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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
KEN PATEL)
v) No. 11-0614
MIDAMERICAN ENERGY COMPANY)
Complaint as to no discloser)
of the terms of the contracts,)
misrepresentation in Chicago,)
Illinois.)

Chicago, Illinois
January 9, 2012

Met pursuant to notice at 10:00 a.m.

BEFORE:
MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES:
MR. KEN PATEL
MR. ANDY PATEL
1200 North Frontage Road
Palatine, Illinois 60074
appeared pro se;

1 APPEARANCES: (Continued)

2

DLA PIPER, LLP (US), by
3 MR. CHRISTOPHER N. SKEY
203 North LaSalle Street, Suite 1900
4 Chicago, Illinois 60601
appeared for Respondent.

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17 SULLIVAN REPORTING COMPANY, by
Teresann B. Giorgi, CSR

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1 JUDGE RILEY: Pursuant to the direction
2 of the Illinois Commerce Commission, I call
3 Docket 11-0614. This is a complaint by Ken
4 Patel versus MidAmerican Energy Company as to
5 no discloser of the terms of the contracts,
6 misrepresentation in -- it says Chicago, Illinois --
7 actually, it should be either Palatine or
8 Lake Bluff, Illinois.

9 Mr. Patel, you are here without an
10 attorney, is that correct?

11 MR. KEN PATEL: No.

12 MR. ANDY PATEL: Without an attorney, yes.

13 JUDGE RILEY: Oh, you are the attorney?

14 MR. ANDY PATEL: No.

15 MR. KEN PATEL: No.

16 MR. ANDY PATEL: Without an attorney.

17 JUDGE RILEY: You're proceeding without an
18 attorney. Okay.

19 And again the two service addresses
20 that you're complaining about, one is a Comfort Inn
21 at 1200 North Frontage Road in Palatine, Illinois,
22 and a Sleep Inn at 3260 Bittersweet in Lake Bluff,

1 Illinois?

2 MR. KEN PATEL: Right.

3 JUDGE RILEY: And, Mr. Skey, would you enter an
4 appearance for the Respondent, please.

5 MR. SKEY: Certainly, your Honor.

6 On behalf of Respondent MidAmerican
7 Energy Company, Christopher N. Skey, S-k-e-y,
8 together with Christopher Townsend and Michael
9 Strong, of the law firm of DLA Piper, LLP (US),
10 203 North LaSalle Street, Chicago, Illinois 60601.

11 JUDGE RILEY: Thank you.

12 The reason that I called this status,
13 Mr. Skey's motion to dismiss is still pending. I
14 haven't made a ruling on that yet.

15 Mr. Patel, I wanted to give you one
16 more whack at this and see if I can find -- if there
17 is more of an issue involved than whether or not --
18 your understanding was that you were signing a
19 modification --

20 MR. KEN PATEL: That is correct.

21 JUDGE RILEY: -- of the contract.

22 And instead you received an extension

1 of the contract for each of these motels --

2 MR. KEN PATEL: That is correct.

3 JUDGE RILEY: -- is that correct?

4 And that is essentially what this
5 boils down to.

6 And Mr. Skey stated in his motion to
7 dismiss that this a -- from the Respondent's point
8 of view, a "he said/she said" type of situation.

9 And I'm wondering that if you come to hearing, what
10 evidence are you going to use to prove your case?
11 How are you going to do that?

12 MR. KEN PATEL: Yes, your Honor.

13 It's not "he said/she said." It is
14 actually he had intentionally use deceptive
15 practice, had not to disclose the contract, the
16 terms. He simply -- the purpose of the meeting was
17 to lower the rate modification for the balance of
18 the contract, which is May 2009 through May 2011.

19 JUDGE RILEY: But the documents don't show that.

20 MR. KEN PATEL: Okay. But when he comes there,
21 the purpose of the meeting sole, not for extension,
22 the old contract was good until May 2011. We are

1 meeting in August 3rd, 2010. And several times from
2 April 2010, I talked to John Geier (phonetic). I
3 talked to Carolyn Eckerman (phonetic) at MidAmerican
4 Energy and requested that, If you possibly can
5 modify the rate.

6 And August 2nd, when I called to
7 Carolyn Eckerman, and I have a note from her that
8 she talked to John and John said okay, he will go.
9 She say that Ken Patel like to cancel the contract,
10 had not said that I like to extend the contract. I
11 know the contract is 10 more months to go.

12 Energy prices are deregulated and are
13 coming down. I had 2 contract proposal, which are
14 almost 40 percent less than what they have. So I
15 request -- I know I have an obligation for the
16 2009 contract through May 2011, so I could not do
17 anything, only I requesting. And that's the sole
18 purpose he's coming there. And that's why he didn't
19 bring the contract. He didn't drop anything. The
20 talk he made is this, Mr. Patel, your rate will
21 be -- new rate will be little bit less, .0484.
22 Immediately I figure that I had .0511. So that's

1 little bit less. I said, Fine. Because I cannot
2 argue. I have obligation for the 2009 contract,
3 even though I do have the prices much lower.

4 I said I do have prices lower, but
5 when the new contract come, We'll see. And he said,
6 Can I have a copy? I give it to him. He can see
7 that, that .0513, which is all-inclusive rate. And
8 their inclusive rate come plus 8 cent.

9 Nevertheless, when he talk me that, I
10 cannot say, Why don't you do this, John? Go to Andy
11 and Andy will sign it. While he was leaving --
12 okay, I said, Can I have a copy? While we are
13 walking. He had not offered me a copy. I asked
14 him, and he's pulling out from his briefcase. He
15 give me the copy. He give me unsigned copy, which
16 is a different date, different term. And I was -- I
17 left that copy in my table. And when I came
18 Saturday, when I saw that, immediately I called
19 Andy. I said, Andy, did you pull out the copy? He
20 said, He has not given me the copy. He said, They
21 will send it to you. So I don't know what Andy had
22 signed.

1 And that's why August 7th, within
2 24 hours, I send a fax note canceling the contract
3 for 2011 to 2013. Then he called me, we missed, on
4 August the 10. Within 3 business days we talked.
5 And I said, John, that's wrong. We have newer
6 extension and why would I talk for the extension
7 when I have couple of proposals which are much
8 lower? And you have not given me a copy until I
9 ask. And what you have given me, that is not the
10 full copy for the contract. And the one you have
11 given me is not the right one. He said, Well, Andy
12 had signed it and I talked to Carolyn Eckerman
13 and --

14 THE REPORTER: I'm sorry.

15 MR. KEN PATEL: He advised me to call him, which
16 I did on August 17. And I ask Carolyn, Carolyn, I
17 talk to couple times, Did I ever ask for extension?
18 She said, No. Did I talk for the rate adjustment?
19 Yes. And that's also she knows that.

20 MR. SKEY: I'm going to object at this point,
21 your Honor. To the attribution of what another
22 person might know I think is -- I recognize we have

1 looser rules here than, for example, in the circuit
2 court in terms of what your Honor can hear. You
3 know, to purport to know what someone else knows
4 based on a conver- -- I mean, that's speculative and
5 inappropriate.

6 JUDGE RILEY: This is precisely why I called the
7 status, Mr. Patel. Counsel's objection is well
8 understood. But my question is, how are you going
9 to prove your case?

10 MR. KEN PATEL: Your Honor, I have already given
11 the contract, which is unsigned, which is given to
12 me, which is not the same, which is totally
13 different. That can tell that how he -- what he's
14 doing there. And when I send you the two package, I
15 had completely detail that what I had submitted to
16 you. And let me give you again -- and I think --
17 where did this come from? He should have one the
18 same day or the next day. Why he waited 3 days?
19 (Inaudible) the package which he gave me.

20 JUDGE RILEY: Now, is that the signed or the
21 unsigned?

22 MR. KEN PATEL: Unsigned.

1 JUDGE RILEY: Then it's not a contract.

2 MR. KEN PATEL: I am not supposed to sign. Andy
3 supposed to sign.

4 JUDGE RILEY: Right. And I have the 2 documents
5 here that he did sign.

6 MR. KEN PATEL: Yeah, but what is this
7 (indicating)?

8 JUDGE RILEY: We had this conversation back on
9 October 6th.

10 MR. KEN PATEL: If I am here because all
11 utilities companies are regulated by ICC. And I
12 came to know that if there is any deceptive practice
13 to consumers in the market, we should complain. And
14 that's why I made the informal complaint sometime
15 back right after that happened. And then they
16 advise me the formal complaint.

17 So look into this unsigned, but that
18 is a copy from him. Don't you think, Judge, this
19 should be the same what is given to Andy to sign?
20 And don't you think he should give me a full copy?
21 Don't you think I do have a right to have a complete
22 copy?

1 JUDGE RILEY: Certainly.

2 MR. KEN PATEL: Okay. Don't you think he has a
3 right to have a copy?

4 JUDGE RILEY: Certainly.

5 MR. KEN PATEL: Okay. I do have a copy. The
6 one copy he gave me is wrong. He has not given him
7 a copy.

8 MR. SKEY: Your Honor, I need to interject here.

9 I mean, there's no question about what
10 the signed contract is. There's no question that
11 people don't have --

12 MR. KEN PATEL: We --

13 MR. SKEY: -- appropriate copies -- excuse me,
14 sir. I'll speak and then you speak if you have
15 follow-up. I appreciate it.

16 I mean, there's no dispute about there
17 being a correct copy of the signed contract. I
18 think that that's -- I think it was attached to
19 Mr. Patel's complaint and I think that we agreed
20 that that was the signed copy. And we attached to
21 our motion a complete version of what he attached,
22 together with the underlying documents that it was

1 an extension. So I don't think there's any debate
2 about what the actual document was.

3 With all due respect, I think what
4 Mr. Patel has just described is exactly, and I would
5 emphasize exactly, that "he said/she said" type of
6 debate.

7 Now, I appreciate that that may have
8 been frustrating or perhaps there was some
9 misunderstanding, but the Illinois Supreme Court law
10 that we've quoted in our motion to dismiss, as well
11 as our reply, is very clear. It says, An agreement
12 when reduced to writing must be presumed to speak
13 the intentions of the parties who signed it. It
14 speaks for itself. That's the Air Safety v.
15 Teachers Realty Corporation case.

16 There's a reason the Supreme Court has
17 that rule. And it's exactly because in
18 circumstances like this where there may be, as it
19 turns out, some misunderstanding or hard feelings, a
20 Court, and indeed the Commission, and I'll get into
21 that in a little bit more detail in a moment, has no
22 business, frankly, getting into a question of what

1 the party's intention was because the party's
2 intention is reflected in the written document. And
3 we have a written document here. It was signed.

4 It was very clear from the last
5 hearing that Mr. Patel confirmed that Mr. Andy Patel
6 had authority to sign the agreement. There's no
7 question that it wasn't signed with authority. It's
8 a binding contract.

9 Your Honor, if I might, you've called
10 a status hearing today, and I appreciate that you've
11 given the parties additional opportunity, including,
12 you know, pro se parties before the Commission, I
13 think that's totally appropriate and we appreciate
14 that. But it's a status hearing and the status is
15 that the facts in this case clearly reflect that
16 there was a written contract that was signed by both
17 parties, both signatories had authority to sign the
18 document.

19 The law here is very clear. The
20 Supreme Court of Illinois makes it very clear that
21 written documents control. We have a written
22 contract. Indeed the equities here make it very

1 clear that there's no complaint. As Mr. Patel has
2 confirmed, there was a reduction in the price that
3 resulted from the contract extension.

4 I would also note, frankly, on the
5 issue of equities, that MidAmerican -- that the
6 contract is very clear that MidAmerican because of
7 the breach, the termination without cause, is
8 entitled to several thousand dollars, which they
9 haven't been paid. And so to the extent there are
10 questions of equities here, they also, I think, fall
11 in favor of MidAmerican and don't support any sort
12 of claim here.

13 And I'll make one last point and then
14 I'll finish.

15 There was a reference to, you know,
16 consumer complaints and so forth. I did have an
17 opportunity to go back and look at some recent
18 Illinois Commerce Commission decisions. And the
19 Commerce Commission is quite clear that its
20 jurisdiction to deal with these sorts of matters is
21 quite limited.

22 In the Citizens Utility Board case

1 against -- excuse me -- Illinois Energy Savings
2 Corp., and that's ICC Docket 08-0175, in the
3 April 13th, 2010 order that the Commission issued,
4 the Commission specifically found that "the
5 Commission's jurisdiction resides in enforcing the
6 Public Utilities Act. Claims of violation of the
7 Illinois Consumer Fraud & Deceptive Business
8 Practices Act, the Illinois Deceptive Trade
9 Practices Act and Illinois Common Law, cannot be
10 brought before us. The Commission was very clear.
11 And that also is included in the Finding paragraphs
12 of that order. And I have copies. I'd be happy to
13 give a copy to Mr. Patel (indicating). And I have a
14 copy for your Honor, as well.

15 JUDGE RILEY: Well, as long as I have the docket
16 number, I have access to it. That's fine.

17 MR. SKEY: 08-0175. And I just quoted from --
18 it's quite long. So just for the record, I quoted
19 from the bottom of Page 4 over to Page 5.

20 JUDGE RILEY: All right. Thanks.

21 MR. SKEY: I appreciate that there's frustration
22 here. I appreciate, perhaps, there was some

1 misunderstanding. But, you know, Illinois law is
2 clear that neither of those circumstances,
3 misunderstanding or frustration, give rise to a
4 claim. And even before a court, but moreover the
5 Commerce Commission, itself has made it quite clear
6 that it doesn't have jurisdiction to deal with a
7 complaint of that sort.

8 And so we would reiterate our request,
9 respectfully, that the matter be dismissed pursuant
10 to the motion to dismiss that we filed.

11 JUDGE RILEY: Mr. Patel, that's exactly what I
12 called the status for --

13 MR. KEN PATEL: Right. Your Honor --

14 JUDGE RILEY: No, please.

15 MR. KEN PATEL: Excuse me.

16 JUDGE RILEY: -- I have 2 -- I have before me
17 2 signed contracts for periods May 11 -- May 2011
18 through May 2013, at a particular price for one
19 establishment and another contract signed, for the
20 same period, for a slightly higher price. And what
21 you have raised as an issue is the unsigned
22 document.

1 MR. KEN PATEL: That's why we are here. He has
2 not disclosed. He has not given the copy of the
3 full contract. And the one which he has given is a
4 wrong one. And he has not given to Andy. In the
5 5 minutes he ran and say, I talk to Ken, you're
6 supposed to sign. He's busy taking the guests. He
7 signs and he's gone. That is all part why I are
8 here. We are not telling that he has not signed.
9 We are telling in the manner he has handled was not
10 right. He has the technique. He has youth. Not
11 giving anything. Not disclosing anything, Judge.
12 And that's why we are here.

13 MR. SKEY: I object to that characterization.

14 MR. KEN PATEL: Okay. How can you characterize
15 that he had presented the contract? Tell me. What
16 do you have?

17 MR. SKEY: Well, I object to the dialogue back
18 and forth between Counsel and party, that's
19 inappropriate. We address --

20 JUDGE RILEY: Right.

21 MR. SKEY: -- the Administrative Law Judge.

22 But the statement I will make is that

1 the documents that were presented are the documents
2 that were attached to Mr. Patel's complaint. He
3 was, you know, free to attach whatever he wanted and
4 he did attach a number of documents, you know, quite
5 voluminous, actually, and I appreciate that he did
6 that. Those reflect a signed contract.

7 Now, there's also a document that's
8 out there that was apparently exchanged prior to
9 signature of the contract, that's not unusual. It's
10 not unusual that it wouldn't bear the date that the
11 contract was signed, of course, it wouldn't because
12 it's a draft of the contract.

13 It's not unusual that the terms of
14 that document might be different from the signed
15 contract. That's what a negotiation is. During the
16 course of a negotiation terms change. So there's
17 nothing unusual about that.

18 I appreciate that, in the
19 Complainant's mind, there may have been some
20 misunderstanding about that. But, again, these
21 aren't -- to be frank and fair, these aren't
22 unsophisticated people dealing with this

1 transaction, on either side of the transaction.

2 They're sophisticated businesspeople.

3 They are -- and I must say this for
4 the record, they are people who are represented by
5 counsel, although not in this case, even in
6 connection with this matter they have an attorney.
7 He is -- and I say that -- I'm not speaking out of
8 school when I say that. There's a document attached
9 to the complaint that is from their attorney to
10 MidAmerican. So they have referenced to an attorney
11 and access to counsel.

12 And so, I think, that -- you know, the
13 suggestion that this is sort of -- some sort of
14 fly-by, you know, door-to-door sales with a
15 residential customer who doesn't understand the
16 circumstances, I think that's unfair -- it's unfair
17 to my client to characterize the matter in that way.
18 And it's also unfair to characterize it based on the
19 very allegations of the complaint, which reflect a
20 long-term relationship between the Patels and the
21 gentleman who was the representative of MidAmerican.

22 So I really think -- your Honor, we're

1 getting kind of far afield here. I know we don't
2 want to rehash what we did -- what we spoke about
3 last time, but you know, I've got to reiterate the
4 motion to dismiss because this is just -- the more
5 we talk, the more convinced I am this is a matter
6 that is subject to dismissal.

7 JUDGE RILEY: I wanted to make sure that there
8 wasn't an issue I was missing, but it comes down to
9 the unsigned document and the 2 signed documents.

10 MR. SKEY: And the only other thing I would add,
11 your Honor, respectfully, is, I haven't heard
12 anything today different from anything in the
13 hearing, I believe, that was back in October when
14 your Honor gave us a lengthy hearing to go through
15 the materials. So, you know, I expected that was
16 the purpose of our hearing today. And, I think,
17 that that purpose has confirmed that the matter
18 should be dismissed.

19 MR. KEN PATEL: So, Judge, one last question,
20 okay? Any contract which is signed, is it -- is
21 that contract how it signed, is no matter how it was
22 done, what has been presented? There are so many

1 contracts would have like this, not properly same
2 and not given a copy. And that's why we are saying
3 that 2010 contract is not the contract. It's a
4 misrepresentation. And we waited until the contract
5 expired even though we had in August -- before
6 August, 40 percent lower prices. We didn't do
7 anything because we obligated.

8 So if someone say that, You signed the
9 contract. So that's it. No. It doesn't have any
10 merit to see how the agent had presented. Did the
11 agent -- did he -- job in the manner it should to
12 the consumer? Did he give the copy, which he has
13 not?

14 JUDGE RILEY: Under any circumstances,
15 Mr. Patel, an abrogation of fraud or
16 misrepresentation of a contract would not be a
17 matter of jurisdiction for this Commission. That
18 would be something you would have to pursue in state
19 court.

20 But, again, my question would be, how
21 would you prove that? How can you -- what
22 documentation or other evidence would you have?

1 MR. KEN PATEL: Well, I do have, because
2 number one, he had not given a copy of the contract.
3 He has not disclosed anything. And the things which
4 he's given me unsigned, but it's not the same. I
5 think if you get a copy, the signed contract should
6 be same and it's not.

7 JUDGE RILEY: No, I agree with Mr. Skey on this,
8 is that the unsigned is part of a negotiation. It's
9 going to contain some terms, but it's not the final
10 document.

11 MR. KEN PATEL: Before --

12 JUDGE RILEY: As far as obtaining a copy of the
13 contracts, why can't you call Mr. Geier and say,
14 Please send us copies of the 2 contracts? He should
15 have that available for you. He should be able to
16 produce those for you.

17 MR. SKEY: Just to be clear, I don't -- correct
18 me if I'm wrong. I don't think Mr. Patel is saying
19 he doesn't have complete copies of the signed
20 contracts. I believe he attached those to his
21 complaint.

22 JUDGE RILEY: Then, I'm lost. What --

1 MR. SKEY: I am, too, your Honor. But I just
2 want to be clear for the record --

3 MR. KEN PATEL: No --

4 MR. SKEY: -- those documents are out there and
5 they're available to everybody and they are part of
6 the record in the case.

7 MR. KEN PATEL: We do have from MidAmerican
8 Energy and before that, August 7, within 24 hours we
9 talked and I faxed a note that, John, the contract
10 which you have, we have number of questions, so it
11 should not go further. We didn't have actual copy
12 of contract. So I don't know what Andy had signed.
13 He has not given copy to Andy. He has not given to
14 me. And I think he obligated to do that.

15 MR. SKEY: Well, I'll reiterate my statements,
16 your Honor. I don't understand what the point is
17 there. The contracts that were signed are available
18 to everyone. They're attached to the complaint.
19 And it is what --

20 MR. KEN PATEL: Your Honor, this is very clear
21 that he had not given a copy. We have a right to
22 have a copy of the contract.

1 JUDGE RILEY: But didn't I just understand that
2 you have attached copies of the contract to your
3 complaint?

4 MR. KEN PATEL: But that one is a later. That
5 one -- he had not given us a copy of the contract.
6 That contract Andy signed went to MidAmerican and
7 MidAmerican on August 12th, they are sending us a
8 copy. That's what I'm given. And I'm saying that
9 when I saw that it is different than what he has
10 given me. So he had bad -- he had a bad practice.

11 And, Honor (sic), I am here under oath
12 and I -- we are not lying. And he has done wrong.
13 He misused our trust. We know him. Why he would do
14 this? Why he would not give us a copy? Why he has
15 given me this (indicating)? Why he didn't go to the
16 same door (sic) next day?

17 MR. SKEY: I have to make one comment.

18 I object to the implication that this
19 is a hearing with evidentiary evidence given under
20 oath. That's not what it is --

21 JUDGE RILEY: No.

22 MR. SKEY: -- it's a different proceeding.

1 We're not there, yet. I don't think we should get
2 there. I think our position is very clear that this
3 matter does not merit getting to that point because
4 the system that is set up provides for a hearing
5 like this before we get to that point and there's
6 not a claim here. So the matter should be dismissed
7 and I believe that should terminate the matter.

8 JUDGE RILEY: Mr. Patel, let me show you what
9 was given to me back on October 6th and these are
10 the signed copies of the contract (indicating).

11 Are you saying that you don't have
12 copies of these?

13 MR. ANDY PATEL: Maybe I can sum it up.

14 JUDGE RILEY: Go ahead.

15 MR. ANDY PATEL: There's a lot of --

16 JUDGE RILEY: You are Andy Patel?

17 MR. ANDY PATEL: Yeah.

18 This is what happened. We actually
19 called MidAmerica (sic) and we actually told them
20 that, Listen, we may cancel our agreements with
21 MidAmerica. So at that time they contacted John and
22 said, you know, Either, you know, when we come up

1 for renewal we're not going to go forward. We
2 wanted to negotiate our rate -- our current rate for
3 the balance of the contract to get it lower, to
4 modify it, like we did with all of our vendors, you
5 know. Because, you know, the tough times, we
6 renegotiated all of our rates with all of our rates
7 with all of our vendors. And this is one vendor
8 which, you know -- which we had which we wanted to
9 modify our rate.

10 He came and spoke to Ken.

11 JUDGE RILEY: "He" being --

12 MR. ANDY PATEL: John came and spoke to Ken.
13 They spoke about, you know, trying to modify the
14 rate, getting it a little bit lower. And at that
15 point we presented to him, say, Hey, listen, current
16 rates right now with, I think, Direct Energy,
17 Syntena, all these other companies, this is what
18 their rate is. And we, you know -- and it's quite
19 lower, much lower than what we are paying with
20 MidAmerica currently. So can you change our -- you
21 know, modify our rate so we can get something lower?

22 JUDGE RILEY: Okay.

1 MR. ANDY PATEL: Okay. So at that point they
2 had discussed a rate.

3 Now John said he'll -- well, Ken said,
4 you know, Well, go see Andy and we'll modify the
5 rate. And I spoke to Ken. He called me. He said,
6 Hey, listen, they're going to modify the rate by a
7 little bit, it's not much, but, you know, it's
8 something and let's go ahead and, you know -- let's
9 proceed on, you know, getting the rate modified a
10 little bit. Okay. Fine.

11 So, you know, when he came -- he
12 actually called me on a Friday. And I actually told
13 him at that time, you know, I'm the only one at the
14 hotel right now. I'm busy. I can't even meet with
15 you right now. I'm running the front desk. He
16 said, I got to get this done right now.

17 So he called me the afternoon. He
18 still came by. He said, I got to get it signed
19 today. And I'm dealing with customers at one end of
20 the desk and the other end of the desk he's like,
21 Sign here, here, here. He had it laid out for me.
22 When I signed it, he gathered his stuff, he took

1 off. I, you know -- and then -- because I was under
2 the assumption that this would be a modification
3 that was, you know -- that they talked about for the
4 balance of the contract, which is fine.

5 And then the next day he -- which is a
6 Saturday, he saw what John left behind. He left
7 behind something that showed, I think was a
8 different rate than what they talked about.

9 JUDGE RILEY: Right.

10 MR. ANDY PATEL: He left behind something
11 that -- the term was a year term, different
12 terms -- this is what he left behind, you know, for
13 us (indicating).

14 Usually in the past when we had dealt
15 with John, he would not only explain the whole
16 contract to us, he would leave behind what your
17 monthly charges would be, you know, the whole
18 breakdown, you know --

19 JUDGE RILEY: Sure.

20 MR. ANDY PATEL: -- the whole thing.

21 This time he came in, signature, out
22 the door. We didn't leave any copies -- he didn't

1 leave anything behind for us. So I didn't have
2 anything.

3 So when he called me on Saturday, say,
4 Hey, do you have a copy of the stuff that I signed,
5 I said, No, he didn't leave anything behind and he
6 said that he's just going to send it out, you
7 know -- send it out to us.

8 So at that point he had faxed him
9 saying that the reason he faxed John saying that,
10 Listen, there is a problem with this issue that we
11 have right is because we didn't want a one-year -- a
12 one-year extension on it. We're looking for a
13 modification on the rate, you know, with the rate
14 that was left behind. We're looking to modify our
15 current rate.

16 That being said, we find out that --
17 and we didn't have copies at that time. So then we
18 find out, a couple days later, that on -- they were
19 playing phone tag on Monday. But on Tuesday they
20 find out, Wait a minute, not only was the document
21 signed by myself, but they were a two-year, not even
22 what was left behind and what they even talked

1 about. So now, all of a sudden, it's a two-year
2 thing. At that point we said, No, those are not our
3 intentions. And we e-mailed them saying that was
4 not our intentions. Our intentions were doing a
5 modification, you know, and we did not want to
6 extend the contract for another two more years.

7 And we even told John, John, why would
8 we even do that when we have other energy companies
9 that we've been getting quotes from which are much
10 lower than what you're presenting us with?

11 JUDGE RILEY: Okay. So what I understand then
12 is --

13 MR. ANDY PATEL: That was the whole bulk of it,
14 you know? And I think --

15 JUDGE RILEY: It's not that there was -- it's
16 the way in which this thing was done.

17 MR. ANDY PATEL: The way in which it was done.

18 JUDGE RILEY: Very, very -- from your standpoint
19 very haphazard, very rushed, at a time when you were
20 busy.

21 MR. ANDY PATEL: Not only that. Not only that.
22 He would not -- I told him that, Listen, today is

1 not a good day, like it was a Friday. I said, No,
2 I'm the only one working. And he's, No, I have to
3 get this done today.

4 And even though I was working with
5 customers at the front desk and whatever, he laid
6 out the contract, he said, Just sign here. I spoke
7 to your dad. Everything has been -- you know, we
8 talked about it. This is what it is. Sign here,
9 and, you know, he's away. His office is much closer
10 to where I was at than going all the way to Palatine
11 to see him.

12 But this is what the whole --

13 JUDGE RILEY: And that's where the issue --

14 MR. ANDY PATEL: Does that make sense of what
15 I'm trying to --

16 JUDGE RILEY: I understand very well what you're
17 saying.

18 Mr. Skey, do you have anything
19 further?

20 MR. SKEY: Well, I understand it and I
21 appreciate the supplemental explanation. I mean, I
22 under- -- I'll be completely honest with your Honor

1 and with the Patels.

2 I understood the situation to be
3 exactly as the younger Mr. Patel has described it
4 before he described it. I mean, I understood what
5 the issue was. And he has described it and sort of
6 added some color to the situation, but it doesn't
7 really change the legal situation. And with all due
8 respect -- I mean, the contract was signed -- first
9 of all, it's kind of varied to one said,
10 obviously --

11 JUDGE RILEY: Right.

12 MR. SKEY: -- it's Mr. Patel's perspective, and
13 that's fine, but, you know, we don't have the other
14 witnesses here. I don't think we're going to get to
15 that point because I don't think this case stands up
16 to that.

17 But the point is -- you know, to say,
18 Well, I was very rushed, but I signed the contract,
19 is to say, I signed the contract. That's what the
20 law is. So if you're very rushed and you feel like
21 you shouldn't sign the contract or you need to
22 review it or you need to call the other member of

1 the business to make sure that it all fits together,
2 that's what you do. It's a business transaction.

3 Now, you know, again, we're not -- I
4 mean, I guess that's all I can say about it. It is
5 a business transaction. The rules of contract law
6 in Illinois are quite clear about that. The only
7 thing I would add is, I guess what I'm hearing is a
8 claim, an allegation, that there was some sort of
9 fraudulent activity. Now, I don't -- I'm not
10 endorsing that there was. But if that's what the
11 claim is -- it wasn't in the complaint -- but if
12 that's what the claim is it's clearly outside of the
13 Illinois Commerce Commission's jurisdiction.

14 Maybe that -- maybe actually that
15 explanation is very helpful. Because I think now
16 what we are talking about is some manner of a claim
17 of fraud or a claim for violation of the Consumer
18 Fraud Act, or something. If that's what we're
19 talking about then it's clear to me, and I believe
20 it should be clear to the Commission, that the case
21 ends here. Because their rulings and Illinois law
22 is clear that that's outside their jurisdiction.

1 So I reiterate the motion to dismiss,
2 your Honor.

3 JUDGE RILEY: And that's where we are right now.
4 That's the next thing that I have to deal with is
5 Counsel's motion to dismiss, which I will do so in
6 the very near future. I'll address it one way or
7 the other. It will either be a grant or a denial.

8 He did make a very good point that if
9 there is an issue with regard to any type of fraud
10 or contract manipulation, unless there is a specific
11 provision of the Illinois Public Utilities Act, which
12 you could point, that says that we have
13 jurisdiction, it really is outside the scope of our
14 review. And that's where we are now.

15 So, anyway, what I want to do is just
16 put an artificial continuance date on this for
17 another 30 days and it will give me an opportunity
18 to get a written decision out to you.

19 Mr. Patel, is there something else?

20 MR. ANDY PATEL: Yeah. I just wanted to just
21 say, you know, what was presented to us, the
22 actual -- what was presented to us and what we

1 signed was, you know, and this is why we're here.

2 JUDGE RILEY: I understand.

3 MR. ANDY PATEL: We've always -- we dealt with
4 John before. And this time it was something, you
5 know -- it was different, you know. We've been with
6 MidAmerica for a long time, you know.

7 JUDGE RILEY: I understand.

8 MR. ANDY PATEL: And with all of our current
9 suppliers, we always gave them a chance to -- to,
10 you know, modify something or -- you know, instead
11 of just canceling and leaving, we always give all of
12 our suppliers a chance to say, Hey, listen, you
13 know, this is what we're planning on doing. Can you
14 do something better for us? We stick with you.

15 And this was just signing a two-year
16 extension --

17 JUDGE RILEY: Right.

18 MR. ANDY PATEL: -- 10 months before the
19 actual -- the actual renewal. You do it 30 days
20 out, you don't do it 10 months out, you know.

21 JUDGE RILEY: No, I have a clear understanding
22 of what happened now, so now I can review this

1 transcript now and then I can make a much more clear
2 ruling on the motion to dismiss.

3 But that's the next thing that's going
4 to happen is that you will be advised that there
5 will be a notice of what my ruling is.

6 MR. SKEY: I didn't mean to interrupt.

7 JUDGE RILEY: Go ahead.

8 MR. SKEY: I was just going to say, from a
9 scheduling perspective, I believe your Honor has
10 already set a status date for February 2nd, but I
11 would respectfully request that that date maybe be
12 modified. I'm actually going to be out of town that
13 day on a prearranged trial. So if it's possible to
14 move that date. I'm not sure if you were planning
15 to keep that date or not, but if you were I would
16 request --

17 JUDGE RILEY: No, I'm glad you brought it to my
18 attention. That's a little bit early. What I want
19 to do is move this back to the end of February. And
20 I still don't know if it's going to be even
21 necessary for us to meet again. But I was going to
22 move this thing back. I've got an open date on

1 February 28th.

2 MR. SKEY: I have another hearing that week at
3 the Commission, but I would anticipate that I'm not
4 going to be -- you know, it's going to be multiple
5 witnesses and so forth. So I'm sure I can arrange
6 to be not on call in the main room when you have the
7 hearing. I'll do my very best to be here,
8 obviously, right when the hearing begins.

9 JUDGE RILEY: But you do have another matter
10 scheduled for that date.

11 MR. SKEY: Yeah. It's a week-long hearing. But
12 I certainly think I can be here. So let's go ahead
13 and do it because I'll be in the building anyway.

14 JUDGE RILEY: All right. We'll leave it at
15 that.

16 MR. SKEY: If it's convenient for the Patels?

17 JUDGE RILEY: And in the meantime I'll get a
18 ruling out to the parties.

19 MR. SKEY: So that's the 28th?

20 JUDGE RILEY: The 28th.

21 MR. SKEY: At 10:00?

22 JUDGE RILEY: It would be 10:00 a.m., right.

1 MR. SKEY: Okay.

2 JUDGE RILEY: That's where we are right now.

3 MR. ANDY PATEL: 28th of January?

4 JUDGE RILEY: February.

5 MR. ANDY PATEL: Oh, February.

6 MR. SKEY: And the hearing that is currently
7 scheduled for February 2 --

8 JUDGE RILEY: That will be canceled.

9 MR. SKEY: Canceled? Okay. So that hearing for
10 the 28th, to the extent it occurs, is a status
11 hearing, right?

12 JUDGE RILEY: Right.

13 MR. SKEY: Okay.

14 JUDGE RILEY: And that's where we are, then,
15 gentlemen, we're going to leave it at that. As I
16 said, I'll get a ruling out as soon as possible on
17 the motion to dismiss.

18 MR. SKEY: Thank you, your Honor.

19 JUDGE RILEY: Thank you very much.

20 (Whereupon, the above-entitled
21 matter was continued to
22 February 28, 2012.)