
18 periodically?

19 A. Absolutely.

20 Q. In the two and a half years you have lived
21 there?

22 A. Yes.

1 Q. You personally have never made a payment
2 yourself?

3 A. No, I don't pay the bills. My husband
4 does.

5 Q. The receipts that were shown through
6 Burnett Bank is a payment center, if you will, for
7 Illinois Power in our community. Are you aware of
8 that?

9 A. Yes, that's what I assumed.

10 MR. FITZHENRY: Judge, I am willing to be
11 lenient in terms of the examination here but I
12 really believe at this juncture now Mr. Smith is
13 testifying, not his wife. So I am trying to hold
14 back on my objections. I want them to have their
15 day in court, so to speak. But if he wants to
16 testify, he should be on the stand and say what he
17 needs to say, and I can ask him questions if need
18 be.

19 MR. SMITH: Your Honor, I am just clarifying
20 what --

21 JUDGE WALLACE: Yeah, I think that this is
22 okay. You asked her questions about Burnett, so.

1 MR. SMITH: No further questions.

2 JUDGE WALLACE: No further questions for Mrs.
3 Smith?

4 MR. SMITH: At this time. I would reserve her
5 for future, if need be.

6 JUDGE WALLACE: All right. We generally don't
7 do that but that's fine.

8 EXAMINATION

9 BY JUDGE WALLACE:

10 Q. Mrs. Smith, has Adam always had these
11 medical conditions?

12 A. He has had cerebral palsy since birth. But
13 the pulmonary problems and some of the other
14 problems, they have just developed over the years.
15 He was trached when he was six and put on the
16 ventilator when he was nine and he is now 29.

17 Q. And the Division of Specialized Care for
18 Children, do you know what department that's within?

19 A. I am sorry, what department that's in?

20 Q. I assume it's a state?

21 A. Yes.

22 Q. But is it Public Health, Human Services,

1 you know, is it under a larger department?

2 MR. SMITH: Your Honor, if I may, it is the
3 University of Illinois.

4 Q. All right. And has Adam always lived with
5 you and Mr. Smith?

6 A. No, Adam lived -- we adopted Adam when he
7 was one year and ten days old.

8 Q. And he has lived with you since?

9 A. He has lived with us since then.

10 Q. And I take it that you moved from a
11 location to the Raleigh Road location in 2003?

12 A. Yes.

13 Q. And at your prior location were you on
14 Illinois Power electric service?

15 A. CIPS. I think they are the same place now
16 or something. At first I thought Illinois Power and
17 CIPS were two different -- but I think I heard that
18 they were merged.

19 Q. We still don't know. And Eldorado or
20 Eldorado, is it Eldorado? How far -- is it fairly
21 far south or what's it next to?

22 A. I am directionally challenged. I don't

1 know where I am now.

2 Q. For some reason I thought it was near
3 Decatur but you are now down near -- what are you
4 near?

5 A. We are about 45 minutes from Paducah.

6 Q. And if I might ask, where did you reside
7 before moving to Eldorado?

8 A. Carrier Mills which wasn't very far from
9 there.

10 Q. In terms of the photo of Adam with his
11 equipment, the equipment on the left of this photo,
12 is that the ventilator?

13 A. The square thing is the ventilator, yes.
14 The thing in the lower right is an electric
15 humidifier to keep his lungs moist.

16 Q. The humidifier is for his lungs?

17 A. Yes.

18 Q. Not for the room?

19 A. No, no, that goes directly into his
20 ventilator line.

21 Q. And what's the piece of equipment in the
22 middle?

1 A. What, the what looks like a balloon?

2 Q. Yes.

3 A. That's an O2 reservoir bag.

4 Q. And then the other photo up here is to the
5 right of his bed?

6 A. That is a pulse ox machine where you engage
7 the saturations within his blood and his heart rate.

8 Q. And is that electrical?

9 A. Yes, all of it.

10 Q. And is that hooked up to Adam?

11 A. Yes. When Adam is sick, it is on him
12 continuously. When he is not ill, then we do it
13 intermittently, I guess.

14 Q. And then one of the doctor's statement said
15 something about a nebulizer?

16 A. I think on the shelf underneath that,
17 that's right in there, yeah, and that's electric.
18 That does not go by battery at all.

19 Q. I am pointing to a 12-inch high, 8-inch and
20 that's the nebulizer?

21 A. Yes.

22 Q. And the piece of equipment on the stand?

1 follows:

2 JUDGE WALLACE: Just for the record would you
3 state your full name, please.

4 MR. BURNETT: Charles T. Burnett.

5 JUDGE WALLACE: And you are going to have to
6 speak up, Mr. Burnett. You have got a cold?

7 MR. BURNETT: Charles Burnett.

8 JUDGE WALLACE: And your occupation?

9 MR. BURNETT: Lineman for Illinois Power, CIPS,
10 Ameren.

11 JUDGE WALLACE: And your address?

12 MR. BURNETT: 510 South Walnut Street,
13 McLeansboro, Illinois.

14 JUDGE WALLACE: And that is your home address
15 or work address?

16 MR. BURNETT: Home address.

17 JUDGE WALLACE: And what part do you work out
18 of or what area do you work out of?

19 MR. BURNETT: I work out of Eldorado,
20 Harrisburg.

21 JUDGE WALLACE: All right. Mr. Smith?

22 MR. SMITH: Thank you.

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DIRECT EXAMINATION

BY MR. SMITH:

Q. Mr. Burnett, how long have you been with IP?

A. I started in January of '79.

Q. Have you ever been an employee of CIPS?

A. I guess I am now.

Q. In the past. So your experience as a service man has been primarily with Illinois Power?

A. Right.

Q. Does your responsibility cross over to CIPS from time to time because of your range that you work in Eldorado and the Harrisburg area?

A. I have never worked on CIPS's property since they took over unless I am working on it now.

Q. Have you read by any chance the incident report that was filed with the Illinois Commerce Commission?

A. Concerning you?

Q. Yes.

A. I don't think I have.

1 Q. On June 24, '04, the date that you
2 disconnected the power at the residence, did you
3 have prior knowledge that there was a person on life
4 support at that residence?

5 JUDGE WALLACE: Mr. Smith, just for the record,
6 you need to back up and establish that Mr. Burnett
7 -- you need to establish the chain of events that
8 would lead up to that. For example, Mr. Burnett,
9 did you drive out to Mr. Smith's residence on June
10 24, 2004?

11 MR. BURNETT: Yes, I did.

12 MR. SMITH:

13 Q. And what was the reason for going to that
14 address?

15 A. Because I had an order for non-pay.

16 Q. Non-pay, and what does that mean
17 specifically?

18 A. Well, it means somebody hadn't paid the
19 bill so I was supposed to turn the electricity off.

20 Q. Okay. Did you get that order from the
21 local supervisor or was that mailed to you? How do
22 you get your orders?

1 A. I get them on a computer.

2 Q. On the truck itself?

3 A. Yeah.

4 JUDGE WALLACE: Yes?

5 A. Yes, sir.

6 Q. And upon arriving at the residence you
7 parked in the neighbor's driveway. Was there a
8 reason for that?

9 A. As you know well, your lane going into your
10 house is just past the top of the hill. Evidently
11 when I was looking for your address, I missed it. I
12 pulled in the next one close to you.

13 Q. Upon arriving at the residence what was
14 your first course of action? What did you do at the
15 time when you pulled in the neighbor's driveway and
16 got out of your truck, you went to the house in
17 question, what was the very first thing you did?

18 A. When I usually drive up to one of those
19 deals, the main thing we go by is the meter number
20 on the orange. So I go and look at them to find the
21 meter number. More than likely I must have went to
22 the house west of you. The meter number didn't

1 correspond. So evidently on the way back I knocked
2 or rang the bell and checked your meter number and
3 got a reading from your meter. On the way back I
4 decided I would call the dispatcher. I contacted
5 your wife. We had our conversation, like she said.

6 Q. You made note that on your way back from
7 the neighbor's you rang the bell before going to the
8 meter?

9 A. I think it was. That's our practice to
10 either ring a bell, knock on the door, try to make
11 contact.

12 Q. So you are not sure which one you did?

13 A. I don't know.

14 Q. Did you ring the bell one time?

15 A. I don't have no idea.

16 Q. In your opinion how many times would a
17 person need to knock or ring the bell to get
18 someone's attention to your satisfaction?

19 A. Well, I make a visual knock, an audible
20 knock, and if they don't respond, I can on with my
21 work.

22 Q. Then you went from there and disconnected

1 the power source?

2 A. Yeah.

3 Q. Now, back to my former question, prior to
4 coming to the residence and disconnecting the power,
5 did you have prior knowledge, personally have prior
6 knowledge there was an individual on life support at
7 that house?

8 A. I don't think I did, no.

9 Q. Did the tags on the meters that you
10 removed, tags or tag, either one, indicate to you
11 that there was a person on life support at that
12 residence?

13 A. I don't know that it necessarily indicated
14 there was life support. There was a medical tag and
15 I have no idea, I have no way of knowing what the
16 case is. I know that I called the dispatcher to ask
17 if they knew what the life support deal was.

18 JUDGE WALLACE: You called a dispatcher to ask
19 what?

20 A. Asked him if he knew what the -- how bad
21 this case was, you know, what it was.

22 Q. So after seeing the tag, this is the meter

1 at the residence. Those two tags -- were there two
2 tags on the meter at the time or was there only one
3 tag?

4 A. There is two tags here, in this picture.

5 Q. And that tags there indicates that there is
6 a medical condition because it says medical alert,
7 right?

8 A. We call them medical tags or something.

9 Q. But there is nothing on those tags to
10 indicate to you that there is a person on life
11 support at that residence?

12 A. No, sir.

13 Q. So at this point you contacted your
14 supervisor, apparently your immediate supervisor.
15 What is his location? Where is he located at?

16 A. I don't know. We just contact them on the
17 radio in Decatur.

18 Q. What was the response of the supervisor at
19 the time you made contact with him?

20 A. He said it was a valid order; I had to do
21 it.

22 Q. Did he indicate that there was a person on

1 life support there?

2 A. I can't remember as I remember him saying
3 that.

4 Q. Have you ever seen in your years as a
5 service man with a power utility company, regardless
6 of whether it is Illinois Power or in your
7 experience, I should say, have you ever seen a
8 proper ID for a service man that would indicate the
9 person is on life support on a meter or a tag on the
10 meter or would you be able to identify a tag that
11 would indicate to you that there is a life support?

12 A. This is the only tag I have ever dealt
13 with.

14 Q. Here is a photograph that we would like to
15 enter an exhibit in. It is from CIPS to a former
16 resident at Carrier Mills, and this can be confirmed
17 by the serial number on the meter itself as far as
18 that residence is concerned. And because CIPS is
19 one of the companies associated with the parent
20 company, it is my understanding, and so it would be
21 also my knowledge possibly that this type of -- if
22 you take a look at that --

1 MR. FITZHENRY: Your Honor --

2 JUDGE WALLACE: Mr. Smith, you are at this
3 point testifying yourself.

4 MR. SMITH: I apologize, withdraw what I just
5 said.

6 JUDGE WALLACE: Now, if you want to show this
7 photo to Mr. Burnett and ask him questions if he
8 knows anything about this, that's fine. But that's
9 the extent of that.

10 MR. SMITH:

11 Q. So these tags here are the tags on the
12 meter at the time you disconnected and there is
13 nothing on these tags to indicate to you that there
14 was a life support person at that residence?

15 A. I just know it is a medical tag. We just
16 call them medical tags. We didn't have no idea what
17 they do.

18 Q. To redirect my question concerning the
19 photograph in question, have you ever seen anything
20 like that before?

21 MR. FITZHENRY: Your Honor, I am going to
22 object. I mean, it is clearly something that the

1 witness has said he doesn't know anything about.
2 This particular kind of tag, it is a CIPS tag. They
3 have their own protocol, I suppose. We first
4 learned of this today. Maybe if we had learned
5 about it previously, we might have had a CIPS person
6 come. I don't know that we would, but.

7 JUDGE WALLACE: He can go ahead and answer the
8 question whether or not he has seen this tag.

9 MR. FITZHENRY: I thought he had but I will
10 withdraw my objection.

11 MR. BURNETT: I have never.

12 JUDGE WALLACE: I am sorry, your answer was?

13 MR. BURNETT: No, sir, I have never seen it.

14 MR. SMITH: Your Honor, can I admit this in as
15 an exhibit? Is it possible to do that at this time?

16 JUDGE WALLACE: No, you have not established
17 what's called a foundation for that photo.

18 MR. SMITH: All right. Very well.

19 JUDGE WALLACE: If you wish to take the stand
20 yourself, you may do so and you may identify the
21 photo and go from there. And Mr. Fitzhenry may
22 object and then I will rule on the photo. But you

1 can't introduce it through this witness because he
2 has no knowledge of the photo.

3 MR. SMITH: I would like at some point to
4 testify myself.

5 Q. Mr. Burnett, have you ever turned off the
6 power source to any other family that is on life
7 support to your knowledge?

8 A. I can't remember one right off hand, but
9 more than likely I have.

10 Q. Do you recall when speaking to my wife,
11 during the course of your conversation after she
12 came outside and met with you, that you had in fact
13 had orders to disconnect a person on life support
14 and your supervisor informed you if you did not
15 disconnect it, they would send someone else out to
16 do it, do you remember that conversation?

17 A. I don't remember the exact words now. I
18 figured it was a standard operation.

19 Q. In your service area are there any
20 agricultural farms like poultry or pigs that you are
21 responsible for?

22 A. Not that I am aware of.

1 Q. After you restored the power on the 24th
2 and you was in the house and you had to apparently
3 help my wife because of her arthritic hands, I am
4 assuming that you remember all that?

5 A. Turned the main breaker back on for her.

6 Q. Yes. And walking back through the house to
7 the front door my wife made reference to you that
8 behind you was my son's room to show you the
9 equipment, the life support equipment, and you
10 raised your hand and turned your head and said you
11 didn't know anything about that, do you recall that?

12 A. No.

13 MR. SMITH: No further questions, Your Honor.

14 JUDGE WALLACE: Let's take a short break.
15 Let's go off the record.

16 (Witness excused.)

17 (Whereupon there was
18 then had an
19 off-the-record
20 discussion.)

21 JUDGE WALLACE: Let's go back on the record.
22 Mr. Smith, do you have any further evidence?

1 MR. SMITH: The photo this morning, if I could
2 testify concerning that.

3 JUDGE WALLACE: All right. Would you please
4 take the stand? Would you raise your right hand?

5 (Whereupon the Witness
6 was duly sworn by Judge
7 Wallace.)

8 VIRGIL L. SMITH
9 called as a Witness on behalf of Complainant, having
10 been first duly sworn, was examined and testified as
11 follows:

12 JUDGE WALLACE: State your name for the record,
13 please.

14 MR. SMITH: Virgil L. Smith.

15 JUDGE WALLACE: And you are the Complainant in
16 this matter?

17 MR. SMITH: Yes.

18 JUDGE WALLACE: And you have been presenting
19 evidence this morning and you have additional
20 evidence you wish to put into the record?

21 MR. SMITH: Yes, I do.

22 JUDGE WALLACE: And what does that consist of?

1 MR. SMITH: It is a photograph of a meter,
2 electrical meter, at 110 Delmer Drive, Carrier
3 Mills, Illinois, which is our former residence.

4 JUDGE WALLACE: And what does the photo purport
5 to represent then?

6 MR. SMITH: It represents the identification
7 markings to warn of a medical condition. It says
8 "Medical equipment, do not interrupt," and there is
9 a sticker on the meter itself and a tag also with a
10 red tag indicating a do not interrupt.

11 JUDGE WALLACE: And when was the photo taken?

12 MR. SMITH: The photo was taken the day we
13 moved out which would have been in June or July
14 2003.

15 JUDGE WALLACE: And who took the photo?

16 MR. SMITH: I did.

17 MR. FITZHENRY: Your Honor, I do have an
18 objection. Given questions that have been asked and
19 the answers given that it is a CIPS meter, AmerenIP
20 is its own separate public utility. It has its own
21 rules and regulations and is governed by Commission
22 rules and laws, and that's what at issue here. What

1 another utility may or may not do can't be relevant.

2 JUDGE WALLACE: That's correct. Did you have
3 any questions just on the photo itself?

4 MR. FITZHENRY: I just don't know what any of
5 that means, so I can't ask any questions. I don't
6 know what it means to have a particular tag on a
7 CIPS meter. It is not what we are prepared to talk
8 about here today. So I can't really even ask any
9 questions.

10 JUDGE WALLACE: All right. Mr. Smith, what
11 caused this photo to just now come to light?

12 MR. SMITH: Fascinating, to say the least. I
13 am a wild life research investigator here in the
14 state of Illinois and other states as well. And I
15 had taken the film, the photo, I knew had taken it
16 but I did not know where the film was. So yesterday
17 afternoon about 12:30 I went through all of my
18 undeveloped film and took them to WalMart's photo,
19 all of them, and had them developed at the one-hour
20 photo. And last night when I came back from
21 Carbondale from a meeting, I stopped by and picked
22 up the photographs and that's why it has the date of

1 11/28/05 on the photograph, the date it was
2 developed. I knew it was there but I did not know
3 were it was at. So I had to get all the film
4 developed in order to find it. So that was the
5 reason.

6 The reason for the photograph to be brought
7 and be presented here today is the fact that CIPS is
8 always known as a primary electric supplier in that
9 area. And at the time they put this sticker on the
10 meter, the service rep informed me as well as the
11 Specialized Care for Children that has been
12 referenced in this hearing, that when there is a
13 person on life support, these type of tags are on
14 there, to warn or to inform the service
15 representative or an emergency crew that there is a
16 person on life support, and disrupting that could
17 cause death and serious injury.

18 JUDGE WALLACE: All right. I will construe
19 your testimony is a motion to admit this. We will
20 mark it as Complainant's Exhibit Number 2. Is there
21 any objection?

22 MR. FITZHENRY: There is an objection, Your

1 Honor, for reasons previously stated. I don't know
2 what it means for this tag to be on a CIPS meter. I
3 have not had the opportunity to investigate it with
4 AmerenCIPS personnel. I don't know why it is
5 relevant. We talked about the special tag that's on
6 the meter and there are rules that govern these
7 kinds of tags. What it has to do with CIPS is
8 beyond me. So hearing about it for the first time,
9 it is problematic. I am trying to be lenient with
10 Mr. Smith on these kind of matters but this is
11 something that I learned about this morning and I
12 don't understand its materiality or relevance. I
13 really don't. Let me say it a different way.

14 JUDGE WALLACE: No, I mean, I don't need it
15 said a different way because I think I am going to
16 have to uphold the objection and deny admission to
17 the photo. As Mr. Fitzhenry points out, other
18 utilities have other protocols, and to the extent
19 that other utilities put different tags on, you
20 know, I won't say it is a given but other utilities
21 have different protocols. And we are not -- CIPS
22 may be a better carrier, electrical carrier, than IP

1 if they have a better tag. But that's not
2 necessarily relevant to what the complaint is. So
3 Complainant's Exhibit Number 2 is not admitted into
4 evidence.

5 Do you have anything further you wish to
6 testify to, Mr. Smith?

7 MR. SMITH: May I for the record indicate that
8 I object to the ruling on the photo?

9 JUDGE WALLACE: No, you may not object to my
10 ruling. You may submit the photo as an offer of
11 proof. I will accept it as such and take it with
12 the record.

13 MR. SMITH: Okay. Because it is the only
14 photograph, would it be possible to make copies and
15 send them to you as well as Mr. Fitzhenry?

16 JUDGE WALLACE: Yes, you have leave to withdraw
17 the exhibit and make suitable copies sent to me and
18 Mr. Fitzhenry.

19 Now, just to keep this as formal as
20 possible, Mr. Fitzhenry, do you have any questions
21 of Mr. Smith?

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

1 JUDGE WALLACE: All right. Then, Mr. Smith, if
2 you have no further testimony, you may step down.

3 (Witness excused.)

4 Now, putting on your other hat, Mr. Smith,
5 do you have any further evidence that you wish to
6 submit in this case?

7 MR. SMITH: No.

8 JUDGE WALLACE: Mr. Fitzhenry?

9 MR. FITZHENRY: Yes, Your Honor, we call
10 Ms. Deborah Bursey.

11 JUDGE WALLACE: Was she sworn this morning?

12 MR. FITZHENRY: Yes, she was.

13 DEBORAH BURSEY

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

17 DIRECT EXAMINATION

18 BY MR. FITZHENRY:

19 Q. Would you please state your name and
20 business address.

21 A. My name is Deborah Crawford Bursey. My
22 business address is AmerenIP, 370 South Main Street,

1 Decatur, Illinois.

2 Q. And what is your job duty or title?

3 A. My title is Managing Supervisor for Credit
4 and Collections.

5 Q. Tell me a little bit about what you do in
6 your capacity as manager.

7 JUDGE WALLACE: Could you spell your last name
8 for the record, please?

9 A. B as in boy, U-R-S-E-Y. I am responsible
10 for overseeing the credit and collections policies
11 for AmerenIP, administration of those policies.

12 Q. And in part would you also have knowledge
13 and responsibility in regard to life support
14 registries, medical certificates as part of
15 maintaining a customer account?

16 A. Yes, that falls within the scope.

17 Q. And, Ms. Bursey, are you familiar with the
18 Smith account in question here this morning?

19 A. Yes, I am.

20 Q. Now, I would like to kind of walk through
21 with you the account history and so as always is the
22 case go back to the beginning of time. Can you tell

1 us when the Smith account was first opened?

2 A. We have a service activation fee billed on
3 June 30 of 2003.

4 Q. And at some point thereafter did AmerenIP
5 or IP then receive any kind of request by the Smiths
6 that they were looking to be made part of the life
7 support registry?

8 A. Yes. As a regular policy we have what we
9 call the welcome letter that goes out and that went
10 out on June 30 of 2003. And then the next activity
11 shows that we received the life support letter on
12 July 8, 2003.

13 Q. Okay. I am going to show you what has been
14 previously marked as Respondent's Exhibit 1 first
15 and can you identify for us, please, this document,
16 the first document?

17 A. Uh-huh. This is the life support registry
18 letter that goes out, the initial letter that goes
19 out to an applicant.

20 Q. And would this have been the kind of letter
21 that would have went out to the Smiths around June
22 or July of 2003?

1 A. Yes.

2 Q. And then what's on the second page, do you
3 know?

4 A. The second page is a completed
5 questionnaire, life support questionnaire, for Adam
6 W. Smith.

7 Q. Now, once this information is received,
8 what then happens?

9 A. We would create an order to have the meter
10 tagged. We would put the date that the applicant
11 was approved and it will automatically send out a
12 renewal letter at the end of the eleventh month for
13 renewal. Then that list, so to speak, is maintained
14 with the dispatch center.

15 Q. Okay. A couple questions to follow up.
16 Now, you heard Mr. Smith testify earlier and you
17 heard me reference as part of Petitioner's Group
18 Exhibit 1 a letter dated June 30 of 2004. Would
19 that have been the letter that would have come out
20 eleven months after they were part of the life
21 support registry modifying them again that they
22 needed to re-register, so to speak?

1 A. That's correct.

2 Q. I guess it would probably be helpful to
3 know today what does it mean to be part of the life
4 support registry?

5 A. The life support registry is a list that
6 identifies -- it identifies all of our customers
7 throughout our service territory that completes the
8 questionnaire and is approved, stating that they
9 have a life support equipment in their homes. And
10 that is so that we can restore service in the event
11 of an outage. We can proactively contact the life
12 support customer in the event that we have a
13 scheduled outage so that they can make other
14 arrangements. Or if there is a storm or some sort
15 or unplanned outage, we would prioritize them with
16 the restoration.

17 Q. Does being in this life support registry
18 mean that you are guaranteed you cannot be
19 disconnected for service?

20 A. No.

21 Q. So we know in July of 2003 the Smiths are
22 part of the life support registry. Then what

1 happened in terms of the account?

2 A. The account was billed for usage and we
3 never received payment.

4 Q. Sorry?

5 A. The account was billed the monthly usage
6 for monthly usage. This is after -- I am sorry, the
7 date was --

8 Q. Well, they began service sometime in July
9 you said?

10 A. Yes, began service in July. We received
11 the -- I am sorry, June 30. We received the life
12 support questionnaire back, actually the date is
13 September 11, 2003. We have it coded as received.
14 Between that time the account had been billed, the
15 disconnect notice. We made contact with Mr. Smith
16 that entered into a deferred pay agreement for the
17 balance at that time. That was in August.

18 Q. So in August 2003 there was an account
19 balance due?

20 A. Yes.

21 Q. And what was that amount?

22 A. I believe it was \$446.

1 Q. And did Mr. Smith take you up on the offer
2 of entering into a deferred payment plan?

3 A. Yes, he did. And it was later cancelled.

4 Q. And why is that?

5 A. The notations on the account indicates that
6 he had some other medical issues that had come up.

7 Q. He himself?

8 A. It just says Virgil. And he needed to
9 renegotiate the pay agreement because the balance
10 had at that time grew.

11 Q. All right. And did AmerenIP in fact
12 renegotiate the payment plan with Mr. Smith?

13 A. Yes.

14 Q. And what point in time is that?

15 A. The new pay agreement was established
16 September 8, 2003.

17 Q. Was that honored?

18 A. No.

19 Q. Then what next happened?

20 A. There were still no payments on the
21 account, and in October 2003 we had contact with
22 Mr. Smith again. And the details of that

1 conversation was that he said that he was going to
2 be able to pay \$125 and the customer service rep
3 explained the terms of the pay agreement and that he
4 needed to -- he would only be able to reinstate the
5 fee agreement one time since it had been broken.
6 And she also explained to him that he possibly could
7 seek LIHEAP which is the low income home energy
8 assistance program in the Eldorado area.

9 Q. So this was in October of 2003 or
10 thereabouts?

11 A. Yes.

12 Q. And then what next happened?

13 A. The pay agreement did break so there was
14 another disconnect notice that was issued.

15 Q. Now, let me stop you there, Ms. Bursey. Is
16 the issuance of a disconnect notice in November of
17 2003 at odds in any way with the fact that the
18 Smiths were on the life support registry?

19 A. No, these were -- these are automatic.
20 They go out -- the disconnect notices are
21 automatically generated if payment is not made or if
22 there is a payment that is broken. They are not

1 tied to the life support registry. However, we do
2 get a memo stating that there is a life support
3 customer that has been issued a disconnect notice.

4 Q. Okay. Then what happened after the
5 disconnect notice was sent?

6 A. We had contact with Mr. Smith again. And
7 at that time in order to reinstate the pay agreement
8 that he had originally been on, he needed to pay
9 \$829.91 and he was also advised of the medical
10 certificate process.

11 Q. Now, what is the medical certificate
12 process?

13 A. In the event that a customer has a serious
14 medical condition or someone in their home has a
15 serious medical condition and they cannot pay their
16 bill at the time, they can ask their doctor to fax
17 in evidence or a statement stating who the person is
18 and where they reside and their condition and how it
19 would be aggravated if the service was -- if the
20 electric service was interrupted. And that will
21 give them 30 days to make payment or adequate
22 arrangements. And if that is not done or they

1 cannot pay within that 30 days, they can request a
2 30-day extension.

3 Q. Now, is this process something that is
4 prescribed by the Commission's rules?

5 A. Yes, that's required.

6 Q. I am going to show you, even though I know
7 you are not a lawyer, from the Administrative Code,
8 83 Illinois Administrative Code 280.130(j) and ask
9 if that is the rule that you are familiar with that
10 sort of lays out this medical certification process?

11 A. Yes, it is.

12 MR. FITZHENRY: So for the record, Your Honor,
13 in Petitioner's Group Exhibit 1 there is a portion
14 of this rule but it only goes up to (i). It does
15 not include (j) and the other remaining portion of
16 the rule.

17 Q. So the issuance of a medical certificate as
18 you explained as a 30-day period where there cannot
19 be a disconnect and then extends it another 30 days
20 is governed by Commission rules, that's your
21 understanding?

22 A. Yes.

1 Q. So back in November of 2003 -- let me go
2 back a step. So if in fact a medical certificate is
3 issued during that 30-day period of time, can the
4 customer be disconnected?

5 A. No.

6 JUDGE WALLACE: What was your answer?

7 A. No.

8 Q. And if it is extended another 30-days and
9 the customer -- well, can the customer be
10 disconnected during that period of time?

11 A. No.

12 Q. On Day 61 if the medical certificate has
13 elapsed, can the customer be disconnected if all
14 other requirements are met, that is, there hasn't
15 been any payment and so forth?

16 A. No, we would have to send the customer
17 another notice stating that we will be disconnecting
18 them if payment is not received.

19 Q. And that notice that goes out, is that
20 something that is prescribed by Commission rules?

21 A. Yes.

22 Q. So now we are in November of 2003 and you

1 have told the Smiths about the medical certificate
2 process. What then happened?

3 A. Then we received a medical certificate. We
4 received the doctor's faxed medical certificate and
5 it was approved for them a balance of \$934.67.

6 Q. And what does that mean? When you say it
7 was approved for around \$960 and change, what does
8 that mean?

9 A. That means that that was all the money owed
10 past due, all past due balances.

11 Q. And then what happens?

12 A. Then the customer would need to make an
13 agreement to settle the debt over an extended period
14 of time and keep the account current until the \$934
15 debt has been paid. So they would need to pay their
16 current bill plus portions of the \$934.

17 Q. So during the time that the medical
18 certificate has been issued, the first 30 days and
19 perhaps the next 60 days, a couple things have to
20 happen. The customer has to remain current, is that
21 your testimony?

22 A. Yes.

1 Q. And there will have been an agreement
2 reached with the customer about how to resolve the
3 outstanding indebtedness, the \$960 and change in the
4 case of the Smiths?

5 A. That's correct.

6 Q. And is there some formula that you all
7 follow in terms of how do we pay that \$960? Do we
8 pay it over two months, six months, two years, how
9 does that work?

10 A. Well, we generally ask the customer how
11 much they can pay in addition to their current bill.
12 But if it is very little, we try not to extend the
13 pay agreement beyond six months.

14 Q. All right. So we have an agreement reached
15 with the Smiths, is that your testimony?

16 A. Yes.

17 Q. Then what happened in November and
18 afterwards, 2003?

19 A. Nothing.

20 Q. What do you mean nothing?

21 A. December 1 starts our winter moratorium
22 which means that if the temperature is forecast to

1 be 32 degrees or colder over a certain period of
2 time, we cannot disconnect residential customers.
3 So because this customer had a receipt, I believe,
4 so we discontinue sending out disconnect notices.
5 So there was no other activity and no record of any
6 other communication.

7 Q. Was there any payment received during the
8 winter moratorium?

9 A. No, no payment.

10 Q. So what next happens on the account?

11 A. April on the account a disconnect notice
12 was issued in April.

13 JUDGE WALLACE: Of '04?

14 A. Of 2004, yes.

15 Q. Now, on the medical side, was the medical
16 certificate that had been issued in November still
17 in effect in April of 2004?

18 A. No.

19 Q. And why was that?

20 A. Because the 30 days had expired without
21 payment and the additional extension, had we
22 received a request for it, would have expired as

1 well without payment. The conditions of keeping the
2 medical certificate, of being able to use one, is
3 that you have to make good on the first one.

4 Q. And again is that something that is
5 AmerenIP's policy or is that something that is
6 dictated by Commission rules?

7 A. That's dictated by Commission rules.

8 Q. So in April a disconnect notice goes out.
9 Then what happened?

10 A. Then we sent a certified letter to the
11 resident stating that the service was going to be
12 disconnected and they needed to contact Illinois
13 Power in regards to their balance. And we did start
14 having communications after that.

15 Q. Can you tell us about those communications?

16 A. There is one that the customer service rep
17 received the call, said -- explained to the customer
18 that there was no pay arrangements available; they
19 had broken the pay agreement and they could not get
20 another one until September because you could only
21 have one broken one per year.

22 Q. Now, is that something that is driven by

1 Ameren policy?

2 A. That is Ameren policy during non-winter
3 months.

4 Q. Thank you.

5 JUDGE WALLACE: Well, let's be clear, Ameren or
6 IP?

7 MR. FITZHENRY: Well, it is always IP up until
8 September 2004. I apologize. I think of it as
9 AmerenIP in today's terms.

10 A. So it was AmerenIP's policy for the one.
11 But there is a Commission mandate that each customer
12 be allowed to enter into a deferred pay agreement
13 between December 1 and March 31.

14 Q. Thank you.

15 A. But we had no requests at that time.

16 Then on April 19 Mr. Smith called and said
17 that he would be able to pay a thousand dollars, but
18 we didn't receive payment.

19 Q. When did IP next receive any kind of
20 payment from the Smiths?

21 A. The first payment we received from the
22 Smiths was -- we received an energy assistance

1 payment on February 6, 2004. The first payment,
2 cash payment or payment from the customer was April
3 27, 2004.

4 Q. In what amount?

5 A. \$200.

6 Q. Do your records show when the next payment
7 was received?

8 JUDGE WALLACE: Back up just a minute. What
9 was the energy assistance amount.

10 A. The amount of energy assistance was \$93.

11 Q. Okay, thank you. And then the next time
12 that the payment was received?

13 A. The next time was June 3, the payment of
14 \$300 was received.

15 Q. So now in June of 2004 with the payment of
16 \$300 is there an account balance at that juncture?

17 A. Yes, the account balance was left at
18 \$2,071.96.

19 Q. And what happened at that point?

20 A. At that point the customer did call to give
21 his receipt number and he was advised that the
22 balance of \$2,071.96 was still outstanding and would

1 not keep the service from being disconnected.

2 Q. Was the service disconnect notice issued?

3 A. Yes, a disconnect notice had been issued.

4 Q. And again according to Petitioner's Group
5 Exhibit 1 that looks to be about June 14. Isn't
6 that what your records show?

7 A. Yes.

8 Q. And was there in fact a payment received
9 after the disconnect notice was issued?

10 A. Yes. We received a payment of \$1200
11 dollars on June -- that posted June 23, 2004.

12 Q. Was that amount sufficient in order to
13 avoid the disconnect?

14 A. No.

15 Q. Now, at this point in time do your records
16 show any discussions with the Smiths regarding again
17 a medical certificate?

18 A. Yes, on each of the conversations about the
19 procedure, the process, for using a medical
20 certificate was discussed. The one conversation
21 were the \$1200 payment was made, the customer
22 service rep indicates that she asked Virgil if he

1 was having the doctors fax over another medical
2 certificate and he stated yes, but because of the
3 popularity of his doctor it may take him awhile.
4 She reassured him that service was still scheduled
5 to be turned off on June 24 if the medical
6 certificate was not received by June 23.

7 Q. Do your records show when the medical
8 documentation for the medical certificate was
9 received?

10 A. Yes.

11 Q. And when was that?

12 A. That was received on June 24, June 24.

13 Q. Now, on June 24 you are saying that
14 AmerenIP now had the medical documentation to
15 support the medical certificate, is that right?

16 A. Yes, that's correct.

17 Q. And you have testified previously about
18 that if there is an arrearage or an amount due from
19 a prior period of time, that needs to be resolved?

20 A. That's correct.

21 Q. So at what point in time did both those
22 things happen, where the medical documentation had

1 been received and enough dollars had been paid to
2 issue the medical certificate?

3 A. After the -- on the day that the service
4 was disconnected. We received the \$1200 which would
5 have fulfilled the obligation for the previous
6 medical certificate but we needed a new one in order
7 to -- so we needed the two pieces.

8 JUDGE WALLACE: A new medical certificate?

9 A. Yes.

10 Q. So just so I am clear, on June 22 you
11 received \$1200?

12 A. Yes.

13 Q. That could have been applied to the amount
14 from the time the prior medical certificate was
15 issued?

16 A. Right.

17 Q. And what was that dollar amount?

18 A. I think it was 900.

19 Q. But on June 22 did you have the other
20 document, the medical documentation?

21 A. No, we did not.

22 Q. You didn't have it on June 22?

1 A. Right.

2 Q. So once you have the medical documentation
3 you apply the \$900 from the last certificate and the
4 service is reconnected?

5 A. Right, and we could do that under the
6 Commission guidelines because it just says that you
7 have to satisfy the previous one before you get a
8 new one. And the \$1200 would have satisfied the
9 previous certificate.

10 MR. FITZHENRY: Thank you, Judge.

11 JUDGE WALLACE: Cross examination, Mr. Smith?

12 MR. SMITH: Yes, yes, Your Honor.

13 I need to clarify something here. For the
14 record, I had requested -- I say this because Mrs.
15 Bursey indicates that she is responsible for the
16 life support registry as well as the supervisor.

17 JUDGE WALLACE: Well, Mr. Smith, at this point,
18 the only thing, you may cross-examine Mrs. Bursey.
19 You may ask her --

20 MR. SMITH: What I am saying, Your Honor, I
21 don't know who or what I am cross-examining because
22 she represented herself in two categories.

1 JUDGE WALLACE: I am not sure -- well, all I am
2 saying is that it is not at this point for you to
3 clarify anything. If you have questions of
4 Ms. Bursey, start right in, okay. You can ask her
5 questions if you are unclear of something about what
6 she has testified to.

7 CROSS EXAMINATION

8 BY MR. SMITH:

9 Q. Ms. Bursey, would you clarify your job
10 responsibilities associated with the medical
11 registry responsibilities?

12 A. If a customer is identified as needing a
13 life support application or questionnaire, that
14 request would come into my department and we would
15 initiate -- we would have the letter sent to the
16 customer and it will be received back into my
17 department, and that information would be coded on
18 the customer's account and we would create an order
19 for the service men to go out to tag the meter.

20 Q. Is the life support registry a department
21 or is there a coordinator?

22 A. No, there is just customer service reps

1 that receive the information and enter it into the
2 computer.

3 Q. So there is really no designated person as,
4 quote, responsible for that department? The reason
5 I ask that --

6 JUDGE WALLACE: She has testified that the life
7 support registry is maintained by customer service.
8 So continue -- I mean, I don't know where you are
9 going but that was her testimony.

10 MR. SMITH: Right. The reason I ask, may I
11 clarify?

12 JUDGE WALLACE: Yes.

13 MR. SMITH: The reason I ask is because we
14 received notification from the medical registry from
15 a coordinator as such. So I will assume that
16 because we received the information from a
17 coordinator that there was something responsible for
18 that department or job classification that follows
19 through. That's where I am coming from.

20 Q. So my question is you are saying that there
21 is no individual person, that it is done by the
22 computer or by the system itself?

1 A. That's correct. The actual information is
2 put in by a customer service representative and
3 everything is automated after that.

4 JUDGE WALLACE: Who would this coordinator be?

5 A. Well, the customer service rep would be
6 someone under my report.

7 Q. So you are representing yourself as a
8 supervisor as well as the medical registry
9 supervisor as well; you carry both categories?

10 A. No, my title is Managing Supervisor of
11 Credit and Collections. So I am more so responsible
12 for administration of policies and adherence to the
13 qualifications.

14 Q. Do you have knowledge of medical tags per
15 se, if you are involved in that department? Do you
16 have knowledge of medical tags that go on meters?

17 A. I don't know what they look like, no.

18 Q. Well, do you know if there is various
19 degrees of medical tags for a person on life support
20 as opposed to someone who is not on life support?

21 A. No, there is not to my knowledge.

22 Q. Would you have knowledge of scheduled

1 outages for our area and planned outages or storm
2 knockouts or car accidents that hit telephone poles
3 from your department?

4 A. That information is available to us but it
5 is managed by at the time our central dispatch
6 operations.

7 Q. So you would not have any knowledge how
8 many you have had planned scheduled outages in that
9 area, right? I am speaking again to you as from my
10 understanding as the medical registry life support
11 register individual that would be supervising that
12 department.

13 A. No, the registry is -- I guess we identify
14 the customers and then the operations department has
15 that information available to them. And if there is
16 a scheduled outage in an area where on a circuit --
17 because the customer's name, the address, the meter
18 number, the circuit number, all of that information
19 is recorded in the registry for operations along
20 with the phone numbers to make contact with a
21 customer if there is a preplanned outage to let them
22 know that we will have to take their service out and

1 please make other arrangements if you have to. If
2 there is a storm, that information is again
3 maintained within our operations department so that
4 they will know which areas are out. And if there is
5 a life support customer on that area, they will try
6 to prioritize to get them back into service. So it
7 is mainly for service restoration.

8 Q. So would it be your opinion that the
9 supervisor of those departments you are talking
10 about, regardless of where they may be located, to
11 make contact with the families that are on life
12 support that there is an issue at hand, like maybe a
13 planned outage or a storm or vice versa?

14 A. Yes.

15 MR. SMITH: Just for the record, there has
16 never been any contact with our family at any time,
17 from the time we have lived there, concerning any
18 planned outages, any duration of any outages of any
19 sort of any kind from the life support registry or
20 the system that you so identify. So let me switch
21 gears. I am going to ask a couple questions. You
22 are wearing many hats like I am today.

1 JUDGE WALLACE: I am sorry, if that last
2 statement was not a question to Ms. Bursey, then it
3 is stricken.

4 MR. SMITH: Which question?

5 JUDGE WALLACE: Whatever your statement was.
6 You said let the record show that there have -- I
7 did not know if it was a question or a statement
8 until you finished, and I am still not sure. But
9 you said that let the record show that there have
10 been no communications.

11 MR. SMITH: Let me rephrase it.

12 Q. Are you aware that the resident had not
13 been contacted?

14 A. No.

15 Q. For any planned outages?

16 A. No.

17 Q. Or any extended outages, any storms,
18 anything of the variances?

19 A. No, I have no way of knowing.

20 Q. In your own words would you define from a
21 supervisor standpoint, which obviously you have this
22 communication from time to time apparently, define

1 life support as you would know it from the medical
2 standpoint?

3 A. As I would define, it would be something
4 that a piece of equipment that would be necessary
5 for a person to sustain life.

6 Q. Are you the one personally that gives the
7 ultimate order to disconnect a person on life
8 support as being a supervisor of your department?

9 A. I am usually consulted, yes.

10 Q. So you are the line, the buck stops here;
11 when it gets to you, you make the final decision or
12 is there someone above you?

13 A. Actually, it is made at the supervisors'
14 level.

15 Q. Aren't you the supervisor?

16 A. I manage the supervisors.

17 Q. You manage, I see. So the individual
18 that's in charge of you that is responsible, I mean
19 your immediate supervisor above you, is the one that
20 is responsible for making that final decision, to
21 disconnect the life support?

22 A. I feel like I am entrusted with that. It

1 doesn't --

2 Q. Are there records being kept to your
3 knowledge of contacts of families to inform them of
4 planned outages?

5 A. I don't know about the planned outages.
6 That's an operational issue.

7 Q. So it appears to me that you have limited
8 knowledge of the life support registry in making
9 decisions that would affect someone on life support?
10 I am confused here.

11 MR. FITZHENRY: Well, I am not. I object to
12 the question. It mischaracterizes Ms. Bursey's
13 testimony. She has explained at great length her
14 qualifications, her managerial responsibilities.
15 She said the buck stops with her. So I think to
16 limit her qualifications as the question poses is
17 improper.

18 MR. SMITH: I don't have any other further
19 questions of the witness.

20 JUDGE WALLACE: All right.

21 EXAMINATION

22 BY JUDGE WALLACE:

1 Q. Ms. Bursey, do you know who Ellen Krohne
2 is?

3 A. Krohne, yes.

4 Q. Krohne. And who is she?

5 A. She is a former Illinois Power employee
6 that was, I think, vice president of customer
7 service.

8 Q. She was what?

9 A. I believe her title may have been Vice
10 President of Customer Service.

11 Q. And is she over your department?

12 A. She was. She no longer works for the
13 company.

14 Q. And who is Roger Pontifex?

15 A. That is my immediate supervisor.

16 Q. And what is Roger's title?

17 A. He is Manager of Customer Service, I
18 believe, is his title.

19 Q. These letters that were sent to Mrs. Smith,
20 are they generated by customer representatives?

21 A. They are kind of canned letters, I would
22 say, so to speak. They are form letters.

1 Q. And do Ms. Krohne or Mr. Pontifex actually
2 sign these letters or are they signed for them?

3 A. They generally sign them.

4 Q. Now, on the morning of June 24, 2004, what
5 was the balance that your records showed due?

6 A. The balance was \$1,104.08.

7 Q. Mrs. Smith indicated that she overheard a
8 conversation that said the balance was \$871.96?

9 A. That may have been the balance on the
10 particular disconnect. The document that I have
11 just shows the entire account balance and not the
12 balance on the disconnect. That may have been the
13 amount or would have been the amount needed to avoid
14 disconnect.

15 Q. So hypothetically speaking if a payment of
16 \$871.96 had been made on June 24, the disconnect
17 would have been avoided?

18 A. That is correct.

19 Q. But your records still show --

20 A. That's because this amount includes the
21 current bill as well.

22 Q. Do you know how your operations section

1 uses the life support registry?

2 A. To my knowledge they use it again for
3 planned outages and for restoration, major storm
4 restoration, information.

5 Q. In regards to some of Mr. Smith's
6 questions, the life support registry, is it
7 maintained on Illinois Power's computer system
8 that's accessible by several divisions?

9 A. Yes.

10 Q. But you are saying that customer
11 representatives underneath you input the information
12 into the registry?

13 A. Right, once the form is returned to us,
14 yes, and we input the information.

15 Q. Who maintains maintenance of the registry
16 in terms of if people move or no longer are on life
17 support?

18 A. Well, the system will automatically -- if
19 there isn't any activity on the account, the system
20 will automatically generate a notice that there has
21 been -- the service has been discontinued and an
22 order will automatically generate to -- well, I

1 won't say automatically. A memo generates it and we
2 will decide whether we will go and remove the tag or
3 not. If the customer is moving and the equipment is
4 moving or if the equipment is no longer there, that
5 would be someone in customer service generated that
6 order.

7 Q. And say the person moves on to another
8 address out of IP territory. This order will be
9 generated, the technician or Mr. Burnett will remove
10 this tag?

11 A. Yes.

12 Q. And is Mr. Burnett the person that would
13 put a tag on in response to something generated?

14 A. Yes.

15 Q. If I ask you for a complete listing of
16 everyone in Illinois Power that is on the life
17 support registry, you could have something printed
18 up with everyone on it?

19 A. That is correct.

20 Q. Is there any type of, if you know, any type
21 of automatic procedure that when operations is going
22 to do something in a particular area that they check

1 to see if there is a life support person?

2 A. I don't know for sure. We may have someone
3 here who can better answer that.

4 Q. Okay. And then I was unclear on one of
5 your statements. In the medical certificate under
6 Section (j), I cannot tell from the Commission's
7 rules where a certain balance is, other than the
8 unpaid balance?

9 A. I believe it is number -- it should be
10 maybe (j)4. Is there a number?

11 Q. Well, there is a (j)4 but you said that the
12 Smiths were eligible for a medical certificate in
13 October/November of 2003, and then the winter rules
14 kicked in. But then you said they were eligible for
15 another medical certificate in June of 2004?

16 A. If they had paid, if they had paid the
17 balance of the previous one.

18 Q. Okay. So as of the morning of June 24,
19 there was a balance of either 871 or I think 1100?

20 A. Right.

21 Q. So they had a continuing balance, so but
22 you are still saying they were eligible for a

1 medical certificate on June 24?

2 A. Yes, they were still eligible because the
3 \$1200 had satisfied the debt of the previous medical
4 certificate. So if we had a new one in hand saying
5 that the need is still there, from the doctor, we
6 could have issued, and did, once we received a new
7 medical certificate for \$897.79.

8 Q. So theoretically you could issue between --
9 you could issue six medical certificates a year?

10 A. As long as the debt on the previous one is
11 satisfied and we get an additional certificate from
12 the doctor.

13 JUDGE WALLACE: Okay, thank you.

14 MR. SMITH: I have nothing further.

15 MR. FITZHENRY: Nothing further.

16 JUDGE WALLACE: You may step down, Ms. Bursey.

17 (Witness excused.)

18 Okay, off the record.

19 (Whereupon there was
20 then had an
21 off-the-record
22 discussion.)

1 JUDGE WALLACE: Back on the record.

2 MR. FITZHENRY: Mr. Burnett, you are up again.
3 I am sure that you are overwhelmed.

4

5

6

7

CHARLES BURNETT

8 called as a Witness on behalf of Respondent, having
9 been first duly sworn, was examined and testified as
10 follows:

11

DIRECT EXAMINATION

12

BY MR. FITZHENRY:

13

Q. Mr. Burnett, I just want to follow up on
14 some questions that was asked earlier by Mr. Smith
15 and a few others of my own. I want to talk about
16 the tags. In your experience as an IP service man
17 how many tags are ever placed on a meter?

18

A. Normally aware of three.

19

Q. So if your account is current and there is
20 nothing wrong with your power or supply, what color
21 tag might you see on that meter?

22

A. We would use a white one in there so we can

1 recognize them better.

2 Q. So most people have a white tag on their IP
3 meter. And in the situation of Mr. Smith there
4 would be the medical tag that you talked about,
5 right?

6 A. Right, yes.

7 Q. And what is the third tag that you might
8 see on an IP meter?

9 A. If it has a red tag in the bottom end of
10 it, it usually indicates that the meter is supposed
11 to be turned off, it is supposed to be off.

12 Q. So when you went out and disconnected the
13 Smith meter, you removed the medical tag?

14 A. Right.

15 Q. And what did you put back on?

16 A. I put a red one on.

17 JUDGE WALLACE: I didn't hear you, sir.

18 A. When I turned the meter off, I installed a
19 red tag on it so you could see it.

20 Q. And again a red tag means that there should
21 be no power flowing though this meter?

22 A. Right.

1 Q. And I just want to follow up again on your
2 parking. It has been noted that you parked in the
3 driveway next door to the Smith residence. Is it
4 your practice to park in the driveway of the
5 residence to be disconnected?

6 A. Yes.

7 Q. Do you always park in the driveway of the
8 residence to be disconnected?

9 A. No, sir.

10 Q. Why might you not park in the driveway of
11 the residence to be disconnected?

12 A. Well, in their case I feel that I just over
13 run their driveway. In fact, I think if I am wrong,
14 maybe I am not, do you share the same driveway with
15 the --

16 JUDGE WALLACE: No, just what you recollect,
17 sir.

18 Q. I mean, have you ever parked across the
19 street from a residence to be disconnected?

20 A. Yes.

21 Q. Have you ever parked in front of the house
22 on the roadside?

1 A. Yes.

2 Q. Was there any intent in your part to be
3 deceitful or to hide from the Smiths?

4 A. No, sir.

5 MR. FITZHENRY: Thank you. That's all the
6 questions I have.

7 JUDGE WALLACE: Mr. Smith, any additional
8 questions?

9 MR. SMITH: Just one.

10 CROSS EXAMINATION

11 BY MR. SMITH:

12 Q. When you left the neighbors to proceed back
13 over to the meter of our residence you indicated
14 that you knocked on the door or you rang the bell
15 and you proceeded on. Did you just knock on the
16 door and ring the bell and proceed on immediately or
17 did you give time for someone to answer the door?

18 A. Well, I felt like I probably gave time for
19 somebody to answer.

20 Q. Was you surprised when someone came outside
21 and confronted you after disconnecting the power?

22 A. No, it happens quite regularly.

1 Q. Pardon?

2 A. It happens quite often.

3 MR. SMITH: Does it? No more questions.

4 EXAMINATION

5 BY JUDGE WALLACE:

6 Q. Now, Mr. Burnett, the red tag, is it --
7 that's for more of a safety purpose, right?

8 A. Well, we can see them better, it seems
9 like.

10 Q. And that's to tell linemen, workers?

11 A. That the power is off to that meter. It is
12 not an active meter.

13 Q. Just as a technical question, the power is
14 off to the house but the power is still -- where is
15 the actual power shut off at?

16 A. Right behind the meter. The picture of
17 that meter he gave me, it is turned off right behind
18 it. The top of the meter socket is still hot. The
19 bottom is cold.

20 Q. Okay. I am showing you what appears to be
21 a piece of pipe. So that is turned off there?

22 A. That is right behind the meter, right

1 behind the meter itself.

2 Q. Right behind the meter?

3 A. Right. You pull the meter out, put a piece
4 of plastic in there and turn it and put the meter
5 back in. It is not coming down to the top of that
6 meter, sir.

7 Q. That's what I want. So the red tag is a
8 safety device also?

9 A. Yes, sir.

10 Q. And then the medical tag appears to be a
11 little circle with a red cross in the middle of it?

12 A. It has writing on it. You know, I think it
13 says -- we just call them medical alert, medical tag
14 or something.

15 Q. But is that accurate, it is round with a
16 red cross?

17 A. Yes, it has red on it.

18 JUDGE WALLACE: Thank you. You may step down.

19 (Witness excused.)

20 MR. FITZHENRY: We call Theresa Sikma, please.

21 THERESA SIKMA

22 called as a Witness on behalf of Respondent, having

1 service men in the area and also the integrity of
2 the system.

3 Q. When you talk about supervising the service
4 men, what does that exactly mean?

5 A. Making sure the work is completed,
6 maintenance is done, policy is administered,
7 training.

8 Q. Would that include assisting or helping to
9 train service men with regard to disconnections?

10 A. Yes.

11 Q. Can you tell us a little bit about what you
12 do in that regard?

13 A. There is two times a year the type of
14 different training because there are different rules
15 to the policy. At the beginning of the season which
16 was in March 2004 a copy of the NPSO policy was
17 mailed to employees or put in their mailboxes and
18 then also we reviewed it before the season started.

19 Q. You got a little bit ahead of me there.
20 Let me show you what had been marked as Respondent's
21 Exhibit Number 2 and ask if you -- is this what you
22 were referring to in your answer?

1 A. Yes.

2 Q. What does NPSO stand for?

3 A. Non-Payment Service Order.

4 Q. And what is the purpose of this document?

5 A. It is to make sure the employee is aware
6 that we are following the policy, how to disconnect.
7 You know, they are to make a contact, try to make a
8 contact before or after they disconnect the service.
9 Also it will go through different types of payment
10 and if there are questions who to contact.

11 Q. Again, I think you said earlier there is
12 really two different periods of time, that this
13 document refers to the winter months and then the
14 non-winter months, is that right?

15 A. That is correct.

16 Q. And is this the kind of document or do you
17 know whether this kind of document was provided to
18 service men like Mr. Burnett on June 2003?

19 A. Yes, that document was provided.

20 Q. Now, if you were here throughout the
21 morning and this early afternoon you heard
22 Mr. Burnett's testimony?

1 A. That's correct.

2 Q. Is the manner in which he responded to the
3 disconnect consistent with at least your
4 understanding in being supervisor as to how he was
5 supposed to proceed with the disconnect?

6 A. That is correct.

7 Q. And in terms of knocking on the door,
8 that's what he is required to do?

9 A. Yes, he is to make an attempt before or
10 after disconnection.

11 Q. And was there anything about what he
12 testified to that in your mind was inconsistent with
13 his adherence to this Exhibit Number 2 or with the
14 training that he was provided?

15 A. No, he followed it completely. He even at
16 the end, if you notice the policy states that if
17 there is a question, call dispatch. And he called
18 the dispatch center and dispatch told him to follow
19 through, so he followed it correctly.

20 MR. FITZHENRY: That's all the questions I
21 have. Your Honor, I might point out that you had
22 asked Ms. Bursey a number of operational questions

1 and I believe Ms. Sikma can answer them or better
2 answer them. It is more in her kind of expertise if
3 you decide to follow up with her.

4 JUDGE WALLACE: All right. I hope I can
5 remember them.

6 MR. FITZHENRY: I can't. That's why I didn't
7 ask her. They were all good questions, though.

8 JUDGE WALLACE: Mr. Smith?

9 MR. SMITH: I have no questions

10 EXAMINATION

11 BY JUDGE WALLACE:

12 Q. All right. Ms. Sikma, what's your
13 education?

14 A. My education, I have a BS in bachelors
15 administration and a Masters in organizational
16 management.

17 Q. You are not an engineer?

18 A. I was -- I do not have an engineering
19 degree. I started in the engineering department
20 with Illinois Power Company.

21 Q. Are you the one that directs Mr. Burnett to
22 go to a house and shut off power?

1 A. Actually, he is given orders through what
2 we call a mobile data terminal, orders generated
3 from our customer service group. Also through
4 trouble orders coming in from customers. So I do
5 not per se sit there and say Mr. Burnett, these are
6 the orders I am going to give to you. They are
7 generated and sent out to him.

8 Q. Will you know -- to use a specific date,
9 did you know on the morning of June 24 that he was
10 going out to this residence to turn the power off?

11 A. No.

12 Q. Well, how is anyone to know if there is a
13 medical tag on there ahead of time?

14 A. That information is on the order that the
15 customer service group handles.

16 Q. Does the order come out in paper or does it
17 just come to the terminal they carry in their truck?

18 A. It comes out -- it is a computerized order.
19 It is not paper.

20 Q. And do you review these orders every day?

21 A. No.

22 Q. Does anyone review them or how do they get

1 slotted? How did Mr. Burnett get this?

2 A. This is -- in my understanding his orders
3 are generated, it has to do with billing, time
4 frames and they appear in a window. Our dispatch
5 group would push so many out to the employee at the
6 areas to work. They did -- during that time frame
7 the dispatch group manages the work. I manage the
8 employees and make sure they follow through on
9 policy.

10 Q. That's what I was trying to get to. So
11 Mr. Burnett was in his truck, he gets an order from
12 dispatch to go do this?

13 A. Yes.

14 Q. But you don't know that he is going out
15 there to do this?

16 A. No.

17 Q. How do you supervise him then?

18 A. I make sure he is getting his work
19 completed. Dispatch will let me know if he is not.
20 Also my work is more with the trouble outages,
21 managing storm restoration, managing crew work,
22 lines being built.

1 Q. I don't know what the system was in 2004
2 but when he does the disconnect, does he type
3 something into his computer?

4 A. Yes, he get an electronic order. It will
5 give you an address. It will even give you the
6 amount for the disconnect out there and he will go
7 out there and put a time that he accepts the order
8 on the screen, the time that he arrived, he enters
9 that. The time that he completes is already there.
10 The dispatch can see where he is working, where he
11 is at on the order. Part of the training, though,
12 is that he is not really supposed to question the
13 order. He is just to work it.

14 Q. Right. Respondent's Exhibit Number 2 is
15 called an NPSO. What does NPSO stand for?

16 A. Non-Payment Service Order.

17 Q. And what is a LHO?

18 A. Lineman Handling Orders.

19 Q. So in shorthand Mr. Burnett was the LHO
20 during the NPSO and he had an NCLO?

21 A. Yes.

22 Q. Is there a card or door tag that is left at

1 residences notifying them of disconnect at all?

2 A. They are supposed to, yes.

3 Q. And when is that put on the door?

4 A. The policy states that if they cannot
5 attempt to notify anybody, they should do that,
6 leave a door hanger. It helps them also let the
7 customer know that it is not because the power is
8 out because of an outage; it is because of
9 non-payment it has been broken.

10 Q. So the procedure is you knock on the door,
11 no one answers, you put a door hanger on, then you
12 go around and turn the power off?

13 A. Lots of times they may put -- they will do
14 the work, they will knock on the door, then proceed
15 to take care of the meter, enter the information in
16 the truck, then get the door hanger and then go back
17 out. It is typically the last thing they do.

18 Q. So in this situation since Mrs. Smith came
19 out of the house and spoke with Mr. Burnett, your
20 policy would not require him to hand her a door
21 hanger or walk around to the front and put a door
22 hanger on?

1 A. That is correct.

2 Q. But the door hanger is essentially an
3 after-the-fact type of procedure?

4 A. Yes.

5 Q. Now, the final notice, if you are familiar
6 with it, I mean not this particular one, but a final
7 notice?

8 A. Yeah, I have seen them, yes.

9 Q. That's sent to the customer?

10 A. Yes.

11 Q. And that's sent by the credit and
12 collection department?

13 A. Yes.

14 Q. Now, does that come -- I should have asked
15 Mrs. Bursey and I wasn't thinking then. I have got
16 my questions all confused. The only question I had,
17 is this sent out a day ahead, two days ahead?

18 A. You would have to ask her.

19 Q. I guess then from operations, all
20 Mr. Burnett gets or all he gets is a work order that
21 tells him to go turn off the power and he assumes
22 that this has been sent out or does this show up on,

1 you know, as a category in something?

2 A. That is correct. Part of the training in
3 working with the service men is pretty much not to
4 even be doubting that. Our expertise is how to cut
5 the power and how to work with the electrical system
6 and the credit department. They need to be
7 administering the rules. And so we never see that
8 from the operation.

9 Q. You just get the order to go out?

10 A. Right.

11 Q. Okay. And then in terms of the term
12 restoration, how does that work?

13 A. Restoration effort in a storm or during the
14 reconnect?

15 Q. Well, okay, reconnect, I am sorry. The
16 Smiths power was reconnected that day, right?

17 A. Correct.

18 Q. Is Mr. Burnett, is he radioed to go back
19 out or does he get another work order?

20 A. It can be two different ways but he should
21 receive another order on the screen to go back and
22 reconnect. He may get a call from the dispatcher

1 to.

2 JUDGE WALLACE: All right. How much time would
3 you like?

4 MR. FITZHENRY: You know, you mentioned earlier
5 that there is a drop dead date. Do you know, is
6 that in January?

7 JUDGE WALLACE: Yes, I don't have it with me
8 but it is, yeah, it is in January. So you will have
9 to do it pretty quick.

10 MR. FITZHENRY: Two weeks?

11 MR. SMITH: Two weeks.

12 JUDGE WALLACE: And they will be simultaneous
13 memorandums. You can outline your positions. You
14 can make your arguments, that type of thing. Then
15 we will do a one week and then you can reply to what
16 the other side said. Is that fine?

17 MR. FITZHENRY: That's fine. Again, Mr. Smith,
18 because of the short time frames can we be sure that
19 we electronically share that with each other?

20 MR. SMITH: No. I have too much trouble with
21 mine. As a matter of fact, you e-mailed me
22 apparently something last night and I couldn't open

1 it up. So I don't want to depend on something like
2 that. It is too important to me. Mail it to me
3 across the board. I will Express mine. He can
4 Express his.

5 JUDGE WALLACE: Don't forget to include me.
6 You have to file it with the clerk and you also have
7 to give me a copy. It is two separate things.

8 MR. SMITH: One more thing, please.

9 JUDGE WALLACE: Yes.

10 MR. SMITH: On my request for appearance to Mr.
11 Fitzhenry, I requested a couple of people. He
12 wasn't able to provide them. He brought someone
13 else totally different than what was requested for
14 appearance.

15 MR. FITZHENRY: Could you be more specific?

16 JUDGE WALLACE: We have to take a break. I am
17 very sorry.

18 (Whereupon the hearing
19 was in a short recess.)

20 JUDGE WALLACE: Back on the record. Short
21 briefs are due in two weeks and then a reply is due
22 one week after that. I should hope to have the

1 proposed order out quickly. The time frames on the
2 briefs on exception and replies to exception may
3 have to be shortened depending on the time. I will
4 issue a proposed order and both parties will have an
5 opportunity to submit another memorandum on the
6 proposed order. And then there is -- then you can
7 reply to the other person's brief on the proposed
8 order. And then the order itself goes up to the
9 Commission.

10 MR. SMITH: Your Honor, could you define a
11 short brief? What is short, please, less than a
12 book?

13 JUDGE WALLACE: Less than a book. I have a
14 case right now where I am wading through briefs that
15 I think one of them was 128 pages. So, yes, short
16 to me is 10, 15, 20 pages, something like that. And
17 Mr. Fitzhenry?

18 MR. FITZHENRY: Yes, a couple things, Your
19 Honor. Given your ruling earlier today to take the
20 amended motion to dismiss with the case, I would
21 like leave to file an answer to the complaint,
22 unless you don't think it is necessary. But

1 procedurally I am making that request.

2 JUDGE WALLACE: I don't really think it is
3 necessary at this point.

4 MR. FITZHENRY: Okay, very well.

5 And given our earlier discussion the
6 Company will respond to the request for protective
7 order at the same time it files its initial brief.

8 JUDGE WALLACE: Okay, then. If no one has
9 anything further, this record is marked heard and
10 taken. Thank you very much.

11 (Whereupon
12 Complainant's Group
13 Exhibit 1 was marked
14 for purposes of
15 identification.)

16 HEARD AND TAKEN

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