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95th GENERAL ASSEMBLY
COMMITTEE OF THE WHOLE
ILLINOIS HOUSE REPRESENTATIVES
ELECTRIC RATE DEREGULATION - SUBJECT MATTER

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Chairman Scully: "The hour is now 11:14 (sic-1:14) and I would like to call this Committee of the Whole of the Electric Utility Oversight Committee. Mr. Clerk, would you please open the roll. Members, please use your buttons to state your presence in the room. Mr. Clerk, please take the roll. Seventy-five Members having answered the Roll Call, there is a quorum of the Committee of the Whole present. My name is George Scully. I will be chairing this committee. As we proceed this morn... this afternoon, we will follow generally the same procedures of a conventional committee of the House of Representatives. Members who wish to be... ask questions should hit their speak button and the staff will bring forward the list to me of the people who have asked for permission to speak. We will recognize the Members in the order in which they've requested the opportunity to speak. One deviation from the normal rules for a committee meeting is that we will be swearing the witnesses under oath today. The purpose of this meeting is to hear testimony and discussion of the anticipated and previously unanticipated increases in the electric utility bills in the State of Illinois. I've been chairing this committee for the past 2 years and I've heard testimony for 2 years about the rate increases that would take effect in 2007. In the last Session of the General Assembly, I sponsored and we in the House passed a freeze on electric utility rates, the clear statement by this House of Representatives that the requested rate increases were neither reasonable nor

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justified. For the past three weeks, I've received reports from downstate Illinois of increases in electric utility bills that go far beyond any increases that were discussed or previously told to us in the Electric Utility Oversight Committee. My primary goal today is to hear testimony in order to specifically identify what the problem is. As I stand here before you today, I am not confident that I have an understanding of the full scope of this problem. The rate... the bill increases that we have seen in southern Illinois go far beyond anything that was explained to us previously in this committee. This hearing is not intended to be a witch hunt nor will it be a lynch mob. The purpose of this committee is to hear testimony. It will not be a witch hunt nor will we tolerate evasive answers from the utility companies on the relevant questions. The purpose of this hearing is to determine the fact that the foundation for the solution to this problem. We will proceed as follows. The first speaker will be Speaker of the House Michael Madigan with some opening remarks. Majority (sic-Minority) Leader Thomas Cross will also have the opportunity to make an initial presentation. I will then ask our State Representative John Bradley to make an opening statement regarding his understanding of the problem in the Ameren territory and its impact on the ratepayers. We will then hear testimony from members of the Illinois Commerce Commission and the utility companies. We will then proceed with further testimony from the utility companies and

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various experts in this field. We will then open up the floor to testimony from elected officials, businesses and individual bill payers on the magnitude of the increases in their utility bills. At various intervals we will also give the utility companies a chance to respond to the questions that have been raised by those individuals. Are there any questions about the procedures for today? Mr. Durkin."

Durkin: "Thank you, Chairman Scully. Maybe I didn't hear, but have you asked any members of the Illinois Commerce Commission to be present today to discuss this issue? It does have an impact upon their... what they do at the Commission 'cause we would like to have them here to discuss some type of remedial action while the Legislature is trying to find some resolution 'cause I believe they do have the authority to perhaps take short-term measures to assist the people in these affected areas, particularly in downstate Illinois and those who went to electric based on representations made to them over the years. And I think the ICC does have that ability unilaterally on their own motion to take up some type of action. So, I'd like to have them present today so I can tell them personally that we need for them to... need for them to get involved, get engaged, but also to help the people who are struggling right now from this last round of bills."

Chairman Scully: "Mr. Durkin, that request has been made and Chairman Box of the ICC will be the fourth person to speak.

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Several other members of the Illinois Commerce Commission will also be here to answer your questions."

Durkin: "Thank you."

Chairman Scully: "There being no further questions regarding procedures, I'd like to start with Speaker Madigan."

Speaker Madigan: "Thank you, Mr. Chairman and thank you ladies and gentlemen for being here today. I know that this Committee of the Whole was scheduled on short notice and that most of you were required to change plans that you had already set for today. And so for those of you who did change plans and who are with us today, I simply wish to thank you for being here and apologize for the very short notice that was given to you concerning the scheduling of this Committee of the Whole. At the conclusion of our business last week on the floor, I received an inquiry from Representative Stephens and part of his inquiry related to the attendance of Chairman Box from the Illinois Commerce Commission. That inquiry has been answered by Chairman Scully but a second part of the inquiry from Mr. Stephens related to the attendance of Governor Blagojevich and at the time I told Mr. Stephens and all of the Members of the House that my office would extend invitations to both Chairman Box and the members of the Commerce Commission and also to Governor Blagojevich. Governor Blagojevich has responded in writing and I'd like to read his response. 'Dear Speaker Madigan: Thank you for your invitation to participate in the Committee of the Whole meeting on the electric utility rate

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issue. As I have stated on numerous occasions previously, I support efforts to extend the electric rate freeze and relieve consumers of the dramatic and unjustified rate hikes that took effect on January 1. I'm encouraged by the recent bipartisan cooperation among lawmakers from both chambers on legislation that would roll back the increases and I applaud you for convening the General Assembly as a Committee of the Whole to move discussions forward. In lieu of providing my comments in person at tomorrow's Committee of the Whole, please allow this letter to represent my position. I will continue to monitor the legislative process as it progresses and I look forward to signing a Bill that will protect consumers and provide relief to those who are already feeling the burden of significantly higher electric rates. Respectfully yours, Rod R. Blagojevich, Governor of Illinois.' I would like to offer a few preliminary remarks. First, I am not a newcomer to utility rate regulation. I am not a newcomer to efforts to fight against rising electric rates put on by companies such as Commonwealth Edison and Ameren. It was a few years ago when Exelon ComEd appeared before this General Assembly gratuitously offering to buy Illinois Power. Unfortunately, once you read the details of the proposal they were doing two things: number 1) they were providing for a significant rate increase; number 2) in the documents in the Bill that they submitted to the House they proposed to eliminate the fair and reasonable standard in the public utility statute which has been in that statute

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since the early 1900s. That was attempted with no prior notice, no prior discussion with anybody that I know of, but that was the essence of their proposal just a few years ago. Fortunately, that was rejected. Recently over the last six months, as you know, I've been leading efforts to stop the rate increases. We offered a rate freeze Bill during the Veto Session; we passed that Bill early in January of this year. I'm still very hopeful that the Senate will take up consideration of a Bill that would not only freeze the rates but now provide for a rebate for those that have paid the increase in charges. Most of you know the area of utility rate regulation is terribly complicated, terribly complex, the truth is there's a small group of people in this state that truly understand utility rate regulation. Unfortunately, the vast, vast majority of those people that understand it work for the utility companies. My big objection to this current increase in rates relates to the use of reverse clock auction monitored by the Illinois Commerce Commission that provided the price for the sale of power to people like Ameren and Commonwealth Edison. In my judgment, that auction is nothing more than a fix. It's a fix for Exelon and other large power producers that can produce power at costs so low that when you compare the cost of producing the power against the price set by the reverse clock auction there's enough spread that financial houses from New York have become buyers and sellers of power in Illinois. That's not right. It might be okay when you're

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talking about a commodity which is not enjoying monopoly status, but for residential ratepayers and small businesses there's only one place to go to buy electric power. And to permit the condition that I just described to continue when rates are rising terribly high for homeowners and small business people is not right, should not be tolerated by the government of the State of Illinois. And let me note that the reverse clock auction was approved by the Illinois Commerce Commission without one dissenting vote. Think about that. The auction that I just described, an auction that creates a condition where there's such a spread the financial houses in New York can become buyers and sellers of a commodity which enjoys monopoly status, not one dissenting vote at the Illinois Commerce Commission. I said I think it's a fix for Exelon. Exelon's a company in America that makes enough money so that in 2005 it provided a total compensation to its chief executive officer of twenty-seven million dollars (\$27,000,000). One person, that one company providing power got total compensation of twenty-seven million dollars (\$27,000,000) and in 2006 that same person got total compensation of sixteen million dollars (\$16,000,000). All of us, as the rates charged to homeowners and small business people in Illinois are rising so that some people will be forced out of their homes. Mr. Chairman, I'd like to pose three **perc...** three questions for consideration by this Committee of the Whole and also by the Electric Deregulation Committee which is scheduled to meet

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on Thursday to consider the Bill which is the subject of this meeting today. Many of you may know from reports in The Wall Street Journal and other media sources there's a gigantic transaction underway in Texas. There's a Texas utility company called TXU, it's up for sale. The proposed price of the transaction is said to be the largest transaction in the history of America. One of my questions, Mr. Chairman, would be very simple. Does Exelon or Ameren or any of their partners plan to use revenue from Illinois operations to bid on any of the assets of TXU, especially the one nuclear power plant which is owned by TXU? Number 2) Mr. Chairman, how is it possible that the bidders in Texas, those people bidding for TXU, are in a position in Texas to say that they're gonna reduce rates by 10 percent in Texas when we're being called upon to pay higher rates here in Illinois? And my third question, Mr. Chairman, should Illinois take note or be influenced by a decision in Virginia in the last few days where the Virginia Legislature which previously had approved deregulation voted to return back to regulation in the State of Virginia? So, Mr. Chairman, I want to thank you most sincerely for serving as the chair of this Committee of the Whole. I know from my attendance at your committee hearings that you had served admirably as the chair of the Deregulation Committee. You are to be commended for the sincerity and the effort that you've brought to the job. You are to be commended for the expertise that you have brought in terms of your legal and

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accounting background. And so, I thank you for everything that you've done and I thank you for bringing us here today and I know you will conduct a very orderly and informative committee hearing. Thank you very much."

Chairman Scully: "Thank you, Mr. Speaker. Mr. Cross."

Cross: "Thank you, Mr. Chairman, and I, too, want to thank you for your role in this and acknowledge Representative Krause's time and energy and commitment to this issue as well, on behalf of our side. You'll note that there are a good number of Republicans here today very concerned about this issue and will be ready participants in listening today. I'd like to comment, Mr. Chairman, to whomever with respect to the Governor. I would submit that when it comes to whether or not we should have regulation or deregulation, what's the long-term energy policy of this state, whether or not the reverse auction process is good or bad, whether or not we should... how we should handle energy efficiency or conservation, that those are issues for the General Assembly and are policy decisions that as a Body we ought to decide. But with respect to the rate increases that have taken place or are taking place in the areas outside the City of Chicago, primarily in the Ameren area, we are, from listening to the Members of my caucus who are very concerned about this, really at an almost crisis stage. People seeing rates... rate bills or bills going up anywhere from 100 to 200 to 300 percent. This is for a single mom seeing a bill go up five hundred dollars (\$500) outrageous. It's something

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that she can't handle. In fact, you may hear a story today from one of our Representatives that had a woman... a single mom... coming in today... coming in to see him today who was on her way to quit going to school at a community college 'cause she could no longer afford it because of the rate increase on her bill in southern Illinois. I would suggest to you this is beyond policy. And as a result of this... or it is beyond the time frame in which we can deliberate in a slow methodical way that people, like that woman who can't afford to continue going to community college because of the rise in her electric bill, that this necessitates some immediate action. And the one person who has a position of authority in this state, who can bring everybody together, the four Legislative Leaders, like he does in his role as Governor when he does the budget or other issues that are of interest to him, is the Governor. And our request to have him here is not to pick on him, not to grill him, but to suggest to the Governor that outside the Chicagoland area this is a very real issue that needs immediate attention and as the Chief Executive Officer of this state he can bring the people together that can change what's gone on in this state. It hasn't happened, Mr. Chairman, up to now. We've been debating and debating and discussing how we're gonna handle this issue for the last year. Representative Black, on our side of the aisle, filed a Bill last year in the spring, House Bill 1172 that was called a Resolution that called on the ICC to bring the parties together in

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anticipation of what was gonna happen. Now, granted, it's much worse in downstate Illinois than up north. The problems that are being experienced in downstate Illinois don't seem to be occurring in upstate Illinois. Representative Black filed HB5835 which would have capped the rates for Ameren customers long before they went into effect. We had a Bill HB2197 that I worked on along with Representative Krause that would have allowed for the rates to go in... the rate increases to be deferred without any interest. So, there have been attempts by a number of people, many on this side of the aisle, to head this off but it hasn't happened. So, I would encourage you in your capacity as chairman and work with the Speaker as well to have the Governor take a leadership role in this process because unfortunately, as I said, Mr. Chairman and with all due respect to you, you've done a good job on this, we're not getting anywhere. The other point that I think is worth... kind of following up on Representative Durkin's thoughts, is having the ICC take a more aggressive role. Clearly, the law provides that the ICC can call an emergency meeting at any time at any place on really any topic in this arena and the ICC could, for instance, freeze the rates for those Ameren customers that have all energy in their homes. This is a topic you're very well familiar with where they've encouraged people to go to all-electric. Those rates have shot up astronomically. They could also freeze rates for those customers in the Ameren community for a period of time

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of 6 months, 12 months or 3 months, whatever it takes for us to establish a long-term policy. The point is the two entities or persons that can actually do this in an immediate... immediate way are the ICC and the Governor. It's good that we're here today; it's always good to hear from our constituents whether they're businesses whether they're individual homeowners whether they're single moms. But Mr. Chairman, a lot of our Members have heard from those people already. They know we have a problem; it is dire in southern and Central Illinois. So, whatever we can do to take action immediately I would encourage that course. And I want to stress I'm not suggesting we don't go through with today. This is very healthy and very... very important. But I would suggest we look at it again, the Commerce Commission and the Governor's Office... to the Governor as quickly as possible. So, again, Mr. Chairman, thanks for your interest and diligence on this topic."

Chairman Scully: "Thank you, Mr. Cross. I now recognize Representative John Bradley for opening statements. I've asked him to step forward and to, as well as he is capable, please define his understanding of the problem being confronted by the Ameren customers. Mr. Bradley, do you swear or solemnly affirm that the testimony that you're about to give be the truth the whole truth and nothing but the truth?"

Bradley, J.: "I do."

Chairman Scully: "Thank you. Proceed."

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Bradley, J.: "Mr. Chairman, Speaker, Minority Leader, friends here in the House. I can't begin to describe for you the crisis and calamity that is taking place in southern Illinois. When the electric bills started coming in and it became apparent that the 38 to 55 percent number that the utility companies had given to us, that the one dollar (\$1) a day or two dollar (\$2) a day figure that they had sent out to their customers by direct mail had grossly understated the situation that actual customers were going to have. I sent a cry out to the people of southern Illinois to bring me their bills as ammunition to let the rest of the state know, to let the people of the state know, to let the House of Representatives of the state know what was taking place in our home. And I sit here at this table with you today with electric bills, with petitions, with information from people in southern Illinois that's been gathered in less than two weeks and these bills aren't 38 percent, these bills aren't 50 percent. These bills, in some cases, are 100, 200, 300 percent. The overwhelming response that I received as the result of my appeal, to have people bring in their bills, I asked my mother to come in and help me at the office. And I was out in the district one afternoon and she called me and she was near tears and she said, 'John, I've got a letter that you've got to read.', that I need to read to you. I want **toread** that letter to you now. 'Dear Sir: Here is the copy of my January and February AmerenCIPS. I am a senior citizen and I cannot afford this high energy

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bill. I am sure that there are others that are worse off than myself. This bill has more than doubled and I am not staying warm. I'm afraid to. I seldom cook so I don't use energy there. Thanks for caring.' Ladies and Gentlemen of the House of Representatives, the scales of justice in this state are out of whack when a utility company that is making billions of dollars, when a utility company which is threatening its employees and the people of the State of Illinois with bankruptcy, when a utility company who has increased its asset portfolio by more than a billion and a half dollars (\$1,500,000,000), when a utility company that is holding the state hostage, when a utility company that is telling people that their rates are going to be at a certain level and they aren't, when a utility company that unilaterally and without warning takes away an all-electric discount that it's spent the better part of the last three decades inducing people to take advantage of, can be held in higher stead than the people of the State of Illinois. People in southern Illinois are cold; children are shivering; senior citizens are making decisions not just between medicine and eating but between medicine and eating and electricity. People are hurting. Businesses are going out of business. A daycare, Kate and **Merk...** closed in Murphysboro, 65 underprivileged children with nowhere to go because of electricity because of the huge increases. I have a bill here from a constituent. Last month payment received on January 22, \$54.05. This month's charges,

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February 20, 2007, \$762.46. How can you send that to somebody? How can you tell them that that's 38 percent? How can you tell them that you need an increase? Two point three billion dollars (\$2,300,000,000) estimated additional revenue is gonna be taken out of this state as a result of this increase and our people are being asked to pay for it. We can't let this stand. I am begging you; I am asking you on behalf of the people of southern Illinois, on behalf of the people of the State of Illinois, tip the scales of justice back in favor of the little person. Put the scales of justice back in favor of small business and our residences... our senior citizens, our children, the people that need it the most. We're in calamity. Southern Illinois's in crisis. Help us. Stop this. Roll back the rates. Put in the rate freeze and save southern Illinois."

Chairman Scully: "Mr. Bradley."

Bradley, J.: "Yes. Yes, Mr. Chairman."

Chairman Scully: "Have you had an opportunity to review some of these bills yourself?"

Bradley, J.: "Yes, I have."

Chairman Scully: "Mr. Bradley, you and I have discussed on several occasions over the past three weeks, almost daily..."

Bradley, J.: "Yes."

Chairman Scully: "...these bills. You're aware of the 42 percent rate increase in the rate for electricity."

Bradley, J.: "Supposed, yes."

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Chairman Scully: "We have also discussed the discontinuation of the discount for all-electric homes."

Bradley, J.: "Yeah. The unilateral decision to do that without telling people, yes."

Chairman Scully: "We've also discussed the increase in the delivery costs which were approved by the ICC."

Bradley, J.: "Yes."

Chairman Scully: "Mr. Bradley, when you analyze those bills and you factor in those three increases, can you... are there increases in electric bills that exceed those three factors?"

Bradley, J.: "Yeah. I can't... I can't figure out any rhyme nor reason."

Chairman Scully: "Mr. Bradley, have you tried to get an explanation from Ameren for those increases?"

Bradley, J.: "Not in great depth because of the situation with the testimony, but I hope to try to find that out today, Mr. Chairman."

Chairman Scully: "Thank you, Mr. Bradley. I understand that your testimony is secondary other than you receiving your... you testifying to the information that has been... has been given to you. Are there any questions for this witness before we proceed with testimony from Chairman Box of the ICC? Mr. Bradley, thank you..."

Bradley, J.: "Thank you, Mr. Chairman, and Members."

Chairman Scully: "...for testifying. I look forward to your questions as a Member of this committee. We'd like to call

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Chairman Charles Box of the Illinois Commerce Commission to testify before the committee. Mr. Box, would you please raise your right hand. Do you swear or solemnly affirm the testimony that you are about to give before this committee will be the truth the whole truth and nothing but the truth?"

Charles Box: "I do."

Chairman Scully: "Please... Thank you, Mr. Box. Please proceed. As a matter of procedure, Mr. Box, if any other members of your group would like to testify, I'd also like to swear them in... swear them into oath. Sir, do you solemnly swear the testimony that you're about to give is the truth the whole truth and nothing but the truth?"

Unknown: "I do."

Chairman Scully: "Thank you. Please proceed, Mr. Box."

Charles Box: "Thank you very much. Mr. Speaker, Mr. Chairman, and Members of the General Assembly, I'm Charles Box and I was appointed chairman of the Illinois Commerce Commission in January of 2006. I am here to offer to you my perspective on Illinois rates in Illinois and I will do my best to answer your questions. To the extent that your questions concern issues that are beyond my areas of expertise, I will defer to my staff and to the extent that my... your questions concern issues that are currently pending before the Commission, I will defer to my staff in accordance with Illinois law restricting ex parte communications. My testimony today will consist of four

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areas: 1) the recent history of electric regulation; 2) the Illinois Commerce Commission's preparation for the end of the transition period; 3) a short description of the auction process and 4) recent and ongoing steps taken to address the crisis that has been spoken to earlier this afternoon. There are several factors have been contributed to the general electric rate increases. Residential rates were frozen at the end of 1997 and that rate freeze was to expire at the end of 2004 but was extended for 2 years until the end of 2006. During that 9-year rate freeze period, residential rates were reduced by various percentages for Commonwealth Edison 20 percent; Illinois Power 20 percent; CIPS 5 percent; CILCO 5 percent; and MidAmerican Energy 1.7 percent. During those years, companies cost of doing business and capital expenditures continued to increase as shown in the interim rate cases to set delivery service rates and the companies began to pass on those costs of operation to customers immediately upon the conclusion of the rate freeze period. During the rate freeze period, companies were allowed to sell or transfer their generating stations so at the conclusion of the rate freeze, the companies contracted for purchase power expired and the companies began to purchase and pass along the costs of power on the open market at higher costs than what it used to cost to produce. The generators and other suppliers of electricity are no longer under state regulation. Finally, the effect of all of these factors congregated... converged at

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one point in time on January 2 of this year. The rate freeze ended and the benefits of the rate reductions ended. The increased costs of delivering power began to flow to the customers and the companies began to pass along increased costs of the power itself. There was no phase-in of any or all of these factors. On January 2, rates shot up. In early 2004, the ICC announced a plan to host a series of meetings and workshops to examine the future of the electric rate market in Illinois, to develop public policy issues surrounding restructuring of the electric industry and to address critical questions concerning procurement of supply to serve customers in the post-2006 environment. Every significant stakeholder interest was represented in the workshop process, including the electric... the Illinois electric utilities, the City of Chicago, the Lieutenant Governor's Office, CUB, the Attorney General's Office, commercial and industrial consumers, power generators, financial entities and alternative retail electric suppliers. A key working group addressed electric... electricity procurement issues. Twelve procurement scenarios were identified, consensus was achieved on the pros and cons of each scenario and 18 attributes were developed that the working group recommended should be included in a power procurement methodology. Staff analyzed that working groups results and concluded that the reverse auction procurement methodology comes the closest of the 12 methodologies to possessing the majority of the 18 desirable

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attributes. The report summarized in the results of each working group's discussions and recommendations and the ICC staff positions was released in December of 2004. The 1997 revisions of the Public Utilities Act allowed Commonwealth Edison and Ameren to sell or transfer their generating stations. As a result, these companies became distribution only utilities and power would be procured via wholesale contracts with other companies that would include affiliates. ComEd and Ameren filed tariffs in 2005 to implement a reverse auction methodology for the wholesale purchase of electricity. The ICC took evidence from all interested stakeholders and a year later issued orders approving modified versions of the company's proposals for the reverse or descending clock auction. The term 'descending clock' derives from the operation of the auction that as long as bidders offer to sell more electricity than consumers need the price ticks down after each round of bidding. Since the Federal Energy Regulatory Commission or FERC has jurisdiction over the wholesale electricity markets, any wholesale contracts entered into by Commonwealth Edison and Ameren must be consistent with FERC regulations. FERC reviewed the companies' auction proposals and concluded that they complied with **FERC's** standards for wholesale transactions between affiliates. The auction was conducted in September 2006. There were 21 registered bidders and 16 were winning bidders. The ICC staff together with services of an auction monitor, Boston Pacific, had

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full access to all elements of the Illinois auction. Staff found that the auction was conducted in a transparent, equitable and highly professional manner consistent with both the **ICC's** order and auction rules. The ICC approved the results of the fixed price auction and rejected the results of the hourly priced section of the auction. While nothing that I'm going to say right now is a quick fix, options exist for customers to manage their electricity use and to some extent the prices and bills they pay for electric service. Of course, customers should carefully review these options to fully understand the short- and long-term effects. In December, the ICC approved rate mitigation plans for Ameren and Commonwealth Edison. **ComEd's** plan is optional, available to residential customers designed to limit the annual increase at 10 percent based on the average residential customer and allows the amount above the 10 percent limit to be deferred and repaid in a future period. Customers whose usage does not match an average customer's will see rates higher or lower than the 10 percent cap. Amounts can be deferred during 2007, 2008 and 2009 and repaid during the 3-year period 2010 through 2012 with interest at 3.25 percent. ComEd is expected to contribute thirty million dollars (\$30,000,000) over the next 3 years to low-income assistance and senior programs as well as energy efficiency and renewable energy programs. Ameren's plan is optional and available to customers in the following groups: residential space heating customers and

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other residential customers, small commercial customers, units of government and schools. The plan is designed to limit the annual increase to 14 percent based on the average customer in each group. It allows the amount above the 14 percent to be deferred and repaid in a future period. Customers whose usage does not match an average customer's will see rates higher or lower than the 14 percent cap. Amounts can be deferred during the 3-year period 20... 2007 through 2009 and repaid during the 3-year period 2010 through 2012 with interest at 3.25 percent. Ameren has also committed to contribute fifteen million dollars (\$15,000,000) in 2007 and 2008, nine million (9,000,000) to low-income assistance and senior programs and six million (6,000,000) to energy efficiency and renewable energy programs. Recently approved tariffs for Ameren and Commonwealth Edison establishing real-time pricing programs as mandated last year by the General Assembly, under this program electric rates change hourly based on day-ahead forecasts and hourly energy costs. Customers who sign-up can benefit if they are able to shift or reduce consumption during high cost periods. The Illinois Commerce Commission initiated a case in 2006 to consider the testimony and embrace all stakeholders to determine whether any changes should be made in the tariffs of Commonwealth Edison and Ameren Companies that embody the auction process. The Commission intends to order... to order any material changes in the tariffs in time for the changes to be implemented in

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a timely manner prior to the next auction. This case is ongoing. Staff has been directed to assist Legislators and provide analysis and information and to assist parties that are to achieve immediate and long-term solutions. Staff has also been directed to work with the Legislators and groups on any issue or any ideas to effect changes to promote competition and to help ease the burden of higher rates on consumers. As indicated during my earlier comments, I appreciate the fact that the Speaker and the chairman has invited us here to speak and hopefully, we can answer your questions not only about the history and the background but also the more pressing crisis as was alluded to by the earlier speakers concerning the issues in the Ameren territories. With that Mr. Chairman, thank you for letting us participate."

Chairman Scully: "Thank you, Mr. Box. Did bureau chief Beyer intend to make any comments at this point?"

Gene Beyer: "No, Sir."

Chairman Scully: "Thank you. Representative Bost, did you have a question for the witness?"

Bost: "Yes, I did. Thank you, Mr. Chairman. Mr. Chairman, did... at a time whenever Ameren moved forward and the **dereg** was occurring... or not the **dereg** but the freeze was coming off... they then presented you with tariffs. Is that correct?"

Charles Box: "That's correct."

Bost: "Okay. Those tariffs were they presented in a way that automatically removed the hundred percent electric special

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rates or was that a request of the Commerce Commission that that be done?"

Charles Box: "It was my understanding and the gentlemen with me, correct me if I'm wrong, but that was included in the tariff they submitted. And maybe if we go through a scenario, oh, I think of what happened and I think what we think is happening in these territories it might give you a better understanding."

Bost: "That would be fine. And I'll continue with my questioning, if you'll go on with that."

Charles Box: "Okay."

Bost: "If you could and explain that, that would be..."

Charles Box: "Well, I think my understanding and these gentlemen will correct me, in the past going back years and year, 20 or 30 years, I think one of the speakers alluded to the fact that people were induced to... to change the configuration of their homes and to use electric heat. If you look at the information, I think the bills were broken down in different categories. There was space heat customers, which I think the bulk of the people are concerned here today, and also the residential. At the end of the deregulation and the transition period the class that was in the tariff included one class which was residential. And if you look back, I think the increases when CILCO... the last general increase was 1982 and when all these **cus**... and then the others, when they merged with Ameren or they were purchased by Ameren you had these different classes. You had some rates are going

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back 20 years or 20-plus, the electric rates and the residential rates but come January 2 of 2007 there was only one class. There was no subsidy allowed. I mean, it was only one which was residential and given the fact that the rates in those earlier territories were so low that had to be brought up to the market rate that's where you see the gigantic increase. But I think as some of the other speakers alluded to, the 14 percent increase, I mean, we've seen that, it was publicized and marketed, the dollar-a-day was discussed, but once again, ya know, as the Speaker, I think Madigan started out saying these are very complex issues and that 14 percent is on the average bill. And I think there... we should have a better distinction and going back and looking at that tariff, I would think not only we did not catch the fact that there was this great disparity, nor did any other parties to this docket understand that there was a disparity going back years of electric customers and regular residential and when they're all merged into one. Also, come January 2 of 2007, the subsidies were eliminated, mainly because Ameren, as we're dealing with, are now distribution only custom... companies. The person that was providing the subsidy before was, obviously, a vertically integrated company that really looked for sources for their power year-round. Now, you have Ameren which is a distribution only company and so the subsidies and the gigantic increases in the bills now are coming from the

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commodity portion and not what's regulated by the ICC or by the Ameren companies you have before us."

Bost: "Was... was there any suggestion at all by the... by the ICC that maybe this should be turned up slowly as a... some type of adjustment, something that maybe... the sticker shock would not hit as hard? Was there any suggestions at all by the Commission for that?"

Gene Beyer: "No. There were no proposals during that case involving the ICC staff and all the various other parties in the case to... to phase-in these rates. The law called for the rate freeze to end on January 1 of 2007 and that was the... that was the time frame we operated under."

Bost: "Do you feel that it's in your power that you could have?"

Gene Beyer: "In the past, the ICC has considered phase-ins and that would... that could have been an issue in a case, yes."

Bost: "Is that still within your power?"

Chairman Scully: "Thank you, Mr. Bost for restating your question. Would the witness please answer the question?"

Bost: "I thought... They did. They did answer the question, **Mr...**"

Chairman Scully: "Then I didn't understand the answer. Is it within the power of the ICC to give that kind of relief? Is it within the power?"

Bost: "Is that within the power? They had not answered yet."

Pat Foster: "There are sections of the Public Utilities Act that permit the Commission, either on complaint or on its own motion, to review the rates or any one rate of a utility and based upon the record in that case the Commission can, under

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the law, change the rates that are in effect. In such... in a case like that, parties have the right to come in and offer testimony and the Commission can make its decision at the close of the case."

Bost: "Is there any timelines or guidance as far as you must give so many days notice or anything like that before you would call someone in, so... My original question too was... was do you have that power now? For instance, if we wanted to change this today, do you have that power?"

Pat Foster: "There are two sections of the Public Utilities Act that permit the Commission to change the rates of a public utility when the utility has not requested it. One of them applies only when the Commission determines that the net income of the utility is excessive and that permits immediate rate decreases with the Commission having just determined these rates... with the Commission just having determined these rates very recently, it's, speaking for myself, I believe it will be unlikely for a court to affirm action such as that. The other section permits the Commission, is the one I mentioned, that permits the Commission to look at all of the rates or any of the rates of a utility and based upon the record that's amassed before the Commission to make a determination that one or more rates should be changed. There is no requirement other than the ten days notice of the first hearing be given."

Bost: "Okay. So, you must require ten days notice. You couldn't, all of a sudden, just today decide to have this

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meeting and try to get this straightened out through the Commerce Commission?"

Pat Foster: "Ten days notice before evidentiary hearings, then hearings, then a Commission order. So, no, I... other than that one circumstance that I believe does not apply here there is no immediate rate decrease authority to address a situation such as this under the Public Utilities Act."

Bost: "From... from what you understand, it would take ten days?"

Pat Foster: "No. What I would understand it would take ten days before the first hearing and then the utility company, the Commission staff and anyone who intervenes in the case would have the right to put evidence before the Commission in evidentiary hearings. That's the way the law has been structured for 80 years."

Bost: "Okay. Could you require them immediately to go to a certain rate structure and then start that hearing?"

Pat Foster: "No. I believe not."

Bost: "Why? What's... what's, ya know, how does the rule read? That's what, ya know, I mean, that's... that's what we do. We draft a law that allow you to operate. The Constitution allows you, the rules and regulations that have been set forth over the years. How quick can we give people relief? That's what I'm asking."

Pat Foster: "Can I give you a number of days? I can... I can tell you what the statute says. It says, 'whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that the rates or other charges or

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classifications or any of them are unjust and unreasonable then the Commission may change the rates.' That's... the first part of that that I read you is right out of Section 9-250 in the Act."

Bost: "Okay. Let me ask this. Does the Commerce Commission as of yet from what we've heard so far today and what we as Legislators have tried to explain the problems that exist out there, have you gotten to that point that maybe you feel like that this is unjust and unfair and it's something that you do need to call that together on?"

Charles Box: "I think in hearing some of the testimony in my trips to Springfield a few weeks ago, I would think it's something that could... the Commission could initiate on our own authority on our own order. It's up to..."

Bost: "Can I suggest that?"

Charles Box: "...to start that process. That can be done, but as I said earlier in my comments, I'm one Commissioner. Once that process gets started, obviously, it takes three, a majority of the five, but I think we can investigate that and get it started..."

Bost: "Okay."

Charles Box: "...based upon what we're hearing."

Bost: "First off, I would suggest that that be done. Ya know, and I'm not gonna go on a tirade or anything like that. I'm just letting you know that many of the things that Representative Bradley brought up, those are from my district as well and a matter of fact many of the people he

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brought up were from my district. And I believe that whenever we are in a situation where we have... when we have constituents going to get payday loans to fund their electric bill to survive this month, when we have constituents putting fires in their backyard that catch the grass on fire and then burn their house down because they can't afford the electric bill, we're to the point that probably we need to make some quick reaction and actually move forward as quick as possible. If ten days is what the law requires, I suggested... I'll suggest that ten days from now you need to be meeting or if there is a process that needs to be started, it needs to be started immediately. Now, and I'll listen to the rest of the testimony and if I have other questions, I'll be glad to ask them then. Thank you for answering the ones I have."

Chairman Scully: "Thank you, Mr. Bost. Representative Krause, did you have a question for the witnesses?"

Krause: "Yes. Thank you, Chairman Scully. And Chairman Box, if I could address to you the urgency that is being faced here in the State of Illinois by many of the consumers and customers of the public utilities and you had stated earlier that there is an ongoing case to see if there should be any change in the tariff, that you have that ongoing."

Charles Box: "No. If I could correct that."

Krause: "Go ahead."

Charles Box: "The investigation that's ongoing is to review the auction and to see if, in fact..."

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Krause: "Okay."

Charles Box: "...the changes that should be made for the auction that should take place in May of '08. That's the..."

Krause: "In May?"

Charles Box: "Of '08. That's the next..."

Krause: "In May of next year?"

Charles Box: "...that's the... that's the next auctions, yes."

Krause: "Not Feb... May. Let me back up. I would urge and ask that you as the chairman and as you said, the other members are not here, that you call an emergency meeting of the Commission, whatever it is under your rules, you have that authority and Sir, that has to be called. There is a crisis; there is a hardship right now. And the Commission is the one that can immediacy through your emergency powers address that issue and you determine what that should be as far as an order, but it has to be done immediately almost **instanter** as to what has occurred here in the State of Illinois. And if you remain through the day, you will hear the testimony, the case will be made by the citizens of Illinois. And I ask you with your other commissioners to call that meeting and to reexamine this issue. And I don't care if it's a... whatever emergency relief you enter but that it be entered to stop what has occurred until you can go back and examine what relief and other steps can be and should be taken. And the colleague who made the statement that he didn't think that the issue of excessive profits could apply, I would ask that you would take another look at

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that and see also if that is the standard that could be looked at in this case for calling that hearing. It is urgent that it be called; it must be called and it is the Commission that has the power and the authority over public utility issues to proceed and to look at what has happened. And I would urge you as fast as you can to set down that hearing, give notice, take the testimony and then see what type of relief you can immediately issue to serve what needs to be done. It is evident that there has been a wrong here to be corrected at this time. If I can, on the deregulation issue, you anticipate the next reverse auction to be in May, did you say?"

Charles Box: "The..."

Krause: "I thought it was gonna be February you had announced. When do you believe... look to have that next auction?"

Harry **Stoller**: "The next auction's supposed to occur in May 2008."

Krause: "All right. So, you have an ongoing discussion of what additional steps may be taken on the reverse auction, any changes, any more oversight. What is the process that you're looking at now as far as any further steps in the reverse auction? And are you also looking at any other views of procurement of electricity besides the auction?"

Harry **Stoller**: "Representative Krause, as far as I know, while it may not necessarily be spelled out in particular in the list of issues that are before the hearing examiner in that case, any party is perfectly free at any time they wish to,

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to raise the question of whether the utility's procurement process in 2008 ought to be an auction or some other mechanism."

Krause: "Okay. So, it would be other parties but the Commission itself or its staff is continuing on the reverse auction and seeing what changes might be made in there."

Harry **Stoller**: "The Commission staff recommended it the first time."

Krause: "Okay."

Harry **Stoller**: "We don't believe it failed. We're continuing to recommend it..."

Krause: "Okay."

Harry **Stoller**: "...but other parties can do otherwise."

Krause: "That's fine. And further, as far as the Commission and the staff on competition for residential. Have you done anything further? Has your... You were going to issue a report. Do you have further recommendations coming from the Commission to enhance competition in residential?"

Harry **Stoller**: "Representative, there are a lot of things piece by piece not all one or all the other that could be done to enhance competition at the retail level. We're supporting legislation right now that would end what's called the reciprocity..."

Krause: "I understand."

Harry **Stoller**: "...clause. We have examined in the past small administrative measures that might make it easier and instituted them. There are lot of parties out there,

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largely those who would like to be involved in retail residential alternative service who have made suggestions..."

Krause: "Okay."

Harry **Stoller**: "...and those when they come in front of the Commission will be examined."

Krause: "Okay. I thank you. Chairman Box, I appreciate your being here and being willing to hear this today, but I would conclude by stating that sincerely it is up to the Commission to immediately address the serious issue that we have here in Illinois and I do look, I hope, for some action immediate along that lines. Thank you."

Charles Box: "Thank you."

Krause: "Thank you, Chairman Scully."

Charles Box: "Thank you."

Chairman Scully: "Thank you, Representative Krause. Representative Meyer, did you have a question for the witnesses?"

Meyer: "Thank you, Mr. Chairman. Earlier, chairman, you... you volunteered that ComEd... and I happen to live in the ComEd area... you volunteered that ComEd had a low-income program as part of your testimony. Do you know... is that low-income... do you know the size of that in... low-income program in terms of dollars?"

Charles Box: "I think the total amount in the rate mitigation plan in that order was thirty million (30,000,000) for not only LIHEAP but also senior citizen programs, sustainable energy programs, a total of thirty million (30,000,000) and

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it was clear not only that thirty (30) but also Ameren's fifteen million (15,000,000), they would not seek a... on the next rate case... they will not seek to recoup those dollars. This is a volunteer payment that they are making as part of the rate mitigation plan. And I don't have the particulars or I don't think we know exactly what the breakdown is for each individual item of that thirty million (30,000,000)."

Meyer: "Well, what is the eligibility for low-income? Are you aware of that?"

Charles Box: "I don't know the particulars of exact number. But I think..."

Meyer: "Was that something that would be filed with the ICC?"

Charles Box: "Absolutely. I mean, the guidelines are there. These... these monies not only for the people who qualify for LIHEAP, but there's also another group of individuals who would be covered who are not eligible for LIHEAP. We can get that information to you. We wanted to make sure because a lot of people over the income or didn't qualify or their status of the company..."

Meyer: "And that's the portion that LIHEAP is an ongoing program..."

Charles Box: "Right."

Meyer: "...and those... that criteria I'm sure is still the same."

Charles Box: "We can get that to you before the end of the day."

Meyer: "Okay."

Charles Box: "I can get the office and find exactly what those guidelines are."

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Meyer: "What are your assurances that ComEd will pay for that out of their profits and not do a cost shift?"

Gene Beyer: "We will... we will monitor from... through reports from ComEd that they have made those contributions. The next time rates are reviewed we will ensure that they have not requested relief, rate relief, for those contributions."

Meyer: "As a part of... Well, that's prospective into the future that they're not going to try and recoup them. What is the guarantee... are you guaranteeing through an audit or just a report that they, in fact, are not cost shifting at the present time in their present program?"

Gene Beyer: "At the company's last rate case, they did not request recovery for these types of items, so they were not built into their rates at that time. However, whenever we set a... set new rates for a company, there... there is some cost shifting between... between various areas. For example, if unexpected storms created the need for more funding to go to storm relief and restoration, that wasn't built into the rates. The company would need to take money from somewhere and shift that, but in the current rates, the company did not request relief for these voluntary contributions and so they were not built into rates."

Meyer: "In the case of the cost shifting that you just referenced, would that lead to an increase in delivery charges then? Are you suggesting that in order to provide for that emergency type of... of action?"

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Gene Beyer: "No. That does not flow directly through to the customers. The company would not raise those rates until some future time when they sought rate relief for increased costs. At that time, they would list all of the reasons for their requested increase in costs so we would look at it at that time."

Meyer: "So, in effect, that would come out of their profits in what... in the case that you're suggesting here. They... they projected certain expenses to make a certain amount of profit. I would assume from what your testimony is and they may have to shift within those expense categories but anything that would be over that would not be an immediate increase of... of customer cost but would, in fact, bring the profit down? Would that be..."

Gene Beyer: "Yes. The company works within those revenues that... that were approved at the rate... at the rate case time."

Meyer: "Now, if I could go back to my question with the low-income... If I could go back to my question... Well, when we come back, Mr. Chairman, could I have a line of questions?"

Chairman Scully: "The hour is now 2:18. The committee will stand in recess 'til the call of the Chair. Thank you."

(Break for fire alarm)

Chairman Scully: "Could I have your attention, please. The hour is now 2:58. I'd like to reconvene this Committee of the Whole of the Electric Utility Oversight Committee. Mr. Meyer, you had the floor when we recessed."

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Meyer: "Thank you, Mr. Chairman. I have just a couple more questions is all. If I... if I could regress a minute or two and go back to the low-income programs that ComEd... that you'd referenced that ComEd had and I have not discussed these with them, I'd be very honest with ya, so I'm hearing about their additional program for the first time, at least in my recollection and you indicated that that's over and above the LIHEAP program. During the break it reminded me that... I was reminded... that LIHEAP is only available as long as the money is there for people to sign up for it. How much of that thirty million dollars (\$30,000,000), that you referenced before, is for LIHEAP versus and what portion is for this overlying program?"

Gene Beyer: "We do not have the breakdown. We... we know that the... the company committed to provide that thirty million (30,000,000) over 3 years to low-income assistance as well as senior programs, energy efficiency and renewable energy programs, but I don't have that breakdown..."

Meyer: "Well..."

Gene Beyer: "...but we can try to get that."

Meyer: "Yeah, I would be interested in it and I'm gonna also pursue the company for it just so that you realize they may be other... I may have questions of them directly. And my concern is that if the whole amount is eaten up by the underlying LIHEAP program, which if those people need it well, I understand it, but then the other program would just be a façade and really not meaningful and what we want to

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discuss here is meaningful issues today. If I could go back to the line of questioning, we were... I was asking you how you were going to audit the Com... audit ComEd to make certain that programs were paid for out of profits and not... these programs were paid for out of profits not cost shifted to others. You indicated you were gonna review it but is that a formal audit and what... what stronger measure than review can we assume that you'll be doing?"

Gene Beyer: "First of all, we would... we would follow up on the Commission's order where ComEd committed to voluntarily contribute the thirty million dollars (\$30,000,000) to these programs to... to verify that they have done so. And... and we will review the reports to the extent that we need to have our staff conduct an audit of that, we will. As far as making sure that the funds are coming out of the company's profits and not from the ratepayers, I... I can tell you that in the case in which we just set up rates for ComEd no provision was made for these voluntary contributions. Now, if in the end, the company does have profit and **ComEd's** money, of course, does come from its ratepayers, they... they are free to use that... that money as... as they see fit. And let me give you just one quick example. There are certain items that the Commission does not allow the company to recover; for example, promotional advertising. If the company came to us and said, 'We want a million dollars in rates for promotional advertising', we would tell them no and we would not allow that in rates because it's contrary

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to the law. That, however, does not preclude the company from spending a million dollars of their own during the year on promotional advertising. We just do not factor it in when we're calculating rates."

Meyer: "Well, my concern is and I don't want to belabor this point, but my concern is that the program's announced and it's funded with whatever amount of money it is and then those additional dollars are charged off to other people in my district who use ComEd and that wouldn't be eligible for the programs and they, in fact, are subsidizing those and the company is still making their profit and taking credit for donations, so to speak."

Gene Beyer: "I see. I can assure you it's not in their current rates 'cause it was not built in as a component of their current rates. And whenever there's a subsequent rate increase request from the company, we will ensure, when we review that, by referring back to this case that they do not include that in their request for rates at that time."

Meyer: "The Speaker when he opened up the day with his speech to us, as setting a tone for our hearing, indicated that his preference... my understanding of what he indicated at least... was that his preference would not be one of the reverse auction because it was too easy to fix. What assurances do you have that that, in fact, has not occurred here and that we are receiving the lowest rate even though it's spread across 16 different providers of electricity? But how do we know that we are, in fact, receiving the lowest rate?"

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Harry **Stoller**: "Sir, we had three people from the Commerce Commission staff, I'm sorry, two people from the Commerce Commission staff and one hired outside consultant who sat in the room while the auction was going on and watched every bid made by every company. They kept an eye on that. They found no reason to believe that any of the things that people were concerned about happening in the course of an auction, happened in this auction."

Meyer: "If, in fact, at a later date, it was determined and again, this is a hypothetical, if it was determined that there was that type of activity that you could term a 'fix' on the rate bid, do we have sufficient laws on the books to... to prosecute those that might have participate in it and to... There's just this last one, Chairman. ...and to, in fact, prosecute them?"

Harry **Stoller**: "I don't have any idea. I don't know anything about federal criminal law."

Meyer: "Okay. Well, thank you very much for your honesty in your answers."

Chairman Scully: "Thanks, Mr. Meyer. I'd like to remind all of the Members and all witnesses, that there are ten other Members who have asked to speak to these... direct point... address questions to these witnesses and we have approximately 45 more witnesses. Mr. Brady, do you have a question of these witnesses?"

Brady: "Thank you, Mr. Chairman, I do. Chairman Box, thank you very much and your associates for coming here today and

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giving your testimony. In my opinion, much of what we're doing around here today is kinda like trying to close the barn door after the horse is gone. But I'm led to believe that you, as chairman of the Commerce Commission, and the Commerce Commission does play a significant role and can play a significant role in changing the course that the people across the State of Illinois, especially my area in Central Illinois, are experiencing when it comes to utility cost. And my question is this, it was touched upon earlier but I really didn't get a clear, concise answer. What is it **actionwise** that is needed for you, as chairman of the Commission and your other members, to engage themselves to take immediate action to reverse what's going on in Illinois when it comes to the electrical rate issue? What engages you, what puts you into action to take this issue up immediately and whether that's the ten days you have to go through whatever, what engages you to get the ball rolling? Correct."

Charles Box: "Well, I think, just from the testimony today and what we've been hearing up until today, the urgency of this matter the representative from the office of general counsel has indicated what procedural steps we have to take and after this meeting we'll sit down and see (1) institute... if we're going to institute that investigation, given the ten-day notice and get it started as soon as we can and try to get the parties together, first of all, and see if there's something that can be done by agreement, but start the

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investigation whether they agree or not to have the rate...
the rate design reviewed."

Brady: "So, it doesn't take action by the Governor."

Charles Box: "No."

Brady: "It doesn't take action by the courts."

Charles Box: "No."

Brady: "It doesn't take action by the Illinois General
Assembly."

Charles Box: "No."

Brady: "It simply takes you, as chair, and your Commission to
sit down and take action. Is that correct?"

Charles Box: "To initiate the investigation and to bring the
parties together."

Brady: "And if you could, I know you said you want to listen to
testimony, I think you'll have plenty of testimony as the
hours go on here today and into the night. Do you believe
that will be sufficient from what you're hearing from this
Committee as a Whole to take action, to open an
investigation?"

Charles Box: "Oh, I think what I've heard so far today is more
than enough to recommend that to the other members of the
Commerce Commission to have our staff prepare that
as soon as possible, yes."

Brady: "So, Chairman Box, and we have you on the record
indicating that you believe you've heard enough testimony at
this point to begin the process to investigate and take

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action to whatever action you can **statutorywise**. Is that correct?"

Charles Box: "Once again, we will start the process. The action taken will be from the evidence solicited on the record from these proceedings. And what I'm hearing, I think, of the evidence will... could be substantial, but we will make the decision and take action based upon the evidence in that particular record."

Brady: "So, the most immediate recourse outside of the General Assembly agreeing on a piece of legislation, signed into immediate action by the Governor, is going to be the Commerce Commission of the State of Illinois for the people of Illinois that are calling all of our districts, especially in our area... my area, for some type of resolution to what's going on. So, I certainly ask you, as chairman of the Commerce Commission, to take that action and whatever action is needed and whatever help we can give you in the General Assembly so we can roll these rates back, at least have some type of temporary resolution that helps the people that are calling out for the help of people such as myself that are their elected Representatives. I compel upon you to do that and I thank you all for being here. Thank you, Mr. Chairman."

Charles Box: "Thank you."

Chairman Scully: "Thank you, Mr. Brady. Is Representative Eddy in the chamber? We'll come back to Mr. Eddy."

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Representative Flowers, did you have a question for the witness?"

Flowers: "Thank you, Mr. Chairman and Members of the committee. I, too, would like to take this opportunity to thank you for coming before us this afternoon. And you're gonna have to bear with me because it's been awhile for me that I was the vice chair of the Public Utilities so I'm just trying to remember a lot of stuff. Back in... prior, before we put the freeze on, the reason why we had the freeze in the first place. Does anyone remember how we got to the freeze? Your memory's just about as bad as mine."

Pat Foster: "In the spring of 1997..."

Flowers: "Mmm mmm."

Pat Foster: "...there were extensive meetings of all stakeholders that were chaired by Representatives Novak and **Persico**..."

Flowers: "Mmm mmm."

Pat Foster: "...that led to enactment or a passage of legislation in the spring by one chamber of the General Assembly. There was further action in the fall and..."

Flowers: "Excuse me, Sir, I'm sorry. Prior to that. How did we get there? Was it ever found by the ICC that the State of Illinois was the highest... the ratepayers in the State of Illinois was the highest in the Midwest and that we were being overcharged? Did that ever occur?"

Pat Foster: "Not as such, no. The Commission set rates based on the records before it in rate cases."

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Flowers: "So, we... we have never... there has never been an allegation toward Commonwealth Edison as far as the rate that we were being charged and that because of your cost overruns, because of your excess capacity, that has never occurred?"

Pat Foster: "The Commission lowered **ComEd's** rates in 1992 and in the wake of that, there was a settlement among a number of parties that led to refunds for ComEd customers in, I believe, '93 and '94 and then there was about a 5 percent rate increase for ComEd, based on an evidentiary record, January 9 of '95."

Flowers: "Why?"

Pat Foster: "The record in the case, the Commission determined, supported a 5 percent increase."

Flowers: "Because we were the highest in the Midwest and that's the reason why you or the ICC decided to freeze the rates for the 10 years. Because of, well, your memory and mine, they will never come together on this issue. Now, was there an audit done in regards to... in regards to how Commonwealth Edison was dealing with the tree trimming and was Commonwealth Edison passing that cost on to consumers?"

Pat Foster: "I don't know about a specific audit. There were a number of concerns related to **ComEd's** transmission and distribution systems, especially in the summer months several times in the 1990s. And each of those led to a Commission investigation and remedial actions were determined to be necessary and our understanding is that

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ComEd undertook those. In terms of an audit, I don't recall an audit specifically."

Flowers: "It is my understanding that an audit was requested by the ICC in regards to the overtures... the overcharging that was being done as far as the consumers of the State of Illinois was concerned and it was founded and if I could find it here, where it was acknowledged that you were passing your rate, as far as the tree trimming and your other upkeep, on to the customers. You've never been found in an audit to be passing your costs overruns as far as the upkeep of your nuclear plants and the maintaining of the wires or the tree trimming..."

Chairman Scully: "Representative Flowers, they don't... This is the ICC. This is not Commonwealth Edison. So, they didn't have the nuclear plants."

Flowers: "No."

Chairman Scully: "The ICC did not have it."

Flowers: "The ICC..."

Chairman Scully: "You might want to save those questions for Commonwealth Edison."

Flowers: "Okay. But the ICC was the one that had the audit done for Commonwealth Edison and found them to have been guilty of doing these things. You don't recall that? Well..."

Pat Foster: "What... do you have a year? It would help us."

Flowers: "I will find it and I'll give it to you. But I just want **tosay** that when I went online and I read what the purpose of the ICC is and it goes on to say, 'the ICC

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Commission is to pursue an appropriate balance between the interests of the consumers and both the emerging and the existing service providers in accordance with applicable statute and rules. In support of this mission, the ICC staff provides technical and legal expertise in a professional environment for the encouragement to initiate respect, teamwork and commitment for the public interest.' Do you consider what you've done in allowing Commonwealth Edison to have this increase or this deregulation, I should say, without competition do... would you say that this is in the best interest of the public?"

Charles Box: "My... In the best interest of the public, as you indicated, we have a dual role. Let me think, one of the most important things you quoted was 'under the applicable laws and statutes.' The one statute that really governed what we can and can't do is the 1997 Act which allowed the companies. I think a lot of the confusion and frustration people have is the issue of generation. The companies that we regulate are wires only and they don't have generator capacity. So, when you say that we're doin' the best interests, we're doing... making decisions based upon what's in the records we have before us and also based upon the statute that we have to work with."

Flowers: "Based upon the statute that you have to work with, did that statute call for competition?"

Charles Box: "Yes."

Flowers: "Where is the competition?"

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Charles Box: "Well, it's just a matter of degree. Some people think we have what 19, I think, retail... well, electric suppliers that are supplying power and energy..."

Flowers: "Is that on the business section?"

Charles Box: "No. It's on the... it's on the commercial and industrial side. We only have... let... to be fair, we only have one company that has been certified to serve residential units and they haven't done any yet, but is... but they say and it could be said it's because... there's no competition is because of the freeze and the 9 years and the price and who's gonna come in and compete if the prices are artificially low."

Flowers: "But see that's not our fault, that's not the consumer's fault. And so if the... for competition to come in, they can't compete with what Commonwealth Edison is doing. So, my point to you is, they are not, as far as I'm concerned, ComEd is in violation of the law because there is no competition and so, therefore, you should put a cease in regards to what ComEd is doing, a cease and desist order, in regards to what they're doing until such time that they come into compliance with what the 1997 law says that there must be competition. Because right now if I wanted to opt out of Commonwealth Edison I have no place to go. Downstate have no place to go. Northern Illinois has no place to go. Now, my final question, well, I guess I should save this question for Commonwealth Edison because I just wanted to know from

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them how and when is a bill ever paid, but I'll save that one. Thank you very much."

Chairman Scully: "Thank you, Representative. Representative Eddy, did you have a question for the witnesses?"

Eddy: "Thank you, Mr. Speaker or excuse me, Mr. Chairman. I have several questions that I'd like to ask. First of all, you mentioned the fact that you could, if warranted, three of the five members could call a special meeting to deal with this. Is that... is that accurate?"

Pat Foster: "Three members of the Commission could initiate an... a rate investigation. Then there would be an administrative law judge assigned, parties would have the right to put in evidence as to whether and how the rates should change and at the close of the evidence, the Commission would have the authority to enter an order based on that record evidence to change the rates."

Eddy: "Okay. Then my question is, what does it take for the Commission to meet in a session to act on the crisis that's been described here today that's taking place in southern Illinois?"

Pat Foster: "The Commission simply has to give 48 hours notice under the Open Meetings Act and can then or... well, yeah, can then meet."

Eddy: "Okay. Then I guess this next question is for the chairman. Based on... Have you had a bunch of calls? Is it... has the Commission had calls from individuals who are

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concerned about this issue? Have you had any indication that there's a problem?"

Gene Beyer: "We have received calls to our consumer services division from customers. We have also invited Legislators to pass along those bills from their constituents for us to review and to check and we participated in a public hearing last week in East St. Louis and heard from customers firsthand."

Eddy: "So, it would be safe to say that within the last 48 hours you had some indication that there's a major problem that needs to be dealt with that comes under your purview?"

Gene Beyer: "The rates comes under our purview, that's correct."

Eddy: "And so, would it be safe to say that while customers have indicated through their Representatives or directly to your Commission that they are in some casing... cases having bills that increased 300 percent, that you've had 48 hours that you could've called a meeting, got together and done your duty based on the charge you have, you couldn't have met?"

Gene Beyer: "Yes, the Commission could have met and they could initiate a case, but the Commission is not authorized to do something that's of an immediate la... nature. The only time the law permits us to do something of an immediate nature and that still takes the 10-day notice period is to reduce the rates of a utility if we have evidence and have found that they are over earning. Given that Ameren and ComEd recently completed rate cases where their rates were found just and reasonable for that small piece, the delivery piece

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of the customer's bill, there is little chance that in the last two months Commonwealth Edison and Ameren, the utilities, would be over earning and we have to use that part of the law very carefully because if we reduce rates too much the companies are allowed to surcharge and raise their rates at the end. So, I... the one point I think we need to make clear is that we don't have any power right now that's going to provide an immediate resolution to this situation. We can start the ball rolling and we can start reviewing things, but if there's... if there's a cry for immediate assistance for the companies... or the customers, excuse me... we don't have that authority to do that."

Eddy: "Who has that authority?"

Gene Beyer: "The parties can bring things to us. If a company wants to come up with a plan for some immediate relief for its customers and they need the Commerce Commission's approval, they can bring it to us today and we will approve it immediately with the 48-hours notice for the meeting. But we will..."

Eddy: "So, what you just told me is that..."

Gene Beyer: "...we will do that sort of thing."

Eddy: "...the only people that have the authority are the people that do the charging and unless they bring you a plan to charge less, you're powerless to do anything about it?"

Gene Beyer: "We can do it after an investigation, but we cannot do something of an immediate nature to turn things around or

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provide these refunds or rate reductions to customers that I... that I believe I'm hearing, is wanted right now."

Eddy: "So... so, you're saying utility companies themselves have... are the only... the only real authority that can make this happen? You don't have the power it takes to cause them to act on this, that's what you're saying?"

Charles Box: "The companies are the only one that can have an immediate effect. We can take action once there's a record to take action on."

Eddy: "But you just said it has to be because of some cause."

Charles Box: "That's only... that's one of 'em. He was talkin' about the immediate action. We can take action after an investigation, after there's a record to act on. Now, if the companies bring us information and an agreement, we can act on that immediately. We can..."

Eddy: "But he also said it only in cases where there's undue profit or there's a profit issue."

Gene Beyer: "There... there... Yeah, just to clarify. We... we can reduce rates for a utility if we found that that utility is exceeding its authorized rate of return."

Eddy: "And that's the only time?"

Gene Beyer: "That's right. Except and in the near term. We can also do so in the long-term after a case that would run 11 or 12 months if the evidence shows at that time that rates should be reduced."

Eddy: "So, as far as the Commission is concerned, it's gonna take 11 or 12 months for you to have the authority you need

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to give relief to people in southern Illinois who have these bills now? How long do you think their electricity will be on? Do you think it will be on at 11 or 12 months?"

Pat Foster: "The 11 or 12 months, Representative applies to the traditional full-blown rate case and it doesn't necessarily apply to an investigation that as this one may be."

Eddy: "Why don't you tell me then, in your own words, how quickly you think you could have the type of convening Commission meeting that would do something about this so that I can tell the constituents in my district the straight talk about what you can do."

Pat Foster: "I would be very surprised if anything could happen sooner than a couple of months in terms of giving all parties the right to an evidentiary hearing and having the Commission make a reasoned determination as the law requires on the basis of an evidentiary record."

Eddy: "Okay. That's an answer. Thank you. A couple months before they can have relief."

Pat Foster: "At the very earliest..."

Eddy: "Through the Commission."

Pat Foster: "...and that would be extremely expedited, Representative."

Eddy: "Okay. Another... next question. You... you were involved with the reverse auction process and I'm assuming that your members who thought that that process was the type of process that would be the best to use in this case. Is that correct?"

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Charles Box: "Based upon the record, yes."

Eddy: "Based on what?"

Charles Box: "Based upon the record that we had... that we had to base the decision on."

Eddy: "Do you still that way, sittin' here today?"

Charles Box: "Yes. That the auction was the best way to proceed, yes, given the plan."

Eddy: "So, with the result of that auction, which has increased rates, in some cases 200 or 300 percent, you sit there and still believe that the reverse auction process was best for the consumers?"

Charles Box: "I don't think that the problem we're dealin' with is... was a result of the auction. I think it was the tariffs that were filed based upon the electric users. I don't think that the auction is to blame. I think it was the tariffs and the details in that particular tariff that's being... that should be corrected."

Eddy: "So, the reverse auction process, it's your testimony, the reverse auction process really has no role in this. It did not."

Charles Box: "Yes. You... It has a role. It produces the market rate that power is selling for at that particular time."

Eddy: "And has that market rate contributed to the increases that we're seeing in these bills?"

Et al: "Yes."

Gene Beyer: "Yes, it has."

Eddy: "All right."

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Gene Beyer: "And there were alternate methodologies that the utilities could have used to procure their power. In any event, they've had to use some methodology because they no longer own their generating stations, so they had to go out and buy their power on the market. Regardless of what methodology they would have used, the market prices are higher than what the companies previously... what it cost the companies previously to generate that power."

Eddy: "And that was brought about due to deregulation and that process had to be something so this was the best process that the Commission felt handled it at the time."

Gene Beyer: "The Commission reviewed about a dozen different methodologies..."

Eddy: "Thank you."

Gene Beyer: "...and brought all the parties together into a working group to discuss this procurement and it was found that this methodology with the reverse auction had the greatest number of positive attributes that that group found should be in a methodology."

Eddy: "Well, the people in my district have a message for you, keep lookin'. Keep lookin', 'cause this doesn't work. This doesn't work for 'em. If this is the best you can do, this doesn't do it. Another question I have has to do... and I really appreciate the fact that the Governor sent a letter today explaining his absence... I... Have you had any... anyone on the Commission had any direct contact with the Governor regarding this issue?"

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Gene Beyer: "Not from staff."

Charles Box: "I've not. No, I've..."

Eddy: "So, you're under... your testimony is that you have not discussed this issue with the Governor?"

Charles Box: "I've... I've talked to some of his staff members."

Eddy: "To the staff members?"

Charles Box: "Yes."

Eddy: "And can you relate to us in any additional terms other than the... the nice letter that the Governor sent to the Speaker his feelings regarding this?"

Charles Box: "I can't speak for the Governor, but I think his position in the letter has been consistent since, I think, last November where he indicated that he was supportive of the additional freeze and he would sign that legislation and beyond that... and I can't tell you..."

Eddy: "Is that part of the consistency the fact that he said if anybody voted for the reverse auction that they'd remove those members? IC... Did you re... vote for the reverse auction?"

Charles Box: "Yes."

Eddy: "Do you remember that statement that the Governor made?"

Charles Box: "Yes, I was..."

Eddy: "Is that part of the consistency?"

Charles Box: "Well, I can't speak for the Governor."

Eddy: "Okay. Thank you. I have one other question then I'll be finished. The question has to do with a matter brought up

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by the Speaker earlier regarding TXU. Are you aware of any of the comments that were made..."

Charles Box: "Yes."

Eddy: "...regarding..."

Charles Box: "Texas, yes."

Eddy: "And especially the question regarding the fact that there's a potential for Ameren or ComEd Exelon to be involved in the purchase of that utility company, those comments? Are you aware of that potential?"

Charles Box: "Yes."

Eddy: "Do you have any statement regarding that potential for the Body?"

Charles Box: "No, because I think the companies you're talkin' about is Exelon and Ameren and we don't regulate those two entities. We regulate..."

Eddy: "Well, as a member of the Commerce Commission..."

Charles Box: "I would..."

Eddy: "...do you have a... do you have a feeling or a statement or some position on whether or not those companies should be involved in that type of a purchase?"

Charles Box: "Well, I can't dictate what companies do that we don't regulate."

Eddy: "I didn't say you could dictate it. I asked you, Sir, if you had a position."

Charles Box: "No, I don't. I do not."

Eddy: "Anyone else on the Commission?"

Et al: "No."

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Eddy: "Okay. Thank you."

Chairman Scully: "Thank you, Mr. Eddy. Mr. Bradley, did you have a question for the witnesses?"

Bradley, J.: "I have a... I have a couple, Chairman. I... I gotta be honest with ya. You act like this is news to you. If you want to initiate an investigation, you're welcome to start here at my desk. Okay. It... I find it somewhat appalling, I know you're under oath, but I find it somewhat disingenuous that you come in here and you act like you didn't know this stuff was goin' on. Why hasn't an investigation already been **takin'** place?"

Gene Beyer: "We began working with Legislators in January as soon as customers began seeing their higher bills. And..."

Bradley, J.: "So, is an investigation taking place currently?"

Gene Beyer: "No."

Bradley, J.: "Okay. So, why hasn't an investigation been taking place?"

Gene Beyer: "Because the Legislators that we worked with seemed to be calling for immediate rate relief from this burden of high rates on the customers and there's..."

Bradley, J.: "How does that affect your... how does that affect your requirement or your obligation to conduct or initiate an investigation? The remedy should not be driving the investigation. Correct?"

Gene Beyer: "We can begin an investigation..."

Bradley, J.: "You should..."

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Gene Beyer: "...but that was what... not what we turned our first efforts to. Our first efforts have been turned to trying to assist in finding an immediate solution and..."

Bradley, J.: "And how did you attempt to assist in finding an immediate solution?"

Gene Beyer: "We've agreed to work with Legislators in the public hearings. We've agreed to work with them at the stakeholders meetings and we've agreed to assist any of their constituents in understanding this. A longer term solution is to start an investigation to review these things, but the focus today seems to be on trying to do something right now."

Bradley, J.: "Now, are you talkin' about Members of this Body or are talkin' about Members of the Senate that you've been working with?"

Gene Beyer: "I... I was at the public hearing..."

Bradley, J.: "At the Senate."

Gene Beyer: "...in East St. Louis with you last week and that... that's..."

Bradley, J.: "At the invitation of the Senate."

Gene Beyer: "Yes, I believe that's correct."

Bradley, J.: "Okay. Now, I think I heard Chairman Box indicate that the reverse auction was not the problem. Is that correct?"

Charles Box: "Concerning the space heating issue, yes."

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Bradley, J.: "Okay. Just concerning the space heating. So, there is a problem with the reverse auction in other context?"

Et al: "No."

Charles Box: "No, I didn't say that. I didn't talk to that."

Bradley, J.: "No. Okay."

Harry **Stoller**: "That's not a problem. The problem is that the prices are very, very high out there and there's been some tremendous increases and that's a problem, but the reverse auction didn't cause it."

Bradley, J.: "Okay. So, the reverse auction is not the cause of the problem."

Harry **Stoller**: "That's what I think."

Bradley, J.: "But what you indicated was... was that the tariffs were the cause of the problem. Is that correct, chairman?"

Charles Box: "Based... To the best of my knowledge, yes."

Bradley, J.: "And who approves the tariffs?"

Et al: "We do."

Charles Box: "The Commission, that's correct."

Bradley, J.: "And the all-electric discount being removed from customers by the Ameren Service Companies was part of the tariff package which you acknowledge were the problem?"

Gene Beyer: "Yes... yes, that's correct."

Bradley, J.: "Okay. Now, how do we fix that immediately?"

Gene Beyer: "You don't fix that immediately. We... we can begin an investigation, but the Commission has no authority under the law to reverse that immediately."

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Bradley, J.: "Okay. Now, you indicated that the only way that you could take immediate action was if you made a finding of over earning."

Gene Beyer: "That's correct, for the utility."

Bradley, J.: "And how is over earning defined? Is there a dollar amount?"

Gene Beyer: "We... The rates that the companies are allowed to charge are based... based on an authorized rate of return. And... and if we can find that the company has consistently exceeded that authorized rate of return and that it's an unfair rate of return and therefore the balance between the customer and the utility are no longer balanced, then we can take action."

Bradley, J.: "Now, what's the balance then? Where are you balancing? Because I'm balancing bills against profits, what are you balancing?"

Gene Beyer: "Balancing means we take evidence from all parties in the record: the utilities, the customers and all in between."

Bradley, J.: "So, if you found, for instance, that the utility companies were gonna make two point three billion additional dollars (\$2,300,000,000) at the expense of senior citizens and young families in the State of Illinois, you could determine that over earning was occurring?"

Gene Beyer: "Well, that wouldn't be the over earning test. We... we wouldn't compare them to the... to the consumers. We would look at their authorized rate of return in today's... in

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today's world and determine if the company is exceeding that."

Bradley, J.: "Who sets the definition or who creates the definition of 'over earning'?"

Gene Beyer: "An authorized rate of return is set after extensive and complex evidence as to the financial characteristics of the world in which the utilities operate in."

Bradley, J.: "Okay. And in English that would mean, you do?"

Gene Beyer: "Yes, we do."

Bradley, J.: "Okay. So, you set the definition of 'over earning'?"

Gene Beyer: "Well, we... we set the authorized rate of return and then we..."

Bradley, J.: "Okay."

Gene Beyer: "...can review what they've done after that by reviewing their financials."

Bradley, J.: "And you could because you've made that rule. You could change that rule to address the particular crisis that we have in Central and southern Illinois."

Gene Beyer: "Well, the... It's not a rule on... on the test on over earning, it's the law. The law tells us how we can proceed there and the law says that the company is exceeding its authorized rate of return or over earning or their net income is too high, however you want **to look** at it, that we could take action."

Bradley, J.: "But you set the guidelines to determine whether or not that over earning occurs?"

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Gene Beyer: "And that... that was established in recent rate cases."

Bradley, J.: "And... and you established that through your own methodologies?"

Gene Beyer: "That's... that's correct."

Bradley, J.: "Okay. Now, let me change... let me change focus here just a little bit and I asked you this in East St. Louis, but I don't think many of the folks that were here got the opportunity to hear or to review that transcript. It's my understanding that you do not independently verify that the information you receive from the utilities is accurate."

Gene Beyer: "We do audit the information that we receive from the utilities, but we do not... we do not generate that information and there are millions of bits of information out there of all the customers and all the customer's bills and rates and we cannot verify each and every piece; however, we do audit it to see if it makes sense from a trending basis from a reasonableness basis and from comparative basis."

Bradley, J.: "But you have to rely upon the information that's provided to the... provided by them to you."

Gene Beyer: "That's correct."

Bradley, J.: "When was the last time that you refused a utility industry request?"

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Gene Beyer: "In... in the recent rate increase requests from both Commonwealth Edison and Ameren, their full request was not approved by the Commission."

Bradley, J.: "How much of their full request was approved?"

Gene Beyer: "I believe Commonwealth Edison requested around three hundred and thirty-nine million dollar (\$339,000,000) increase and I believe the Commission authorized about an eighty million dollar (\$80,000,000) increase."

Bradley, J.: "What about Ameren?"

Gene Beyer: "Ameren is an ongoing case. That case will not conclude. It's in rehearing. It will not conclude until May."

Bradley, J.: "So, it's actually in hearing now so you could have a immediate rate impact as a result of that hearing?"

Gene Beyer: "Well, the... of the result of that hearing will be what rate increase, if any, should be authorized for the companies... just for the delivery portion of the customer's bill."

Bradley, J.: "And you would agree that there's no competition in residential customers in the State of Illinois with regards to the delivery of power?"

Gene Beyer: "Yes, we would agree."

Bradley, J.: "Okay. Let me ask you this. Just so I'm clear and so the Members of this Body understand. At some point in the last couple of decades, Union Electric came into Illinois as Ameren and purchased CIPS, CILCO and Illinois Power. Is that correct?"

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Gene Beyer: "Well, the Union Electric and CIPS merged to form the company called Ameren."

Bradley, J.: "Okay. And so then it became Ameren the parent company centered in Missouri, AmerenCIPS, as a good parent, they named their children after themselves. So, AmerenCIPS in southern Illinois and then **AmerenIP** was divided up between Dynegy and Ameren the parent company. Is that right?"

Gene Beyer: "Well, I... Illinois Power was first acquired by Dynegy and then subsequently was acquired by Ameren."

Bradley, J.: "Okay. And then there's also CILCO, **AmerenCILCO**..."

Gene Beyer: "That's correct."

Bradley, J.: "...now which was acquired by... Now, it... there is no generation left in any of the distribution companies. Correct?"

Gene Beyer: "For Ameren, that's correct."

Bradley, J.: "Okay. So, AmerenCIPS, **AmerenIP**, **AmerenCILCO**, all the generation aspects of those companies have been taken out of them and either sold to some third party or taken into the parent company."

Gene Beyer: "That's correct."

Bradley, J.: "Okay. So, the only thing left in those distribution companies, CIPS... AmerenCIPS, **AmerenCILCO** and **AmerenIP** is the actual distribution lines, the workers' pensions and the union contracts."

Gene Beyer: "Basically, that's correct, yes."

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Bradley, J.: "Are you aware of whether or not warehouses have been cleared out in the Ameren service territory and whether or not assets have been sold off in the Ameren distribution companies?"

Gene Beyer: "Well, from time to time we do know that they do that, but I'm not aware of what specific one you may be talking about."

Bradley, J.: "Is that something that you're charged with to oversee and make sure that these companies aren't being fleeced by the parent?"

Gene Beyer: "We... we try to make sure that those assets, whether they be warehouses or other buildings or vehicles or what have you, that are tied to the generation side of the business, have been shifted over to that side of the business and that all... only the assets that are related to the delivery of electricity remain with the company."

Bradley, J.: "Is it of any concern to you when you see a distribution company that appears to be holding nothing but liabilities when the assets have been moved out to some parent?"

Gene Beyer: "Can... can you clarify that?"

Bradley, J.: "Would it be of concern to you or is it of concern to you when you have a wholly-owned subsidiary... a subsidiary, a distribution company, where the assets of that company have been cleared out to some parent company and the only thing remaining in the distribution company are liabilities?"

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Gene Beyer: "Well, I suppose that would be a concern. I don't see that in this case unless I'm misunderstanding your question."

Bradley, J.: "Is there any kind of investigation or is there any kind of ongoing efforts on your part to insure that that hasn't taken place and that that is not taking place with regards to the Ameren distribution companies?"

Gene Beyer: "We have not seen any evidence of the company selling or transferring any of its distribution assets so that it's not left with the assets necessary to deliver electricity."

Bradley, J.: "Would... would fraud be something that you would investigate in an immediate hearing?"

Pat Foster: "To the extent there would be allegations such as that. Those would... could possibly be investigated at the Commission or referred to an appropriate law enforcement agency."

Bradley, J.: "Okay. So, to the extent that people were notified that their bill might only go up a dollar (\$1) per day or two dollars (\$2) per day if they were all-electric or there were indications that the rates would go up 38 percent in some areas, 55 percent in others. Would those be something that you would look at from the point of view that perhaps there was some type of fraudulent occurrence?"

Pat Foster: "I don't think anyone is questioning that a much better job of getting the word out or educating customers should have taken place. I, sitting here, don't know if the

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education effort that dig... did take place would be something that could be characterized as... as fraud in the legal sense."

Bradley, J.: "Is that something though, that you would look into or investigate?"

Gene Beyer: "We... we have been looking into that. That's one of the issues that has arisen and that is that the space heating customers have seen very, very high rates and one of the explanations provided by the companies has... has been that they've always been talking about an average residential customer. And for those customers that are not average, either a high-use user or they're looking not at the average over the course of the year but looking at a high-use user in one month, you will see rates that are much, much higher than that two dollar (\$2)-a-day average."

Bradley, J.: "I guess what I'm saying here is, is I've... I don't think there's been a lack of education. My concern has been a lack or a plethora of **miseducation** and so, as opposed to not educating people I think the Illinois Commerce Commission needs to consider the fact of **miseducating** people. And I think that is a real concern for a lot of people in southern Illinois and I hope that you will take that very seriously in terms of the flyers that went out and the statements that were made and there are many. And so, I just think people were misled in terms of what they could expect. I want to change gears one more time and touch on one other subject and then I will sit down. What happens in

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the State of Illinois when someone either cannot or refuses to pay their electrical bill? Is that governed by... by statute, by regulation?"

Pat Foster: "There are... there are utility tariffs that deal with the situation and there are Commission rules that require that utilities go through certain steps when those circumstances arise."

Bradley, J.: "So, run me through it. I have a senior citizen in southern Illinois whose bill goes from a hundred dollars (\$100) to five hundred dollars (\$500). They cannot pay that bill. They don't pay that bill. What is the process? When can the utility shut them off? What is the process they go through?"

Pat Foster: "First of all, there are certain safeguards that apply during winter months and there are certain safeguards that apply for customers who rely on electric equipment for medical devices and things of that nature. But getting past that, the tariffs of the utility, I believe, establish that after a certain amount of time has passed, after a bill has gone unpaid, the utility sends the customer a disconnect notice. The customer at that point has the right to call the utility and complain informally and if they're not able to resolve the dispute, they have the right to complain to the Illinois Commerce Commission. During the **pendency** of those complaints, service is not to be terminated but once the process has run its course and they have not paid, then the tariffs of the utility and the Commission rules permit a

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utility company to terminate service. That... that's in there."

Bradley, J.: "What time of time frame are we talkin' about for this process to unwind?"

Gene Beyer: "I... I can't think of what that time frame is right now. I do know that one of the things that we encourage customers to do immediately is that to call the company and try to work with them. I believe we also heard though a week ago, and... and I think this would be a very good point to raise with... with Ameren for your customers, is whether or not Ameren intends to not apply their shutoff rules in this situation. That..."

Bradley, J.: "Well, I... I appreciate that. I appreciate the advice, but I need to know for my own boundaries here what's gonna happen, what you're gonna do, what the rules are, what the regulations are in the state, when somebody can't pay one of these bills and they choose not to do the payday loan plan that the utility companies have put out there?"

Gene Beyer: "I would like to check... be able to check with our consumer services staff and I will provide you that information, if that's satisfactory."

Bradley, J.: "What... Yeah. I would... I would love to have it today if possible. I imagine you're gonna be around here a little bit longer. But I certainly think that that's something you need to make available to people and if there is a provision where someone who thinks that they've got an unduly large bill, someone who believes that they might have

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been a victim of a mistake, has an appeal process through the Illinois Commerce Commission, I think that's important for people to know. Is that what you're telling me is that someone who disputes the size of their bill can appeal it to the Illinois Commerce Commission and have a hearing in the Illinois Commerce Commission on their bill?"

Gene Beyer: "That's correct. It would first try... we would first try to resolve that informally and if not the customer may choose to take it on a formal route. And if they were to call us, any customer were to call us, that's what they would learn."

Bradley, J.: "Are you willing and don't you think it would be appropriate to consider the Illinois Commerce Commission and I think you would have the power to do this, to put a moratorium on shutoffs until this issue is resolved?"

Pat Foster: "I don't believe, Representative, that there is technically the authority in the statute. Under other circumstances, the Commission has adopted resolutions and taken other actions that strongly urge regulated entities to act in the interests of the consumers. And certainly, but the strict answer, legal answer, to your question I believe is... is no."

Bradley, J.: "What is the number that people can call if they want to dispute their power bill?"

Gene Beyer: "217..."

Bradley, J.: "217..."

Gene Beyer: "...558..."

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Bradley, J.: "...558..."

Gene Beyer: "...7162."

Bradley, J.: "...7162. That's a public line for anyone in the public that disputes their power bill can call the Illinois Commerce Commission and protest it."

Gene Beyer: "That will be my line and I will assist all of those customers by either taking care of their issue or putting them in touch with people that can. We also have an 800 number that, while I was reciting my phone number, I was hoping I could immediately recall but I can't right now and so I will get you that 800 number in a few moments."

Bradley, J.: "Can you put that into the record at some point before you leave here today?"

Gene Beyer: "Yes. Yes, Sir."

Bradley, J.: "Okay. So, if I had someone in my district that... what's the first day under the weather that a power company can shutoff power? I know there's this appeal process, but is there a day like March 1, April 1, where they can't shut it off before then?"

Pat Foster: "I don't offhand recall. And strictly speaking, it may be a matter of temperature which, of course, would be different in Marion from up north."

Bradley, J.: "So, is that... that's information that people need to know, too, in terms of if they can't pay these bills and we have hundreds if not thousands of people that are not gonna be able to pay these bills, what their rights are

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gonna be with regards to being shutoff by the power company."

Charles Box: "What we can do if we, before 5:00, we can get that part of the regulation and get it to you today. We can get it into the record."

Bradley, J.: "I think that all the Members of the House, if I'm... but I hate to speak for everybody else, would like to have that information to provide to our consumers and people so that we can provide it to them. And I've... I caution you that you understand by virtue of people becoming aware of this, that you're gonna be overwhelmed with the influx and so..."

Gene Beyer: "I understand that."

Bradley, J.: "And so, it certainly may be a possibility of providing people some kind of public hearing to at least determine that these bills are unconscionable and not fraudulent, I guess, is where we're at. So, in any case, I would strictly... I would just... I would just implore you to... to just use any and all possible mechanics and mechanisms you have here to remedy this situation because we cannot go 2 months, we cannot go 10 months, we cannot go 12 months without a remedy and to the extent that you can provide any kind of relief to residential customers and business customers in the State of Illinois, the House of Representatives, Representative John Bradley, are asking you to do that."

Gene Beyer: "Thank you."

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Chairman Scully: "Thank you, Mr. Bradley. Mr. Durkin, did you have a question for the witnesses?"

Durkin: "Brief questions. Most of the Members of the House have expressed my thoughts on this and I appreciate chairman that you've availed yourself to the Legislature. I did send a letter to your attention yesterday asking for you to be present today and also at the committee hearing on Thursday. I think we've heard everything we need to hear from the... from you and I... we won't need your presence... I won't need your presence on Thursday at the committee hearing."

Charles Box: "You will or won't?"

Durkin: "I won't."

Charles Box: "Okay."

Durkin: "All right. I just have a couple thoughts. If you could... There is a question... Mr. Bradley actually asked a question I was gonna present. It was the shutoff policy. There's... I don't think we're really... we have a complete grasp on what the... what the policies are. If you could publish on your website shutoff policies for consumers but also provide us documentation so we can at least educate those who call us up when they have these problems so we can talk to our res... our constituents, if that's possible."

Charles Box: "Yes."

Durkin: "And also, there is some confusion today about what are the standards for getting relief before the ICC. If you could... someone could just present that and give us something in writing by Thursday. I... I... ya know, there's been about

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exactly what are the... what are the standards to get before the board when there is... when someone is not filing action, when you're gonna do it on your own and kind of give us as a guideline of how this **proced...** procedure's gonna go."

Pat Foster: "We can do that. I'll make sure..."

Durkin: "Lastly, and I... I think there was comments made that it would be at least two to three months before there would be, hypothetically, before any relief could possibly be granted on this. Now, I... I practice law every now and then, but I do know that every court in this land has the ability to and every other, I believe, administrative body has the ability to enter some type of temporary restraining order of some sort. Do you have that ability to enter that type of order in a situation where there is great harm, as you... as we've told you today?"

Pat Foster: "There's no legislative grant of authority that gives the Commission powers of a court of equity, powers to issue an injunction or temporary restraining order. There are, as it relates to rates, there are the two provisions we've already discussed."

Durkin: "But there's nothing within the code or your rules that prohibits you. It doesn't grant you that authority, but it doesn't prohibit you as well. Does it?"

Pat Foster: "Courts have told us many times that we have no authority other than what the law gives us."

Durkin: "All right."

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Charles Box: "But Representative, what we could do is, ya know, while I'm here and changing schedules tomorrow, work with the company. This guideline we gave is if, in fact, it's totally litigated, if they could come in and reach some sort of agreement, that... that process and time could be sped up."

Durkin: "That would be wonderful."

Charles Box: "Well, we can..."

Durkin: "Since then, I think, most of us in here would probably say that two or three months is not something that we could go back to our constituents and people in Illinois would understand nor would they accept it. So, I do appreciate your consideration on these issues. This is, as you know, the Governor has not engaged himself in this matter in both Houses, the House and the Senate, are not going to find a legislative remedy for some time and then if they do, we're gonna start the summer months and that's when the air-conditionings will shoot up. So, I appreciate it, but I really do implore upon you to find some type of quick resolution, temporary resolution, of this to at least provide some relief. So, thank you again, but hopefully, if you can get that information back to us."

Charles Box: "We will."

Durkin: "I'm on the committee. If I can get it on Thursday, I know someone from the ICC will be at the committee hearing on Thursday morning, I would greatly appreciate it. Thank you."

Charles Box: "Thank you."

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Chairman Scully: "Thank you, Mr. Durkin. And thank you for being very concise with your questions. Representative McCarthy, did you have questions for the witnesses?"

McCarthy: "Yes. Thank you, Mr. Chairman. The... Chairman Box, you'd mentioned earlier or it was mentioned in your remarks... I'm over on your right, the far right, far right... I knew that was **comin'**. The... it was mentioned earlier about the... that when the reverse auction methodology was approved by the Commerce Commission the vote was 5 to 0 and you were one of the 5, correct?"

Charles Box: "That's correct."

McCarthy: "Okay. Were any other votes taken on any other procurement options at that time? Did any options go far enough forward that they actually came to a vote before the Commission?"

Charles Box: "No. I think the 12 items, I think, were looked at that was done prior to January of '05 and the tariff that was introduced included the reverse auction. And through the post transition... post 2006 transition, that has been determined that that would be the process. So... so..."

McCarthy: "Would... would any public interest group or any group of citizens have a right to offer a different procurement option?"

Harry **Stoller**: "I think the docket that's now open is reviewing the entire auction process. I think that would be the time to do it."

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McCarthy: "Okay. So, like the Citizens Utility Board, if they... if they preferred like a direct auction as opposed to a reverse auction, could they make that proposal and would the Commission have to vote on that?"

Harry **Stoller**: "The Commission docket can listen to any **propo...** the docket that's open right now can include proposals for methodologies for the utilities to procure power other than the reverse auction."

McCarthy: "Okay. But there was no vote on anything other than the... as far as the methodology, there was no other?"

Harry **Stoller**: "Well, that methodology showed up in the course of two utilities proposals to do an auction and it was either a question of do they do the auction or do they not do it, as opposed to do they do something else."

Gene Beyer: "But... but there were some other entities in those cases that recommended a proposed alternate procedures and through the course of taking testimony on all of that, those... those alternate methodologies were rejected. They were considered and debated but rejected."

McCarthy: "Okay. But they were rejected because no one on the Commission moved to have a vote on them? Basically, there was no actual vote like they weren't voted down 2 to 3 or 1 to 4 or something?"

Harry **Stoller**: "No, they weren't individually voted on like that, no."

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McCarthy: "Okay. All right. As far as the space heater all-electric discount, was that a uniform discount across the board in the Ameren or ComEd territories?"

Harry **Stoller**: "That was not. That was a limited discount available to a small group of customers, if I recall correctly, if I'm not mistaken here, that were former customers of Union Electric down in the Metro East area."

McCarthy: "I've been informed that about 30 percent of the Ameren customer base was this all-electric. Is that high, low... is that..."

Harry **Stoller**: "No. As a matter of fact, I think the numbers I just looked at a while ago were for one of the utilities it was 20 percent, one was 14 and one was 13 percent of residential customers."

McCarthy: "Okay. But can you give me what and... was there a percent discount for doing that, for going all-electric?"

Gene Beyer: "Yes. There... there were cheaper rates for high users. The more they used..."

McCarthy: "I understand that. I understand that."

Gene Beyer: "Yes."

McCarthy: "But was it... was it 10 percent, was it 20 percent, 50 percent?"

Gene Beyer: "I... I..."

McCarthy: "I mean, does anyone know this? I mean..."

Gene Beyer: "Well, 15 percent from what? I'm trying to understand."

McCarthy: "Fifteen, well... It was a..."

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Gene Beyer: "From a base..."

McCarthy: "I assume it was a discount... it was a discount off the rate that was set for the average residential person at that time."

Gene Beyer: "Yes. I..."

McCarthy: "Was it 15 percent off the rate? Was it 50 percent off? I mean, it seems like when I hear these quotes of 250 and 300 percent increases in bills, there must have a very, very substantial in... deduction for this space heater all-electric discount."

Gene Beyer: "We... we could do the calculation for you. A rough guess is... I can tell you the average rate for a space heating customer in CIPS Metro East area was about 5.4 cents a kilowatt hour. Their non-space heating residential customer was about 6.94 cents per kilowatt hour. So, it's... it's the difference between the 6.94 and the 5.4. I could do that calculation for you."

McCarthy: "Okay. And when the new rates were set, and I have three different rates that were given to me by Ameren for their three separate companies, as far as the cents per kilowatt hour, but nobody under the new rates is higher than the maximum rate set, correct? Like in **AmerenIP**, they say that they went from 7.61 up to 10.70 per kilowatt hour, cents per kilowatt hour. So, if someone is above that 10.70 now, would that be something they could bring to the Commission and say, this is above the profit level that was agreed upon?"

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Gene Beyer: "Nobody would be charged any higher than the rates that were approved. There may be customers when they calculate an average cents per kilowatt hour that will be different from an average rate per **therm**, but no customers should be charged and the company's not allowed to charge the customer any more than the **tariffed** rate that's been approved and on file with the Commission."

McCarthy: "Okay. And that's something... that could probably be handled quickly if people were able to bring their bills forward and they showed that the rate that was on their bill was higher than what the tariff allowed."

Gene Beyer: "We have checked many bills for that reason."

McCarthy: "And have you ever seen that?"

Gene Beyer: "We have not seen them billing anything other than the **tariffed** rates."

McCarthy: "Okay. And on this... on this space heater all-electric rate, I believe or I've been told, at least, that the... in the ComEd... it's not as big a deal in the ComEd region but ComEd agreed that while the average person went from 22 to 24 percent increase residential that when they built in the new rates for the space heater people there was a tariff or an agreement that they would not raise those people's rates more than 28 percent. Is that correct?"

Gene Beyer: "Yes, I believe that's correct."

McCarthy: "Okay. Now, and... and the Commission did approve that, correct?"

Gene Beyer: "That's correct."

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McCarthy: "Okay. And at the time the Commission approved that, what was your thinking that you didn't do the same for the Ameren folks? And it was gonna affect them a lot more. I just looked at that and I thought, hey, it's nice that ComEd did this, but only about 6 percent of their customers are all-electric where Ameren people have a lot more. And what was the Commission thinking when they said, we'll do it for ComEd and limit their increase for the all-electric but they didn't do it for the Ameren individuals."

Gene Beyer: "We... we looked at all of the restructuring going on for all of the customer classes in Ameren and we've asked this question ourselves many times and tried to review it ourselves. And... and we've looked at that whole thing and we saw many changes being made in the Ameren rates for the three companies for the Metro East customers, bringing their rates up to level of the CIPS customers and then having the increases on top of all of those. We... we tried to make sure that the Ameren residential customers as a whole were not going to be hit too hard because in previous years, rather than each class being cost-based, there was some subsidization of the residential class by the commercial and industrial customers. We didn't want to see that subsidization end all at once and so we tried to look very carefully and provide some mitigation to the rate increases we saw for the residential customers as a whole. The issue of the subgroup within those residential customers, the extremely high users, was not factored into that. That is

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the subject, we believe, now that we've seen the outcome and the results and the bills, that's what we're talking about when we say we need to begin this investigation to look at that."

McCarthy: "Okay. And as far as you approving an authorized rate of return, that is only on the distribution charges for ComEd and for Ameren companies, correct?"

Gene Beyer: "That's correct."

McCarthy: "So the Exelon and other generators, you have no authority over them as far as any authorized rate of return?"

Gene Beyer: "That's correct."

Charles Box: "That's correct."

McCarthy: "Okay. Are you familiar with the transfer of the nuclear power plants back about 6 years ago?"

Gene Beyer: "Yes."

McCarthy: "Okay. What was the methodology done for that transfer? There's... there's a lot of criticism and that... you just basically allowed one company to give them away. Are you aware of what went on at that time to make sure that they were given an accurate price for that... that transaction?"

Gene Beyer: "The law permitted the utilities to divest themselves of their generation assets and the only authority that was given to the Commission in that case to interfere with that transfer or sale of generation assets was if that sale or transfer would render the utility... Well, would..."

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would affect reliability negatively or if it would result in a... the likelihood that a rate increase during the rate freeze would come about. So, there were only two ways the Commission could look at that and neither one of them played a factor in the company's cases and so they were allowed to transfer or sell those plants."

McCarthy: "Okay. But was an independent appraisal needed at the time?"

Gene Beyer: "No."

McCarthy: "Was that by the Commerce Commission?"

Gene Beyer: "We..."

McCarthy: "Do you know if it was needed by FERC?"

Harry **Stoller**: "The Commerce Commission needed none of those."

Gene Beyer: "But did FERC?"

McCarthy: "Okay. But..."

Harry **Stoller**: "I don't have any idea what FERC needed."

McCarthy: "Okay. Lastly, you mentioned about this hourly rate that was approved by legislation here last year that people could pursue smaller increases by going on an hourly plan where they would reduce their usage and... at certain times of the day. Do you have any num... I... I've never heard of anybody using that? Do you have any numbers as to how many customers are using that with either ComEd or Ameren?"

Harry **Stoller**: "If you're speaking about residential customers, none are right now. The program's just being offered."

McCarthy: "Okay. When will that be offered officially then?"

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Harry **Stoller**: "Well, they're working their way toward it right now. I don't know, but I would expect within a couple of months. That... that... I may be wrong in that expectation. You may wish to ask them that."

McCarthy: "Okay. Well, I want to thank you for your efforts. I think I may stand as a great majority of one who thinks the reverse auction also did work when I compare the cost of electricity in the major City of Chicago versus other major cities across the State of Illinois. And I think we'd be doing well to inform the public that the City of New York City has about an 83 percent higher rate per kilowatt hour than the new rate that the City of Chicago has under the ComEd. And it goes the same way if you look at Boston, Philadelphia, Los Angeles, San Francisco, so I don't think the Commission did all that poor of a job. One thing I will criticize, is, earlier today one person up there, and I don't know who it was, said something about people did not do a good enough job informing people that this rate increase was coming. I don't think there's... I live in the southwest suburbs of Chicago, I don't think there's anybody above the age of 15 or I'd say 12 years old who doesn't know that Frank Clark started in the mailroom at Commonwealth Edison and that this rate increase was coming. I mean, I don't know what else he did there, but I know he started in the mailroom. And I think they did their best to try and get that information out there. It was unfortunate that this rate increase went so high, it was unfortunate that

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Ameren wasn't forced to do something for their space utility people, but I think that they did do their best to try to notify the customers."

Chairman Scully: "Thank you, Mr. McCarthy. Mr. Flider, did you have a question? I'd like to remind everyone, we have many other witnesses to testify. Please confine your questions to questions that have not been previously asked."

Flider: "Thank..."

Chairman Scully: "Mr. Flider."

Flider: "Thank you, Mr. Chairman. I'll do my best to be brief. It sounds as though the Illinois Commerce Commission is a completely reactive Commission. Is there any instance where you believe you could be proactive, if you see a problem? For example, on the rates that we're seeing now with the space heating, the total electric customers, I have a chart here prepared by the Illinois Commerce Commission that shows that the rates for Illinois Power non-space heating customers, that would be combination electric gas, were going to increase by 49 percent and, in fact, did increase by 49 percent; however, the rates for the total electric customer, according to your analysis, increased by 106 percent. And so my question is, in terms of the rate design, in terms of the proceedings at the Illinois Commerce Commission, was this predictable? Was this something that somebody should have noticed or done something about or was this something that you felt you had no authority to be concerned with?"

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Gene Beyer: "Well, looking at that same chart that you're reviewing, the numbers you gave were for January. If you look at the customer's average increase that was predicted for their full year, for the non-space heating it was 34 percent and for the space heating customer it was 58 percent. And that was pretty much in line with what the predictions were for the rate increases."

Flider: "But in terms of those customers who are paying double, ya know, what this reflects actually is these bills will double. Assuming everything stays equal, assuming usage would be the same for one month, well, the January prior and this January, we're talking about over 100 percent increase. I mean, this situation we're in today should have been predictable to somebody. And my question is, what authority did the ICC have to kinda push back and say, hey, Ameren, ya know, this is gonna be a problem for ya, rethink this or we order you to rethink this and let's come up with a better solution?"

Gene Beyer: "Our review of the rates looked at the customer class and we look at them on an annual basis. We... we did not calculate ahead of time what a January bill, for example, might be nor a February bill nor a July bill. So, you're correct in that the information was probably there, but we didn't... we didn't calculate it on a monthly basis."

Flider: "Did... I know that a big part of utility regulation is rate design. Do you feel that you have the personnel on staff right now to do appropriate rate design? I know, for

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example, in years past when utilities would come in they'd have the big rate cases. It was, ya know, year after year of rate cases, 11 months of testimony, hearings and so on. Has the deregulation era of Illinois resulted in fewer resources for the Illinois Commerce Commission to deal with these issues?"

Gene Beyer: "Well, as with many entities in State Government, we have suffered from reductions in our head count and tried to keep pace. I believe we do have a staff right now that understands the issues and is able to address these issues, but this is... this is probably the most complex issue that I've seen in my years at the Commission with so many things coming at one time."

Flider: "Okay. The... the issue has come up about the potential for a moratorium in the future and it sounds again to me, for example, that if we were to ask the Commission to take specific action with regard to encouraging or telling utilities not to cut off customers, you really don't have the legal authority to do that. All you do is administer the law that we establish here. Is that correct or did I misunderstand you?"

Pat Foster: "I believe that's a fair statement, Representative. The Commission has the powers conferred on it by law."

Flider: "So, really if we were to... if you were to authorize or administer a moratorium, you'd have to do it based on a law that we would give you. We'd have to pass a law that allows you to administer that."

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Pat Foster: "We would have to find authority somewhere in the law and I'm... I'm speaking for myself, not aware of anywhere in the statute right now that would permit the Commission to adopt or enforce a moratorium on shutoffs."

Flider: "Okay."

Gene Beyer: "However, there's nothing to preclude the companies from volunteering to delay or defer shutoffs during this time."

Stoller : "And I think..."

Flider: "And in the past, you probably have served as somewhat of a strong arm and could encourage the utilities to not cut these people off. In particular, what I'm really concerned about is what happens is with... during the spring, after temperatures go above 32 degrees, the rules are such that the utilities now go out and they start cutting off customers who don't pay their bills. And so what we're gonna have... this year will be bad enough... but now we're gonna have pos... the way this has been structured because people are borrowing money to pay their bills or they're not paying their bills, so now 2, 3, 4, 5 years from now those bills... those amounts will be layered, there are gonna be people who, I don't know how they're gonna pay those bills, if they can't pay 'em this year and they're borrowing money and ya know, putting it off for 2 or 3 years plus interest, how in the world are those people gonna pay their bills? We're gonna have a real problem on our hands and so, I guess... Well, let me ask you to address that. Do you think

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we're gonna have a problem on our hands based on these phase-in plans where people are not paying their bill today but are putting it off until the future?"

Gene Beyer: "I think the phase-in plan is an option for customers who believe that it would be better to defer a part of their customer bill now and pay it later, but I think customers, as you suggest, would have to do that with their eyes open because not only are they gonna have their bills to pay at that time but they're gonna have that deferral that occurred 3 years prior coming due at the same time. So, it's an opportunity if customers can't handle things right now but it's something that they really, really need to be aware of for the future."

Flider: "It sounds like there are some things that we here in the Legislature could help you out in terms of some laws we could pass to help you further regulate utilities. I have a question with regard to the... the way the utilities are buying power and the **pow**... the way they proposed it, the reverse auction proceeding. It's been said and I've heard one or both of the utilities indicate, and correct me if I'm wrong, that the ICC... they really didn't have to come to the ICC for any kind of authority to... for a way to buy power. That this was something that they could have just gone out and bought power and the ICC would have judged how they bought this power, but instead somebody came up with the idea, I presume it was a utility, that said, hey, let's have a proceeding before the ICC and we'll all agree on how the

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utilities should buy power. Is that a correct characterization?"

Harry **Stoller**: "Let me... let me put a little different spin on that."

Flider: "Okay."

Harry **Stoller**: "As far as I know, I've never heard anybody specifically tell me or anybody else on the Commission that the Commerce Commission has authority to order a utility to buy power in a certain way. That doesn't... that authority doesn't appear. However, the Federal Energy Regulatory Commission regulates wholesale power sales, that is, sales between generators and utilities. The Federal Energy Regulatory Commission has certain standards that it requires those sales to occur under, certain standards that have to apply to those sales. One of them happens to be, an auction process approved by and... by a state public utility regulatory agency. The utility came to us... the utilities, both ComEd and Ameren, came to us proposed a process that they asked our approval on and while that process was in the course of examination and study, also went to FERC and told FERC that it was going on and asked FERC if they would approve that process for them to buy... for the generators to sell power to the utilities at what was called market-base rates."

Flider: "If the utilities had not come to the Illinois Commerce Commission with a proposal, what do you suppose would have happened? Would the Illinois Commerce Commission have began

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any kind of proceeding or would we simply be in a situation where we'd be judging the way each utility buys power... much like we do on the natural gas side of the business... what do you... what do you think would have happened?"

Harry **Stoller**: "What do I think? I think the Commerce Commission would have been doing a completely retrospective review."

Flider: "So..."

Harry **Stoller**: "I am not trying to speak for the Commerce Commission, but if you don't have authority to tell 'em how to do it, and we didn't as far as I know, I don't believe we'd have convened a proceeding to try and figure out a way to force 'em to. If you don't have the authority, you can't do it."

Flider: "So, really the proceeding for a reverse auction process before the ICC was an altruistic action by the utilities coming forth saying, we propose a way to buy power and these same utilities are the utilities that still own some of these generators. Now, correct me if I'm wrong, but the generators that are out there selling power never really came to the table and never really participated in the proceedings. And I find that rather odd that a generator that would have its stake, its future and financial stake, actually impacted by how utilities buy power in the future, wouldn't be an intervener or wouldn't even be involved in any of these proceedings. Don't... don't you feel that's a little odd?"

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Harry **Stoller**: "Not at all."

Flider: "Why is that?"

Harry **Stoller**: "Because they went to the Federal Energy Regulatory Commission who regulates them and got authorization there. They didn't... the generators had no reason to come to the Illinois Commerce Commission. They're not regulated by us. The public utility was getting authorization for a power procurement method and the generator went to FERC."

Flider: "So, we had no generators involved whatsoever in the Illinois proceeding, as if it really wasn't an interest to them, because they felt the only regulation they needed to worry about was that the Illinois... it was at the federal level. Now, we have talked here, in this Body, we've passed a Bill in the House and we're talkin' about doing it again, to pass a rate freeze legislation. And I would assume that generators would be concerned about that. Now, some would say that those generators will just stop serving Illinois customers and will serve somewhere else. Maybe they'll sell to Nebraska, maybe they'll sell it to Iowa, Wisconsin, maybe they'll sell it to Texas, who knows. So, do you think those generators would be concerned at all by a rate freeze proposal here in the General Assembly?"

Harry **Stoller**: "I believe they'd be desperately concerned about it because what... what the rate freeze will do is all of a sudden cause public utilities that have contracted to buy power at a certain market rate they'll require them to sell

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it at a rate that is well below that and what that will do for the generators is gradually bleed their customers dry."

Flider: "So..."

Harry **Stoller**: "And the customer won't be able to pay them."

Flider: "So... but we haven't heard from the generators. Ya know, it's kind of an odd silence and I would suggest that maybe the reason is that perhaps the generators understand that it's the utilities of this state who understand the regulatory business in Illinois and who understand the legislative business in Illinois better than anybody else. And as long as the utilities have unregulated generating companies, which are part of their companies and they would have an incentive to make sure that those prices on the market are as high as they possibly can be, after all, isn't that what a corporation's purpose is. So, my concern is that we don't really have a market but we have a market that truly is driven by the utilities who own these generating companies and unregulated generating companies and I think that's something that we need to focus on. I think I heard you say that you really don't have any power or authority to... to oversee the power purchases of the utilities and we do have that process on the natural gas side. And my question to you is, do you think that it would be beneficial for us in Illinois to give you the authority to regulate the power purchases of utilities so that you could oversee their purchases to make sure that those prices are the lowest possible price?"

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Harry **Stoller**: "Let... let me get a couple things straight here. The first one is that we have every authority in the Public Utilities Act to examine the prices that public utilities pass on to their retail customers. That's true both with respect to electricity and gas. In neither area, whether electricity or gas, do we have any authority at all over the purchases that the utilities make at the wholesale level. And the General Assembly, I think, would run into real, real difficulties trying to give the Commerce Commission authority to examine wholesale transactions of public utilities for a natural gas utility. Those transactions are entirely regulated by the Federal Energy Regulatory Commission, they've preempted the area."

Gene Beyer: "However, as you alluded to gas, we do have the authority to determine whether or not the companies' procurement methodology is prudent and results in... in prudent prices passed on to the customers. And..."

Flider: "After all, natural gas is also regulated by the Federal Government."

Gene Beyer: "That's the exact same way that natural gas is regulated. And the way this used to be done is companies would take actions to procure power or procure the fuel necessary to generate that power and would bring all that evidence to us and we would look at it after the fact. The difference in this case is that the utilities chose to bring this methodology to us before the fact so that we didn't have to review it afterwards. Now, we are still going to

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review the rates that... that have come out of this and the Commission orders did establish a prudence review after the fact. But the bulk of the work and that is to approve the methodology, the way the company procured that power, it was believed to be better to review that complex, new way of doing things on the front end rather than risk so much and do it on the back end."

Flider: "Right. And I certainly understand utilities would want an assurance of cost recovery that would be always their #1 priority. One last question, I'd be interested in your perspective on why in the interchange market, according to a recent SEC filing, where one utility would have paid thirty-seven dollars (\$37) a megawatt hour for electricity yet the reverse auction prices come in at sixty-two (\$62) to eighty-five dollars (\$85) 24/7?"

Harry **Stoller**: "Representative Flider, it all depends on what power you're buying. You can buy really cheap power out there if you just buy a fixed-price block, at a fixed level at a fixed period of time, during a cheap period of the year. That's not what the auction bought. The auction bought power that required the suppliers to follow load. In other words, it wasn't a purchase of a fixed amount of power, it was a purchase of power that had to fluctuate up and down during the entire year, during 24 hours a day, following the utilities' load. That becomes more expensive immediately. I'm not sure about the block you're talking about. What I do know is what the utilities bought in the

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auction. And to the degree that you can buy power, where you're giving the supplier an absolutely clear demand, over a period of time of a certain amount of power the supplier will give it to you more cheaply than he will if you tell him that you're going to have to follow a load over a period of time and not necessarily just produce power at the same level."

Flider: "Do you have any figures on what it cost to produce power to Illinois relative to what it's being sold for on the market these days or does anybody regulate that or oversee it?"

Harry **Stoller**: "Energy information industry has vast amounts of information about production costs and market costs and so on and so forth and... and they've got it posted. It could be picked up. It just depends on what you want to look for. I mean, there's all sorts of stuff out there."

Flider: "Do you have any idea how much capacity Illinois has relative to the demand? Does anybody?"

Harry **Stoller**: "No. But EI... but EIA would have a listing of all generators in the State of Illinois, assuming that's what you mean by capacity that Illinois has. How much is situated on the ground in Illinois? I believe the energy information in... website has that information."

Flider: "But nobody in Illinois is really charged with knowing that or understanding that or being too concerned about it."

Harry **Stoller**: "I don't... I don't know about anybody in Illinois. I know we are not."

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Flider: "Okay. Thank you."

Chairman Scully: "Mr. Flider, did the witness answer your question? Representative Currie, do you have a question? Representative Dugan, do you have a question for the witnesses?"

Dugan: "Yes, I do. And I just have one. Chairman Box, I know it's been made very clear with... your testimony that you do believe that the reverse auction that was done that resulted in the rate that now ComEd and Ameren customers pay was the best way to get the lowest possible cost for... the best cost for the consumers of the state, correct?"

Charles Box: "Based upon what was in the record that I reviewed, yes."

Dugan: "And... and so I just have one question. Is it not true that there was two well-renowned economists that testified in front of the ICC that made it very clear that the reverse auction, as proposed, would not result in the best cost for the consumers of the state? Is that true? Did they testify to that?"

Charles Box: "I think that is correct, but there are experts on both sides of the fence on that, yes."

Dugan: "Okay. And then one other question. There was an entity then that ran the auction, correct?"

Charles Box: "Yes."

Dugan: "And... and that the name of that entity was?"

Charles Box: "NERA."

Dugan: "NERA?"

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Charles Box: "Yes."

Dugan: "And... and is it true that NERA was paid for by Ameren and ComEd?"

Charles Box: "Harry, you want to answer that."

Harry **Stoller**: "That... that's true. That is absolutely correct, yes."

Dugan: "Thank you very much."

Chairman Scully: "Thank you, Representative Dugan. Representative Rose, did you have questions for the witnesses?"

Rose: "Yeah. Briefly, Mr. Chairman, thank you. Perhaps Mr. Moffitt could... Thank you. Just briefly, you had talked about two processes through which this could be reviewed. The first is excessive profit, I think, you called it and you said that you did not think that that applied. Previously, you gave a definition of that. My question is very simple. I've looked at Ameren's most recent annual report filings that are available on the web. Have you reviewed that and would you take into account the five hundred and forty-seven million dollar (\$547,000,000) profit that Ameren Corp. made? Now, I think I know your answer was, you're gonna say that that's the parent company and not Ameren, Illinois, but I want to clarify that point with you."

Gene Beyer: "Yes, you're correct."

Harry **Stoller**: "The Illi... Yeah."

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Rose: "Okay. Is that through your own rule or is that per statute because frankly I think it has a complete bearing in the broader picture as to how much a parent company makes, **vis-á-vis**, the distributional utility that's operating in Illinois?"

Gene Beyer: "The law requires us to review the regulated utility. We do not have authority over the unregulated parent."

Rose: "Perhaps we'll have to change that. The second question I have then for you is really with respect to the chairman and I know you've been through a lot today. But let me ask you this, we've talked about the second part of this, a way to review and I believe the answer was on motion of the committee or a motion of the Commission, excuse me."

Charles Box: "Yes."

Rose: "And you've talked about, yeah, we'll move forward, we'll move forward, but are you as a member of the committee committing to make that motion?"

Charles Box: "As I indicated earlier, based on what I've heard here today and I'm... what I'm sure what I'll hear until late into the evening, my mi... I will try to convince the other Commissioners that it is the proper route to go, yes."

Rose: "So, you will make the motion?"

Charles Box: "Yes."

Rose: "Thank you."

Gene Beyer: "Thank..."

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Chairman Scully: "Thank you, Mr. Rose. Representative Reis, did you have a question for the witnesses?"

Reis: "Thank you, Mr. Chairman. Chairman Box, how are the ICC members put on the Commission?"

Charles Box: "They're selected by the Governor, I think, and confirmed by the Senate."

Reis: "Okay. So, all of you are appointed by the Governor. Does the Governor have any ex officio members on the Commission?"

Charles Box: "Ex officio, no. They're just five voting members."

Reis: "Okay. You mentioned about this calling of the meeting and several different people have asked the question several different ways, but can the Governor, because he appointed the Commission, call a meeting? We... we're talking about ten days and 48 hours. Can the Governor just go to you and say, 'we've got a problem here, I think you should meet.'"

Charles Box: "I think he might... he, like you and others, might make that suggestion, but I could be corrected by my legal counsel. But believe it or not, where the Commission is an independent body, so he can't order it, but like you he could suggest it or recommend it."

Reis: "So... Okay. That explains why last summer when the Governor said he would fire anybody that voted for the reverse auction process, you didn't adhere to that."

Charles Box: "Well, I was not on the Commission at that time and it shows you how smart I was, right?"

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Reis: "Okay. After the reverse auction, the ICC had to approve the outcome of that is, right?"

Charles Box: "That's correct."

Reis: "Including the tariffs, including the rate increases. You stated that you feel now that the process did or didn't work or is it just the tariffs?"

Charles Box: "No. I think the auction itself, based upon the price of the market at that time, the auction worked. The problem, I think, and I could be corrected, is that the tariffs more insight should have gone into the space heating customers which I think most of the attention has been focused on here today."

Reis: "Okay. But you went ahead and approved them at the time, the tariff..."

Charles Box: "Based on what we... yes."

Reis: "Okay."

Charles Box: "I think it's been admitted to here that by Mr. Beyer and others that I think that should have been looked at a lot closer."

Reis: "But, I mean, when they came to you and said 55 percent. Now, did Ameren say that's a 55 percent increase on the rates or on their total bill? Were they specific about that?"

Charles Box: "My recollection was, it was the increase on the average bill."

Reis: "On the average bill. So, it's obvious..."

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Charles Box: "Well, through... On the... on, I'm sorry, you're right. On the energy component, the commodity represents about two-thirds of the bill, but delivery costs is the other two-thirds. But even going into the auction, it was a concern because of the low rates of the three Ameren companies versus the rate at that time of the Commonwealth Edison consumers, that if they both had to pay market rate the increase that might have been projected could have been anywhere from 20 to 30 percent. Ameren was gonna be substantially higher than that because of the... of the difference between the price as of 1997."

Reis: "But that's just for the energy cost, that's not for the total bill?"

Charles Box: "Just the energy cost, for the commodity which is a pass-through, it's about 66 percent of the bill."

Reis: "Okay. So, this... this advertisement from Ameren that says that their monthly statement's gonna go up 40 to 55 percent and then it shows figures, that really isn't accurate because the delivery charges aren't on that and they raised those too."

Gene Beyer: "If... if I may add to that. I believe that the advertised figures that the companies announced were always based on total bill. There was... there was component in there for what they thought was going to increase for the delivery of the product as well as the cost of the electricity itself. So, that was... that was on the total

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bill and it was for an average customer over the course of a year."

Reis: "So, obviously, we know now that wasn't the case."

Gene Beyer: "Well, we... we know that... we've seen the experience from the first two months of the year so far."

Reis: "And that's a no?"

Gene Beyer: "We know what those are. Now, the summer increases are gonna be lower than that and the... and you could verify this with the company, but what they were looking at for a 40, 50, 55 percent increase was over the course of the year. It will be higher in some months; it'll be lower in some months. If you heat with natural gas, your higher months will be in the summer. If you heat with electricity, your higher months will be in the winter. But over the course of the year, the **cus...** company estimated what it would be for that average customer. Of course, if you use more electricity than that average customer, your bill's going to go up higher."

Reis: "Okay. So, I'm gonna take you at your word that this... that they really felt that the total bill for the whole year was gonna increase 55 percent. Which brings me to my next question, why did they change the billing process so dramatically? Ya know, before you had your energy, your kilowatt hours and then your price per kilowatt hour on your bill and you had your various fees and taxes, now you have this distribution delivery, meter charge, various other fees..."

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Chairman Scully: "Representative, you're asking a question about Ameren's intent. I don't know..."

Reis: "No, I'm asking... my..."

Chairman Scully: "You've asked..."

Reis: "...all my questions are directed toward the process and I don't think that the process that they oversaw and approved these rate increases was well presented by Ameren and I don't think that they dug into it enough. And my ultimate question is... is misrepresentation and why if they were just increasing the rates, why did they have to go into this bill and did you approve that billing process?"

Gene Beyer: "Yes. We did approve that and here's why. Previous to this time, the rates charged customers were all bundled rates. There was a monthly customer charge and then there was a per kilowatt hour charge. We are now in an environment where everything's becoming unbundled. The power charge is separated. The transmission charge set by FERC is separated. The distribution charge set by the company, which we regulate, is now shown separately. So, while everything used to be bundled, it's now been unbundled and shown separately. There are no items on the bill that weren't previously charged for. They are just now shown separately on the bill."

Reis: "But some of 'em went up from what they were before."

Gene Beyer: "Oh, yes. Some of 'em... some of them went up although that's... that's hard to tell because before they were buried in. One of the easiest ones to see is the

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monthly customer charge that at one time may have been five dollars (\$5), now it's two charges that's split up that totals nine (\$9) or ten (\$10) dollars. So, yes, that's an easy one to see. The more difficult one to see is the per kilowatt hour charge which included other costs pertaining to delivery, transmission, the power itself. That's a little harder to break out and understand."

Reis: "So, my last question then. Did... At any time, when Ameren was explaining themselves, did they tell you that they were gonna remove the all-electric discount?"

Gene Beyer: "We knew..."

Reis: "Or did you find that out after the fact?"

Gene Beyer: "We... we knew from the tariffs on file with us that for the average customer the rates were going to go up so much for the residential class. And..."

Reis: "Now, that..."

Gene Beyer: "...and as I stated earlier, we... we did not... we worried about that residential class increase and did not go down into the subgroups of the residential class for the high users or the space heat users to determine exactly what increases they were going to see on a month-by-month basis."

Reis: "So, when did you find out that the all-electric discounts were gonna be removed, approximate day and month?"

Gene Beyer: "Well, we... we would have known when we were looking at those cases and that would have been 2000... the end of 2005, early 2006 that tariffs were being changed like that."

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Reis: "So, all these ads in radio and newspaper was that Ameren was saying, nowhere... can anyone show me where they said that those discounts were gonna be removed? Don't you find that troubling that when people invested in an all-electric facility for a reason, saying they were gonna get discounts, and now all of a sudden those are just jerked out from under 'em and not just individual homeowners but municipalities get discounts for the electric lights that keep their streets lit up and safe. I mean, didn't that... wasn't that alarming to you that they did not advertise that this rate increase was gonna be on top of discontinuing that discount?"

Gene Beyer: "Two things I'd like to point out. One is that during all of 2006 exactly what the rates were going to be was certainly... was very uncertain. We had not completed delivery cases and we did not until later in the year what the results were of the auction, but I... and my second part of my answer is, I do not disagree with the direction in which you're going. For individual customers, for individual months for a space heating customer in January, a space heating customer in February, what might you expect to see, yes, that would have been good information to have passed along to the customers."

Reis: "Thank you. That's a very good thing to know."

Chairman Scully: "Thank you, Mr. Reis. Mr. Moffitt, do you have a question for the witnesses?"

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Moffitt: "I do, Mr. Chairman. Thank you, Mr. Chairman, for holding this Committee of the Whole and I commend the Speaker for doing that. Members of the Commerce Commission, thank you for being here and answering these questions as best you can. I just want to say that as the Commerce Commission I view you as a guardian, supposed to be the guardian, the protector, the watchdog for consumers, I see that as... as your charge. We've heard a lot today and several weeks ago I sent a letter to the Commission, I'll have to go back and look when it was, but it was before I started hearing from customers, about the space heat rate and expressed concern to the Commerce Commission, you should have gotten that letter, that that needed to be protected, that we needed to have that looked at so that they weren't facing this ultra high increase. I'll go back and pick out the date. I don't believe I've received a response. If I have, I'll certainly acknowledge that. But I did send that letter quite a while back. I think if nothing else today I hope you go out of here with the understanding that we can... we can have all sorts of verbiage that you want in terms of, well, it was bundled now it's unbundled and now we're gonna add this... this rate and this tariff and so on and so on. What we're concerned about is, the bottom line, the cost to the consumer. We don't need gimmicks, gadgets, smoke or mirrors, we're trying to protect the customers. That's your charge and we hope that's what your objective is every day. I think from your comments you are concerned and you're

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expressing you wanna... you want to do something. I hope you will also really understand that there is a crisis in Illinois; that people are hurting, that people are being devastated, individuals and businesses, and quite honestly, public safety and public health in some situations is being compromised as a result of these rate increases. That people can't even keep their house at a comfortable temperature, start bringing in space heaters and unsafe things, we're truly compromised. We've heard about a case where a house burned down. A question for ya, do you allow or set rates based on projected revenues and expenditures and take into account resources and reserves available? So, in other words, you're looking at... the utility asked for a rate increase, do you take into account revenues and expenditures, what their bottom line will be?"

Gene Beyer: "Yes, we do. In fact, that's the basis upon which the company makes a request. They... they show what they believe their revenues are and what their costs are and generally, if they're coming in for a rate increase, they're gonna show us that the revenues aren't high enough to provide them a return and to cover their costs."

Moffitt: "Okay. What is the rate of return that our utilities in Illinois are getting, such as Ameren or name the one you want? What rate of return are their investors getting right now?"

Gene Beyer: "I'm... I'm going to have to check that to get you an exact number. It's going to be around... I think it's around

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an overall return of around 8 percent or so. The companies should be able to provide that to ya, but I will also."

Moffitt: "About 8 percent. What about... And that's the supplier, the one that delivers the utility, the electricity."

Gene Beyer: "Yes, that utility."

Moffitt: "The generators you have no control over."

Gene Beyer: "That's correct."

Moffitt: "You do not regulate it. Would you be willing to come... offer a set of recommendations of additional authority that a regulatory agency, such as the Commerce Commission, should have so that we can protect consumers? I just... I'm... It's troubling that a producer, a generator of electricity, can... can hide behind the... cowardly, whatever, say, well, we know we're not regulated by the ICC. Their... their increases are just... cannot be justified. And so, can we give you that authority? Someone's not doing their job there and I don't mean you 'cause you're saying you don't have that authority. Can... can we give that to ya?"

Pat Foster: "The difficulty in giving... in creating draft language that would give that kind of authorities is it would probably conflict with the Federal Power Act which gives FERC exclusive authority to regulate wholesale transactions. For example, a generator sells to another player in the market or the purchaser of electricity in that wholesale transaction as in the auction sells electricity to the utility who will then turn and sell it to the end user.

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Both of those first two transactions are regulated because they're wholesale transactions regulated by the FERC."

Moffitt: "Would you be willing to offer some I... suggestions where there's gaps in your authority to regulate that you think, if the Illinois General Assembly could provide those, you could further protect customers... consumers?"

Pat Foster: "We can certainly look at that."

Moffitt: "Okay. Final question. You've mentioned when you look at things you want to determine whether that it's a fair rate of return. Can you give us a guideline what you consider a fair rate of return for a utility company? I think you've used that term several... a fair rate of return."

Gene Beyer: "Yes. After considering the testimony of various financial experts who look at a risk-free rate of return, who look at a premium based on the risk of a utility operating in today's environment. After hundreds and hundreds of pages of testimony and various witnesses, we... we try to calculate what that fair rate of return is. It's... it's not a science; it's more of an art. And we try to do it the same way every time. And we... we look at the cost of debt which is a return to the bondholders and we look at the cost of equity which is a return to the shareholders. And we try to consider both of those in coming... arriving at a fair return on equity or fair return for the company."

Moffitt: "Would you give us a range?"

Charles Box: "What we could do is provide you with a rate of return that was authorized in the Commonwealth Edison

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delivery case in December and the Ameren. I don't think that particular portion was on **rehearings**. We can tell ya exactly what the rate of return in December while both entities were in December. We can get that to you tomorrow."

Moffitt: "Okay. Thank you. Thank you, Mr. Chairman."

Chairman Scully: "Mr. Moffitt, I do want to interject at this point that I've done quite a bit of analysis of the financial statements of these delivery companies as well as their holding companies, the profits are not being made by the delivery company, the profits are being made by the holding companies which also own the generating plants. Mr. Lang, did you have a question for the witnesses? This is the final Representative who will be questioning the witnesses. Mr. Box has told me, a few minutes ago, that he intends to make himself available for the committee hearing on Thursday morning. Mr. Lang."

Lang: "Thank you, Mr. Chairman. I appreciate the way you're conducting these hearings and gentlemen, you've been through a lot here today and I thank you. I'd like to address my comments to Chairman Box, who I've known for many years. So, he'll know when I ask these questions I'm not trying to be difficult or argumentative. When I... I hadn't known this before I heard the Speaker's comments, in his opening comments, when he indicated that during the reverse auction vote at the ICC, there were no dissenting votes. That is correct, right? There were no dissenting votes?"

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Charles Box: "That's correct."

Lang: "Were you there, Chairman, when the testimony on both sides was given?"

Charles Box: "No. That's... As indicated in my opening remarks, I was, I think, nominated on the 9th of January, I started on the 10th and the decision in the Commonwealth Edison case had to be made by the 24th of January. And I **wa...** my preparation consisted of was going back, the oral arguments were going on the 9th and the 10th, going back to the briefs and going back through selected parts of the testimony to bring myself up to speed and find out exactly what was in the record. And as the vote might have been 5-0, but there are other things added to the... that particular order such as the 35 percent cap, a setting up a retail mar... monitor, trying to encourage more competition. A lot of things were put in there, even though the vote was 5-0."

Lang: "So, I understand that you're going to the hearing on Thursday in committee. I'm wondering if you can bring along with you one or more Commissioners who sat through the hearings or heard testimony on both sides?"

Charles Box: "I'll have to defer to my legal counsel because as you know we only have four members now and given the Open Meetings Act and ex **parté** rules, I don't know if... Right now, two of us can't even converse about any Commission business."

Lang: "If you would... So, should we subpoena some of them to come?"

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Charles Box: "I'm gonna have to think that over."

Lang: "Would that be better, counsel? Surely, the Open Meetings Act doesn't apply if the Illinois General Assembly requests that you show up at a committee hearing?"

Pat Foster: "My understanding would be that Open Meetings Act would permit the Commission to... to provide notice of that. I... I don't know that we can speak right now to the Thursday availability of the members of the Commission."

Lang: "That's fine. I... I just... I'm not even on that committee, but I may show up that day and I simply would like to... the opportunity to ask some questions of those who heard the testimony on both sides. Maybe some of the committee Members would like that opportunity as well. So, I would make that request. Let me... let me ask this, were there any written staff recommendations before the vote was taken by the ICC?"

Harry **Stoller**: "Representative, the process in a Commission case such as the one you're referring to in the procurement cases involves submission of written testimony by any party that wishes to in two or three rounds: written, direct, rebuttal, so on and so forth. Then the witnesses sit for cross examination. When that's all concluded the parties write briefs and following that the administrative law judge enters a proposed order, the parties are permitted to comment on the proposed order. This all takes place, except for the cross examination, in writing. The Commissioners

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themselves get a written record. They do not sit and listen to the testimony being presented."

Lang: "Is... Does that written record, therefore, include all of the test... the written testimony and all of the arguments and all of the comments and all of the proposals and all of the documents?"

Harry **Stoller**: "You bet."

Lang: "So, have those..."

Harry **Stoller**: "They're publicly available as we speak."

Lang: "And are they available to the Illinois General Assembly?"

Harry **Stoller**: "They're on the Commission's website. I could tell ya in ten min... in ten seconds how to get to it, every... any one of 'em."

Lang: "And how many pages would that be?"

Harry **Stoller**: "Electronically, I don't know how you'd measure that. If you... if you laid it down piece of paper by paper, it'd probably be three feet."

Lang: "So, is there a document that the Commission has prepared that would summarize that three feet of documents?"

Harry **Stoller**: "The Commission's order itself is probably what you'd want to look at. That's probably as close to a summary as you'd get and if I recall right that was in the neighborhood of 300 pages."

Lang: "And so the Commission staff, as it were, does not make a recommendation. It's the administrative law judge that prepares an order based on what he or she has read and has gleaned from the written testimony."

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Harry **Stoller**: "In... in a litigated proceeding in front of the Commission, the Commission staff is relegated to the role of a party. We don't have the ability to speak directly to the Commission any more than any party does."

Lang: "And what about prior to a litigated or contested status? Does staff then have a... would staff have compiled records and files and proposed any commentary at all to any of the members of the Commission or the Commission as a whole as to projected findings?"

Stoller: "Once the case is filed as a practical matter it is considered litigated and we are not permitted to speak to the Commission about that particular case or issues in it."

Lang: "And so there would be nothing, **prefiling**, that the staff would have done?"

Stoller: "Well, in this particular case, in the case of the procurement dockets, you recall somebody talking earlier about this post 2000... post 2006 process, that involved many, many, many parties and a whole lot of paper and the staff provided its own recommendation to the Commission, that was not a litigated docket, we recommended that... the reverse auction be the process used for the utilities to procure power. But once they filed their tariffs, we could no longer talk to the Commission about their particular filings."

Lang: "But you have stated here now that prior to the filing with staff's recommendation, that you... that you approved the reverse auction process. Is that correct?"

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Gene Beyer: "We didn't approve it. It... after the post '06 process concluded with the written reports from all of the working groups, staff provided a final summary report. And we commented on all the pieces from rates, competitive issues, customer issues and procurement and on the procurement piece it was staff's conclusion that the reverse auction seemed to possess the greatest number of positive attributes to make it the... the preferred procurement method. And that was released to... to everyone."

Lang: "Would it be possible to provide to the Members of the Illinois House of Representatives that staff recommendation and the documents that back it up?"

Gene Beyer: "Yes. We previously provided that to the, I believe, the House Public Utilities Committee at the time the Senate and Environment Energy Committee Members at the time and the Leaders, but we can provide that to whomever requests a copy."

Lang: "And so, I don't know about the other 118 Members, but I would be interested in seeing this information and my guess is others would as well and so let me ask on behalf of my colleagues that that staff recommendation and the backup documents be provided to all of us. Let me... let me move on. Let me ask Chairman Box, do you feel, as you sit here today, that at any time throughout the process, either through public comment or through written document filed by any person or any company, that you have been deceived by anybody in this process?"

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Charles Box: "Not deceived. Some of the things that were said as... have not materialized, but I don't know if they was out-and-out deceit. No."

Lang: "Please explain what you mean, Sir?"

Charles Box: "Well, if in fact, ya know, the documents about going up a dollar (\$1) a month. I've heard some advertisements, ya know, I don't know if it was Commonwealth Edison or Ameren about the bills will go up to that extent. That might have been, ya know. Right now it turned out not to be the case. I don't know if that was being deceived or... it was misleading, at best."

Lang: "So, do you believe you were purposely misled by anyone?"

Charles Box: "No, I can't say purposely misled, no."

Lang: "Do... Have you... Well, strike that. Do you believe there was any intentional omission or material misrepresentation by anybody in any of the documents or any of the testimony that came before the ICC?"

Charles Box: "Once again, the Commissioners at our level, we get the orders and when you go back through the record, you can pick evidence to refresh in your own mind or to go into a subject you're not that familiar with. I don't think there was any out-and-out deceit, no, of what I've seen of the record."

Lang: "So, I presume that before you voted, even though you were not on the Commission at the time that the testimony was brought forth, that you went through the record before you voted. Is that correct?"

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Charles Box: "That's correct."

Lang: "And then it would be your testimony today that you found nothing in any of that material that in hindsight you found to be misleading or misrepresenting any fact by anybody?"

Charles Box: "Well, one of the things that I've commented on since I've been on the Commission and to the Chicago Bar Association and others is that one of... it seems like one of the practices before the Commission for especially attorneys is to, as I say, throw everything on the wall and see what sticks. So, when you say misleading, I don't take it as intentionally being misled, I take it as them being adversaries trying to put forth their case and sometimes I think they've not been as straightforward as they should be, but I think that's part of the adversarial process. I don't consider that deceit. It's just trying to bring home your particular point. So..."

Lang: "So... so, you would just say they acted as people in a courtroom do to sort of shade or spin their position rather than mislead you. Is that correct?"

Charles Box: "I've been around lawyers a little while, yes, yes. Not misleading or deceitful just... just trying to get their argument across as advocates."

Lang: "Would it be fair to ask you to review your notes regarding your study of this testimony before Thursday's hearing to see if, after you refresh yourself, you have a different point of view as to whether or not somebody has

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gone beyond spin and to the actual misrepresentation of facts?"

Charles Box: "In... in these particular cases only?"

Lang: "In... in the case we're talking about today."

Charles Box: "The two procurement cases, Ameren..."

Lang: "Yes, Sir."

Charles Box: "...and Commonwealth Edison? That'd be probably impossible. The notes are probably in the Chicago office and I... hopefully, I plan to be here to gather the material that the Representatives have asked for tomorrow and appear at the hearing on Thursday, so I think it might be very difficult."

Lang: "Let me ask the other panelists if any of you believe that there was any purposeful or material misrepresentation or deceit or outright lies by anybody in this process?"

Gene Beyer: "No. I... I'm not aware of any evidence that there was deceit or lies. As we stated earlier, we believe that there was some information, if broken down by customer and broken down by month and broken down by usage, may have revealed this... this situation that we're facing now with the high bills in the wintertime."

Lang: "Anybody else on the panel with a comment on this subject?"

Unknown: "Nothing different than Mr. Beyer."

Lang: "All right. So, what then... Let me ask this. So, we were told by Ameren that bills may go up as much as 52 percent and you're now finding out that it's, in many cases, way

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beyond that, 200, 300 percent. Do you think this was a mistake? They added the numbers up wrong. They miscalculated the people that use their abacuses there, didn't use them properly. How does a 52 percent increase turn into a 300 percent increase, Mr. Chairman?"

Chairman Scully: "Rep... Representative Lang, I think you're asking these witnesses about someone else's intent."

Lang: "Well, no, I'm asking if they feel they were deceived."

Chairman Scully: "Thank you."

Lang: "I'm almost finished with this line, Mr. Chairman."

Charles Box: "Ya know, and once again, I don't think it was deceit. I think if you looked at the **av...** the average bill and I think we've been given numbers here about how many... what percentages of those customers especially in the Ameren territories that were space heat customers, I don't, ya know, I think when you look at the average bill of all the residential customers, it might turn out to be those percentages."

Lang: "The ICC has no way of knowing that?"

Gene Beyer: "We... we will know that for particular customers after a year passes and we can see what happens or we can look at average customer usage now and figure out what that is."

Lang: "Is it your testimony that that hasn't been done?"

Gene Beyer: "No. We know what they all are for the average customer and for example, for the worst example we saw was for Metro East customers, the formerly Union Electric

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customers that are now part of CIPS. For a space heating customer in January, their rate could go up 170 percent. For that same customer over the course of the year, it's about 76 percent."

Lang: "Were those numbers you anticipated when the reverse auction process was adopted?"

Gene Beyer: "We did not anticipate those because we did not look at the individual subgroups like that. We looked at the residential as a whole and we saw rates more along the line of the 50 to 55 percent."

Lang: "Well, how is it possible that the ICC went through this process and had certain subgroups you didn't look at, how does that happen?"

Gene Beyer: "Well, because at this time a lot of those tariffs were being revised to reflect the new environment, not one where the utilities owned their power plants and saw a big incentive to try to push electricity in the wintertime to make use of those power plants. Once the utilities got rid of those power plants, they didn't have that incentive to provide any discount. In fact, the power that they were purchasing was... was more or less a... more of a level year-round payment rather than focusing on the summer and the winter differentials and that caused the tariffs to be revised accordingly to reflect the new way in which power was being procured."

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Lang: "And so, it'd be the uniform testimony of this panel that these shocking numbers, as presented by Representative Bradley, surprise you as much as they surprise us?"

Gene Beyer: "Oh, yes. They... they were shocking when we saw the individual bills come in. Especially, if you saw the individual bills come in, in January from a space heater that uses much more than the average space heater would and we... we did see the differences and... and were very, very shocked to see those."

Lang: "And so, Chairman Box, if you had this to do over again, would you have voted the same way?"

Charles Box: "I think you're still talking about two different things. The auction is one thing. The tariffs, I think we've said earlier, more attention should have been paid to the tariffs. I think they're two separate issues."

Lang: "One... one additional area. And so, I'm not familiar with the ICC rules on this, so forgive me, but do you have the ability, Mr. Chairman, to call emergency hearings to review what you have done on these two issues?"

Charles Box: "We could have... the ability to call a rehearing, absolutely."

Lang: "And do you have the ability within the confines of calling an emergency hearing to review both the reverse auction and the tariffs to reverse any of the actions you've taken or to review them or to alter them or to amend them?"

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Charles Box: "As I said, there's a docket already open to review the auction and to decide in what manner we should go forth for 2008."

Lang: "And what about 2007? What about the ratepayers? Are they just stuck, Sir?"

Charles Box: "No. We've indicated that there is a procedure we can take to investigate the rates and I've indicated.. and from what I'm hearing today, that does... probably will be done. That's... I've talked to the other Commissioners. It takes the vote of three to initiate that process."

Lang: "And was it really necessary for the Illinois General Assembly to call you four down here for you to see that there's a crisis with electric rates in the State of Illinois?"

Chairman Box: "No."

Lang: "Did you need us to ask you to have these hearings?"

Charles Box: "No. As Mr. Beyer indicated our efforts were put forth on working with the parties to see if there was immediate solution which everybody was asking for. And we've had... instructed our staff to be a part of that and a part of those discussions. Now, this is not an immediate result. What we can do is work with the company and see if something can be crafted in the form of an agreement and then put forth that to the Commission which would be short of the two to three months we've been talking about."

Lang: "Well, who would the agreement be between, Sir?"

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Charles Box: "If the company would put forth a document obviously, other parties would have under the 10-day notice would have the right to intervene, come in, discuss, respond to that particular settlement just like any other document or proceeding before the Commission."

Lang: "What about twelve and a half million (12,500,000) ratepayers in the State of Illinois? Are they each gonna get a chance to intervene in that case?"

Charles Box: "Well, people can intervene, I'm sure the twelve and a half won't. But obviously, given the urgency of this, once the parties are together and file their information and take testimony, hopefully, something can be done in a timely manner."

Lang: "But what you're suggesting is that the... the people that some of us think are the offending parties, the people who are in essence providing these large rates for people to pay are the people who you're suggesting are gonna come in and have an agreement of some kind."

Charles Box: "No, no, no. I didn't say that..."

Lang: "Who will they agree with?"

Charles Box: "I didn't say... I said..."

Lang: "Who's on the other side of this agreement?"

Charles Box: "Representative Lang, I think earlier we discussed these two different possibilities: 1) if there was an agreement between the parties. The other is an investigation where we don't need an agreement of the parties, we will just ask for testimony and people to

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intervene and come in and provide that testimony and we will then investigate the rates. We don't need the parties' agreement to do that."

Lang: "And how long would that process take, Sir?"

Charles Box: "As we indicated, I think the OG.. the legal counsel representative, probably two to three months. That's what I'm saying if, in fact, there's an agreement, that time could be cut... cut down tremendously."

Lang: "Is staff already working on this?"

Charles Box: "Working on..."

Lang: "...the investigation?"

Charles Box: "Well, obviously, if we get three Commissioners who are inclined to do that and it's my recommendation to them that we do that as soon as possible."

Lang: "And when will your hearing be to get those three votes?"

Charles Box: "Well, like I said, we have to schedule the meeting being called. All the three Commissioners are out speaking on behalf of the Commission today and I think, and part of tomorrow. So, as soon as we can convene the parties."

Lang: "Well, would that be in the next several days or the next several weeks?"

Charles Box: "Friday might be a possibility. They'll just have to look at their schedules..."

Lang: "All right. So..."

Charles Box: "...and tell them the importance of it and Friday might be a day we can do that."

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Lang: "So, you're anticipating as chairman that in the next several days, maybe as soon as the end of this week, you would have a hearing where you would be recommending to your fellow Commissioners that a Commission investigation take place about these issues?"

Charles Box: "We can do that with the 48-hour notice rule we have to comply with and then it's what... ten days for the parties to respond."

Pat Foster: "There's a requirement that notice be given up to ten days for the additional hearing. But... but the meeting could be Friday and the... the investigation could be initiated on Friday."

Lang: "And Mr. Chairman, will you be voting for such a hearing to take place?"

Charles Box: "As indicated earlier, given what I've heard today and what I'm sure to hear later this evening, I would make that recommendation to the other Commissioners, yes."

Lang: "Thank you very much, gentlemen."

Gene Beyer: "May I respond to Senator (sic-Representative) Bradley's question earlier. The **ICC's** 800 number is 800-524-0795."

Chairman Scully: "Thank you. There are no other questions for these witnesses. I want to thank the members of the Illinois Commerce Commission, and most specifically, Chairman Box for joining us here today. I also want to thank him for agreeing to attend our hearing on Thursday morning where we will be addressing specifically legislation

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on this topic. Gentlemen, thank you. I'd like to now deviate slightly from the intended agenda for this evening but very consistent with the protocol of committee meetings. We have two witnesses who have traveled very far to be with us today. They've asked to be moved forward on the agenda. One of them, Mayor Brad Cole has primary elections in his town today and he... we greatly appreciate an elected official taking time to join us when he has those matters in his own town. We are also joined by Randy **Hucklebee** (sic-**Huckelberry**). These gentlemen will be presenting testimony specifically on the issue of the burden on Carbondale and the mayor of Carbondale, Mayor Brad Cole and Randy **Hucklebee** (sic-**Huckelberry**). Gentlemen, if you would please face the committee. Gentlemen, do you... would you please raise your right hand. Do you swear or solemnly affirm that the testimony that you are about to give will be the truth, the whole truth and nothing but the truth?"

Et al: "I do."

Chairman Scully: "Please proceed. Mayor Cole, do you have a statement for the committee?"

Mayor Cole: "Thank you, Mr. Chairman, Ladies and Gentlemen. Thank you for the opportunity to address this Legislative Body and to discuss an issue of great importance to my constituents and your constituents. That of increasing electric utility rates for both residential and commercial customers of AmerenCIPS, some have argued that without the recent rate increases Ameren and its various subsidiaries

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will go broke. They say that the rate freeze enacted by the Illinois General Assembly several years ago would cripple the companies if **reimposed**. They say that it is unreasonable to expect the utility providers to keep costs the same for so long and the increases are justifiable. As Mayor of the City of Carbondale, I must simply disagree and note that, so does the vast majority of the residents of my community. No one is arguing that costs are likely to increase from time to time. And no one is arguing that private companies should make a profit in order to stay in business and to invest in the future. But, everyone objects too the cavalier way AmerenCIPS has gone about increasing its rates so much at one time, with so little attention to the people who must pay the bills. In my city a diverse college community in the rural setting of southern Illinois, I have heard from countless individuals, families, and business owners all complaining of the same thing, sky rocketing power bills. Everyone is talking about it, and no one is happy. As examples, let me share some personal stories I have heard firsthand. A 22-year-old college student who lives in a one bedroom efficiency apartment has seen her electric bill go from about forty-five dollars (\$45) per month, to ninety-five dollars (\$95) per month. That's not someone living high on the hog, that's a college student who works two jobs and goes to school full-time, her power bill doubled. And then there's a local businessman, who operates a fitness center in a large building that is

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open around the clock, his electric power bill went from two thousand five hundred dollars (\$2,500) to more than five thousand dollars (\$5,000) a month. And then there are senior citizens, many of whom have lived in the same houses for decades, houses that aren't the best insulated, but they have to stay warm. Their bills are doubling, as well. Many monthly power bills that were once one hundred and fifty dollars (\$150) or so, are now nearly three hundred dollars (\$300) or more. And this hasn't happened... this hasn't happened during a severely cold winter in southern Illinois. Well, what happened? What went wrong? How could AmerenCIPS tell us that the rates were going to go up a dollar (\$1) or two (\$2) a day, maybe 40 percent which was ridiculous enough and then have bills double for residential customers and double almost across the board? Where are the people to turn when they have no choice of electricity providers? For the City of Carbondale itself, our bills are projected to go up about 57 percent, and we feel kind of lucky. But, that 57 percent increase equates to about two hundred and eighty-five thousand dollars (\$285,000) a year more and that is money that has to come from the taxpayers. So, the taxpayers are getting hit with higher rates at their homes and then they have to pay for higher rates for the municipality too. Our bill could hit a million dollars (\$1,000,000) this year as the City of Carbondale. We have actively incorporated energy saving techniques into our operations. But we have to have street lights, we have to

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have traffic signals, we have to provide for certain services that require electricity, such as running our water treatment plants and our waste water treatment facilities. Our annual electric costs this year is now projected to be between eight hundred thousand (\$800,000) and a million dollars (\$1,000,000) up from about five hundred thousand dollars (\$500,000) last year. The result is the same for us as a governmental body as it is for the average homeowner or renter. The bills are going up too much at once and people are suffering because of it. So I urge you, the Members of the General Assembly, to take some remedial action. And I thank the Speaker and the Chairman for calling this Committee of the Whole today. We ask you to provide some relief to the people of this state. Get a handle on this situation before more damage is done and before more people start making decisions between heat and food or electricity and other basic necessities. I thank you, Mr. Chairman, for the opportunity to speak today."

Chairman Scully: "Thank you. Mr. **Huckelberry**."

Randy **Huckelberry**: "My name is Randy **Huckelberry**, I'm from Carrier Mills, Illinois. I'm from a small town in southern Illinois and I want to thank Brandon Phelps and John Bradley for inviting me here today. I haven't got no big fancy speech to write and I shouldn't be wearing this suit today, because that's not me. I'm a federal employee at the Marion Federal Prison. And I want to share with you what happened to me when I got my AmerenCIPS bill. My electric bill was

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on average of two hundred and twenty-three dollars (\$223). When I got it last month it was eight hundred and seventy dollars (\$870), eight hundred and seventy dollars (\$870) not a dollar (\$1) a day, not two dollars (\$2) a day. Okay. It went up to eight hundred and seventy dollars (\$870). I have five children and we have an old Victorian-style home in our small town. And that house we have done everything, put new windows, new siding, new insulation, trying to make it better than it ever was. And I'm angry because I was told by Ameren my rates would go up a dollar (\$1) or two (\$2) a day. Now, my wife's grandfather who's 94 years old he's sittin' in his house by himself, his electric bill just went up about seventy-five (75) to one hundred dollars (\$100). He's the type of man he will sit over in a corner, turn his electricity off and he will freeze to death before he will say anything. I am here today to speak on his behalf and for you older people out there, because you need a break. And I want to tell... tell everybody else this too. In a small town you cannot compare us to Chicago or to St. Louis or anywhere like that. And one thing I want to thank is our Representatives, from our area that has spoke up and spoke loudly saying, hey, we need help down here. I don't care **watcha** gotta do. I had a lady tell me today that... around here that said, well, my stock has went up in Ameren. I really don't care about her stock. I have a family to feed. And I'm just being honest with, yah. You know me and my wife, yeah, we have good jobs, but there's people around our

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neighborhood that don't. And I want you people... that's why I'm speaking loudly, I'm **speakin'** for my town in Carrier Mills, Williamson County, Johnson County, Saline County, all the counties around here who don't have a lot of money. You need to wake up and listen to us. We need help."

Chairman Scully: "Thank you. Are there any questions from Members of the Committee of these witnesses? Seeing none, gentlemen, thank you very much for your attention. Mayor Officer. Excuse me. Gentlemen, we have a question. Mr. Bost, do you have a question for these witnesses?"

Bost: "Just very quickly, if you could, for the mayor. Mayor, I know that you've been working to try to come up with some unique ideas with other mayors on what could be proposed to try to bring the rates down. Could you kind of explain what you've been doing?"

Mayor Cole: "Representative, we've been trying anything we possible can. I have other mayors that are here with me today: the President of the southern Illinois Mayors Association, Charlie Crowder from Flora; the past president of the association, Leonard Ferguson from Salem. I'm a past president of the association. We are looking into forming a consortium to buy power together as communities off of the market. That will help us as cities, but it doesn't do anything to help our residential customers. We've been looking into taking over the power lines through eminent domain, to condemn Ameren's utility service in our city. Going to the courts and saying it is a matter of severe

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public need that we take these lines over and then that we would go out and buy energy off the market or form a cooperative to be able to get power to our residential customers at a reduced rate. Because it is... it is a desperate situation for us. So as we look... we would never have thought to go to eminent domain to condemn the power lines and take them for the public good. But that's what it's... it might reach."

Bost: "First of all, I want to say thank you for both of you for being here. And mayor, the reason I asked that... I already knew what you were doing, but I thought it was important for the rest of the Legislature knew that our communities are trying to come up with unique ideas, not just coming here, and going hey, what are you gonna do? So we appreciate your help in that respect. Thank you."

Chairman Scully: "Mr. McCarthy, did you have a question for these witnesses?"

McCarthy: "Yes, Chairman Scully. Mayors, I just ask you do me a favor; I'll give you a card before you leave. Would you black out whatever information, account number, and name on those bills like the college student, and your city bill, let me have a copy of 'em. I've got numbers from AmerenCIPS that tell me what their rates are. Looks like a 38 percent increase. I'd like to check them out. So, if you could make a copy later and send it to me, I'll give my card to Brandon Phelps and he'll pass it along to you. Thank you."

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Chairman Scully: "There being no other questions of these witnesses, gentlemen, thank you very much for your attendance today. I'd like to now bring foreword Mayors Carl Officer, Mayor **Bartolotti**, and Mayor Charles Crowder. Gentlemen, would you please address the committee. Will you please raise your right hand? Do you solemnly swear and affirm that the testimony that you are about to give be the truth, the whole truth, and nothing but the truth?"

Mayors et al: "I do."

Chairman Scully: "Thank you, gentlemen, please proceed. Mayor Officer and gentlemen, please, to the extent possible, please limit the duplication of testimony that has previously been made by the other mayors. Mr. Officer."

Mayor Officer: "Thank you very much. I'd like to... you Mr. Chairman, and to the Minority Leader and to the Speaker, take just a brief moment to acknowledge my illustrious Representative, Wyvetter Younge, Members of the Committee as a Whole. I'd like to acknowledge the representatives of the power companies that have come here today, and my fellow colleagues from Central and southern Illinois. **AmerenUP** and **AmerenIP** both serve my city. The storm in July of '06 and the storm of December the 6 saw a response by Ameren with a request from me to energize the only level-one trauma hospital in southern Illinois. My high-rise facilities from senior citizens buildings operated by the East St. Louis Housing Authority and several nursing homes housing the infirmed and the elderly, were positive **responded** by Ameren.

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I have held public office and public hearings, at least five separate ones since December of last year. But I have over eleven thousand (11,000) residents who receive ten thousand dollars (\$10,000) a year or less, eleven thousand (11,000) residents who receive ten thousand dollars (\$10,000) a year or less. I'm fortunate; I own and operate the largest funeral home in southern Illinois. I own a funeral home in... an affiliate one in Fairview Heights, Illinois. I own and operate a cemetery in Millstadt, Illinois. I even own and operate a funeral home in St. Louis, Missouri. This is an issue that shall affect small and moderate size businesses, but as an ordained minister in the African Methodist Episcopal Church, I pray that this Body and the Senate, the Governor, the Commerce Commission, and yes, our own partners in power, the power companies, that we can come together today with leadership, with logic, and with compassion. I shall be pleased to answer any questions and as I summarize this comment today, it is clear to me after hearing for the last four hours, hearing the testimony that the Commerce Commission has answered questions here today that only the legislative process can act expeditiously enough to offer any option of hope. Anyone can see in this chamber today, who's heard the testimony of the Commerce Commission, that the people of Illinois have elected you to speak for them. They cannot speak for themselves in this issue. Now is time for this Legislative Body to come together. In conclusion, I have found that this Commission by its own admission, in

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Metro East it says that the consumers there were the most actively miscalculated in the entire State of Illinois by the Commission. You can see why Metro East, where I live, why we're so confused. We are across the river from St. Louis. I own a business in St. Louis; I don't understand the Illinois Commerce Commission saying to me on one hand that the power rates need to be increased in East St. Louis and Fairview Heights, in Millstadt but in St. Louis, where Ameren's headquarters is located, not more than two miles from my funeral home, Illinois's counterpart in the Legislature process in Missouri has said, the Public Service Commission of Missouri says that they need to lower the rates. I find it confusing, and forgive me Members of the General Assembly; I'm just a small town, southern Illinois boy who grew up by the Mississippi River, who happened to go to school one day in Cambridge, but even for a Harvard graduate I can't figure out for the life of me, how it is that you can charge me one cent more, less than a half a mile across the river, and another cent in Illinois. I find that to be **complexing**; I'm looking for you and my ten thousand (10,000) reside... my eleven thousand (11,000) residents who make ten thousand dollars (\$10,000) a year are looking for you. They won't be here in July; they won't be here in August. They will be homeless; they will be dead; they will be gone. God bless you."

Chairman Scully: "Thank you Mayor Officer. Mayor **Bartolotti**, do you have a statement to make to the Committee?"

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Mayor **Bartolotti**: "Yes, Mr. Chairman. Mr. Chairman and Members of the Legislative Body, it's an honor and privilege for me, as a small town mayor of three thousand (3,000) people, to come address you and tell you the concerns I have, especially when 32 to 33 percent of your population is over 60 years old. Some of my people have earnings of six (6), seven (7) and eight hundred dollars (\$800) a month Social Security. When the rate increases came in and the bills came in I had about 50 or 60 phone calls within the first six (6) hours in the mayor's office. People's bills jumping from one hundred and fifty (150) to three hundred (300), four hundred (400) to four fifty (450), three hundred (300) to six hundred (600). I have small business operators. We have a grocery store in our town of three thousand (3000), their electrical rates went from two thousand (2,000) to five thousand dollars (\$5,000) a month. The Dairy Queen's went from seven ninety-five (795) to seventeen hundred (1700), and we're not in the summer months when the air-conditioning has to run in these businesses. I've had some small business operators tell me with a five hundred (500) to a thousand dollars (\$1,000) a month increase they're either going to have to layoff or shut down. It's pitiful in the southern part of Illinois, it is very pitiful. In Ameren's own handwriting, in a brief they gave me, I met with them in June of '06 and October of '06, the municipality's rates, and who pays for the municipality but the taxpayers. Sixty-four percent, 55 percent increase in

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the city hall and it came in higher than that, 87 percent cost in street lighting, 485 percent increase in emergency traffic lighting. How can that be justified? I don't know. Everyone believes everyone should have a fair profit, but I think Ameren, and like my counterparts, the mayors before me, sat here and listened to the Illinois Commerce Commission, and I'm probably as dumbfounded as I was four hours ago... but we need relief, and at this point the only way we're going to get relief is through the Legislative Body, the House and the Senate, to come up with some type of relief, either in a freeze, a compromise, or something. But I'll tell you what, in southern Illinois if we don't have a relief this summer, I'm afraid that you're going to have a lot of senior citizens that are going to turn their air-conditioning off and they're going to suffocate in them houses, because at seven (7), eight hundred dollars (\$800) a month Social Security, you cannot afford three (3) and four hundred dollar (\$400) a month light bills. And I do hope the ICC investigates Ameren, and I do hope the Legislative Body looks at southern Illinois and give us some type of relief, because from the municipality level down to my residents, it is going to be a heck of a year and we cannot wait 'til 2008 to have some type of solution to this problem. Thank you, Mr. Chairman."

Chairman Scully: "Thank you, Mr. Mayor. Mayor Charlie Crowder is the president of the southern Illinois Mayors Association. He gave testimony last week before this

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Committee on Bills proposing aggregation by municipalities.
Mayor Crowder."

Mayor Crowder: "Thank you, Mr. Chairman, Ladies and Gentlemen of the General Assembly. I'm not going to go into the comments, enough have been made concerning the senior citizens, fixed-income persons, the rate increases, we all know they're horrendous; they're devastating to southern Illinois. Let's look at it from an industrial perspective; we're trying to recruit industry into southern Illinois, we're not known as a business friendly state. Now, when we talk, when my economic development director and I try to recruit industry in, we can also say to the people, oh yes, in addition to workmen's comp, high medical malpractice premiums, we've got some high electric rates we're going to present to you also. That kills industry coming in. Now, Citizen's Utility Board projected twenty thousand (20,000) jobs being lost. I think that figure is low. We have people driving in to work in our industrial park from 30, to 50, 60 miles away. When they're faced with these higher electric rates to pay, gasoline prices are higher, how are they going to buy the fuel plus pay the rest of their living expenses and drive in to keep their jobs? They're not; they're going to lose their jobs. Then they're going to go on unemployment compensation if possible, or some type of welfare, that's a bigger burden yet upon the state. Speaker Madigan, I think, did a very good job this morning, stating that we do need to roll back these rate increases to the

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pre-January 1 level. We need to reinstate the freeze for a given period of time, whether that's 1 year, 2 years, 3 years, I don't know, but enough time for us to work out a plausible rate increase for these companies, yet not crucify the people and devastate the people in southern Illinois. The Decatur Herald & Review had an article published just recently where Ameren made two dollars and sixty-six cents (\$2.66) a share on five hundred and forty-seven million dollars (\$547,000,000) of profit in 2006. Their projections for 2007 are three dollars and sixty-six cents (\$3.66) per share. I'm in the independent oil and gas business, and I can assure you that if I had investments that would pay me this type of a net return per share, I'd never drill another well. It'd be easier to sit back for my wife and I and clip coupons, we could live very well that way. I've sat here today and I've listened to all the testimony, listened to the grilling of ICC and I've become even more discouraged than I was when I came in. I see Representatives that really, truly understand the problem, and want to get something done. I say the ICC, to use an oil field term, they haven't got the bottom of the bit yet, and they're just spinning in the hole. Well, folks, that's the way we look at it. We have got to reach some type of a agreement, where the Senate and the House can enact legislation that will let the ICC have oversight and make corrective rulings. If we can't do that then the ICC is bound, the House of Representatives is bound by the Senate, and I would

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specifically say the President of the Senate and we're here at the same stalemate. What are the people going to do? What is industry going to do? What are the communities going to do? You've heard about the increase in utility costs to the communities, who's going to pay these costs? We're going to have to raise taxes to do that. Raise taxes on people that are already paying high bills. Where is their income coming from? I urge you, Ladies and Gentlemen of the Assembly, please find some type of an answer to this very devastating question, and let's get the **ICC's** bit on bottom. Thank you."

Chairman Scully: "Thank you, gentlemen. I want to... excuse me, are there any questions from the Members of the Committee for these witnesses? As I stated earlier, several of these mayors are working on a Bill for aggregation by municipalities. The next witnesses that I'd like to come foreword are: Susan **Hedman**, from the Illinois Attorney General's Office and her associate. We've asked them to make a presentation on the mechanics of the reverse auction process. I'd like to ask both witnesses to face the committee, please raise your right hand. Do you solemnly swear and affirm that the testimony that you are about to give be the truth, the whole truth, and nothing but truth?"

Susan **Hedman** and associate: "I do."

Chairman Scully: "Please proceed. Ms. **Hedman**."

Susan **Hedman**: "Mr. Chairman, Mr. Speaker, Members of the Assembly, my name is Susan **Hedman**. I'm a Senior Assistant

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Attorney General, and with me today is my colleague, Ben Weinberg, who is Chief of the Public Interest Division of the Attorney General's Office. I believe earlier today you received copies of a packet of materials, and if you turn toward the back of those materials you'll see a map of the United States, and that's where I would like to begin my remarks today. In 1997, when the Illinois General Assembly enacted a law that would allow competition in Illinois, it was part of a wave of states that also made changes in their laws to deregulate and restructure the electric utility industry. Some states decided to make those changes, but others did not. And states that did not deregulate are the states that are shown in yellow on the maps that you have before you. The other states that enacted deregulation legislation, in some cases, thought the better of it. And if you look at that map, you'll see that today the only states that deregulated, that stayed deregulated, are those that are shown in blue. Now, I have one update for you. Just last week, the Virginia Legislature re-regulated and that Bill is currently before the Governor. And I will tell you in reading the accounts of the debates before the Virginia House of Delegates that one of the things that was said is, 'we don't want to be like Illinois.' They re-regulated to avoid the kinds of rate increases that we are experiencing here. Now, if you'll notice the map in the states that surround Illinois, all of those states remain regulated. And if you go to the next page of the handout,

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you'll see that those states that remained regulated have rates that are far below the rates that we have in Illinois. And if you look at that graph you'll see that there is a blue line that represents Illinois's electric rates since the 1990s. And in 1997, when you enacted the Customer Choice and Rate Relief Act, Illinois's rates were among the highest in the country and you can see that as the rate reductions and the rate freeze went into place, Illinois's rates went down below the national average, but they remained above the regional average. On top of that graph you'll see the rate created by the auction prices. You'll see that now that the new prices are in effect, the 2007 rates, that once again Illinois has rates that are the highest in the Midwest, and which are higher than the national average. Now, you'll see that even if you enact a freeze returning to 2006 rates, Illinois's rates will still be above the rates in our surrounding states, and as some of the mayors just pointed out, that has tremendous implications for economic development. In addition to being... in addition to Illinois's rates being above regulated rates, Illinois's rates are above market prices in the regional electricity markets. If you look at the third page of the handout you'll see a blue line that represents the price for electricity in the auction. You'll notice a purple line, which shows the price of electricity in the Northern Illinois hub for purchasing electricity, and you'll see that the auction rate is twenty dollars (\$20) higher per

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megawatt hour, than the rate purchases could be made on the open market during the last year. And I can tell you there haven't been any major changes since then. So the question is, why are Illinois's rates above regulated rates in the states around us and above market prices? And I think the answer to that question requires us to talk a little bit about the different types of generation and the different costs associated with different types of generating plants. And if you go to the fourth page of the handout, you'll see..."

Chairman Scully: "Ms. **Hedman**, may I interrupt you? Mr. Bradley, will you please take the chair."

Chairman Bradley, J.: "Go head, sorry."

Susan **Hedman**: "You'll see a page in your handout that says, 'Exelon power integral to portfolio.' And what this... this page is **is** a graph that is an example of a supply curve. If you go down towards the... and this happens to be Exelon's supply curve for the Mid-Atlantic Region, I chose it because it has nuclear plants, coal plants, and natural gas plants. If you go to the far, left-hand side of the graph, down in the bottom of the corner, you'll see the price, the generation cost, for the Exelon nuclear power plants. That price is under two cents (.02) a kilowatt hour. For coal plants, and this would be true of Ameren's coal plants and Midwest Generation's coal plants in Illinois, the price of generating electricity is just a little over two cents (.02) a kilowatt hour. And you can see that most of the time

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those plants are meeting all of the needs, in this particular case, of Exelon's customers in the Mid-Atlantic, but on some days when it's very, very hot additional plants need to be brought online and those plants tend to be gas plants and they tend to be quite expensive. And as you follow the supply curve up you'll see that the price of those plants is... is considerably higher, in some cases a dollar to two dollars (\$2) a kilowatt hour. Now, what does that have to do with Illinois? Well, if I could ask you to go to the very next page, which is a graph that looks like this, it will show you that understanding the different in **gen...** differences in generating costs for different types of generating plants is the very key to explaining why the reverse auction does not yield the best price, the lowest market price. As some of you probably know, the auction opens at a price that is set by the auction manger, who is an employee of ComEd and Ameren. And let's say for purposes of discussion, that she opens the bidding at ten cents (.10) a kilowatt hour. And if you... if you look on... on this graph you'll see that on the left-hand side we have dollars per megawatt hour, that would be a hundred dollars (\$100) a megawatt hour or ten cents (.10) a kilowatt hour. You'll see that down below there is an access that shows how much electricity is required to meet the demand by **ComEd's** and Ameren's customers. And that's something... I'm talking now about the residential and small commercial customers. You'll see that that's somewhere just under twenty... twenty

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thousand (20,000) megawatts. And the curve that you see across here is a schematic that represents the same kind of supply curve that you saw in the Exelon supply curve that we just discussed. And these little stair steps represent bringing additional plants online. And you'll see that most of the plants cost under thirty dollars (\$30) a megawatt hour or three cents (.03) a megawatt (sic-kilowatt) hour to operate. Indeed, the nuclear plants costs around two cents (.02) or less a megawatt hour... or two cents (.02) a kilowatt hour. So, going back to the auction, the auction starts at ten cents (.10) a kilowatt hour or... and this is an example, this is not exactly the way it occurred, but say it starts at ten cents (.10) a kilowatt hour, or a hundred dollars (\$100) a megawatt hour, and a lot of bidders come and offer their supply of electricity at that point, in fact, maybe twice as much as needed to supply the Ameren and ComEd customers. And at that point the auction manager decreases the price that's being offered to pay for electricity. And let's say the auction manager decreases the price to nine cents (.09) a kilowatt hour. At that point, some of the suppliers are going to either reduce their amount of electricity they're offering, or maybe drop out altogether. And that process continues to tick down until you reach a point where there isn't enough electricity to supply **ComEd's** and Ameren's customers. And at that point the auction price returns to the previous round. And as you can see here, as that price ticks down, the price that the auction ends at is

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the price that's set by those more expensive power plants over on the right-hand of the supply curve. What you need to keep in mind, even though it might cost those plants six point five (6.5) cents a kilowatt hour to produce electricity, every single supplier gets that price. This is a uniform price auction. So, if you happen to be Exelon Generation generating electricity at under two cents (.02) a kilowatt hour, you'd still get six and a half (6.5) cents a kilowatt hour. If you are Midwest Gen or Ameren generating electricity around two cents (.02) a kilowatt hour, you'd still get six point five (6.5) cents a kilowatt hour. Now, the case of EXGEN, that's a... over 300 percent profit on the generation of electricity. And I can tell you, having looked at data on generating plants running in and around Illinois, that over 99 percent of the time, the cost of generating electricity to serve Ameren and ComEd customers is under thirty dollars (\$30) a megawatt hour. Over 99 percent of the time the cost of generating is under three cents (.03) a kilowatt hour. However, under this... this auction design, Ameren and ComEd customers will pay six and a half (6.5) cents 100 percent of the time, to purchase electricity. Now, compare that with the way the regulated states around us set electric rates. The way the regulated states around us set electric rates gets them to the price shown by the lower dotted line, which I have for illustration purposes listed at... at thirty five dollars (\$35) a megawatt hour or three and a half (3.5) cents a

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kilowatt hour. Now, the reason the rates in the regulated states are on average so much lower, is because those regulated rates are set by looking at the cost of generation, and adding on a reasonable rate of return. Not a 300 percent rate of return, but a reasonable rate in return, which in the electric utility industry is somewhere around, I think the last time the Commission set it in Illinois, was 10 percent or under. So that's the reason why 2007 rates in Illinois are so high. The reason is because those rates are being set by a uniform price auction in which we all pay six and a half (6.5) cents for each kilowatt hour of electricity, no matter how much it cost to generate it."

Chairman Bradley, J.: "Okay. Thank you. Any additional testimony, Ms. **Hedman**, **Mr...** Mr. Ben? Do y'all have additional testimony in addition to that?"

Susan **Hedman**: "Yes, I have a couple more items..."

Chairman Bradley, J.: "Okay. I'm sorry."

Susan **Hedman**: "...that I'd like to bring up."

Chairman Bradley, J.: "Continue."

Susan **Hedman**: "If you go to the next page of the handout, you'll see a list of the bidders who won the right to supply electricity to ComEd and Ameren through the auction. And you'll see that a lot of those names will be familiar, they'll be generating companies that you know, like Exelon Generation, Midwest Gen., Ameren Energy Marketing that generate electricity for two cents (.02) and under. The

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same would be true of the coal plants owned by the other... most of the other generating companies. But you'll also see on that list that there are financial players: Morgan Stanley, J.P. Morgan, J. **Aron**. They don't generate electricity; they buy electricity, mark up the price, and sell it through the auction. We could talk a lot about these individual bidders, but in light of the amount of time I'd like to just say one thing. After this auction was completed, Commonwealth Edison, and Ameren executed contracts with these bidders agreeing to purchase electricity at six and a half (6.5) cents a kilowatt hour. You have heard many times ComEd and Ameren claim that if the rate freeze were put into effect, essentially reducing rates to three and a half (3.5) cents a kilowatt hour, that they would go bankrupt, because they must pay the amount in these contracts. Well, let me tell you now, these contracts are not written in stone. The contracts by their own provisions anticipate that there could be changes in State Law. And indeed, I think we all know that when there is a change in State Law, it can alter the terms of a contract. Within the last several months, this Body enacted a change in the minimum wage. Prior to that time if you had a contract with the old minimum wage it was fine, but on the date that the new minimum wage was enacted those contracts were implicitly amended. And the contract terms specifically anticipate that type of provision. In addition to which, under Federal Law, under Section 206 of the Federal Power Act, there is a

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provision for modification of wholesale power contracts. And indeed, the contracts that Ameren and ComEd signed with these suppliers specifically state that they are subject to the modification provisions that stem from Section 206 of the Federal Power Act, which says essentially that contracts of this sort can be amended if it's in the public interest. Keep that in mind the next time Commonwealth Edison, or Ameren tells you that they will go bankrupt if a freeze is enacted. In fact, prudent management of any company would avail themselves of these kinds of provisions in a contract and these kinds of provisions under Federal Law to make the changes necessary to begin... to continue to operate in the black. I don't think we need to talk about the rate increases, I think that a lot of people have already done that, and we'll be hearing more later, but very quickly, if you could turn to a number of charts that show earnings per share for Ameren and ComEd, and also... and also comparing their earnings per share with other utilities in the country. There are three separate pages here. I think it's instructive to look at this, because often we hear from the utilities that during the rate freeze they experienced a great deal of financial hardship. In fact, if you look at this data it shows that they continued, their stock prices continued to go up and not only to go up, but to go up at a higher rate than the Dow Jones Utility Index, which is to say, these companies did very well, thank you very much, during the rate freeze. Now finally, I'd like to draw your

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attention to the end of the packet which is a compendium of news articles from earlier this month which discuss what's going on in other states, others of the blue states on the map that was on the first page. Those states are looking at other alternatives. As I mentioned to you, Virginia has already passed a Bill to re-regulate the electric sector. Maryland, Montana, and Texas, and Connecticut are considering doing the same because competition has not materialized and rates in those states are also rising. You might be interested to note that... that in Texas they're talking about a hybrid between deregulation and re-regulation. They're talking about an approach where they would cap rates at the price they think regulation would be produced. In other words, a cap based on the cost of generation plus a reasonable rate of return and then they'll open up for bids to see if the market can beat the regulated price. Other states have given up on both regulation and de-regulation, and they're looking at, and this would be Connecticut and Pennsylvania primarily, at looking at state entities that would either procure electricity through a process like the auction, or possibly even build power plants and generate electricity and in both cases sell it at cost so that ratepayers in their states would not have to pay market prices. Indiana is also considering a state power authority that would own power plants and transmission lines and so is Wyoming. And in finally, we heard it mentioned just recently about municipal aggregation,

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Maryland is actively considering regulation that would make it easier for municipalities to aggregate customers and in Pennsylvania, which is a state that still is deregulated, there is a proposal to require utilities to purchase mixed portfolios so that the utilities would, for instance, go out for bid to buy base load power that cheap, one (.01), two cent (.02) electricity that we need most of the time to supply customer load. And to have that be the price that customers pay in Illinois almost 99 percent of the time. And in Pennsylvania, the proposal is to create a portfolio of different products, different types of contracts rather than the kinds of contracts that we have here in Illinois which are all uniform. Finally, I'd just like to respond to an assertion made by the panel that appeared here for the Illinois Commerce Commission. The Commission asserted that no party opposed the electric heating char... change in the electric heating rate. I'd like to set the record straight on that point. The Office of the Illinois Attorney General opposed rate increases for all customers, electric heating and otherwise. The Office of the Attorney General, in that proceeding, opposed the auction. The Office of the Attorney General opposed an alternative to modify the auction. And the Office of the Attorney General is currently challenging the legality of the rates that the Commission adopted and that consumers are paying today. Thank you very much."

Chairman Bradley, J.: "Thank you Ms. **Hedman**, and... and Mr. Weinberg, I apologize for calling you Mr. Ben, it's been a

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long day already. Do you have any testimony you would like to offer, Mr. Weinberg?"

Ben Weinberg: "No, Mr. Chairman."

Chairman Bradley, J.: "Okay, very good. And on that testimony, we have some questions of the Members of the General Assembly. First off would be Representative Moffitt. Do you have a question?"

Moffitt: "I do, Mr. Chairman. Just a brief question to our witness, and thank you for your testimony. You mentioned that other states, named several, have either re-regulated or are considering it. Is there any reason that Illinois could not re-regulate?"

Susan **Hedman**: "There's absolutely no reason that Illinois could not re-regulate. The Legislature decides whether we have a regulated system, a deregulated system or something in between. That process is something that is entirely within the purview of the State Legislature. And let me just add that there are no federal requirements, and I've heard this suggested a number of times, there are no federal requirements that state's deregulate. I think you only need to look at the yellow states on that map to see that... that is in fact the case."

Moffitt: "Do you have any idea what that would cost for us to re-regulate? Obviously, it would take a lot of legal work and... but other states have done it. There should be a track record so that we would know kinda what that might cost?"

Susan **Hedman**: "I have not made a study of that."

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Moffitt: "Okay. There's a lot of new energy, green energy such as wind energy. I know I have one school district that put up a generator to supply the electrical needs of their... their school and any excess that they produce they, of course, sell to a utility company but at a very discounted rate. What... what rate do utility companies pay for wind energy, such as these wind farms? Now is that going to be the price as we've seen at these auctions? Or how's that rate determined?"

Susan **Hedman**: "Generally speaking, sales of electricity from the wind generators are set through individual contracts that are approved by the Federal Energy Regulatory Commission and I don't know what rates are currently being charged today, I can say for the utilities scale wind farms, that they're... the cost of electricity from those wind farms does not exceed the cost... or excuse me, the price that the utilities paid for electricity in the auction."

Moffitt: "Just wonder if they're able to buy it cheaper there, if they'll pass that along to consumers?"

Susan **Hedman**: "To the extent that... that... for the most part the amount of wind in Illinois is very small, which is not to say the amount of wind resources in Illinois is very small. So yes, indeed, that... that cost would be... or that cost savings would be passed on to customers, but in terms of it actually showing up on people's bills, it's a very small number at this point."

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Moffitt: "Well, one final question. Is there any... you mentioned at least, I think, two other states that are actually getting into the generation... electrical generation business themselves. Is there any reason Illinois could not? I mean it provides an additional source, and all it would need to do is meet its cost, not be returning these exorbitant, outrageous, repulsive, vulgar type profits that the generators appear to be making that we're seeing... that our utilities are buying from. It would just simply need to cover its expenses. Is there any reason Illinois could not?"

Susan **Hedman**: "There is no legal impediment and although here we simply mentioned states that are considering creating state power authorities, there are a number of states who have had state power authorities in place for many years. And perhaps one of the most notable is South Carolina that has had great success with its power authority, and probably the most famous is the New York Power Authority that among many other generating stations owns Niagara Falls."

Moffitt: "Thank you very much. Thank you, Mr. Chairman."

Susan **Hedman**: "Thank you."

Chairman Bradley, J.: "Thank you, Representative Moffitt. On the question, Representative Eddy."

Eddy: "Thank you. Susan, I just have a couple questions related to some of the things you said. Am I to understand you... contrary to what the Commerce Commission testimony stated, the information that you provided us today and your

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testimony was made available to the... and these facts made available to the Commerce Commission prior to their decision being made?"

Susan **Hedman**: "We submitted testimony by an economist who... who now happens to be the chair of the University of Chicago Economics Department."

Eddy: "Did... did you actively oppose the reverse auction then, in writing?"

Susan **Hedman**: "We filed, there was a statement that there were probably three feet of filings for the whole docket. I think the Attorney General's Office filed at least three feet of filings opposing the reverse auction and submitting testimony. We submitted testimony, we briefed the point, and..."

Eddy: "You said this is not the right thing to do."

Susan **Hedman**: "Absolutely."

Eddy: "You made that case very clearly..."

Susan **Hedman**: "Completely unequivocally."

Eddy: "...and they testified earlier today that that was never done. Okay. What alternative did you offer? You said you offered an alternative?"

Susan **Hedman**: "In that particular docket, we favored a couple of things, one of which was if there... we opposed the auction... we opposed the auction as a means of setting rates, but we said that if the Commission chooses to hold an auction that it should do two things: one, it should set a price cap which is along the lines of what Texas is talking about, and

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it should set price caps for individual types of products. For instance, that the Commission should've had a separate auction for base load electricity, in other words the stuff that runs twenty-four/seven (24/7), three hundred sixty-five (365) days a year. And that price cap should have had some relationship to the cost of generating that base load electricity, which as we've seen from looking at Exelon's own documents are two cents (.02) and under."

Eddy: "Okay. But there were clear alternatives that could have been taken at that time that they were made aware of."

Susan **Hedman**: "There were..."

Eddy: "Next question I have has to do with the regulated states, you said that there's a profit that's added to the generating cost. Is there an average of what that profit margin is in the states that you've... that regulate?"

Susan **Hedman**: "I could get you that, I certainly don't have it at the tip of my tongue right now, but that would be something that is a matter of public record and we could determine... I can tell you that it's much lower than 300 percent by two orders available to me."

Eddy: "Are those states... in those states is there a parent company with a distribution... are generating and distribution separated as well?"

Susan **Hedman**: "In some of those states, yes. I would say most of those states have retained vertically integrated utilities. However, in some states there has been a split

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between different... different subsidiaries of a holding company, some of which..."

Eddy: "I'd like to have that broke out separately, if you could give me that information, I'm gonna kind of see where that comes from. And the final thing I have to ask about has to do with your comment regarding the claim by Ameren to me several times, that if this doesn't happen it would result in bankruptcy. You're stating that most of these contracts have a provision that would allow them to renegotiate or to make other... take other directions that would not require bankruptcy. Would it be fair to say that if it does require bankruptcy, it would be by their choice?"

Susan **Hedman**: "I can't imagine that a prudent utility availing itself of these contract provisions and Federal Law that allows contract modifications could not negotiate a solution that would avoid bankruptcy."

Eddy: "So that would be a negotiated change in rates based on changes in other factors, that's what they'd have to do, cause they've signed contracts at a certain rate, they'd have to sign new contracts at a different rate. So my question is, if they choose not to use those provisions in the contract, they're basically choosing bankruptcy? Is that a fair...?"

Susan **Hedman**: "I would have to agree with that."

Eddy: "Okay. Thank you and I appreciate that other information."

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Chairman Bradley, J.: "Thank you, Representative Eddy. The next questioner will be Representative Winters."

Winters: "Thank you, Mr. Chairman. Ms. **Hedman**, I am looking at some of the charts that you have and I want to bring out a couple of comments if I will... if I could. The third chart, excuse me, the fourth chart that shows the marginal costs of power, it's actually the fifth in why the reverse auction does not yield the best price and you see a number of generating stations... this one right here, I assume you're equating the area above that line versus and below the price that's offered as profit. Was that the general gist of your comments?"

Susan **Hedman**: "Yes, and the formal economic term would be a 'rent', they're extracting a rent."

Winters: "Okay, a rent. Now there is one other... I think one other thing that you're ignoring there, and that is that there are capital costs that have to be recovered by that rent. It's not pure profit. To demonize a company because it is profitable is to say that they should not be able to reinvest in their industry, to build a new coal plant, to build a new nuclear plant. So to use just the marginal cost, which is basically labor and fuel of some kind or parts, things like that, is not a true representation of their cost to production. A cost to production has to include a return on the investment and it is not the investment that sunk, but the investment to replace the asset that they have. So if you happen to have a 30-year-

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old nuclear plant that has been paid for, that's not what you're looking at, as what they have left, but what it would cost to replace that plant and then depreciate it out over 30 years. So one of the points is the profits that you're pointing out are, in fact, divided between profit and the needed reinvestment or the capital costs."

Susan **Hedman**: "Let me respond to that. In Illinois, we have a great deal more generating capacity than is needed to serve the people in Illinois. So, in terms of future needs, if we were looking at the generating system that we have now, there would not in the near future be a need to build new generation. Second of all, most of the power plants that we're speaking of on this system are fully amortized and so..."

Winters: "Again, amortized debt...or amortized capital cost is irrelevant if you're looking at the ongoing industry. It's fine if you want to say that when the coal plant is worn out, that's it, it goes offline and we don't have a replacement and that was what would happen if you ignore a capital cost."

Susan **Hedman**: "I agree with you, and I'm saying as a look back there's not much to pay off. As a look forward there's an excess of capacity in this state."

Winters: "But they're not limited by the state lines; they can sell anyplace. Because we have additional generation here doesn't mean that we have the right to keep it here. Those companies are generating the power and they're... it's in the

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open market, they can sell it, they can wheel it, to any other state that offers more than we, unless you're willing... if you're advocating passing a law that no Illinois electrons can cross our borders, which I think would be pretty short-sighted. I would also like to look at the stock prices that you mentioned and you're holding up the fact that, and I don't have them in correct order anymore, but you're holding up the fact that the... ComEd in particular and Ameren to a small extent may be exceeding the utility average."

Chairman Bradley, J.: "What page are referencing, Representative Winters?"

Winters: "They're not numbered, so I think it's at the top is Dow Jones Industrials versus Dow Jones Utility."

Chairman Bradley, J.: "Okay, thank you."

Winters: "In looking at the red line which is and the middle one is Exelon, the red in the bottom is Ameren versus the Dow Jones Utility average. If this is such an **inconscionable** rate that these utilities have been getting, and their stock prices, in fact, shot way beyond the moon, why are they doing much less well? Why are they not even close to keeping up with the Dow Jones Industrials? Most people, when they look at investment in paper, they consider the stock market as the first choice. The utilities do have a higher dividend, I believe, but their stock price has not kept up with an investment in the Dow Jones Industrial average."

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Susan **Hedman**: "If you look at the very top chart on that page with the three graphs, you'll see the utility... Dow Jones Utility Index graphed against the Dow Jones..."

Winters: "Correct. And the same two lines are in the lower two..."

Susan **Hedman**: "My point there is that since records on this have been kept in the 1930s, utilities have almost always lagged and that's something that we all recognize, that these are not considered growth stocks, these are considered widows and orphans stocks, very little risk and so you would expect some lag, and a lag that increased probably in pa... well, the lag that increased over time, possibly in part due to the... I'm not going to speculate as to why that is."

Winters: "Well, I just think that one of the arguments that has been raised by the opponents of the deregulation is that the utilities have been incredible money-making machines. Ameren stock is not one that I would have chosen to, if I had any money to invest, it hasn't done any better than the utility average and ComEd has only in the last 5 years. They were, in fact, underperforming the utility average through the 1980s to 1999, it looks like."

Susan **Hedman**: "Prior to the enactment of the rate freeze. My point was only that during the rate freeze, which they argue is not a sustainable condition, their earnings continued to rise, and in fact, I have here a presentation that Exelon made to its stockholders in December in which they have graphed their performance versus the Utility Index, versus the Standard & Poor's index. And Standard & Poor's went up

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9 percent, the Utility Index went up 68 percent, and Exelon went up a whopping 145 percent."

Winters: "Is that in part of our packet?"

Susan **Hedman**: "It's not; it's in an investment..."

Winters: "Okay."

Susan **Hedman**: "Sir, the point... it basically points out that they've done okay during the rate freeze, more than okay."

Winters: "I'd ask one other question and you've brought up many states that are considering re-regulation. Are those states looking at re-regulation of the entire universe of electricity users, commercial and industrial, or are they looking only at residential?"

Susan **Hedman**: "If you go back to the map you'll see a couple of states, the red states on this map, Oregon and Nevada where it says limited access and..."

Winters: "Since all my stuff is falling off my desk, I can't find that map, but that was just a shot at the Clerk."

Susan **Hedman**: "But for instance, those two states are states that have said we're going to continue with retail access, but it's going to be limited. In other words, we're going to regulate the residential and small commercial sector, but we're going to allow for competition in the other sectors. Now I should point out that in those states, in most cases there is a rate offered by the utility that large commercial and industrial can go back to. And I'd like to call to your attention... because we've focused primarily on small

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commercial and residential, this chart that shows the results of the auction..."

Winters: "Yes."

Susan **Hedman**: "...we've been talking about a lot... a lot about a six and a half (6.5) cents per kilowatt hour price. For the large customers, their prices are more... are significantly higher."

Winters: "Now, is that because of the time of day that most large industrial customers are using it during business hours and they don't have the advantage of spreading some of the load into the evening?"

Susan **Hedman**: "I'm not going to speculate why that is, this is not a time of day pricing, this is not the hourly pricing, which is..."

Winters: "I understand..."

Susan **Hedman**: "...the far right..."

Winters: "...but the primary usage is when the time of day pricing would have its highest rates. The primary usage of a residential rate holder is typically in the evening, when the household is most active."

Susan **Hedman**: "That's not necessarily true if you think of industrial processes that run around the clock. The point here is just that the rate here is eight (.08) to nine (.09) cents. That has caused a lot of large commercial and industrial customers to seek out alternative suppliers, which would on its surface indicate that competition is working."

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Winters: "I've been told by many business interests that they, in fact, have many suppliers, that they have the opportunity to save buying outside of the Commonwealth or Ameren network, so it seems like it is working in that case. All I'm doing is urging that if we do move down the road towards re-regulation, that we consider leaving markets that are working as they are. I would like to go in one last area towards the re-regulation."

Susan **Hedman**: "May... May I just respond to that very briefly?"

Winters: "Sure."

Susan **Hedman**: "I hope that you will ask the representatives of industrials and large commercial customers who appear here later whether they think they have sufficient choices and..."

Winters: "They shut the power off here at 9:00, so I don't think they'll get a chance to testify."

Susan **Hedman**: "What I'd like to point out is that this auction price becomes the price to beat."

Winters: "Correct."

Susan **Hedman**: "So you may have alternatives, but it's alternatives to an untenable choice to pay with the utility. So what this does is, we can say we have competition but we only got competition because the price for the large commercial and industrial customers has been jacked up so high. And that's not the purpose of all this, the goal is not to encourage competition to encourage competition. The goal, whether we're regulating or having competitive markets, is to achieve an efficient price. So, I'm sorry."

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Winters: "I'll... with that answer to a question I didn't ask, I have now forgotten the last question that I had, so I will turn it over to the next speaker. Thank you, Chairman."

Susan **Hedman**: "Thank you."

Chairman Bradley, J.: "Thank you, Representative Winters. We have two speakers left, Representative McCarthy followed by Representative Leitch."

McCarthy: "Thank you, Mr. Chairman. Susan, the question... the answer you gave to Representative Moffitt, I think I agree with you that we could go down the road to re-regulation, but is it the Attorney General's Office's opinion that if we did that we would be able to re-regulate the generators of electricity as well as the distributors?"

Susan **Hedman**: "I think that would be very difficult."

McCarthy: "I believe so too. So if we couldn't control the cost of the generation, I think affecting... trying to affect the overall cost in a positive manner would be very, very difficult. My second question is, page 2 of your handout here, where you talk about the wind key states, anytime you make a comparison you try to do apples to apples, so on page 2 line number... the ones that had the map on the front, page 2 should the wind key states and they showed that somewhere around seven cents (.07) a kilowatt hour or below that's going across there. Now, in those states, are you including the municipal owned companies as well as the investor owned?"

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Susan **Hedman**: "No, this is a comparison of rates paid by regulated utilities, and it's..."

McCarthy: "By regulated utilities, investor owned or municipal owned, or both?"

Susan **Hedman**: "Investor owned... state **reg**... state..."

McCarthy: "And I can take it for granted that this is just investor owned?"

Susan **Hedman**: "Yes."

McCarthy: "Do you know what the individual number for Wisconsin was then?"

Susan **Hedman**: "I know that their number is the highest in the region."

McCarthy: "Higher than ours? I know Madison is over twelve cents (.12) a kilowatt hour, Wisconsin Energy is eleven cents (.11) a kilowatt hour, you know, Wisconsin P&L, Wisconsin Public Service Corporation are all over ten cents (.10) a kilowatt hour. So I was wondering, how did the wind keys get such a low number when I just picked out a couple suppliers in Wisconsin, and they're all right in the ballpark with us or even as much as two cents (.02) per kilowatt hour above us?"

Susan **Hedman**: "Wisconsin just recently implemented those rate increases. And those rate increases would be reflected in the next year, the 2007 rates, the EIA data is not reported until later this spring. And I can tell you that, even with that, we did the projections, even with that, Illinois rates would still be, if they were frozen, at the regional

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average, they wouldn't be the lowest, they'd be at the regional average. And I'd like to point out something about those Wisconsin rate increases. Ya know, first of all, Wisconsin did not build a lot of power plants for a very long time and they didn't build transmission capacity. They're not in a capacity excess situation like we are in Illinois. In addition to which, in exchange for those higher rates the people of the state of Wisconsin are getting brand-spanking new power plants with the lowest emissions rates for coal plants in the country. Those are coal plants that could burn Illinois coal. In addition to which, they have brand-new transmission lines. And what we're getting for a similar price is a chance to have an auction again next year and we only have to look to see what happened in the last New Jersey auction to guess what that might bring us. The price in the New Jersey auction held last month was ten cents (.10) a kilowatt hour. And that's what we have to look forward to. And I think that when we make these kinds of..."

McCarthy: "Is that a bundled rate, ten cents (.10) a kilowatt hour?"

Susan **Hedman**: "Ten cents (.10) for the commodity price..."

McCarthy: "Okay."

Susan **Hedman**: "...so if you take our six and a half, theirs is now ten cents (.10). Now, for New Jersey, that may be their only alternative. New Jersey is a state that has, both within its state and around it, not enough electric

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generating capacity. In addition to which, it's a very dense state. There is not a lot of room to build electric generation capacity. And unlike Illinois it doesn't have rich coal resources and rich winds resources on which to draw. So, it may be the case that the best that New Jersey can do is ten cents (.10) a kilowatt hour."

McCarthy: "Okay. But what I'm saying..."

Susan **Hedman**: "We can do much better."

McCarthy: "...is that, you must have rates that are unbelievably low for some of these other states if Wisconsin is included in the wind key states, and yet you still have them between seven (.07) to eight cents (.08) at the most per kilowatt hour."

Susan **Hedman**: "That's correct. In fact, I believe Mayor Officer was lamenting that all you have to do is look across the river and see that Missouri has very low rates. And I might mention that the Missouri Commission is talking about reducing them further."

McCarthy: "Okay. Well, I don't want to belabor that, but could you give me the source, maybe later, the source of where you got these rates from? 'Cause I want to see how they were averaged out, because it just seems, just from the numbers I got from different utilities in the 5 states that we've mentioned, their numbers are all relatively close to ours and it seems like for them to be that low at a bundled rate that would be hard to, hard to believe. So I would like to see the source, so that I could review it."

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Susan **Hedman**: "Well, just so everyone knows, these are the numbers reported to the Energy Information Administration. They are federal numbers, and in addition..."

McCarthy: "And are they **normed** out, like for the number of users, but I mean..."

Susan **Hedman**: "And this is weighted in terms of customer sales."

McCarthy: "Okay. Well, I'd like to see that if you could give me further information. The other thing is, as I told you in caucus the other day when you showed us that earnings rate, I think... I think Representative Winters did a good job on this. And you were careful when you made your remarks today that you said compared to the Dow Jones Utilities, that the ComEd increase in their stock price, the Exelon price, was pretty comparable or you said it was even better than the utilities. Because as I've said in caucus, I was going to go back 'cause without looking at anything to have anything to compare, I just went back and asked for like a mutual fund with the regular Dow Jones Industrials, and I don't want to test your eyesight even though you are younger than I am, but if you can see from the regular mutual fund from the Dow Jones Industrials, the red line is ComEd Exelon, the blue is just a mutual fund with the Dow Jones Industrials, and it went up about one point seven (1.7) times as much as Exelon did over the same 27-year period that you used on your chart... chart number eight (8) so..."

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Susan **Hedman**: "I don't dispute that, in fact, my point is simply that when you make comparisons you should compare apples and apples. And when you look at utility stocks..."

McCarthy: "Yeah, but, ya know, when you're investing in companies though, a person who wants to invest in Exelon or some other utility company also has the right to go and invest in Sears or other good Illinois companies. So, for the investor, saying you should only compare utility companies, that might be one thing to say, how's one doing against the other? But as far as pointing that out that that's such a nice profit making machine, but yet when I look at this and think if I made the same investment in a mutual fund for the Dow Jones Industrials in 1980, and I made the same amount of money in Exelon, I would have gotten back one and two-thirds as much from my Dow Jones Industrial investment."

Susan **Hedman**: "Well, Representative McCarthy, I think you've hit on a key point here. And that's a point that this Legislature has to decide. Do they... does the Legislature want its utilities that provide a necessary service to individuals and its economy... and its economy as its economic base earn the largest rate of return it can get? That's basically the question. And some of you may have heard me talk about Munn v. Illinois. Illinois is the place where regulation started. Back in the 1870s, the Illinois Legislature was the first state Body to enact a law legislating that there had to be caps on rates for firms

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that perform services that affected the public interest. And the Illinois Legislature made the decision that for the grain elevators that they were so essential that the grain elevator owners couldn't just charge what the market would bear, that in fact, they were affected with the public interest and it was important that the rate be held at below level. And in fact, in the Supreme Court decision upholding that law, the Supreme Court, the U.S. Supreme Court said essentially if you want to get into a line of business with a higher rate of return, ya know, do something else."

McCarthy: "Okay. Well, I agree with that, but I also agree it's in our best interest, as well as all the citizens of the State of Illinois, to have companies that are in a good position financially so they can, ya know, supply us with the power that we all need to live our lives, you know. So, and reinvest, which we did do during the 1997 law, we certainly put it upon them to invest in their infrastructure. And most people who have been around here for 10 years will tell you that the complaints we get about outages, until this most recent one of Ameren, thank God I'm not in that area, but until we got that, I can tell you the ComEd service region I think most of us would say that we've seen a great improvement in the... process of the delivery of electricity to our customers, we don't have the complaints that we used to have back in the late '90s. And as far as the fair market, we did say compare apples to apples and as long as we're paying about 80 percent less than New York

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City, and about 13 percent less than Philadelphia, about 20 percent less than L.A., close to 30 percent less than Boston per kilowatt hour, I think we're getting a pretty fair price that we want to have reliable and strong Illinois companies that supply us with many good jobs and many other things that are important to the economy, as well as providing our power. Thank you."

Susan **Hedman**: "I think that if we all lived in Chicago that that would be a sound basis of comparison, but in fact, those comparisons which appear in a lot of Exelon presentation materials, are comparisons with the highest rate cities in the country. There are cities across the river..."

McCarthy: "But our... under our... under our regulated plan we paid more in 1995 than I'm paying in 2007, you agree with that, correct? Per kilowatt hour, I pay more today, or less today than I paid in 1995. I have the bills back in my office to prove it, but I can promise you that, that in the ComEd service region, I pay less in 2007 than I did in 1995."

Susan **Hedman**: "Well, given that Commonwealth Edison, now Exelon, reduce... increased their generating **capac**... excuse me, their capacity factors for their nuclear power plants by 100 percent almost, you should..."

McCarthy: "Correct."

Susan **Hedman**: "...be paying 50 percent less. But the point being, if you look again at Exelon statements, just last month John Rowe was telling investors that the nuclear power plants in Illinois have now reached a 98 percent capacity factor for

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2006. Now, back in 1997 when you were paying those phenomenally high rates, the capacity factors for those plants, was only about 50 percent."

McCarthy: "Less than fifty (50) and that's a good thing.

Susan **Hedman**: "It's a great thing..."

McCarthy: "It's a great thing that they're operating so efficiently today."

Susan **Hedman**: "Yes, and you know they... but you know what? They had a legal obligation under the Public Utilities Act to operate at least cost prior to 1997, and they didn't. They only chose to do that after they could reap... well, that being **ExGen**... could reap all the benefits. Now, I think that it's a fantastic thing that the market was able to produce that response, but in fact, a regulatory system that works should have produced that response many years ago for Illinois consumers."

McCarthy: "I think I agree, but I think our experience under the regulatory system was not so rosy, and I think right now, as I said earlier, the market rate when I compare other cities that I think are comparable, while I may be a small, small minority I believe that the market rate works and I think our people are interested, not only in getting a fair price, nor to get the absolute best price, but the people I represent want a fair price and they want it to be there when they plug that appliance into the wall. Thank you, Mr. Chairman."

Chairman Bradley, J.: "Okay, Representative Leitch."

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Leitch: "Thank you very much, Mr. Chairman. I am very impressed with the lady's knowledge and with her comments on this. I also noticed from your charts what happened after we passed the De-Reg Bill and what happened to the stock price, I think was no accident, went through the roof, but in any event, as a practical matter, you made a number of observations about what is occurring in other states, and since it strikes us as very impractical to re-regulate by requiring some form of construction of new generating capacity, would it not a practical solution be to address the purchase of electricity? And because it seems to me that that is what is the... at stake, that's what's important here, given the research that you have provided us."

Susan Hedman: "And in fact, some of the states that are talking about re-regulation mean re-regulation in that sense..."

Leitch: "In the sense of purchasing it. Because it's very unrealistic to think we're going to go out in a short period of time, put up new generating facilities. Do you have recommended legislation for accomplishing that reform? Or are you aware of other states that have it that would provide us as a model that we might take advantage of and act very, very quickly to impose that on the utilities as you have illustrated as possible?"

Susan Hedman: "Today we're not prepared to make a recommendation. At this point, we are studying what the other states are doing. This is truly an instance of the Jeffersonian laboratories of democracy at work. There are a

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lot of alternatives out there, and we're looking at those and we're also looking at the alternatives that have worked in other states before that are different from, for instance, straight regulation and straight market approaches."

Leitch: "But I understand... I understood you to say that under Federal Law were the General Assembly to, for example, cap a rate the utilities would have the authority and they'd be forced to change their rates."

Susan **Hedman**: "I'm glad you asked that question. Because there were some statements made when the Commerce Commission panel was up here that are contrary to, I think, my understanding and the general understanding of the relationship between state jurisdiction and federal jurisdiction. The states, under the Federal Power Act and prior to the Federal Power Act, have exclusive jurisdiction over the rates that are charged to retail customers and the price that their regulated utilities can pay for electricity. The Federal Energy Regulatory Commission regulates the rate at which electricity can be priced by the suppliers that offer the electricity. Now, a supplier can come in and offer us electricity at fifteen cents (.15) a megawatt hour.. or fifteen cents (.15) a kilowatt hour and FERC may approve that, for them to offer it. But our commission, the state has the right to say whether or not it's prudent for a utility to pay that much, and whether it's just and reasonable to pass that cost on to customers. And the

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Illinois Supreme Court has been very clear that that's the law here. And I think that that distinction between state and federal jurisdiction is very important to keep in mind. This is an area that states have a great deal of power in. And the Federal Government didn't mandate deregulation in the states. The Federal Government can't tell you how to set rates, that is entirely within your purview."

Leitch: "So you're saying very, very plainly that we have control of our own destiny if we choose to exercise that control."

Susan **Hedman**: "Indeed."

Leitch: "Well, personally, I appreciate again your testimony very much. I also happen to think that the De-**Reg** Bill was more in actuality a bailout Bill of two of the worst utility companies in the country, let alone Illinois, and that they reaped billions of dollars in the course of having passed that unfortunate legislation. I would look forward very much as I know the other Members would, to any written points you might suggest to frame a Bill along the lines we've been discussing as soon as possible. And thank you again."

Susan **Hedman**: "Thank you."

Chairman Bradley, J.: "Thank you, Representative Leitch, and again I apologize for the confusion over the speaking order. Representative Jim Meyer."

Meyer: "Thank you, Mr. Speaker. If I could, there's been a lot of talk about re-regulation here this afternoon. Is that

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what you're suggesting, that we either do a re-regulation or a partial re-regulation in the state?"

Susan **Hedman**: "At this point we don't feel we're in a position to make a recommendation. At this point we are gathering..."

Meyer: "What are you recommending?"

Susan **Hedman**: "We are not recommending anything today."

Meyer: "What are you doing here then?"

Susan **Hedman**: "We were asked to come and explain how the auction works."

Meyer: "Why do you keep talking about re-regulation?"

Susan **Hedman**: "Well, for the same reason..."

Chairman Bradley, J.: "Is that a rhetorical question, Mr. Meyer? Or is that... is that... you want an answer to that?"

Meyer: "I do want an answer, yeah."

Susan **Hedman**: "As I've said a number of times, regulation and competition are just different means of getting to the same end, to an efficient price. And we don't take a position as to whether one is better than the other in an abstract sense. What we're looking at is..."

Meyer: "Where is your thought process going with this? We've had a... I mean, you've explained how the auction process works, but we... did you want to answer the question maybe? I'm willing to talk to anybody that has an answer, go ahead."

Chairman Bradley, J.: "Jim, can you restate..."

Meyer: "You... you know what..."

Chairman Bradley, J.: "Can you restate the question, please?"

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Meyer: "Sure. I'm trying to understand is the Attorney General's Office recommending restructuring again to re-regulate the state? Because they came to explain... they came to explain the auction process, and we've spent a greater part of an hour now talking about re-regulation. It seems to me, I keep hearing the term bantered about and I'm trying to figure out what the end game is here. What's being suggested, are you going to suggest... your exchange with Representative Leitch about legislation, what was that legislation going to accomplish? I missed that."

Susan **Hedman**: "That exchange was simply pointing out that the states that are cataloged in the back here..."

Meyer: "Yeah."

Susan **Hedman**: "...have proposed a number of alternatives. Some of which are re-regulation..."

Meyer: "Okay, that's what I thought I heard."

Susan **Hedman**: "...some of which are consistent with a competitive model, in other words, procurement procedures that would have a mixed portfolio that they would require utilities to purchase or municipal aggregation."

Meyer: "Okay. But as a part of re-regulation, correct?"

Susan **Hedman**: "No, no."

Meyer: "No."

Susan **Hedman**: "The... couple of the examples there are examples that would be fully consistent with a completely competitive model."

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Meyer: "Well, if I could. I also thought I heard you indicate that our problem is one of procuring the electricity, not the delivery side, but the purchase side and that you did not believe that we could re-regulate the purchase side, is that correct?"

Susan **Hedman**: "The question was whether or not Illinois would have the ability re-regulate the generation."

Meyer: "Well, the generation and then you purchase it from the generator."

Susan **Hedman**: "Those are two very separate things."

Meyer: "Okay. You couldn't re-regulate the generator side then, right?"

Susan **Hedman**: "It would be very difficult."

Meyer: "And who do you purchase that electricity from?"

Susan **Hedman**: "You purchase it from wholesale suppliers at this point."

Meyer: "And what do they pass on. I mean, the generator basically decides what they're going to sell it for, do they not?"

Susan **Hedman**: "Well, actually, no, not in a working market. In a working market the market decides the price at which a producer..."

Meyer: "Well, okay. Well, what happens if the generator isn't happy with the price that everyone's willing to pay? They can decide not to generate anymore, correct?"

Susan **Hedman**: "They can or can't, did you say?"

Meyer: "I'm sorry?"

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Susan **Hedman**: "I didn't understand what you said."

Meyer: "I said if, if what everyone's willing to pay is not what the generator is willing to sell it at, they'll just not generate anymore, correct?"

Susan **Hedman**: "They can choose to go out of business and another generator will come in and sell it at a price..."

Meyer: "I think back to California, that California, I think part of their problem was they were only going to buy it for so much and nobody was willing to sell it for that much, and so California ended up with no electricity when they turned on the switch."

Susan **Hedman**: "I think that grossly simplifies the problem in California. In California..."

Meyer: "Well, I'm sure the people out there when they turned the switch on were looking for a simple explanation."

Susan **Hedman**: "I really would like to comment on that."

Meyer: "Sure."

Susan **Hedman**: "Because Illinois is not comparable to California."

Meyer: "Thank God for that, I mean..."

Susan **Hedman**: "The Illinois... the California crisis was created for a number of reasons. One of which was it was a very dry summer; there was not very much electricity available in that region. Second of all, is you have undoubtedly read in the Enron cases and other associated cases, there was a lot of market manipulation occurring in the western power markets that caused, not just during, but that caused the

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price crisis in California. The problem was not that the state had set a price cap; the problem was that the market was not performing as a competitive market should. And that's why I had pointed out that I think competition and regulation are just means to an end. The question is not should we regulate or should we use competition, the question is how do we get to an efficient price? At a market efficient price and a regulatory efficient price is the same thing, cost plus a reasonable rate of return. If you have a functioning market producers and buyers should be able to drive the price close to marginal cost."

Meyer: "Well, what broke down in this case then according to what you feel?"

Susan **Hedman**: "Are we talking about here in...?"

Meyer: "Yeah, here in Illinois."

Susan **Hedman**: "Well, Illinois has a very concentrated electric market. There are very few generators in this state, especially in Northern Illinois, you have a very concentrated market."

Meyer: "So, in other words, when they indicate that there were sixteen (16) bidders on it... or sixteen (16) suppliers, will that... they're not really independent suppliers, but they are all in collusion with one another or what?"

Susan **Hedman**: "Well, let's take a look at the winning bidders in the Illinois auction. Sixteen (16) bidders, but let's take... let's take a look at the results of the auction. You'll see that one bidder, Exelon Generation, managed to win 97

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percent of the most valuable contracts in the auction, 97 percent and 47 percent of the next most valuable in the auction. Now, that's an astounding outcome for an auction that has been described as competitive. That strikes me as much more like a situation where you have a boxing tournament, and one of the competitors is the heavyweight champion of the world and all the rest are amateur welterweight boxers, and when the heavyweight champion of the world wins the tournament, you say we had a fair competition. I don't think..."

Meyer: "Are you then suggesting we don't have a generator market here?"

Susan **Hedman**: "I'm suggesting that this is among the most concentrated generating markets in the country that has by department... the U.S. Department of Justice standards measuring market concentration, market concentrations that are off the charts."

Meyer: "Well, given those facts if you feel that, then what is the answer for the predicament that we find **ourselves** in?"

Susan **Hedman**: "Well, the answer could be in structuring a procurement process that does not allow that to hurt consumers."

Meyer: "And how do you do that, by re-regulating? Thank you. I was wondering when you were going to talk."

Ben Weinberg: "Let me try a little bit. There is a long-term issue and a short-term issue. The short-term answer to the crisis that Illinois ratepayers, both commercial and

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residential, are facing is what Attorney General Madigan is recommending, which is passage of the Rate Freeze Bill. That is the short-term solution that will buy the time to then address these more long-term issues about procurement, about what Representative Leitch asked that will address all these issues. But the short-term answer, and in order to get the short-term answer you need to understand how the auction worked, you can discuss alternatives. But the reality is that the short-term answer to the crisis that Illinois ratepayers are facing, what Attorney General Madigan recommends is passage of the Rate Freeze Bill."

Meyer: "And what is the term of that Rate Freeze Bill, what's short-term to you?"

Ben Weinberg: "It's a 3-year Bill."

Meyer: "Three years. And what do you anticipate going to occur during those 3 years?"

Ben Weinberg: "What will occur is that, as we call them the stakeholders in this issue, Members of the General Assembly, the utilities, the consumer advocates, we all will work on a solution, and the solution will include many things that Ms. **Hedman** discussed today, that other Members of the General Assembly..."

Meyer: "Let me ask you this. How do you anticipate those 3 years are going to be different than the last 10?"

Ben Weinberg: "The answer is that we know what happens. There is a very different... the problem with the last 10 is people didn't actually know what was going to happen when it ended."

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Well, now unfortunately, the members of this committee know better than many exactly what happens. And what happens is that there will be a crisis without a reasonable solution, and Attorney General Madigan is committed to working with members of the Committee and others on a reasonable solution."

Meyer: "Well, you know, Representative McCarthy earlier stated that, and I happen to be from the ComEd area of the state, that nobody seemed to be surprised in our area about it because it was on television for the last, probably a year and quite honestly, a lot of people have been talking about it for the last 4 or 5 years. But be that as it may, I will be very interested since you don't believe that the generation site can be re-regulated, re-regulated again, exactly what your consensus that you anticipate that you'll find within 3 years, and quite honestly, as a part of reaching any decision on a Bill that you might push forward, I think you're going to have to outline, at least for a lot of us, how this is all going to occur other than the fact that you're playing to the population and we're going to save you in 3 years but right now we don't have an answer. Didn't have an answer for the last 10 evidently either, so thank you."

Chairman Bradley, J.: "Thank you. Thank you, Representative Meyer. Representative Rose, are you in the chamber? Representative Rose, are you in the chamber? Okay, Representative Rose, for one question, correct?"

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Rose: "One question. Question is this, I heard you testify about our capacity to re-regulate the rate structure, and I think I got your gist about re-regulation, in other words returning to what was prior to 1997. Is it your opinion that under the Constitution we can go back, the U.S. Constitution, that we can go back to the prior structure or something similar?"

Susan **Hedman**: "Are you referring to one in which the utilities would own generating plants?"

Rose: "One like what Virginia passed just recently in your materials that you handed out."

Susan **Hedman**: "Virginia is a state in which the utilities have remained vertically integrated."

Rose: "Okay."

Susan **Hedman**: "And so in that case, re-regulation meant that the existing plants came under the regulatory process as well as future plants that might be built. There's no Constitutional prohibition, state or federal, that would prevent the state if it so chose, to impose a regulatory system that would have the electric utilities building power plants again. Now, in having said that, the track record here for regulating in that way has not been particularly stellar. So the point... to answer your question, there is absolutely no reason you couldn't go back to that model, from a legal standpoint, whether from a policy standpoint, that would be something you would choose, I don't know."

Rose: "I understand, thank you."

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Chairman Bradley, J.: "A man of his word. Thank you, Representative Rose. Okay. Attorney General's Office, Ms. **Hedman**, and Mr. Weinberg, thank you for your time."

Susan **Hedman**: "Thank you."

Ben Weinberg: "Thank you very much, Chairman."

Chairman Bradley, J.: "Our next panel is going to a group of local mayors; we're going to sneak this in. We have Mayor Leonard Ferguson. Mayor Ferguson is from Salem, Mayor Greg Smith from Paris, and Mayor Gail Kent from Bradley. They have very important testimony, they've indicated they're willing to keep their testimony pertinent and brief as well. Could you raise your right hand and face the gentleman up there. Do you swear to tell the truth the whole truth and nothing but the truth so help you God?"

Mayors et al: "I do."

Chairman Bradley, J.: "Thank you, you may be seated. Mayor Ferguson, would you like to begin."

Mayor Ferguson: "Mr. Chairman, Members of the House, I will be brief. I... I believe my fellow mayors have done a good job of presenting you with some of the facts that have taken place in southern Illinois. I also would like to go on record that the presentation by Representative Bradley was 100 percent in fact of what is going on in Southern Illinois. Many of you know some of the issues of Southern Illinois. But I was concerned about whether the northern Legislators were aware how severe the issues are in southern Illinois. Salem, for one, just a short time ago had

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probably the most devastating loss of jobs in Illinois. We lost eleven hundred (1100) jobs in the period of 1 year for a community of only eight thousand (8,000) people. So, I'm facing two problems at this point. I'm facing the problem of having difficulty in replacing jobs; I'm trading good paying jobs for poor paying jobs. And now I have got a situation in where those people that have difficulty supporting their families can no longer support their families with this new increase in electric rates. Times have been very difficult and I am very much aware of how people are struggling. But I was amazed the other day as I went through city hall and noticed our staff working on bills of people that's behind in their monthly utility bills; 18 percent of our people cannot even afford to keep their bills paid in spite of a mild winter, that amounted to four hundred and fifty (450) households are behind on their bills in a community of probably three thousand (3,000) homes. I talked to a single mother, her rates increased from fifty-seven dollars (\$57)... ninety-seven dollars (\$97), I'm sorry, to a hundred and ninety-seven dollars (\$197). She has a good job so she probably will not be able to get assistance. There was another lady, a retired lady, her bills went from one hundred and eleven dollars (\$111) to four hundred and eighteen dollars (\$418). She's one of the persons that has an all-electric home. I have another friend that is in the business of buying real estate and renting it, commercial and residential. In checking his

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bills, I found none to be less than 75 percent. Twenty (20) percent of my residents are sixty-five (65) or over, 11 percent are single parents and those coupled with the people that are having difficulty finding jobs makes this an unbelievable situation. People are frustrated; they are looking for help. The longer the General Assembly allows this to fester the more increased the pressure becomes. It's getting to the point now that I have residents asking why can't we lower water or sewer, or gas rates. Other mayors are being requested to reduce the utility taxes any way that is possible to reduce the pressure being placed on these families and households. As far as Ameren... as far as economic development, I fear that this increase is going to put us completely out of the running of bringing in new jobs to this... this area, especially southern Illinois."

Chairman Bradley, J.: "Thank you, mayor."

Mayor Ferguson: "Thank you, Mr. Chairman."

Mayor Craig Smith: "Mr. Chairman, my name is Craig Smith; I'm the mayor of the City of Paris. Paris is thirty-five miles (35) south of Danville, seventy-three miles (73) southeast of Champaign, and twenty-three miles (23) west of Terre Haute. We're in Central Illinois. We're not a wealthy community, but we do okay, but we're not doing okay today. I'm starting to get calls at city hall. That didn't bother me too much, but then I started to getting calls at my home and then I got calls at my law office. When they call me at the law office and think they're going to get charged for my

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fee to complain about their bills I know it's serious. People are hurting. I held a meeting... a public hearing and I took testimony from anybody that would show up. We met... we announced it five days in advance, very little notice, city hall was packed. I brought with me, Mr. Chairman, the testimony from all of the folks who showed up and I also brought all of the exhibits which are all of their power bills. Basically, what we are seeing is doubling of bills by almost... everyone across the board. And there are people who cannot afford what's going on. I have mothers who have children and they're living on one income, having their rates go from one fifty-nine (\$159) to three hundred and one (\$301). My deputy chief has two small children and a wife and his went from one ninety-two (\$192) to three sixty-five (\$365). I have a nice little old lady, 80 years old, lives in a three-bedroom **aprt**... three-room apartment. She only rents... only heats two of the rooms, her bill went from eighty (\$80) to a hundred and sixty (\$160). We have a battle cry in Paris and it was called 'heat or eat'. Mr. Chairman, that's what my constituents are faced with, heating their... or going to the grocery, literally. If they can't go to the grocery they're in trouble. I have the testimony here; I'll leave it with you and also with that we're asking for your help and anything you can do. Thank you."

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Chairman Bradley, J.: "Thank you and you are asking that to be made part of this record. Very well. Thank you very much. Mayor **Keet**... Kent, I'm sorry."

Mayor Kent: "Chairman, Members of the House of Representatives..."

Chairman Bradley, J.: "Hold on just a second. We're having technical problems. Okay. Scoot closer, they tell me."

Mayor Kent: "Okay. Mr. Chairman..."

Chairman Bradley, J.: "Thank you."

Mayor Kent: "...Members of the House of Representatives, good evening. I'd like to thank you for this opportunity. I've changed my speech. I had an opportunity to listen all afternoon and the best analogy I can make, I have only been a mayor for 2 years in Bradley, Illinois. I claim I'm not a politician. They tried to explain to me how the sewer plant worked; I said it was too much information. I don't care how it works, just as long as it works and this is not working. And so you have citizens, your citizens, citizens throughout the state. I oftentimes have an identity crisis, as I'm beneath I-80, I'm also north of I-74 and it's the same in Northern Illinois as it is in southern Illinois. If you don't believe that there is a surge going on, there is, a tsunami and I think what's happening in southern Illinois that surge will meet the surge coming down from the north. Your constituents are begging for your help. They are afraid, they are angry, and anger and fear prompted by despair, hopelessness, and a sense of injustice. If you haven't already heard it, you will. The citizens and

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businesses of this state and the Village of Bradley cannot afford to continue to contribute any more to the record profits of Exelon and ComEd and Ameren and the exorbitant salary of their CEOs. I could list for you all of the anecdotal information that I have here but rather I must at least give you one, and that's my 86-year-old mother-in-law, who must walk with a walker who lives alone in the country in her all-electric home, where she paid, or used to pay 8 percent, 8 percent of her Social Security income for her electricity and now is paying 14 percent. I can show you from the Internet and I apologize for the secondhand source, but there are four CEOs, two point eighty-nine million (\$2,890,000), seven hundred and fifty-eight thousand (\$758,000), one point eleven million (\$1,110,000). You've heard all that before, who have exercised seventeen point seven million (\$17,700,000) in stock options. Total revenue net income applicable to common shares one point ninety-two billion (\$1,920,000,000). That's the bottom line, isn't it, one point five hundred ninety-two million (\$1,592,000) in profits. When is enough, enough? I testified almost a year ago at Representative Dugan's press conference at the Bradley Bourbonnais Chamber of Commerce, the same was said. Anybody else remember the pledge that was made by ComEd, because I've been a Kankakee County resident for a long time. We're paying the highest electric rates in the United States. Why? You're paying that now so that we can develop nuclear plants, so that we'll have reliable, reasonable, and

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plenty of power in the future. Do you remember that, I do? Instead now, they want to sell it to the East Coast at a higher price. The strange thing is Bradley needs Exelon, Bradley needs ComEd, we're growing, but at the same time we can't ignore the pleas for help from the existing residents and small businesses. Is the thousands of dollars in CEO... billions of dollars in profits and the millions of dollars in CEO salaries worth an economic meltdown in the State of Illinois or the layoffs and the closing of small businesses, the layoffs and cuts in municipal services, industries moving from Illinois overseas? Is it worth the bankruptcies and the foreclosures on people's homes? You must help those less capable of paying, not with payment plans that have an interest rate, but you must ease their fears, you must calm their claim... their anger, you must diminish their despair, give them hope and... the obvious... and right the obvious injustice that the sham legislation has created. There is a solution. Your will to act will not destroy ComEd, Ameren, or Exelon as warned. Your failure to act may destroy Illinois economy, its senior citizens, its working poor and middle-class and all the small businesses too numerous to mention, all in the name of more corporate profit. Thank you for your time and attention."

Chairman Bradley, J.: "Thank you, mayors. Seeing no questions, we appreciate your time and... and go ahead and dismiss you at this time. Oh, there is one question. Okay. Pete waives his question. We have one additional local panel to squeeze

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in here and then we'll get to the Ameren... Jim Reichert, Mary Beth **Whitsel**, Ellie and B.J. **Dorchincez**, and Kelly Stewart. This is a panel of local business owners. **Dorchincez** own Farm Fresh store, Mary Beth **Whitsel** is chief financial officer at Big Top Daycare, Jim Reichert is the owner of **Shelterex**, Kelly Stewart is the superintendent of schools in Benton. Could you please face... opposite of me, raise your right hands. Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?"

Panel - et al: "Yes, I do."

Chairman Bradley, J.: "You may proceed. Mrs. **Whitsel**, you want to start?"

Mary Beth **Whitsel**: "Certainly. I'm... Mary Beth **Whitsel**. I represent Big Top Child Development Center..."

Chairman Bradley, J.: "Can you talk into the microphone, please?"

Mary Beth **Whitsel**: "Into the microphone... okay. I'm Mary Beth **Whitsel**. I represent Big Top Child Development Center in Murphysboro. I am closing the daycare because of our increase in our utility bill. Our average seven hundred dollar (\$700) a month bill went to fifteen hundred dollars (\$1500) in January and then to twenty-two hundred (\$2200) this month. Our daycare over the last several years... has made ends meet and we've kept it open because... the daycare has been in Murphysboro for over 20 years. But with the increase we've decided that it's no longer possible. I wanted to let you know... the people that are affected by

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this, there are sixty-five (65) children there currently.. 30 percent of the kids are minority, 74 percent receive some type of state aid for... to help pay for their daycare, 14 percent of the children are foster kids... six (6) people will lose their jobs and this is tomorrow."

Chairman Bradley, J.: "Thank you, Mrs. **Whitsel**, thank you, thank you. Mrs. **Dorchincez**."

Ellie **Dorchincez**: "Dear Ladies and Gentlemen, thank you for allowing me the opportunity to..."

Chairman Bradley, J.: "Can you scoot forward, I'm sorry."

Ellie **Dorchincez**: "Thank you for allowing me the opportunity to speak here. I am here to tell you about the troubles that I face with AmerenCIPS. My husband and I bought a small grocery store in Benton, a business that had been running for over 35 years. We have been there about four and a half years. My husband and I we're very excited for the opportunity, we also put up everything we had to capture the America dream owning your own business. In our business it is not uncommon to sell thirty thousand (\$30,000) a week in products at a lower rate and then wait for checks to come to be reimbursed for those products. We don't have deep pockets like big corporations do; we are a small mom and pop business in Benton. We were warned that the rates... the rate increases were coming; local news agencies nightly said that it would be a 30 to 50 percent increase. We then started making changes at our store early, cutting back on store hours, we told our employees that we would eventually have

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to trim hours back, install a thermostat that was on a time delay system, but to my surprise that did not help us. Now, here it is, my electric bills, starting at eight hundred and four dollars (\$804) which was the normal rate. The next bill that came was around sixteen hundred dollars (\$1600). And now I am looking at eighteen hundred dollar (\$1800) bill. From time to time, I have paid late but I have always paid in full. You then asked me for a deposit of eighteen hundred dollars (\$1800) which I also paid. My bill has increased more than a 100 percent and because you, Ameren, increased your bills and not what you promised as quoted by Scott **Cisel**, president of Ameren, I'm being asked for yet more money, another deposit in the amount of six hundred dollars (\$600) on top of my 100 percent increase. When I contacted Ameren yesterday regarding the six hundred (\$600) dollar deposit, I was told to pay it or my service would be shut off, which I have always done everything Ameren has always requested of me. Then I asked some more questions. When I asked about the Customer Elect Plan, I was told I was not eligible... eligible, excuse me... because I did not have a significant increase in my bill, right now which is over 100 percent. Another option, Budget Billing, it would be eleven hundred (\$1100) and... eleven fifty (\$1150) a month than there is a point at which they call a settlement month, at that time if you owe money you must pay up or if they owe you money they give you a credit. And for me, at the end of that time over that year period would be seven thousand

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dollars (\$7,000) for me. The next thing that's on my plate, my mothers, both on fixed incomes, both taking medications, and their bills went from one hundred and ten (\$110) to three hundred dollars (\$300). How do I help them when I desperately need help myself? Next my home, which is all-electric, now that discount is gone, has gone from two hundred and thirty dollars (\$230) a month to seven hundred dollars (\$700) a month. As a business owner, a homemaker, for my family and for southern Illinois what are we supposed to do? My whole life is at stake; and trust me when I say this, it rests on your shoulders not on mine. What you have done should be viewed as, to me, a criminal offense, and if I... and if the State of Illinois doesn't do something about this it would seem too that would be a criminal situation. You did this. My husband and I literally put up our whole life to buy a business and someone like you, Ameren, is going to strip that away from us. Does any of this affect you when you lay in bed at night, because it does me. My heart and soul have had the life sucked out of me. And then there are my children who complain about being cold every day because our thermostat is set on sixty-four (64). And you, too, are responsible for this. If you have the chance, look into my children's eyes because there are many more like them. I live in southern Illinois and people there are on fixed incomes, people on disability, business owners such as myself, young couples, older couples, single mothers, and I am telling you we are not going to stand, live, or swallow

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this. Are you going to wait until someone passes away because people keep pulling down their thermostats? And this, too, lays on your shoulders not mine. Think about it, please, long and hard. We are great people in southern Illinois and we need help, yesterday. Everyone is accountable for this, step up and do the right thing for people, action must happen now not later. Put yourself, all of you at the table and let's get this worked out now. Also, in the community that we live in, in Benton, our local high school bill was around eleven thousand dollars (\$11,000). The school is going to have a hard enough time paying that. So I guess then they're going to be left with some other options not knowing how to pay that, and I'm wondering if it's gonna be left up to us taxpayers to take... care of that, and I know that it's not the school's fault. I... I feel terrible for them. So, I'm wondering then, as a suffering community already, will we then have yet more of your increases to pay, where does it stop, until all of our towns in southern Illinois are gone? I am so sorry to say this, but to me it feels like you are thieves with no regard for the people who are living. I want to tell you my name one more time, my name is Ellen **Dorchincez**, and I am real, and I am from southern Illinois, and I want you to know I am not going away. I will keep fighting until there is no more breath left in me, because what you are doing is threatening our lives and I won't stand for it. In this situation everyone is accountable; you know your decisions were wrong

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and must be changed. Do we want Illinois to become a ghost state? That's what you are doing, and remember there... this lies on your shoulders, too, as well. Do something now. Please get... get us people, all of our people, a real solution and relief now, not later, and not yesterday. Thank you."

Chairman Bradley, J.: "Thank... thank you. And these next two speakers, I apologize. It's getting very late in the night and we have Ameren and ComEd left. Kelly Stewart, if you could keep your remarks to a couple of minutes and then Jim Reichert for a couple of minutes."

Kelly Stewart: "Chairman, Representatives, thank you for the opportunity to be here, to give this testimony, and also I'd like to take this opportunity to thank you for your continued support of education, given the current economy in Illinois. I come here today to inform you of the impact that the new AmerenCIPS rates will have on Benton High School. At Benton Consolidated High School, we have five (5) accounts. The largest account that covers the main building is an all-electric account. First time I've ever been told I wasn't loud enough. You can hear me? No. Not on. Now, wait a second, I'll blow you out. There we go. I spent most of the first grade in the coatroom because I was too loud. I come here today to tell you about the effects that AmerenCIPS is going to have on Benton High School. At Benton High School we have five (5) main accounts. The largest account by far is an all-electric account; it was on

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a 6T rate. In December, our accounts altogether, all five (5) accounts from 11-17-06, the bill received in December, ran from 11-17-06 to 12-19-2006 and was a total of eight thousand three hundred (\$8,300)... pardon me eight thousand seven hundred and thirty-seven dollars (\$8,737). However in January, our total of our five (5) bills, and this bill ran from December 19, 2006 to January 22, 2007, was fifteen thousand two hundred and forty-six dollars (\$15,246). Thus, we saw over a sixty-five hundred dollar (\$6500) increase or approximately a 75 percent increase in our overall electric bill, even though this new rate was only in effect for 21 days. So, that caused me to look closer at that 6T... old 6T rate. And when I looked at that, I saw that the old rate in December, on the 6T, was for a 13-day period, and our average daily rate over that 13-day period was around a hundred and fifty-eight dollars (\$158). But then when the 6T went away, January 1, 2007, our average daily rate was four hundred and twenty-eight dollars (\$428). When I first met with Ameren representatives last spring, and... and Representative Bradley's tired of getting letters from me because I've been writing letters for well over a year, because I've been concerned that long, because I knew what any increase was going to do to my school district. I budgeted a 22 percent increase in my operation and maintenance and building budget, because it was only going to be for six months of my budget thinking that I was looking at a 44 percent increase the following year, put the

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other 22 percent in then. What I've seen thus far, if it's any indication, I am not going to come close, I am going to run over budget, we're going to have to amend, we're going to be further in the red in OMB than we were initially. What does that mean, it means I am going to have to find some funds to put into my OMB budget; I am going to have to supplement that budget. Where am I going to supplement it from, general state aid; that general state aid would have gone to education. So this represents dollars that would have gone to education fund for teachers, for classroom supplies, for equipment. This is magnified when you consider the fact that Benton High School has run deficit budgets for the last 5 or 6 years. Moreover, you need to take into account that we had a reduction in force in 2002. The next year we cut supply budgets in all areas, and a major cut in our extracurricular programs. This year we have teachers retiring and we do not plan to replace them at full-time equivalency because we cannot afford to. Therefore, knowing we're going to have to take money from the education fund to be able to cover this increase in our electric bill simply means I have to find more cuts, but where do I find cuts from when I have teachers that are teaching on concrete floors because I couldn't afford to replace carpeting that was old and worn and got wet, when I have teachers that are using computers that are running on Windows '98 when everybody else is getting excited about the new Microsoft Vista systems."

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Chairman Bradley, J: "Thank you, Superintendent. Mr. Reichert."

Jim Reichert: "Thank you, Chairman, and Ladies and Gentleman of the General Assembly. You've heard different testimony today and... and just recently you hear from this table of a daycare center closing. You hear a small business owner on the verge of making some serious decisions..."

Chairman Bradley, J.: "Can you step closer to the microphone. I apologize."

Mr. Reichert: "And also you now have heard from a school administrator explaining their hardships. I'm from Marion. I have over a hundred locations of real estate that are rented to a 'mom and pop', to the fortune 500 companies. We're in the building and leasing business. When we hear from an individual or a 'mom and pop' business or a store that's paying five (\$500) or six hundred (\$600), seven hundred dollars (\$700) a month for a lease payment for nine hundred (900) or thousand (1,000) square feet and they're telling us that their utility bill is nine hundred (\$900) and eleven hundred dollars (\$1100), something's wrong. You know it's terrible that a person pays and we've submitted the documentations to the various committees from... from some of the horror stories of four hundred (\$400) to thirteen hundred (\$1300), seven hundred (\$700), to twenty-two hundred (\$2200). Of my own personal accounts with Ameren, my own personal accounts have risen ten thousand dollars (\$10,000) a month, those include offices that I happen to pay the utilities on. Some of the utilities that... or some of the

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facilities that are vacant, we keep the utilities on to prevent the freezing and damage to the buildings. But we're under construction on some apartments right now, eleven hundred (1100) square feet not occupied, first class apartments. The apartments have been running fifty dollars (\$50) a month to keep 'em heated until we're ready to open them; December, January, February, they're up to three hundred dollars (\$300) per apartment and they're vacant."

Chairman Bradley, J.: "Thank you, Mr. Reichert. Mr. Bost... Representative Bost, do you have a question to the panel, very quickly?"

Bost: "Just... just very quickly if I could, Mr. Chairman. One is for the... the daycare owner, Mary Beth. You said that your bill went from what to what?"

Mary Beth **Whitsel**: "Seven hundred (\$700) to twenty-two hundred (\$2200). Seven hundred in December..."

Bost: "Seven hundred and twenty-two hundred, which is a tremendous increase and I'm not... I'm not questioning that at all. I mean, that's why we're here, we're gonna argue that. But... but one month's bill shouldn't shut the door immediately for a business."

Mary Beth **Whitsel**: "Yes."

Bost: "Were there other aspects of that... of your closing and that's something I want to know about too."

Mary Beth **Whitsel**: "No, not immediately; however, fourteen hundred dollars (\$1400) this month, fourteen hundred (\$1400)

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next month, fourteen hundred (\$1400) the next month and then for the year..."

Bost: "But... but you're say you're closing.. you say you're closing the doors tomorrow?"

Mary Beth **Whitsel**: "Yes, I... we cannot increase our rates... Yeah, we're finished tomorrow. We can't increase our rates and pass it on to the kids..."

Bost: "Okay."

Mary Beth **Whitsel**: "...to the parents. They can't afford to pay their own CIPS bills let alone our increases..."

Bost: "Sure, sure."

Mary Beth: "...and the deductibles and I know it."

Bost: "And what... And my... and my question and understand I know that, but I also know that many of my businesses are facing other problems besides the electric bill and I'm fighting for the electric bill to try to cure this problem. But, we in southern Illinois and maybe the person that's... has the Farm Fresh, is that correct?"

Ellie **Dorchincez**: "Yes."

Bost: "Maybe you can answer that as well? Other issues that have weighed heavy on your business that... that you're unique possibly to the State of Illinois."

Ellie **Dorchincez**: "Right. Right now the only thing that is unique is the Ameren bill. I mean that's the hardest thing. When you look at that..."

Bost: "Okay."

Ellie **Dorchincez**: "...and see how much you're gonna have to pay..."

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Bost: "Okay. Maybe I misunderstood it."

Chairman Bradley, J.: "Representative, it's been a long day and I..."

Bost: "Right."

Chairman Bradley, J.: "I think I know where you're goin'. And I'm not gonna..."

Bost: "Okay. I am gonna go there, Mr. Chairman, if I can."

Chairman Bradley, J.: "But... but... but we're talking about electricity... we're talkin'..."

Bost: "Because on the news today..."

Chairman Bradley, J.: "...we're talkin' about electricity today."

Bost: "...on the news today it was said that it was also an increase in minimum wage that was the causing that, am I wrong?"

Chairman Bradley, J.: "That's true. That was in the newspaper today. Thank you."

Bost: "Okay. I just... I want to make sure that we got... This is a huge issue and I want to deal with it."

Mary Beth **Whitsel**: "Yes."

Chairman Bradley, J.: "Yeah."

Bost: "But it's not the only issue strangling business in southern Illinois."

Chairman Bradley, J.: "Thank you, Representative Bost. Representative McCarthy, do you have a question? You're on the phone? Okay. We're gonna move on. Thank you all very much for being here tonight. Okay. Can you bring in Scott **Cisel** from Ameren. Mr. **Cisel**, could you raise your right

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hand and face out towards the... that way, yes, thank you.
Mr. **Cisel**, do you swear to tell the truth, the whole truth
and nothing but the truth, so help you God?"

Scott **Cisel**: "I do."

Chairman Bradley: "Thank you very much. You may be seated and
Chairman Scully's in the Chair."

Chairman Scully: "Thank you. Chairman Scully in the Chair. Mr.
Cisel, would you please proceed."

Scott **Cisel**: "Good evening, Mr. Speaker, Chairman Scully, and
Members of the House of Representatives. My name is Scott
Cisel. I serve as the president and CEO of the Ameren
Illinois Utilities, CIPS, CILCO, and Illinois Power. We
provide service to approximately 1.2 million (1,200,000)
electric customers and approximately 800 thousand (800,000)
natural gas customers. In general, we serve customers from
Interstate 80 South to the southern tip of Illinois. Today
is another key step in the continuation of this important
public debate. All of us at Ameren are committed to achieve
a constructive resolution. First, on behalf of my
coworkers, we acknowledge and understand the difficulties
our customers and you are facing with the higher electric
charges after a period of 10 years with electric rates being
reduced and then frozen. Today, higher electric rates are
having even a greater impact on the customers due to their
increased usage of energy brought on with unusually cold
weather of late January and early February. For reference,
according to the National Weather Service, January 2007 was

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approximately 35 percent colder than January 2006 and the first two weeks of February were about 60 percent colder than a year ago. All of this translates into very high usage levels. And as we will discuss this evening, both usage and rates make up the bottom line of monthly bills. With the recent weather, we're hearing from our customers through our contact centers, from our community leaders, from our state-elected officials concerning electric bill increases. I'm hearing those concerns directly from our customers as well. Based on the concerns expressed by many of you and our customers, we've gone back to the table to see what else we can do to help our customers while maintaining our utility's overall financial integrity and investment grade ratings. I'm here tonight to introduce a comprehensive plan to provide as much relief as we possibly can. I am hopeful, by working together, we will reach a fair and equitable and constructive outcome that provides the Illinois economy with the most reliable and lowest possible cost of electricity while still maintaining our financial credit rating. As you are all aware, the 1997 electric service customer choice and rate relief law brought about a massive overhaul of the State Government policy toward investor-owned electric utility service. Prior to the adoption of this law, Illinois investor-owned electric utilities generated their own power and then delivered that electricity to their customers through their own transmission and delivery systems. Since then, Illinois has

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been in a transition period that has involved a greater reliance on market forces to determine how electricity will be supplied to the customers. One of the **undepreciated** features of this transition period was a reduction and then a 10-year freeze on residential electricity rates charged by the investor-owned utilities. Illinois Power residential customers enjoyed a 20 percent reduction due to their previous high rates. CILCO and CIPS residential customers received a 5 percent reduction due to their previous low rates. We certainly understand how our customers, your constituents, may have not felt the rate reduction and freezes of the last 10 to 25 years. Why? In large part, monthly bills remain constant or even increased due to customers using more electricity. Remember, rates and usage primarily determine the monthly bill's bottom line. Since our previous electric rates were substantially below the national average, we acknowledge that beginning January 1, 2007, there has been a significant increase in electric rates that we charge. Though today's rates are near the national average, they are much higher than what our customers have been accustomed to. That's why, as a responsible company, we've made every effort to be proactive and transparent in communicating these changes to our customers and stakeholders. We indicated last fall that on average, the residential electric annual bill would increase between 40 to 55 percent. We also indicated that, on average, the daily increase over a year would be one (\$1) to

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two dollars (\$2) a day. Those approximate projections were accurate and remain accurate based on normal weather for the overall average of the residential customer segment. Especially now, given the current situation, I understand how that that's hard to believe. As an example, the overall average annual electric usage for the residential customer is approximately ten thousand four hundred (10,400) kilowatt hours. At the previous... previous average rate of approximately seven point four (7.4) cents per kilowatt hour, the annual average bill would've been seven hundred and seventy dollars (\$770). Taking the same usage of ten thousand four hundred (10,400) kilowatt hours at today's approximate average rate of ten point six (10.6) cents per kilowatt hour, this would create an annual bill of one thousand one hundred and two dollars (\$1,102). The difference of these two bills would be three hundred and thirty-two dollars (\$332) or about a dollar (\$1) a day. Within the residential customer segment, there are numerous customer groupings that use varying amounts of electricity. Consequently, each customer group will be impacted differently. Overall, the average annual increases in electric rates for various customer groupings will be between 30 to 80 percent based on expected normal usage. Unfortunately, the weather we've recently experienced has been anything but normal. The cold weather during mid-January to mid-February has caused customers to use more electricity than a year ago or during December. One of

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those segments represents customers who use electric heat, the segment from which we're hearing the most. Just as gas heating bills go up in the winter due to increased usage of natural gas, so do electric bills for those who heat with electricity. For electric heat customers, their winter rates, depending upon which utility serves them, will increase between 90 to 150 percent. Their summer rates will increase between 5 to 30 percent. So, the overall annual rate increase for this customer class would be between 60 to 80 percent. As an example, in a recent article in the Southern Illinoisan, an electric space heat customer received their February 2007 bill that was 225 percent more than their February 2006 bill. After some review, we found out that if the customer had used the same amount of electricity as they did during the same time period in 2006 their bill would have gone up approximately 107 percent compared to the 225 percent. This example illustrates that usage during cold weather can have a significant impact on a customer's bill. Understandably, the **cust...** the current winter increase is terrifying to many customers. It's creating hardships on family budgets, business operations, and not-for-profit services. And understandably, we are being criticized for those very high bills. We have listened and we've carefully analyzed what we can do to assist our customers while maintaining our financial credit ratings from slipping into junk status. The following is our proposed plan to provide as much relief as we possibly

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can. There are eight components to our proposal; 1) we will fund a one-time bill credit for large residential users. The Ameren Illinois Utilities propose to fund approximately twenty million dollars (\$20,000,000) of one-time credits to active residential accounts that will appear on electric bills to be issued beginning in early March and continuing for the subsequent thirty (30) days until every residential billing cycle has received the credit. The credit will be applied to February billed usage in excess of one thousand two hundred and fifty (1,250) kilowatt hours. This will require the Illinois Commerce Commission's approval. Following are some of approximate customer credits under this plan. An electric customer who used two thousand (2,000) kilowatt hours would have received an electric bill of one hundred and ninety-five dollars (\$195). This customer would realize a forty dollar (\$40) credit on their March bill. An electric customer who used four thousand (4,000) kilowatt hours would have received an electric bill of about three hundred and sixty-five dollars (\$365). This customer would realize a one hundred and seventy dollar (\$170) credit on their March bill. An electric customer who used six thousand (6,000) kilowatt hours would have received an electric bill of about five hundred and forty dollars (\$540). This customer would realize a three hundred dollar (\$300) credit on their March bill. The 2) component, we will eliminate all interest charges with our Customer Elect Plan. The Ameren Illinois Utilities proposed to eliminate

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all interest charges in its ICC approved Customer Elect Plan. For those who choose to participate, it will limit their annual increase to approximately 14 percent per year for 3 years. Due to the various customer groupings, some customers may see a higher annual increase under the plan, while some a lower annual increase. What is not initially paid by the customers would be deferred for later payment over a 3-year period beginning in 2010. This proposal would require the Illinois Commerce Commission approval. 3) Expand the Budget Billing program. The Ameren Illinois Utilities will continue to promote its Budget Billing program. The Budget Billing program is available for customers to elect at any time. This program is proposed to be expanded to include nonresidential customers with 2006 annual electric bills totaling forty thousand dollars (\$40,000) or less. They may elect an enhanced Budget Billing payment option that will cap their annualized 2007 rate increase and provide level monthly payments for one year. After the 1-year period, any shortfall amount may be paid at that time or the customer's option: they may elect to pay it in monthly interest-free installment payments over the subsequent 12 months. 4) fifteen million dollar (\$15,000,000) investment in residential bill paying assistance and energy conservation programs. The Ameren Illinois Utilities will invest fifteen million dollars (\$15,000,000) to support residential bill paying assistant programs in energy conservation activities. The allocation

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of the funds was determined through a collective effort consisting of the Governor's Office, the Department of Commerce and Economic Opportunity, the Department of Healthcare and Family Services, the Attorney General's Office, the Citizens Utility Board, AARP, the Environmental Law and Policy Center, and the Illinois Commerce Commission. Three million dollars (\$3,000,000) will be allocated for bill paying assistance for those customers whose income falls between 150 percent and 200 percent of the federal poverty guidelines. Three million dollars (\$3,000,000) will be allocated for summer bill paying assistance primarily for senior citizens and disabled customers. Four million dollars (\$4,000,000) will be allocated for compact florescent bulb program. It will offer a rebate program for most customers and additional bulbs will be given to LIHEAP recipients and senior citizens. Three million dollars (\$3,000,000) will be allocated for residential audits and insulation for electric space heating customers. One million dollars (\$1,000,000) will be allocated for a pilot residential percentage income plan to address past due amounts. And the remaining one million dollars (\$1,000,000) million will be allocated to various programs addressing energy efficiency and energy education. 5) Provide additional relief for residential electric heat customers. The Ameren Illinois Utilities proposed to make a **revenueal...** revenue neutral filing with the Illinois Commerce Commission to redesign the rate charge methodology for determining the

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sou... supply price to be charged to residential customers who use large amounts of electricity during the winter months. This would directly benefit customers who rely on electric heating for their homes. Our goal will be to redesign a high usage price category to reflect an approximately 25 percent reduction from that category by the next heating season. 6) Promote residential real-time pricing option. The Ameren Illinois Utilities prop... proposed to promote through a proven third party the option for residential customers to pursue real-time pricing. Based on 2006 real-time pricings, customers would have likely achieved savings as compared to the fixed power prices currently in effect. Customers going on to this program must be willing to adjust their usage when prices are high to be able to realize savings. Seven, we will delay disconnecting residential customers for **nonpay** until April 1. Eight, we will encourage municipal aggregation. We will organize and host a round-table discussion on the potential for municipal aggregation in Illinois. By inviting all stakeholder groups to participate, it is our objective to find ways to help interested municipalities bring real choice to their citizens. Pending ICC approval, where needed, we are committed to implementing all eight of these components to help provide more assistance to our customers. As you know, a customer's bill is made up of two major components: the delivery charge and the electric supply cost. The delivery service charges represent about one-third of a customer's

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electric bill. The delivery rates are approved and regulated by the Illinois Commerce Commission. The delivery charges enables the utilities to invest into the infrastructure and to make a profit. The supply cost represent approximately two-thirds of a customer's electric bill. These supply costs are passed through to the customer without a markup. The utilities do not make a profit on the electric supply cost. No one likes to pay more for any product or service they consume or use. That's a reality. We clearly understand this. Another reality is that no employer can stay in business if it sells its product and/or service for a sustained period of time below its cost. As utilities, we must have enough cash and/or borrowing capacity to pays those who supply us electricity, natural gas, and other supplies, as well as invest in our energy infrastructure to provide reliable service. For the utilities to pay more for electricity than what they can collect from their customers can lead to financial crisis and possible insolvency. I think we all agree that this is not in anyone's best interest. There's been a lot of discussion about the way the Illinois electric utilities purchase electricity on behalf of its customers. Today the utilities own no power plants. Consequently, we must buy electricity from others. After many, many months of meetings with interested stakeholders, the ICC approved the reverse auction as the process to be followed by the utilities to purchase their needed supply of electricity.

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The auction occurred as ordered, and its results were approved by the ICC. The ICC staff and others are examining the auction process to assess whether improvements can be made for future auctions. Others are examining different approaches for future power procurement. The bottom line, it is our desire to have the supply cost as low as possible in order to minimize the bill-paying difficulties for the residential and nonresidential customers. I commit to you today that we stand ready to explore any constructive approaches to modify the reverse auction process and/or consider different approaches to buy electricity on behalf of our customers. I will close by saying that throughout the entire process, our Ameren utilities have simply complied with the existing laws and regulations. However, we have listened to our customers and to you about the real life impact of the new electric rates and have come forward to do all that we can to assist while still maintaining our financial credit rating. Today's comprehensive proposal reflects our commitment to do our part to assist our customers. In total, the proposal presented to you represents a thirty-five million dollar (\$35,000,000) pledge. This is in addition to the interest costs that the utility will incur in waiving the carrying costs associated with the Customer Elect Plan. I also commit we will not seek recovery of these expenses from our customers. And finally, I want to reiterate our commitment to delivering electricity and natural gas in a safe and reliable manner at

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reasonable cost while striving to meet customer expectations. Thank you for your time."

Chairman Scully: "Mr. **Cisel**, this is George Scully. I have a question for you. When did Ameren decide to make this proposal?"

Scott **Cisel**: "Chairman Scully, as you know, we had voluntarily filed the Customer Elect Plan back in November. And then when we started to realize the significant increase in customers' bills beginning in late January, we decided we need to do something. And consequently, we've been working on such a plan up until today which has now been introduced."

Chairman Scully: "Mr. **Cisel**, let me rephrase my question. You have just presented an eight-point plan. When did Ameren decide to do this?"

Scott **Cisel**: "We decided to present this plan today over the weekend, this past weekend."

Chairman Scully: "You made the decision to present... Over the weekend, you made the decision to present the plan. When did Ameren make the decision that this would be their plan?"

Scott **Cisel**: "We've been working on this plan approximately for the last thirty (30) days or so."

Chairman Scully: "When did Ameren decide that this was the eight-point plan?"

Scott **Cisel**: "Actually, the final decision that enabled us to put forth this plan came this morning when the financial credit ratings indicated to us that the proposal that we

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have presented today... tonight, the thirty-five million dollar (\$35,000,000) proposal, would not cause us to slip into junk bond status."

Chairman Scully: "Representative Jakobsson, did you have a question for Mr. **Cisel**?"

Jakobsson: "Thank you very much, Mr. Chairman. Mr. **Cisel**, thank you for presenting your plan, but I feel that I still need to share with you some of the concerns that I've had from my constituents. And I'll try to be brief. The first one is gonna be the lengthier one. This is from a constituent writing to draw to my attention changes made by **AmerenIP** in their Budget Billing program. Ameren sent out a letter a few months ago warning that they were changing their Budget Billing program. And the letter informed customers that the adjustment would be done each year. The Web site describes the rule change, as, 'On your anniversary date, at the end of 12 months, we will calculate the difference between the cost of the energy you actually used during the year and the amount you paid on Budget Billing. If the budget balance is behind, you will be billed for the remaining balance. If the account is ahead, a credit will remain in your account. I opened my power bill this month to discover I owe **AmerenIP** four hundred and eighty-five dollars (\$485). I own a typical tri-level near...' told me which school in Urbana... '...and have a programmable thermostat. We're average customers. How can a power bill the size of a car payment happen? I contacted the customer service department and

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after a half-hour long wait, their customer service representative explained to me that this was not a mistake by the way the company has decided to handle... by the way the company has handled... decided the billing. On top of the annual adjustment made to their account, Budget Billing customers are also required to pay for the actual energy use for their renewal month, just as if they were not enrolled in the Budget Billing program at all. I asked her what would happen... what would prevent a thinking person from dropping out of the program and rejoining during a milder month so that at least their actual use would be small enough to mitigate the pain of having the adjustment added to it. And I was told that their rule was once that customers left the Budget Billing program, they would not be allowed to join again for 12 months. She explained to me that this was because most people just wanted to be on the program during the winter months. I've made arrangements to pay my bill, but I'm still angry.' This person goes on to say, 'Can anything be done to force Ameren to stop requiring their customers enrolled in Budget Billing to pay for actual use during the adjustment month, and instead apply any adjustment to the Budget Billing payment?' So, I want to thank you for listening to that. One lady that called in..."

Chairman Scully: "Representative, do have a question for the witness?"

Jakobsson: "I would like to share these and then see how they fit in with the new plan. A seventy-four-year-old widow,

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all-electric house, her bill went up from four hundred to eight hundred and fifty-five dollars (\$400-\$855) this month. Just had a call from another constituent. 'Ameren's new billing is changing... is charging a delivery charge, a customer service charge, a charge to rent the meter, some type of instrument charge, all adding up to over fifty dollars (\$50) worth a month.' And he is concerned that they don't have anything to do with the kilowatt hours, but they're showing up on his bill. Others have talked about their electric bills doubling and eight hundred and fifty-five dollars (\$855) this month to a widow whose house... whose monthly bill had lost about four hundred dollars (\$400). And then one final one is a... a person wanted to know, he's heard the media that some large businesses and communities are able to buy their electricity from other sources. One such executive said they would only experience a 3 percent increase. This is what I want. So these are the kinds of questions that my constituents have. Thank you."

Chairman Scully: "Thank you. Representative Eddy, do you have a question for the witness?"

Eddy: "Actually, I have three or four, if that's okay."

Chairman Scully: "Please proceed."

Eddy: "Thank you. What percentages... I'm gonna use terminology that's simpler, but **wh**... what percentage of your comp... customers are all-electric?"

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Scott **Cisel**: "The all-electric residential customers... About 10 percent of our customers are all-electric in the terms of heating with electric."

Eddy: "Total? About 10 percent of your total customer base has..."

Scott **Cisel**: "Yes, so it's about a hundred... a hundred thousand (100,000) customers."

Eddy: "...this 'electric heat' issue?"

Scott **Cisel**: "Yes."

Eddy: "Is that saying interchangeable, all-electric, electric heat?"

Scott **Cisel**: "Yes, Sir."

Eddy: "When was the decision made to eliminate the discount for the... I'll call 'em... all-electric accounts?"

Scott **Cisel**: "The discount that was available to electric space heat customers were embedded in the old bundled rates which ended at the end of December. And when we had filed for the new rates, the design characteristics that we filed has a two-step process, one use the first 800 kilowatt hours, then a lower price for the next 800."

Eddy: "So the answer to my questions, please."

Scott **Cisel**: "Yes."

Eddy: "When was the decision made? Was it made as part of the rate proposal that went to the Commerce Commission?"

Scott **Cisel**: "It was in our filing, yes."

Eddy: "So you knew this was gonna happen?"

Scott **Cisel**: "We knew we..."

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Eddy: "Okay."

Scott **Cisel**: "...redesigned the rate. Yes, Sir."

Eddy: "And you understood that with the combination of the redesigned rate and the increase, that... that... that certainly, some of the claims that there was gonna be 40 percent increases absolutely were false when you combined them with the loss of that discount. Surely someone at Ameren was able to pull out a slide rule, a calculator, or an abacus, or something and figure out that we're not working at the same percentage. You knew ahead of time. However, what was... what was presented to customers in full page ads in my district didn't allude to the fact that all-electric customers would be having any additional. They... they had no idea whatsoever. We didn't have any idea. The people you sent here to talk to me about how I would vote on legislation that affected my constituents did not relay that information to me. Do you feel the least bit responsible for the fact that you weren't forthcoming with that information, that your company, and I'm gonna use strong language, deceived the General Assembly. I feel deceived as a Member. And I think my... the people I represent feel deceived by your advertising."

Scott **Cisel**: "First of all, we did not deceive or mislead anyone. When you look at the total residential class, the average of 40 to 55 percent is accurate. What we should've done better was to have communicated, perhaps, all of the

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various different customer groups and articulated for each one of them what they expected the increase could've been."

Eddy: "What was the reasoning behind..."

Chairman Scully: "Excuse me, Mr. Eddy. May I interrupt?"

Eddy: "Certainly."

Chairman Scully: "Mr. **Cisel**, you said, 'we did not deceive anyone.' Could you help me understand, who is 'we'?"

Scott **Cisel**: "The Ameren Illinois Utilities. When we provided information to our customers, the Ameren Illinois Utilities indicated that the overall increase for the residential customer segment would be between 40 to 55 percent. So, in that sense, Chairman Scully, I should've said the Ameren Illinois Utilities instead of 'we'. But the Ameren Illinois Utilities was the group that provided that information to our customers. And so when I said we, the Ameren Illinois Utilities, did not mislead the customers. The entire customer segment class would see that 40 to 55 percent increase."

Chairman Scully: "Mr. Eddy specifically asked about whether there was deception of... of him as a State Legislator. And I believe Mr. Eddy was... was spoken... got information from lobbyists for Ameren as opposed to... from advertising. Are you also speaking for the lobbyists when you were say... when you used the term we?"

Scott **Cisel**: "Yes, Chairman."

Chairman Scully: "Thank you, Mr. Eddy. Please proceed."

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Eddy: "Okay. Thank you. Why was the decision made to end that agreement with those folks that, quite honestly, you marketed pretty hard to take advantage of this discount by going all-electric? I've got... You know what, I've got e-mails from constituents of mine that as... as late as last fall who put in water heaters for their home. Their Ameren reps told them about this discount and that late into this process, we're talking people into taking that discount. Why would you, in the fall, encourage people to take this discount knowing that in... in the process that you had, and your rates that you had before the I... the Commerce Commission that thing was gonna be swept out from under 'em?"

Scott **Cisel**: "Sir, I can't speak to a specific situation. Depending upon when that happened and what is available for the customer in regards to whether there are other fuels for that water heater application."

Eddy: "Okay. Let... let me change it then. I... I... I understand what you're... where you're goin'. Were those folks given any idea of when this all-electric discount agreement would end? Whether they'd have warning? Was there any... any... anything at all... any thought given to the fact that those people deserve... those 10 percent, as you call it, of your customers, that they deserved anything more than what happened to them?"

Scott **Cisel**: "The Ameren Illinois Utilities, in this situation as I mentioned, we could've divided into the various

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customer groupings and been much more specific with it. The situation at the time, until the auction occurred, no one knew what the price was going to be. And certainly the winter weather has exacerbated this. Again, I would respond that the Ameren Illinois Utilities, after seeing what's happened with the rates and the winter situation, we could have been more proactive, more forthcoming with all the various customer groups."

Eddy: "Thank you for that. An admission that possibly there could have been some... that... that's a good start. I... I just... And I'm not gonna go into bill specifics because I'll tell ya that... I... I did receive at my home this three or four page explanation about how to read my bill. But I... I'm just gonna tell you the simplicity of this particular bill I have. This is a... the bill from a single mother who goes to community college who... who had a bill go from a hundred and twenty-one dollars (\$121) to six hundred and eighteen dollars (\$618). It's one of that 10 percent, those all-electric people. You can't just call em a percentage. These are people. This is a person. This is not a percentage. This is not a statistic. This is someone who was going to quit school the day she opened this because she had no forewarning whatsoever from... from Ameren that this was coming. And... and as Representative Scully points out, where was the plan for those folks ahead of time? Today you have some plans. What do you... what... what do you want me to

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tell this lady? Because I told her I'd ask you about this. What do you want me to tell her?"

Scott **Cisel**: "First of all, I... I agree. I only spoke at the percent just to give you a sense of how many customers there are. And I get the letters and calls as well. Without knowing any more details about that particular customer, I would encourage her to contact the office and to see if there is some sort of bill paying assistance that she would be eligible for that we could apply."

Eddy: "Well, I'm gonna tell you this, and I will promise you this, she's not paying this bill. She will not pay this bill because she shouldn't have to. Neither should any of the people that were, in my words, and I'm gonna say it again, deceived in this manner. One other quick thing before I sit down. I... I was told emphatically by Ameren representatives when we talked about the phase-in that you had to have interest that you could not possibly survive unless you charged interest. In fact, the words that were said to me specifically were, 'we will go bankrupt.' Now, today... today, magically, as of this morning, you're not gonna go bankrupt. I... I don't know what to believe. If... if you could do it today, why couldn't you do it back when we were having serious talks about phase-in? All of the Bills that were introduced to try and mitigate this to a position where some of your concerns were... were... were going to be realistically addressed, all of those ended with your comment that, 'that will cause us to go bankrupt.' What's

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the difference between when I was talked to during the Fall Veto Session and this morning?"

Scott **Cisel**: "The difference in time, I would say, would be the following to your question. Last fall, we did take the position that if it was gonna be a mandatory phase-in plan for all customers and there would be no interest charged and no protection from credit ratings, that could lead our Ameren Illinois Utilities to insolvency. Situation where we are today, based upon the situation that we face, we have determined to do all that we can and exhaust our financial abilities up to the point where what was presented this evening is all that we can do to help our customers."

Eddy: "Final... final question. Number four in your list of items that you read off of your new... You cite in here the allocation of funds was arrived at through a **colec**... this is the one for fifteen million dollars (\$15,000,000) in investment and residential bill paying assistance... the allocation of funds was arrived at through a collaborative effort consisting of the Governor's Office, the Department of Commerce, and et cetera, et cetera. Is this to suggest that these organizations are endorsing your plan?"

Scott **Cisel**: "I would not speak for them. We asked them to participate. They gave us their thoughts on how best to use the money. They had a consensus for those participating, there was two groups, that allocating the funds in the manner in which I described this evening would be the best way to use those funds."

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Eddy: "Okay. Thank you. And... and... and I'm gonna apologize for my tone, but I'm gonna tell ya something, I don't know when to believe you folks. And that's a very dangerous thing. I have absolutely no idea if this is your final, final, final or if that... All I do know is these folks are not gonna pay these bills. Not gonna happen. Because the people who represent these folks aren't gonna let it happen. And you better come up with something better, because this isn't good enough."

Chairman Scully: "Representative Rose, did you have a question for the witness?"

Rose: "A couple, if I may. Mr. **Cisel**, I'd like to explore the idea that... of the all-electric customer discount, if that's possible. What methodology was used to inform them that that program was being discontinued? Was there a mailer before January that went out?"

Scott **Cisel**: "To my knowledge, there were no direct mailers to any of our customer groupings concerning any changes concerning any of the special rates or tariffs that were previously in place."

Rose: "Were there any phone calls to that subgroup?"

Scott **Cisel**: "To my knowledge, there was no planned event to call the contacts of that particular group."

Rose: "I want **to revisit**... You just... I think you said a minute ago that this is about 10 percent of your market territory is all-electric, is that... is that what you said?"

Scott **Cisel**: "Yes."

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Rose: "Okay. In last night's News-Gazette, your officials said I think it was 5 percent. Is it five or ten?"

Scott **Cisel**: "My understanding that approximately 10 percent of our residential customers use electric for space heating purposes."

Rose: "And about how many people is that, Sir?"

Scott **Cisel**: "That represents about a hundred thousand (100,000) of our customers."

Rose: "Is it possible that it's at a hundred and fourteen thousand (114,000) that was in last night's paper?"

Scott **Cisel**: "Pardon me?"

Rose: "Is it possible that it's a hundred and fourteen thousand (114,000) that was in last night's paper?"

Scott **Cisel**: "That might be the exact number."

Rose: "When was the decision made not to inform these customers of the rate filing or the rate change prior to January 2 when it went into effect?"

Scott **Cisel**: "I don't know of any decision made by the Ameren Illinois Utilities not to inform any of our customers. We went ahead and made the filing as we did with the Illinois Commerce Commission and proceeded accordingly."

Rose: "Was there any discussion about talking to the all-electric customers because, clearly, you guys must've known that in your own internal projections show... would've shown what was gonna happen to the all-electric customers."

Scott **Cisel**: "The conversation that I recall that I was part of was a discussion, in general, about moving away from the

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situation in which residential rates were subsidized by the nonresidential customers. I don't recall any specific discussion where we got into describing electric space heat customers, time of use customers, residential farm customers, or anything of that level of detail."

Rose: "Would others underneath you on your staff have had those conversations?"

Scott **Cisel**: "They... they may or may not have. I don't know."

Rose: "So what you're saying is, despite the rate filling which showed that this is gonna increase, there was no foresight or thought put in to notifying those customers that their... that they're gonna get hit disproportionately to everyone else?"

Scott **Cisel**: "Again, to my level of participation, there was no discussion about doing any direct mailing to any of the individual customer groupings."

Rose: "You do agree, though, that that's a pretty material point. I mean, I'm just gonna give you some examples. I've got an individual in Champaign who went from two twenty-six (226) to seven ninety-eight (798), **Tol**... Tolono, one twenty-two (122) to six fifty-three (653), another, two twenty (220) to six seventy (670). I had thirty-seven (37) calls just yesterday from all-electric and they're all seeing their rates double, triple, much more than the dollar (\$1) or two dollars (\$2) a day, that's for sure. You do agree that's a material issue?"

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Scott **Cisel**: "What I would say again, with electric space heating customers, the rate itself, depending upon which utility increased again from about 80 percent to about 150 percent, the rate itself. I also would acknowledge the bills that I review, there is significant increased usage during this particular time. Combined together, has had a significant impact on the total amount due by each individual residential customer. So, I would acknowledge because of that impact, that's the reason why we are advancing two particular programs to help electric space heating customers. One was to provide a credit based on the February usage on the March bill and secondly, a commitment to file with the Commission to redesign the second block, which is a higher usage block, to recognize a higher energy users and to reduce that rate."

Rose: "And that's as of today. This morning."

Scott **Cisel**: "What I have shared is what we've proposed to do to assist those particular customers."

Rose: "Mr. **Cisel**, tell me about the... the increase itself. When I was told last fall by officials from your company and we were talking about a dollar (\$1) a day increase, tell me about the justification for that. What... what made... what is it that you think makes that necessary?"

Scott **Cisel**: "The information concerning the approximate dollar (\$1) per day increase was based upon taking all the kilowatt hours used by the residential customer segment, and then..."

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Rose: "I'm saying... The... the... That's not the question. The question is what are the underlying market factors that are driving your... your belief are driving an increase if it is... if it is necessary?"

Scott **Cisel**: "The market factors?"

Rose: "Yeah."

Scott **Cisel**: "The market factors are that we own no power plants, and we had to go out and secure the power."

Rose: "You own no power plants, but what about your parent company?"

Scott **Cisel**: "The Ameren Illinois Utilities own no power plants."

Rose: "The question was what about..."

Scott **Cisel**: "I know... I was gonna respond, if you will, please."

Rose: "Okay."

Scott **Cisel**: "The Ameren, the parent company, two factions of it, one, the Missouri Ameren Union Electric is a regulated company that owns power plants. And then Ameren Energy Generating is a **nonregulated** subsidiary of Ameren that owns power plants."

Rose: "And I believe previously you'd said that fuel costs are increasing which is one of the reasons why this rate increase would be necessary, is that accurate?"

Scott **Cisel**: "I... I did not say anything about fuel cost increasing."

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Rose: "Let's talk a little bit about... Would there've been anybody in your company that would've cited that as a justification for this?"

Scott **Cisel**: "Well, again, the power that was purchased by the Ameren Illinois Utilities was done through the auction plan. The price that's set by those people participating had to be reflective of the cost to produce the power. The reasons for justifying, whatever cost was primarily determined by the market, and that is the power that we purchased, which was approved by the Illinois Commerce Commission."

Rose: "Is one of the participants in that rate auction your... your parent company?"

Scott **Cisel**: "One of the..."

Rose: "The supplier."

Scott **Cisel**: "One of the participating suppliers was the Ameren Energy Generating Company, which is the power plant company that is **nonregulated**."

Rose: "Are you, yourself, or any of your executives at Ameren Illinois eligible for stock options at the parent company?"

Scott **Cisel**: "The stock options concerning certain performance levels would be a subject of opportunity for myself."

Rose: "Only you?"

Scott **Cisel**: "Only me."

Rose: "On the issue of item number one on which you've brought forth today, here, regarding the one-time credit, help me understand how that would work. Would it be the March bill that applies to February weather? Or would it be the

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February bill that applies to January weather? And where I'm going with this is obvious, as you said yourself, usage and rate. Well, if you get into March and it warms up a little bit, that's gonna go down."

Scott **Cisel**: "The March credit would be determined primarily by the February usage. February usage that exceeds the plateau or the threshold would then receive a credit. I don't have all the details about the program except I tried to present to you and to your colleagues the potential amount of credit they could experience based upon a February usage level and a February electric bill."

Rose: "Is the... You've got a dollar amount here, the total amount of credits to all customers. But how would that break down for the individual bill? It says here you are gonna do twenty million dollars (\$20,000,000) to a one-time credit. How... is that based upon usage or how's that... what's that based upon?"

Scott **Cisel**: "The twenty million dollars (\$20,000,000) would be applied as a credit based upon the February usage on a customer's bill."

Rose: "So what does that mean for an all-electric household?"

Scott **Cisel**: "It will... The amount of credit will be, again, determined on the individual customer's usage. And so the customers, depending upon their usage, would have a factor applied to that usage level over the threshold. And that total amount determined by their usage and the credit factor

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would then become the total dollar amount that appears on the customer's March bill."

Rose: "Do you have any ballpark of what that would be?"

Scott **Cisel**: "I... I provided three examples in my comments this evening of trying to provide, if you would, a sense of the magnitude of credit that would be applied to a customer's March bill."

Rose: "So this is the forty (40) to one seventy (170) out of three hundred (300) you were talking about?"

Scott **Cisel**: "That is correct."

Rose: "On the issue of the interest charge for the Elect Plan, what would the time line be for someone to elect the Elect Plan?"

Scott **Cisel**: "If a customer chooses to participate in the Customer Elect Plan prior to April the 10th, that customer would receive credit back as though he or she joined the program in January. If a customer decides to participate in a plan after April 10, then the credits would only be applied from that day going forward with a sunset month of, as I recall, of being August of this particular year."

Rose: "What plan do have in place after April 1 with respect to the disconnect issue?"

Scott **Cisel**: "After April 1? At this particular time, the plan would be to follow the Illinois Commerce Commission guidelines and rules determining when and how we'd be able to disconnect customers for **nonpay**."

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Rose: "And I can just tell ya that, ya know, of the calls that I just got yesterday, even if all this stuff goes into effect, you may get to April 1 and you still have people in trouble. That's assuming all this goes into effect."

Scott **Cisel**: "As with any customer, we're... certainly are willing and committed to work with the customer on a payment plan, whether it is to spread out the payments over a period of time or..."

Rose: "And how much interest is charged on the payment plan?"

Scott **Cisel**: "Depending upon which plan they would join. If they would become part of the Budget Billing program that I described, there would be no interest charge. If they would participate in the Customer Elect Plan, there would be no interest charge on the deferred dollar amount."

Rose: "What was the last one?"

Scott **Cisel**: "If... if they participate in the Customer Elect Plan..."

Rose: "Okay. But that is a... a deferring that if they don't, they could have to pay. Okay. I got ya. Let me ask you something. I've looked at your... examined Ameren's most recent filing, annual report. There's eight hundred and thirty million dollars (\$830,000,000) in goodwill on the books at Ameren corporate. Do you know what state that that goodwill's being managed in?"

Scott **Cisel**: "No, I do not."

Rose: "Would you get that for us?"

Scott **Cisel**: "I certainly would be happy to respond."

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Rose: "I'm gonna close because I know other people have questions. But I want to highlight, I'm not gonna jump up and down and pound my chest, but I... I find it disingenuous that last fall we're told this was a dollar (\$1) a day increase, advertising, radio, newspaper, I don't know if you... I don't know if there was TV or not, but I saw at least radio and I heard... I heard radio... I saw the newspaper and heard the radio. I find it disingenuous that a dollar (\$1) a day increase is now ballooned into something else, and you tell us that no forethought was gone into preparing or notifying the all-electric customers of what was about to happen. In fact, I talked to a gentleman from my district, Mahomet. I said when did you find out about it? I got my... I got my bill and included in my bill was the high rate and... and a notice telling me, oh, by the way, you've been disconnected from this program. I found it particularly disingenuous that in last night's paper, your company spokesman basically downplays the fact that this program ever existed, makes it sounds like it was shut off in the 1980's when I have had numerous people, and every one of my constituents I've talked to about this, I asked them two questions. I said how'd you find out about it? Ameren told me about it. And I said, when did you find out it was being disconnected? When we got our bill. People have built homes. There's a businessman in this room that's gonna testify later about putting all-electric units in the senior citizen housing based upon the plan. Okay? People have

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been told by Ameren customers of the plan. And then the plan gets pulled out from underneath 'em. That, frankly, is unconscionable. And I don't know how else to put it, but it's unconscionable. Now, all that aside, I know other people have questions. I'm gonna read these materials you've presented, and I'll get back with you."

Scott **Cisel**: "Thank you."

Chairman Scully: "Thank you, Mr. **Cisel**. This is George Scully. I have a couple questions. Representative Rose asked a question about the goodwill that is listed as an asset of the Ameren Corporation on the December 31, 2006, statement of assets filed with the SEC earlier this month. There was eight hundred and thirty million dollars (\$830,000,000) of goodwill held as an asset of Ameren Corporation. Do you know which subsidiary has that goodwill?"

Scott **Cisel**: "No, I do not."

Chairman Scully: "Do you know if it's one of the Illinois subsidiaries?"

Scott **Cisel**: "No, I do not."

Chairman Scully: "Thank you, Mr. **Cisel**. Mr. Rose also asked a question about compensation plans and specifically asked about stock option plans. I believe you testified that you are a participant in a stock option plan that no other employees of the Illinois subsidiaries are participants. Is that true?"

Scott **Cisel**: "Yes, Sir."

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Chairman Scully: "Could you describe for me, briefly, the structure of the stock option plan in which you're a participant."

Scott **Cisel**: "To be frank, I just became eligible for that. And be to able to describe the kind of details, I... I'd want to get back and do the right sort of response to your question. It's based on a... a long-term projection of performance. It's compared to the performance in terms of the stock compared to other electric or similar situated utilities. And basically, that is as best as I can, this evening, in describing such the plan."

Chairman Scully: "Mr. **Cisel**, does the stock option plan give you the ability to purchase Ameren stock? I'm talking about stock of the holding company, at a price less than the market value."

Scott **Cisel**: "No, it does not."

Chairman Scully: "Really? The stock option plan require... would give you the ability to purchase stock at market value?"

Scott **Cisel**: "As I recall, the incentive program is a program based upon overall performance. The price of the stock is put into a category or an accounting entry, perhaps, and based upon the appraised value of the stock over a period of time, and then that stock would be awarded based on financial performance. It's not a plan, as I understand it, that stock's provided to me at a discount price that I'd be able to go in to purchase."

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Chairman Scully: "Is a plan.. Is it a plan whereby.. is it a plan whereby you are given the stock of Ameren Corporation?"

Scott **Cisel**: "I'm not given the stock. It's all based upon the financial performance of the company. It's not given in my name, if that's what you are asking."

Chairman Scully: "Mr. **Cisel**, I'm aware of two general types of stock option plans. One is where you are given the right to purchase stock at a specific price which is below the future market value. Another stock option plan is whereby these executive officers are given shares of stock. Do you know if this plan is either of those two plans?"

Scott **Cisel**: "Chairman Scully, I would need to check into it. I don't believe that's the case."

Chairman Scully: "Thank you. Mr. **Cisel**, you earlier s... Let's get back to the issue of the eight-point proposal that you have made tonight. You said that the decision to present this... the decision to go forward with this plan was made based upon a determination that it wouldn't push your credit rating into junk bond status. Is that correct?"

Scott **Cisel**: "Yes, it would not push the Ameren Illinois Utilities credit into junk bond status."

Chairman Scully: "And when was that determination made?"

Scott **Cisel**: "That information came back from the credit rating agency this morning."

Chairman Scully: "And that was information from your credit rating agency?"

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Scott **Cisel**: "They responded to the scenario that I described this evening and to determine whether or not the cost associated with the eight-point program would be able to justify the continuation of our investment credit rating."

Chairman Scully: "Does that have any impact on the renewal of your credit agreements with your lenders?"

Scott **Cisel**: "Yes, certainly being able to maintain investment credit rating is important because that would drive the potential interest rate we would pay to borrow money from a financial institution."

Chairman Scully: "Were those credit agreements recently renewed?"

Scott **Cisel**: "We certainly renew credit lines of extension and we also enter into new credit facilities. That is the Ameren Illinois Utilities."

Chairman Scully: "Yes, did... did those utilities recently renew and enter into new credit agreements?"

Scott **Cisel**: "Yes, the Ameren Illinois Utilities did."

Chairman Scully: "How recently did that happen?"

Scott **Cisel**: "Chairman Scully, I believe the extension of the existing credit facility happened toward or happened during the last quarter... calendar quarter of last year."

Chairman Scully: "The last quarter of last year? Okay. Thank you very much. Mr. McCarthy, did you have a question for the witness?"

McCarthy: "Thank... thank you, Mr. Chairman. The... the first question, and it just has to do with your rates. I did get

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some information from some of the people that work for your company. And the one I questioned was AmerenCIPS. **AmerenIP**, the bundled rate was supposed to go from seven sixty-one (761) to ten seventy (1070). That sounded like it was in the ballpark. **AmerenCILCO** went from six ninety (690) to ten seventy-five (1075). And according to the information that I got from your company, AmerenCIPS was gonna go from seven twenty-five (725) to about 10.06 cents per kilowatt hour. Why is the CIPS less than the other two or is that a misprint?"

Scott **Cisel**: "The variation between the Illinois Utilities primarily rests with the delivery service tariff charge. And there is a different tariff charge for each of the three Ameren Illinois Utilities."

McCarthy: "Okay. So you feel confident that the information I got was correct?"

Scott **Cisel**: "Yes, Sir."

McCarthy: "So if I look... When I look at some people's bills, 'cause there's been people giving testimony, and I've asked them for a copy of their bill. So I try to look 'em over. So, when I'm in the CIPS' territory, I should expect it to be a little bit less total per kilowatt hour?"

Scott **Cisel**: "Each of the Ameren Illinois Utilities have a distinguishable average rate for the winter, as well as one for the summer, which comes up with the overall average. So, depending upon if you want to compare a winter bill to a

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winter bill, you should be within certainly the ballpark of the expected winter bill increase."

McCarthy: "Okay. The eight-point plan that Chairman Scully was asking you about, did you... do you have that in writing for the Members of the House, here?"

Scott **Cisel**: "Certainly could provide my remarks as... as well as provide, if you would, more of the program description behind my remarks."

McCarthy: "Okay. And the point number one about the large residential credit, I was trying to, ya know, scribble everything down. As the night goes on, it gets harder to read my own writing. But I think you said that it would only be eligible for people who had more than twelve hundred and fifty (1250) kilowatt hours per month."

Scott **Cisel**: "The eligible customers for the March credit would be a customer that used twelve hundred and fifty (1250) kilowatt hours or more or for the billing month of February."

McCarthy: "Okay. And then earlier in your remarks you said that your average customer uses a thousand (1000) kilowatt hours a month. Is that correct? I think you said that."

Scott **Cisel**: "Yes, that is correct."

McCarthy: "Okay. So your **av**... so your average customer will get nothing out of that credit."

Scott **Cisel**: "Depending upon their usage profile."

McCarthy: "Okay. But their average..."

Scott **Cisel**: "Yeah..."

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McCarthy: "You said average of a thousand (1,000). You have to be over twelve fifty (1250) to get it, so the average customer, theoretically, won't get anything out of that."

Scot **Cisel**: "A customer that uses..."

McCarthy: "Okay. And the other point you made, and I'll be looking forward to seeing the actual thing so I can study it a little closer, but I think on number five when you're talking about space heating, it seems to be a big concern of many of the... I don't serve the Ameren area, but many of these people are here. The... I have really two questions about that. One, you said 'revenue neutral'. That was the only point you used that term on. Now revenue neutral to me means that somebody's going to get a little bit less, but that means somebody else has to get a little bit more. Who... who do you plan on... I mean, you agree it's going to be revenue neutral; that's going to be your proposal to the ICC?"

Scott **Cisel**: "That is correct."

McCarthy: "So, since you've already... already made that plan, that it's revenue neutral, what do you plan to address in the tariff? Are you goin' after other residences? Are you going after business customers? Are you goin'... I mean, who... who do you plan to go after in order to make up the revenue that you are promising to these all-electric customers?"

Scott **Cisel**: "As I understand generally, the ratemaking process, what we don't collect from the large electric residential

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users, that undercharge would be collect from other customers within the broadest customer category. And for residential, that would include other residential businesses and et cetera, it's a very large customer segment of customers within that file."

McCarthy: "So it would be smaller because it's over a larger base."

Scott **Cisel**: "That is correct."

McCarthy: "But these could be the same people that are those average customers and depending... if they don't take advantage of any of these extra points, two, three, four, six, seven, or eight, there could be customers that this **plan'll** cost them more."

Scott **Cisel**: "Theoretically, yes."

McCarthy: "Theoretically, yes. Okay. Well, thank you for admitting that. So the... the other thing that was my main question for you for the last couple days, 'cause it... it really bothers me, is that your company, and I'm sure all big companies, you monitor what's goin on at the ICC. And ComEd has a lot less of these all-electric people that you have. And when you saw ComEd presenting a tariff in order to reduce the effect of the bill on the all-electric people that they serve, it just boggles my mind that someone at Ameren didn't say we got a lot more of these people. We should do something for them too. I mean, was there active discussions or... or how do you justify... I mean you had to see it happen. It wasn't like no one thought of it. They

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thought of it. I have to assume that you have people who monitors what happens there. How do you justify not doing anything until today for those people who really got the worst of the hits?"

Scott Cisel: "Representative, I was not in those meetings. But my understanding in having these similar discussions as you describe with the Illinois Commerce Commission staff and other parties, the guidance that we received was that the actual cost should be applied to the user which then shaped the decision not to continue on with..."

McCarthy: "Okay. But whether you were in the meetings or not, you had... the company had to know that the ComEd was doing this for their people. I mean, the average ComEd person was gonna get like 24 percent and they said well, these people are gonna get more, but they'll... they'll keep it under twenty-eight (28) or thirty (30). I have to look at... I have two different notes and both in my handwriting and one says twenty-eight (28) and one says thirty (30). But I... I really think, because of the fact that that's hit these people so much, I mean, it... it does seem, you know, somewhat disingenuous that they didn't, at that time, say that we should do something for our all-electric people too. So, thank you for your answers."

Scott Cisel: "My pleasure."

Cairman Scully: "Representative Bost, did you have a question for the witness?"

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Bost: "Yes. Thank you, Mr. Chairman. Going back to a few items that were asked, Mr. **Cislic**... **Cisel**. You know, explain to me... you know, it was my understanding is that it was years ago that your company or the former company decided to have this all-electric rate that was a special rate. And what was the reason that that was an advantage to your company to have the all-electric rate? What were you trying to encourage?"

Scott **Cisel**: "Generally speaking, the electric utilities built their power plants primarily to handle the summer electric peak load, primarily driven by air-conditioning. During the winter months, it had a much lower load or demand on your system. So, to encourage more utilization of the power plants, incentives were provided by the electric utilities to encourage customers, electric heat customers in particular, to install that type of equipment. And the inducement to do such was a reduced rate in particular during the winter months."

Bost: "So... so you were encouraging their use of more power to... to balance out your system."

Scott **Cisel**: "That's a fair..."

Bost: "That is a fair... Okay. And that's been going on... started at what time back... 20 years ago?"

Scott **Cisel**: "Oh, certainly 20 years ago or longer."

Bost: "Okay. And awhile ago you gave testimony when asked that this rate was decided not to be included when you applied

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for your new tariff under the... under the situation where we're no longer under the cap, is that correct?"

Scott **Cisel**: "We decided not to provide a subsidy to the electric space heating customers when we made our filing with the Illinois Commerce Commission."

Bost: "How long... how long ago... I mean, you... you filed that in what month?"

Scott **Cisel**: "That would've been filed back in January of 2006."

Bost: "Okay. It would've been filed at that time not to have that? Okay. You also said that you... Well, first off let's go on before **thi**... or after that. But yet, you continued to advertise that there would be a discount for building and/or converting to all-electric. Am I correct, after that January date?"

Scott **Cisel**: "I'm personally not aware of any advertising or promoting of electric space heating after January 2006."

Bost: "Okay. I am or I... I'm pretty sure I am. If not by radio, TV ads, by representatives of your company and encouraging people to do that. I mean, that is a large incentive for many homes that are, I think, still probably being built was that... that this discount was going to be received. Awhile ago you said that in... in one of the testimonies here that... that when... when you were telling everyone that we were looking at a dollar (\$1) a day or... or whatever the ideas were out there that... that you were trying to... 'cause you were obviously selling... you chose... you said that we... we really didn't consider the fact that... that these people

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would be affected to that level or how did you phrase that?
Help me with that."

Scott **Cisel**: "When we described to the public, our customers, about the general overall increase for the residential customer segment, what we did is to take all the kilowatt hours used by the residential customers, looked at the average rate prior to January of 2007, took that same usage and projected what the new rate would be to give a sense of what the impact would be at the same usage for the entire residential customer segment."

Bost: "But... but you knew... you knew that you had these customers that were out here on this special rate. You knew that. But yet, that wasn't explained in detail to the point that... that everyone could... could explain exactly what their rates were going to do. Am I correct in that?"

Scott **Cisel**: "It was not explicit to our customers."

Bost: "All right. Then let me tell ya where I see my problem here and... and see if you see it. You knew when you calculated these rates and you presented the rates to the Commerce Commission that your revenues were going to be enhanced by the fact that those tariffs were going to go away and those special rate customers were now all of a sudden gonna be paying the full rate. And you knew that when you calculated that and... and put that before the Commerce Commission. But you didn't do that when we were trying to come up with some wise decision on how we were gonna handle and deal with this particular situation.

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Specifically... specifically, when you were giving information to our constituents and when you were giving information to us, the Legislators that had to make those decisions. Do you not see a problem here?"

Scott **Cisel**: "Sir, when we looked at the commodity side, we didn't make any additional profit in that decision. The decision would've been because the commodity cost, our costs that pass-through the company, we make our profit to bill back into the system based upon the delivery service component only. So when that decision was made, that instead of continuing the subsidization for the large energy users, then the impact of the profit opportunity for the company was not enhanced because of that decision."

Bost: "But you had to know the peoples' rates were going to change dramatically in comparison to the others."

Scott **Cisel**: "That understanding certainly was there. As I understand, again I wasn't there, but the discussions with the stakeholders and the Commission, the decision was made not to continue with that electric space heating subsidy, if you will."

Bost: "Okay. Let me simply state very quickly my feelings towards this. I believe that the Members of this Legislature worked very closely with you and... and your colleagues. And... and first off, let me tell ya that I don't necessarily blame those people who had come to our office because I think they were **deliv**... delivering the information that they were told to deliver. But let me tell ya what the

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problem I do have. I feel like since you come here today with a brand new plan to tell us how now you're willing to offer such a great deal to try to straighten the problem out and to make things a little bit better. It reminds me of my five-year-old grandson the other day when I heard a noise in the kitchen and I walked in. And he had walked across the top of the counter and he'd stuck his hand down in the cookie jar and I caught him. Now, Roger, Representative Eddy, apologized for being upset. I'm not gonna apologize for being upset. I'm upset because I'm taking calls from 35 to 40 to 50 people a day, not counting my e-mails and letters, because they believe I lied to them. I passed on information I thought was true and correct. And the credibility of a company I respect... **ed**, respected, has been shot, not only with the Members of this Body but with your customers. We're talking about real people with real problems facing bills that they don't know how they're gonna handle. Businesses going closed, people burning their house down 'cause they're busy trying to keep warm in the backyard. I don't know what our proposals will be. And I'm... I'm... I'm going to be working with all of my colleagues to try to straighten this problem out. But the strain that has been put on a relationship between a utility that provides power for most of my area is a strain that is **undescribable**. I'm bothered as a Legislator; I'm angered as a Legislator. My constituents are screaming for help. And

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believe me, I'm going to do everything in my power to find that help. Thank you for being here today."

Chairman Scully: "Thank you. Representative Flowers."

Flowers: "Thank you Mr. Speaker... Mr. Chairman. Sir, I want **toget** back to your eight-point plans. Can you tell me, number one you said would be that you will refund a one-time credit to all customers or a certain amount of customers?"

Scott **Cisel**: "The one-time credit that would be applicable in March would be applied to residential customers that use twelve hundred and fifty (1250) kilowatt hours or more during the month of February."

Flowers: "And why not, if they use less?"

Scott **Cisel**: "Generally speaking, the customers that use less are the customers that are not calling me and griping about the increase. Primarily, the ones calling me are the customers that use or have the high usage level which primarily are the electric space heating customers."

Flowers: "So I guess I have a problem with that because we may not have the electric space heater customers many of them in the City of Chicago, but there's still lots of people there that have very high bills, so who cannot afford to pay them so what type of remedy will there be for them, because it appears to me that you're addressing the ones that's making the loudest noise."

Scott **Cisel**: "Well, Representative, I'm speaking to the customers that the Ameren Illinois Utilities serve, and in

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particular the customers I believe you are describing would be the customers served by Commonwealth Edison."

Flowers: "Oh, okay. So okay, well let me just ask you this, I guess. Mr. Chairman, will Commonwealth Edison be coming to the table?"

Chairman Scully: "Yes, they will. Representatives of Commonwealth Edison are still in the room and I am very confident that they will be here to answer your questions."

Flowers: "Okay. Well then, let me just say this to you, Sir. I really.. admire the fact that you and your organization took it upon yourself to change your plans. I think you have done the people in the southern part of the state, all your customers a disservice. And I hope one day we will be able to rectify this matter for all the people of the state, but I have another question to ask you. Point number 2, you talked about eliminating all interest charges. Now, is that the little loan that everyone has to take out or is that the interest that you're charging on the compounded bill from the previous bill that was not paid."

Scott **Cisel**: "The waiving of the interest charge is for our Customer Elect Plan and that interest charge is going to be applied to the deferred amount of which the customer did not pay. And our proposal is to waive that carrying cost so that a customer participating in the Customer Elect Plan when that customer uses more of what they pay, that deferred amount would not be assessed at carrying cost."

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Flowers: "Now you've lost me on that one and I'd really have to have some clarity. There is a bill... the new bill has a extra fee on it for interest. So, is this just a one-time waive or are you going to eliminate that interest fee altogether never to be seen again? It's almost like the customers have to take out a loan in order to pay their bills."

Scott **Cisel**: "Again, the waiving of the interest charge would be on this particular program where a customer would elect to participate in. The waiving of interest charge would be applicable up to a maximum period of 6 years."

Flower: "Well, is there... is this gonna be pushed in the back and then after the 6 years they gonna see some of this resurface?"

Scott **Cisel**: "The expectation would be at the end of 6 years the customer would have repaid what they deferred, so from that point going forward, whatever the rules and regulations are that we as Illinois utilities have to comply to, then those rules and regulations would be applicable to our customers."

Flowers: "~~Mmm mmm~~. Thank you."

Chairman Scully: "Thank you, Representative Flowers. Representative Watson, and after he has finished his questioning, Representative Beiser. Mr. Watson."

Watson: "Thank you, Mr. Chairman. Mr. **Cisel**, on the points that you presented, your eight-point plan, just for clarification on the large residential one-time credit, is that... so in essence that's for one month."

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Scott **Cisel**: "That is correct."

Watson: "So it'll be roughly over the course of a year, eight and a third percent rebate. Is that correct?"

Scott **Cisel**: "Depending upon the usage level, it varies in the percent, and again the reason why we have it applicable to March is February was a high usage month..."

Watson: "Correct."

Scott **Cisel**: "...we have it applicable March, the summer is much lower and then with the plan to **refile**, we'll have a different electric space heating charge for next heating season."

Watson: "Okay. And then the twelve fifty (1250) figure kilowatt was based on?"

Scott **Cisel**: "It's generally looking at where customers start to use more than the average expectation for a particular month and it's geared toward the higher usage customers."

Watson: "Okay. And then on point two, where it talks about, you know, this proposal will require the Commerce Commission's approval. Do we have any idea... and this may not even be a fair question, I just... do we have any idea how soon that would take? How long that would take?"

Scott **Cisel**: "In regard to eliminating the interest charge?"

Watson: "Correct."

Scott **Cisel**: "We would file that request immediately, meaning we'd ask the Commission to act upon our request as soon as they can at an accelerated pattern. That could be approved at their next ordinary bench session or ahead of, but

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generally my understanding is when you make such a special request the Commission typically responds within forty-five days (45) as the maximum period of time."

Watson: "Okay. And then on number five, just a suggestion as far as the relief for the residential electricians, I would encourage, whether it's my place or not, I would encourage you to look at a program that could be implemented sooner than next year. I don't know if... I think the amount of pressure that will continue if something's not done prior to that will be insurmountable. And then tied into that is, just for my clarification, when you make a presentation to the ICC, you know, this is our package this is our proposal and it has, for example, the elimination of the all-electric rates, you have a discount which went to them. Do they respond back to you? Do you get a reply from them? Do they... how does that work?"

Scott Cisel: "Well, there's certainly discussion with them, if they agree or disagree, they file testimony to state their position on the particular rate design issue, so there would be a record of the staff's position about that sort of a design change. And going back to your recommendation that we file sooner rather than later for this large user electric space heating program, as soon as we can get the materials ready, I want to file as soon as possible. I don't want to delay."

Watson: "Okay. Thank you. And... so, did the ICC, when that package was submitted, did they come back with any

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questions, any comments as to the impact that this may have on residents?"

Scott **Cisel**: "I personally don't know; I wasn't involved with that level of detail."

Watson: "Okay. Thank you."

Chairman Scully: "Thank you, Mr. Watson. Mr. Beiser, do have questions for the witness?"

Representative Beiser: "Yes, Sir, Mr. Chairman, I do. Thank you. I think you mentioned in one of the previous speakers, when they would ask you a question about the decision to do away with the all-electric discount, that you had a filing in January of '06. Is that correct?"

Scott **Cisel**: "That's what I recall. Yes, Sir."

Beiser: "Do you have an idea of how much time period previous to that that those discussions ensued? So, in other words, did they just think about it in December and say hey, we're gonna file next month or did... was 2005 taken up, a good portion of that calendar year, talking about the possibility of a tariff filing that would eliminate this discount?"

Scott **Cisel**: "I don't know exactly, but I would have to generally respond that probably that rate design type of questions probably began in the summer of 2005 or early fall of 2005."

Beiser: "Which brings me to a point that I think Representative Bost was making. I have a gentleman in my district; he's a small business owner. He's not a... he owns a fitness center it's not one of the chains. In 2005, he took out a hundred

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thousand dollar (\$100,000) note, he took fifty thousand dollars (\$50,000) of equity out of his own pocket and with the assistance of Ameren converted to all-electric, 2005, the same time these discussions to do away with this discount were being... quite possibly being held within the system of Ameren. His bill now has tripled. That doesn't do him any good. He was doing what he thought was right and in fact, he did almost the most exact thing that was gonna... it's gonna kill him. He has the margin... he does not have the margins to keep open for a six-month period. He will be out of business and all the people that he employs will be out of a job. That's just a fact. I mean, it's just a fact, but he did it with the encouragement and with the assistance of Ameren. And that gentleman was scheduled to testify but I don't know because of the late hour if he will. I was at an Electric Utility Oversight Committee that had a meeting at the end of January, where I think, although it did not talk about rates, we talked about the impact of the storms and the reliability in maintenance. And in that meeting I think you testified that you or Ameren is investing more than they ever have in vegetation maintenance or infrastructure. Is that correct?"

Scott **Cisel**: "I testified and what I recollect of that testimony is that I indicated that the dollar amount that we'd been spending on tree trimming since 2002, whatever time period, it has been at least thirty million (\$30,000,000) a year and

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I also recall that I indicated that we are putting more investment into the electric delivery system each year."

Beiser: "Okay. And that's basically how I recall the testimony also, but upon questioning, I think it was also noted that you have no more men and women dedicated to that process than you did in that same time frame. In fact, you may have less, is that correct?"

Scott **Cisel**: "The situation as I know it, the employment level, depending upon the classification, has basically remained flat and when I also indicated that we were utilizing contractors for particular applications to supplement our internal work force."

Beiser: "But the bottom line is, I think the... the end of the testimony the... or the end result was the statement, 'we're investing more than we ever have' although in the face of it, is highly accurate, I think it's clear that there has not been a total commitment to that much more vegetation maintenance or infrastructure. I mean, when you don't have as many people as you did, even though you may be hiring contractors, I think there's a big grey area that's created with that statement that 'we're investing more', but however, we have less people dedicated, even though you may be contracting, there was not a clear picture painted by you that you, in fact, were doing what you said."

Scott **Cisel**: "We are doing what I said; the investment that we're putting into the system is more each year."

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Beiser: "Yes, and when I asked you quite possibly could that investment in dollars be because maybe the people you do have over the care period of 2002 through 2006, maybe they're... hopefully they're getting paid more than they were in 2002. The materials that go into that process cost more. The contractual obligations would cost more. So, I think it was clear that maybe the statement was more accurate to say because of just the overall inflationary atmosphere of an economy that was the reason that we're... the vast majority of the dollars... more dollars being spent was for that reason. Let's just go on from there. We've got, and I think all of us here that have received feedback from our constituents, the vast, vast majority of those that... on the rates, sent us the copies of their bills or are calling verbally to give us the difference between last month and this month or last year January versus this year January. But occasionally we receive people like Mark Landon, who may testify later depending on the late hour, who is from my district or Bruce **Schoeneweis** who may also testify later. These two gentlemen have done a very detailed analysis of their bills. Mark, in his case went back to the year 2000... 1999. But my point is this, I think you made a comment that after all is said and done the average rate of increase could be any where from 60 to 80 percent. Did I remember that right in earlier testimony this evening?"

Scott **Cisel**: "That was for the... generally, for the electric space heating customers. Any..."

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Beiser: "Overall, right. Well, these two gentlemen did a detailed spread sheet and they're very capable of doing that; they showed it to me, explained it to me, and in Mark's case his average would be closer to 200 percent; in Bruce's case, it's about 178 percent and they just did it on usage, they just did it on historical basis. But I guess what I'm saying is, and you know, if they sat down with your technical people, you could probably hone in on an average maybe that would be different than 200 percent or 178 percent but my... I think it's fair to say these gentlemen just aren't looking at it from one bill to another. They realize there is usage differences; they average their usage out for a long period of time; they factored in the rate. So, I mean, they're getting hit a lot higher. So, when you say that the average could be 60 to 80 percent, when it's all said and done, I'll think I'll... I think I'll take Bruce and Mark's word over what the potential is that you say is 60 to 80 percent. You made a comment earlier, too, that we did not deceive... we, as Ameren, did not deceive customers and this gets back to the all-electric thing and I think Representative Bost said it, too, that some of your people that you have working, they were relaying information that they had so I don't... I don't believe that this person that my office talked to within Ameren was giving us information anything other than they were supplied. We had a person call us and ask about the all-electric discount and why weren't they notified about it prior to their getting their

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bill? And this is exactly what the Ameren spokesperson said. We did tell them. Okay. So, we said what did you tell them and Ameren's response was we told them everybody would pay the same. Now, if that's telling me as an all-electric customer or this person who happened to call my office that they're losing their discount, I don't see it. Wouldn't it have been easier to say yeah, you're losing your discount, rather than the misleading way of saying everybody's paying the same, may be technically true, everybody's paying the same. So you'd have to stop and think about it. Oh, that's right, everybody's paying the same. I wasn't paying the same before. So, now I'm losing my discount. I don't think most people are gonna figure it out that way. I really don't. And it gets to another... my last point and this is where the desire to show compassion by your eight-point plan I think just rings very shallow with me. We had an eighty-one-year-old lady call in desperation, eight hundred dollars (\$800) a month in income for her. She's a widow. Her bill is normally ninety (\$90) to ninety-six dollars (\$96). Now, this isn't one of those people that called and done a spread sheet. She is just going by dollar... dollar in, dollar out. She's going in what the bill says. Her bill was two hundred dollars (\$200) this last month. She called Ameren and here is what they told her, turn your thermostat down to sixty (60) degrees at night turn it up to sixty-four (64) during the day and unplug your appliances. Well, you know what, maybe with

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this eight-point plan I can tell her to plug her toaster back in now. That's about as much as that thing's got as far as I'm concerned. Because here we've got... we've got we invest more in maintenance but upon pressing we have less people. We did not deceive, but we told them everybody's paying the same. We're given an eight-point plan that's gonna help these people, but upon a questioning by one of the other speakers, the average customer is not getting a damn bit of relief. In fact, maybe they're paying more. We got an eighty-one-year-old lady who's told to unplug her appliances and turn her thermostat down. All these statements on the face of it are true, but they're deceitful, they're dishonest and they're hurtful and they're causing misery to the people in my district and all over southern Illinois. So, I think it's high time that the eight-point plan get thrown out the window and start thinking about the average customer and the people that don't have the ability to pay and think about them, instead of the high-use customers and the people that have the ability and the wherewithal to call you. This isn't helping anybody, these eight points, not the people that need it the most. I hope you rethink your plan. Thank you, Mr. Chairman."

Chairman Scully: "Representative Bradley, did you have a question for the witness?"

Bradley, J.: "I got a couple. Is that all right, Chairman?"

Chairman Scully: "Certainly."

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Bradley, J.: "Mr. **Cisel**, what is your title?"

Scott **Cisel**: "President and CEO of the Ameren Illinois Utilities."

Bradley, J.: "Do you have a title with regards to the parent company? Are you an officer in the parent company, Ameren?"

Scott **Cisel**: "No, I am not."

Bradley, J.: "Okay. You are eligible for stock options and they went through that."

Scott **Cisel**: "Yes."

Bradley, J.: "But you don't actually have an official title with the parent company."

Scott **Cisel**: "That is correct."

Bradley, J.: "Okay, do you have a fiduciary duty with regards to the parent company?"

Scott **Cisel**: "My fiduciary responsibility's with the Ameren Illinois Utilities."

Bradley, J.: "What about the shareholders of the parent company?"

Scott **Cisel**: "In general, all of the people are held accountable to meet performance expectations which contribute to the performance overall of Ameren."

Bradley, J.: "So you have a fiduciary duty to the shareholders of the parent company? Correct?"

Scott **Cisel**: "A fiduciary responsibility to meet certain financial performance."

Bradley, J.: "I've looked through your SEC filings that were recently filed and it indicates that Ameren made over half a

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billion dollars (\$500,000,000) last year, net income, that accurate?"

Scott **Cisel**: "The Ameren Corporation as I recall had a net income I believe about five hundred and forty-two million dollars (\$542,000,000) last year."

Bradley, J.: "Okay. And in the fourth quarter of last year Ameren's profits tripled; I believe I read that in the newspaper, is that right?"

Scott **Cisel**: "As I recall, there was a significant increase in that fourth quarter and what I would call primarily due to power plant performance."

Bradley, J.: "Now, if I'm lookin' at the Ameren... can you see that from here? I know it's a bit ...do you need a drink of water or **somethin'**?"

Scott **Cisel**: "I have water."

Bradley, J.: "Okay. All right. Can you see that magazine from here?"

Scott **Cisel**: "I can see it. If you want me to read it, I gotta get some glasses on."

Bradley, J.: "Okay. It looks like something that says Ameren on the front, it says Geared Up. And then you open it up and on page 13 it's got a picture of Ameren senior management team and your face is on there. And that doesn't say Ameren distribution, that's Ameren parent company, isn't it?"

Scott **Cisel**: "As I recall, that's a description of the senior officers, not only in the parent company, but in the subsidiary companies."

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Bradley, J.: "It doesn't make a distinction in the book, does it?"

Scott **Cisel**: "Well, I don't recall, it may or may not, but I'm a president and CEO of the Ameren Illinois Utilities, not of the parent company."

Chairman Scully: "Mr. Bradley? Is that the Ameren Corporation 2005 Annual Report?"

Bradley, J.: "Yeah, the Ameren Corporation 2005 Annual Report: Geared Up."

Chairman Scully: "Thank you."

Bradley, J.: "Now, you're opposed to the rate freeze/rate roll back?"

Scott **Cisel**: "That is correct."

Bradley, J.: "And your reason for being opposed to the rate freeze rate roll back, 'cause I've heard different things, but state it succinctly on the record so we know for sure."

Scott **Cisel**: "We oppose the roll back rate freeze concept because it would quickly erode our financial capability and drive us into insolvency."

Bradley, J.: "Okay. Now, how would it erode your financial capability and drive you into insolvency?"

Scott **Cisel**: "What would likely happen in that scenario, our financial credit rating would drop into junk status, suppliers that supply us will want cash in advance. We'd be paying significantly more for power than what we are collecting. Very quickly, our cash and credit borrowing capacity would be vanished."

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Bradley, J.: "Now you... the crux of it is, something you just said, you would be paying more for power than what you were charging, that's the crux of it isn't it?"

Scott **Cisel**: "That is correct."

Bradley, J.: "Okay. 'Cause you've indicated throughout that you were just passing through the costs of electricity to the customers that you were required to pay from the generators, correct?"

Scott **Cisel**: "That is correct."

Bradley, J.: "Now, when we were down in East St. Louis, I asked you a series of questions, and I asked you whether or not... or I asked you who you bought your power from, and you indicated to me at that time, you bought it from four sources, is that still accurate?"

Scott **Cisel**: "Those were four primary sources; that is correct."

Bradley, J.: "Okay. And those four sources are Ameren Parent Company, correct?"

Scott **Cisel**: "Ameren Generating."

Bradley, J.: "That's your parent?"

Scott **Cisel**: "Well, it's a subsidiary of the parent, yes."

Bradley, J.: "Well, Ameren Generating is part of the Ameren Parent Corp..."

Scott **Cisel**: "That's right."

Bradley, J.: "Okay, okay. You bought it from Exelon?"

Scott **Cisel**: "That is correct."

Bradley, J.: "Which I think I referred to as a kissing cousin. You bought it from Dynegy."

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Scott **Cisel**: "Dynergy is correct."

Bradley, J.: "And Dynergy was a company that you split up IP with essentially, they took the nukes and you took the distribution. So, it'd be like a divorced spouse sharing kids. And then you also bought from Morgan Stanley, right?"

Scott **Cisel**: "The fourth largest, I believe, was Constellation Energy."

Bradley, J.: "Okay. I thought it was Morgan Stanley, the other day in East St. Louis, so you think it's Constellation, now?"

Scott **Cisel**: "I believe those are the top four suppliers to our company."

Bradley, J.: "Okay, okay."

Scott **Cisel**: "The Illinois Utilities."

Bradley, J.: "Okay. So, the total amount of revenue that will be generated by the proposed rate increases which went into effect on January 1, is estimated to be about two and a half billion dollars (\$2,500,000,000) statewide, have you heard that number?"

Scott **Cisel**: "I've heard that number, yes."

Bradley, J.: "Okay, and in your testimony the other day in East St. Louis, you indicated that of that two and a half billion dollars (\$2,500,000,000), the actual increase in customers of Ameren, **AmerenCILCO**, **AmerenIP**, AmerenCIPS, you estimated it to be about five hundred million dollars (\$500,000,000), right?"

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Scott **Cisel**: "I recall a lot of questions you raised; I don't recall the responses that I gave."

Bradley, J.: "Well, is that... is, answer it then today, is that still an accurate number in terms of the increase in total revenues as a result of this rate increase, for Ameren customers in the half a billion dollar (\$500,000,000) range of new money that they have to come up with?"

Scott **Cisel**: "In regards to the electric supplier cost, I think they were even higher than that, Representative."

Bradley, J.: "Okay. So, what would be your best estimate, as we stand here tonight?"

Scott **Cisel**: "Well, best estimate tonight, would tell me, perhaps, that could be close to a billion dollars (\$1,000,000,000)."

Bradley, J.: "A billion dollars (\$1,000,000,000). Okay. So, since we... when was that hearing? Does anyone remember when that hearing was in East St. Louis? Bill **Haine** you're here. Was that last week?"

Scott **Cisel**: "Yes, it was last week."

Bradley, J.: "So, a week ago it was a half a billion dollars (\$500,000,000), and this week it's a billion dollars (\$1,000,000,000). So, I think you testified at that time that about a third of that would go into the distribution companies. Is that right, in terms of cost increases for the distribution?"

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Scott **Cisel**: "Well, what I said of the total bill for a customer, about a third of it is the delivery charge and about two-thirds is the supplier charge."

Bradley, J.: "So about three hundred and thirty-three million dollars (\$333,000,000) is gonna go into AmerenCIPS, **AmerenIP**, **AmerenCILCO**, new money as a result of the rate increases, correct?"

Scott **Cisel**: "No, that is not correct."

Bradley, J.: "Okay."

Scott **Cisel**: "What I recall... let me try to define this better. What I recall is that the three Ameren Illinois Utilities, on the delivery service component, filed for an overall rate increase of about two hundred million dollars (\$200,000,000). What I recall tonight is that the amount granted to the Ameren Illinois Utilities for the delivery service component was something less or close to a hundred million dollars (\$100,000,000). So the new revenue portion or the delivery service charge, as it now stands, on an annualized basis would be about a hundred million dollars (\$100,000,000)."

Bradley, J.: "And the rest of that the nine hundred million dollars (\$900,000,000) then goes to the four sources that you buy the power from."

Scott **Cisel**: "Well, again, you said what was my best estimate tonight and I gave you that estimate. I'd want it subject to check if we're going to get..."

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Bradley, J.: "Well, basically, we're only dealing with estimates, but based upon your estimate of a billion dollars (\$1,000,000,000) increase for Ameren customers and based upon your indication that a hundred million (100,000,000) of that would go actually into the distribution companies, we can, based upon your estimates, draw the conclusion that the other nine hundred million dollars (\$900,000,000) is going directly to the generation."

Scott **Cisel**: "Okay. In this example tonight, that's correct."

Bradley, J.: "Okay. So, that would be nine hundred million dollars (\$900,000,000) for Ameren, Exelon, Constellation and Dynegy, right?"

Scott **Cisel**: "Are the four principals."

Bradley, J.: "Okay. Now, if I gotta... if I get a bill, and my bill, just for the sake of argument, used to be a hundred dollars (\$100) and now I get a new bill and it's two hundred dollars (\$200) of that hundred dollars (\$100) new that I have to pay, where does that go, if we break it down per bill?"

Scott **Cisel**: "In general terms?"

Bradley, J.: "Yeah."

Scott **Cisel**: "A third of the total bill would be for the distribution charge, and two-thirds of the bill would be for power supply costs. So of the two hundred million (200,000,000), roughly speaking... two hundred dollars (\$200), about seventy dollars (\$70) would be the delivery service component of that bill."

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Bradley, J.: "That would be the cost of power?"

Scott **Cisel**: "No. The third, the seventy dollars (\$70) would be the delivery service charge component."

Bradley, J.: "And the seventy dollars (\$70) would be the cost of power?"

Scott **Cisel**: "No. The seventy dollars (\$70) is the delivery service charge component. What would be remaining in this example, a hundred and thirty dollars (\$130) would be the power supply cost. If I understood your example, you asked about a two hundred dollar (\$200) bill, is that correct?"

Bradley, J.: "Yeah."

Scott **Cisel**: "And so a third of that two hundred dollar (\$200) bill would be the delivery service charge."

Bradley, J.: "And then the other two-thirds would be the cost of power?"

Scott **Cisel**: "That is correct."

Bradley, J.: "Okay.. Now, you indicate... are you aware that there were indications that if we passed the rate freeze out of the House in November and in January, that Ameren would go bankrupt the moment we passed it out of the House?"

Scott **Cisel**: "No, I don't recall. What I do recall is that the financial credit rating agencies were very concerned about any legislation that would pass from either chamber. I testified in a variety of hearings. What I recall that I testified to that such Bill would pass, we'd move quickly into financial insolvency and I also recall testifying that

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that would cause triggering events within the three Ameren Illinois Utilities."

Bradley, J.: "And the Bill passed out of the House and you didn't go into insolvency."

Scott **Cisel**: "That is correct, but I would tell you last year our financial ratings were dropped due to the uncertainty here with the legislative activities."

Bradley, J.: "Now, there are no generation components left in the AmerenCIPS, **AmerenCILCO**, and **AmerenIP** subsidiaries, correct?"

Scott **Cisel**: "That's correct. The Ameren Illinois Utilities are distribution companies."

Bradley, J.: "Have there been any other assets transferred out of the distribution companies into the parent company?"

Scott **Cisel**: "Any assets out of the distribution company?"

Bradley, J.: "Any of the three there."

Scott **Cisel**: "Not to my knowledge."

Bradley, J.: "Have there been warehouses closed?"

Scott **Cisel**: "Warehouses closed?"

Bradley, J.: "Yeah."

Scott **Cisel**: "We've consolidated some warehouses."

Bradley, J.: "Okay. Have there been offices closed?"

Scott **Cisel**: "In what time frame?"

Bradley, J.: "In the last 5 years."

Scott **Cisel**: "Yes."

Bradley, J.: "Okay. I want to ask you some questions about your SEC filing. Your SEC filing indicates that in addition to

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making the five hundred million dollars (\$500,000,000) in 2006, that Ameren's total assets actually increased from eighteen point one seven billion (\$18,170,000,000) to nineteen point five seven eight billion (\$19,578,000,000). Is that **correc...** accurate to your knowledge?"

Scott **Cisel**: "Well, without seeing the SEC report, and I'm not detail knowledge at all about the report in itself."

Bradley, J.: "Are you aware of where your company would have... have you got it now, Chairman Scully, present... Are you aware of where your company would have picked up a billion and half (\$1,500,000,000)... one point five billion dollars (\$1,500,000,000) worth of assets in the last year?"

Scott **Cisel**: "I would presume a major portion of that increase in assets, subject to check, was due to the acquisition of some combustion turbines for the Missouri regulated business and possibly some additional power capacity that was purchased from another power plant."

Bradley, J.: "Now, Missouri is a regulated state, correct?"

Scott **Cisel**: "It is a regulated state."

Bradley, J.: "I've heard things around the Capitol here and I'll just ask you, has Ameren been indicating that it would be willing to be re-regulated?"

Scott **Cisel**: "Would the Ameren Illinois Utilities be willing to explore re-regulation?"

Bradley, J.: "Yeah, is that something that you're interested in or that you would support?"

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Scott **Cisel**: "We certainly would come to the table to explore that option."

Bradley, J.: "Okay. This eight... eight-point plan that you have offered today, and I have a question for Chairman Scully. Chairman Scully, when did you, you... you have been on the forefront of this investigation in this Electric Oversight Committee. When were you made aware of this eight-point plan that we received a few minutes ago?"

Chairman Scully: "Mr. Bradley, I become aware of it at approximately 6:00 this evening, when Mr. **Cisel** told me that he intended to present this plan today."

Bradley, J.: "Okay. Now, invitation was extended to Ameren and to other people to come here and testify today prior to today's date, correct?"

Chairman Scully: "Yes."

Bradley, J.: "Was there any indication at any point prior to the time of the hearing today or the 6:00 p.m. time, that there was gonna be some kind of proposal or some kind of plan put into effect... by..."

Chairman Scully: "No one from Ameren made any representation to me. I had no idea that a plan was going to be presented by Mr. **Cisel** until 6:00 when he stopped me in the hall to tell me his intent."

Bradley, J.: "Mr. **Cisel**, you indicated that, with regards to the all-electric customers, that you were not aware of any... personally, any inducements that took place in the recent past, is that accurate?"

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Scott **Cisel**: "I am personally not aware of any promotional activities for electric space heating, recently."

Bradley, J.: "I've got a newspaper from the Benton Evening News, October 9, 2006, and there's a huge rear page ad on there, and it's a letter signed by you and it's from AmerenCIPS, **AmerenCILCO**, and **AmerenIP** and you're going through the... the rates and of course, it indicates on here that electricity will go up about one dollar (\$1) a day beginning in January. And then it also goes on and express that you're concerned. And one of the points... there's three points here about what Ameren was gonna do for ratepayers, and one of the points was 'and we're intensifying our broad public education efforts to inform all customers about energy saving tips that will lower their utility bills.' Do you remember that letter and that advertisement?"

Scott **Cisel**: "Certainly, I remember the event that you're referencing."

Bradley, J.: "And so my question to you would be, if you're going into intensification of broad public education on turning down the heat, insulating your home, wearing a blanket, what kind of intense efforts did you make to inform the public that they were gonna lose their all-electric rates?"

Scott **Cisel**: "Again, we did not do any particular public awareness campaign about electric space heating rate discount or any of the other rate discounts."

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Bradley, J.: "When you were going through your plan of public education, when was the decision made... when was the decision made to not inform the public that the all-electric discount was being removed?"

Scott **Cisel**: "I don't recall specifically when that sort of decision... when it was made."

Bradley, J.: "But it stands to reason that that, in the course of coming up with a public education plan, that a decision was made not to include that as part of your public education plan."

Scott **Cisel**: "As I recall, the public education plan, it was designed to help customers promote more energy efficiency and conservation activities. It was not designed about talking about particular rates, in particular."

Bradley, J.: "When the decision was made to inform the public about ways to reduce electric... or increase electric efficiency and the decision part and parcel of that was also made not to make part of that public education plan to inform citizens of the rate increases and the loss of the all-electric discount."

Scott **Cisel**: "What I recall, the decision, again at that particular time, was to talk about the general overall increase for the customer segment of residential."

Bradley, J.: "Don't you think that it would have been helpful to people that were suffering or getting ready to suffer these large increases to have been able to preplan with regards to the loss of the all-electric discount?"

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Scott **Cisel**: "In our communication effort, knowing what's happened today with the increase in bills and difficulties, it would have been advisable to have been much more specific in a wide variety of customer segments and the potential impact."

Bradley, J.: "What was the total... what was the average percentage increase to all-electric customers as a result of losing the all-electric discount?"

Scott **Cisel**: "The overall annual increase in rate, not looking at usage as I recall, was somewhere in the range of 60 to 80 percent annual increase in the rate."

Bradley, J.: "There is no possible way... well, let me back up there. It is very difficult for a homeowner to raise their efficiency within their home to offset a 60 to 80 percent rate increase, is there not?"

Scott **Cisel**: "Certainly difficult to offset that sort of an increase."

Bradley, J.: "So, when we're talking about alerting the public through public education to the possibility of reducing their electric use, increasing their efficiency by 10 to 15 percent maybe 20 percent, pales in comparison to an increase that's facing them of 60 to 80 percent. Fair statement?"

Scott **Cisel**: "Certainly."

Bradley, J.: "Are you aware of whether or not Ameren was telling its employees that no matter what this Body did, that no matter what the State of Illinois did, that we would we just go to federal court and get them thrown out?"

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Scott **Cisel**: "Get what thrown out?"

Bradley, J.: "Whatever we did. If the State of Illinois takes action to try to stop this rate increase, don't worry employees, we'll go to federal court and we'll get the state's actions thrown out."

Scott **Cisel**: "I conducted a lot of town hall meetings with my coworkers about the activities that were goin' on, certainly talked about the implications of what a rate freeze would have on the company, and I certainly conveyed that the company would do all that we can to protect the interests of the company."

Bradley, J.: "Did you... was part of that discussion, go into federal court and disregarding whatever we did here?"

Scott **Cisel**: "What I recall in general, you know, we had 50-some town hall meetings throughout the state. What I said, we would certainly exercise all of our legal protections available to us. Whether or not I said a certain court or not, I don't recall that."

Bradley, J.: "What... Your eight-point plan that was dropped on us this afternoon, number one, fund a one-time bill credit for large residential users. Okay, that doesn't apply to a smaller residential users, right?"

Scott **Cisel**: "Not that particular credit; that's correct."

Bradley, J.: "And that's twenty million dollars (\$20,000,000)?"

Scott **Cisel**: "That is correct."

Bradley, J.: "Okay. And would that be a one-time deal? That'd be just for one month?"

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Scott **Cisel**: "That is correct..."

Bradley, J.: "So..."

Scott **Cisel**: "...for the month of March."

Bradley, J.: "So after that first month, then people are right back to where they were."

Scott **Cisel**: "Well, we... we have to acknowledge that the late winter rates... summer rates are much smaller of an increase than what's happened during the month of January and February to date."

Bradley, J.: "But it would just be a one-month deal and then after one month that credit would go off and they'd go back to whatever the total bill was."

Scott **Cisel**: "That is correct."

Bradley, J.: "Okay. Now, eliminate all interest charges on the Customer Elect Plan. Does that mean that you're gonna concede, that you're not gonna get a 55, 60, 100, 200 percent increase, that you're only gonna get a 14 percent increase with no interest? Or does that mean they can just pay the 14 percent but they still owe the higher amount?"

Scott **Cisel**: "The plan is that approximately the customer's annual increase would be 14 percent. Their actual usage above that amount would be deferred and would be paid at a later date and what our proposal is, is to waive the carrying cost on that deferred amount."

Bradley, J.: "I guess it... so, if somebody had a bill, and I got a whole stack of bills, you've seen 'em, you saw me bring 'em in, somebody has a bill that's over 14 percent increase."

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They still owe that number over 14 percent but that you can carry it for 'em and they won't owe interest on it, is that right?"

Scott **Cisel**: "That is correct."

Bradley, J.: "So, if somebody's got an 55, 100 percent increase, they can pay 14, they still owe the 86 percent, but you won't charge 'em interest for it."

Scott **Cisel**: "That is correct."

Bradley, J.: "Now, the Budget Billing program, you're gonna let more people be on the equalizer, is that what that means?"

Scott **Cisel**: "This one in particular is targeted toward nonresidential customers."

Bradley, J.: "That would be consumers... commercial accounts?"

Scott **Cisel**: "That is correct."

Bradley, J.: "Okay. And then the fifteen million dollars (\$15,000,000), that's for like LIHEAP and things like that, that's what we talked..."

Scott **Cisel**: "For assistance above LIHEAP and other targeted programs."

Bradley, J.: "Okay. And... provide additional relief for residential electric heat customers, what is that?"

Scott **Cisel**: "That would be a filing that we'd make with the Illinois Commerce Commission that would reduce the price in what we call the higher energy usage bracket and so that would reduce the potential increase to high usage customers, in particular, electric space heating customers."

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Bradley, J.: "But we don't know what that's gonna be, that's just something that's gonna be talked about or proposed or..."

Scott **Cisel**: "We will file with the Commission. I believe I indicated in my remarks that, you know, we would have a goal to potentially reduce the high usage charge in that particular block by 25 percent."

Bradley, J.: "And how much will that cost you as a company or companies?"

Scott **Cisel**: "What it will cost us? By redesigning the rate charge, I indicated that was a revenue neutral charge, the cost in particular with that supply would then be spread to our other customers."

Bradley, J.: "And then you've got the real-time pricing options and I'm familiar with that. So this proposal basically of the billion dollars (\$1,000,000,000) that Ameren customers are paying additionally this year for the increased rates, you're gonna put thirty-five million dollars (\$35,000,000) back into these programs."

Scott **Cisel**: "Yes. I think another way to look at that thirty-five million dollars (\$35,000,000) plus whatever the impact of the Customer Elect Plan, the total operating net income for the three Ameren Illinois Utilities is a hundred and fifteen million dollars (\$115,000,000), that's approximately 30 percent of our net income."

Bradley, J.: "What happens if somebody doesn't pay their bill?"

Scott **Cisel**: "Well, presumably, the customer would contact the company. We would explore what sort of payment assistance

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that might be applicable for that customer. We'll look at a deferred payment agreement with that particular customer."

Bradley, J.: "Okay. And so you can't get that worked out, what happens? Somebody doesn't pay their bill or refuses to pay their bill?"

Scott **Cisel**: "Eventually, if a customer does not pay their bill they will be subject to disconnection."

Bradley, J.: "And.. and how long does that process take?"

Scott **Cisel**: "Well, there's a lot of different categories, but if you're at a point where a disconnect notice is generated by the system, then that notice goes to the customer and after received by the customer, there is a specified period of time in which the customer must contact the company to either make a payment or enter into a deferred payment arrangement."

Bradley, J.: "What is that specified amount of time?"

Scott **Cisel**: "Well, if you have a bill, let's say, in bill first month and they don't pay, and you get to the second month, they've not paid the first month's bill, we then sent out the second month with the past due amount, when you get into the third month, if that customer's not entered into a payment arrangement or paid the bill, then that disconnect notice would be generated for the first month they've not paid and they'll have additional fourteen (14) days, or approximately fourteen (14) days, to make a payment arrangement."

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Bradley, J.: "So, the indication is, is that three months of nonpayment followed by a 14-day period and then they get shut off."

Scott **Cisel**: "That's generally the time line."

Bradley, J.: "Would there've been any time line that would be less than that?"

Scott **Cisel**: "Depending upon the situation, there certainly could be."

Bradley, J.: "Okay and what would the situation be? I'm trying to get an idea for the people that we represent. What would be a situation that would be less than that?"

Scott **Cisel**: "Presuming we could cut, concerning the weather restrictions, so presuming the weather doesn't preclude us from disconnecting a customer for **nonpay**, if a customer moved from one location to another location and had not paid their bill, and then when service is restored it's determined that customer owed us from a previous same application, instead of waiting an additional three months, there could be an accelerated process in which the customer's notified, he or she needs to come in and enter into a payment arrangement. In that situation there would not be that three-month cycle."

Bradley, J.: "So an existing customer that hasn't moved, a minimum time frame for disconnect would be three months assuming that the winter cutoff wasn't applying."

Scott **Cisel**: "Going from that first month where they did not make a payment."

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Bradley, J.: "Now, when is that... when is the date when the winter exception for being able to be cut off expires?"

Scott **Cisel**: "As I recall, subject to check, I don't think there's a hard date, but I recall it's driven by a forecast of weather temperature, and again subject to check, but I recall that if the forecasted temperature in that particular area is to be 32 degrees or warmer, then the utility company would be permitted to disconnect a customer for **nonpay**."

Bradley, J.: "Now, do you know when that day is going to occur? Has it already occurred in the Ameren service territories?"

Scott **Cisel**: "There certainly has been days in southern Illinois, and generally I know. I don't recall specifics where there could have been customers eligible for disconnection due to the temperature restriction."

Bradley, J.: "So you think that the... do you think that the cold weather exception has already passed in deep southern Illinois?"

Scott **Cisel**: "Well, it depends. I mean, if it gets cold then certainly we abide by the restriction and what I was offering tonight as part of our eight-point component was to make a commitment regardless of weather restriction, we would delay any sort of residential disconnection until April 1."

Bradley, J.: "I missed that, I'm sorry. Could you repeat that?"

Scott **Cisel**: "Certainly. One of our eight components tonight that I presented was a commitment, regardless of the weather restriction or the availability to disconnect customers for

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nonpay, that we would not look at that weather permission but we would delay any sort of residential disconnection until April 1."

Bradley, J.: "Is the eight-point plan, is that the best it's gonna get or is that a starting point for discussions?"

Scott **Cisel**: "That's as good as it's going to get."

Bradley, J.: "Nothing further. Thank you."

Chairman Scully: "Thank you, Mr. Bradley. Mr. Stephens, did you have a question for the witness?"

Stephens: "After that last response I have to gather myself. I think that attitude is reflective of a lot of the frustration that my colleagues and I share. But first of all, let me welcome you to Springfield. Mr. Chairman, the chairman of ComEd, Frank Clark, is in the gallery to the rear of the chamber, I wonder if we might get an emergency team there. It looks like he might be ready to jump. Seriously, Mr. **Cisel**, we... I welcome you to Springfield because of this chamber and what it represents and the sort of people who apply their trade here. We come from all over the state; from big cities to small towns, some of us are farmers, some of us businessmen, professionals, teachers. We come here to make this process work. A couple of things have to occur. We have to maintain certain values among which, are trust, honesty, keeping your word. Representative Holbrook and I can't work together unless we both understand that that's the way we're going to be. We might disagree on an issue, but we'll work together openly

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and honestly with trust and we'll keep our word. I believe that your company has fooled us. I don't believe you've been trustworthy. I don't believe the company's been honest. And I don't think you've kept your word. You've fooled us. You fooled me personally. I'm one of those folks who built a home in the last few years. My wife and I thought we were building our dream home, not imagining it would wind up being an Ameren nightmare. When your bill goes from three hundred (\$300) to nine hundred (\$900), what sort of a percentage increase do you call that? Three hundred (\$300) to nine hundred (\$900)."

Scott **Cisel**: "Two hundred (200) percent."

Stephens: "I have a lot of stories that don't seem to match up with your characterization as to the average increase per retail customer. Because I've got a lot of 150, 175, 200 percent increases. The way I look at that bill, I say it tripled. So either I live in a strange district or there're an awful lot of people that are your customers that must be getting a refund or something, because if you have too many 200 percent increases, you're going to have to have some negative bills to get down to the numbers that you talked about earlier. We talked about trust and responsibility, honesty, you have leveraged many of our good friends, you have convinced some of us, that because we were afraid that the reliability issue was in jeopardy, that we would go a long way down the road with you. We heard threats of bankruptcy, threats of rolling brownouts. I guess the most

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painful part for me is that everyone that I represent, that is one of your customers, feel as if they've been duped. And I'm their Representative and they want to know what in the hell I'm gonna do about it. I'm here to tell you, on behalf of a lot of us on both sides of the aisle, you're going to see a spirit of cooperation, bipartisanship that is practically unprecedented in this General Assembly, because we have received a message from our districts. Now, this issue doesn't affect all of Illinois, for the most part it's just a southern Illinois problem. But we've worked together for many years, these folks and I and when we declare an emergency, and that's exactly what we have in almost all of the districts downstate, a real live emergency, these **folks'll** stick with us. And we're going to show bipartisanship cooperation and we're going to take this wherever we can 'cause, quite frankly, when I hear you tell me now, and I got this eight-step plan, with all due respect, Sir, that is just embarrassing, embarrassing. We have people who are in absolutely urgent need of immediate relief and you're talking about a thirty-five million dollar (\$35,000,000) plan that might get started in a couple of days and it might be phased-in over a few months and this and that and the other. It occurs to me that you, your company and the fine people that you send to us to represent your company, either don't get it or they think if you don't... you think if we don't... you don't talk about it then maybe it won't sink in with us. Well, we get it. There's a

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bakery in Troy, Illinois, today that's closing. They just had no idea they were gonna have a seven (\$700) or eight hundred dollar (\$800) increase in their bill. There's a couple constituents of mine in the gallery, they're going to talk later about their bill going up about forty-two hundred dollars (\$4200) a month for a small business that they just invested in and, like me, got fooled into being all-electric because we trusted you. You are a corporate citizen of Illinois. And I'm asking you as a corporate citizen of Illinois to put aside your stockholders' needs and wishes for a moment, keep the company viable, but join with us in calling for an immediate emergency meeting of the Illinois Commerce Commission. You expressed that you would like to work with whomever, to possibly revisit the reverse auction. I'm asking the Commerce Commission to immediately consider that, and to roll back the reverse auction, go back and start all over again. I'm here to tell you that I would go back to full regulation again, anything is better than the shock wave that hit my communities this past six weeks. People are dropping out of school, closing their business. We are used to dealing with constituents with problems. We're getting thousands of calls now when we pool our effort, hundreds a day in my office. And these are not people who are just complaining, oh man this tough, they can't pay. What are you gonna do when they can't pay? They simply can't do it. Where is this family gonna get the extra nine thousand dollars (\$9,000) a year? They were

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expecting maybe one (\$1,000) to two thousand dollars (\$2,000) a year and that was gonna be tough, but they wanted to work with you. They can't sell their house now. There's nobody that's gonna buy an all-electric house in Illinois. Why would you do that? So you just shut down part of the retail market... the real estate market. So I'm asking for you to join me... join us in asking this ICC for an immediate hearing, tomorrow morning. I'm asking your company to do the right corporate thing. I believe that you could do no better good than to turn to this Body and say we will work with you and with that in mind I'm putting a plan in effect tomorrow morning and we're going to refund every extra dime we charged. It's gonna be tough, we're gonna have to eat some of the cost. But ICC, maybe you can help me, because I've shown that I'm a good corporate citizen, so Illinois and the Illinois Commerce Commission, Governor Ed... Governor Blagojevich reach out and help us by getting our costs back down to what they were before the auction. We could work with you and accomplish that. And I will tell you, with all due respect, Sir, I think your company owes this Body and your customers, your employees and the lobbyists that you hired, that I believe did not have all of the information necessary to give us the full truth, I think you owe all of the above an apology. Thank you, Mr. Chairman."

Chairman Scully: "Thank you, Mr. Stephens. Representative Holbrook, do you have a question for the witness?"

Holbrook: "Several. Good evening, Mr. **Cisel**."

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Scott **Cisel**: "Good evening."

Holbrook: "Mr. **Cisel**, I have a list in front of me that the ICC has prepared on rates and as I look at that, and I've heard all the horror stories coming in from people, businesses closing down, people not being able to make their payments. And as I go down the list I happen to notice that the highest rate, the 170.8 percent increases are in my district. And when I look at that, I think back to the times that I've talked to Ameren and how I've talked to my constituents about a dollar (\$1) or two (\$2) a day that their increase was going to happen, it's pretty easy to understand why I get a call from a gentleman this morning who said, you know what, I was gonna call you, and my power bill doubled, but that's not why I'm calling. I'm calling because my boss just walked in the door at this small appliance shop and told us he isn't gonna fight it anymore. His power bill just went up four thousand dollars (\$4,000) and he's made the decision, he's gave us a month's notice. He's out of a job. You know, you filed the rate back in January of '06, you just said and we had the results of this auction back in August of '06. ComEd made a decision not to discontinue some of these rates, Ameren did not. Ameren also made a **polidy**... a company policy decision it appears not to educate the consumer on these increases in these categories. I have yet to see one piece of printed material that says the all-electric rate is going to be discontinued and you're looking at twenty (\$20) or thirty (\$30) dollars a

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day or ten dollars (\$10) a day. All I've ever seen is a dollar (\$1) or two (\$2) a day and I explained that to my constituents when they called in concern. I've lost their creditability. I get a about four (400) or five hundred (500) calls already on these rates and the only thing stopping me getting those calls, is I only have two lines into my office and one lady to answer it. When I field these questions and we tell them we're gonna try to do something, I have little to no creditability to those that I'd talked to earlier, because they said you told me a dollar (\$1) or two (\$2) a day. Well, that's what I was told. This didn't have to happen. It didn't happen to happen for our small businesses; it didn't have to happen for our homes. This type of financial crisis and economic chaos in my district did not have to happen, if you had just been forthcoming and totally truthful with the situation that was being created by a decision made back in January of '06 and a decision reached through the rates that came in in August of '06. We're still reading newspapers today about the dollar or two increase. They bring your pamphlet that you sent them to their homes in that show that. They feel betrayed. They think Ameren has no credibility and you, Sir, have caused me to be painted with that same brush because I told 'em the best information I had at the time. Do you know how long it takes someone in government and politics to build their constituents' trust? It'll be years before I can repair what I... you have done. And you should

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know, too, that we could have done something on this. I guarantee you if these Legislators sitting in here tonight had had a 170 percent increase rate laid in front of them or even the smaller increases on the all-electric rates of 106 percent, 101 percent, and 88 percent, that we would have come up with something in this category to address it. No one would have let that happen. Credibility, trustworthiness, and betrayal, Ameren needs to get its act together or it doesn't need to do business in the State of Illinois. Thank you."

Chairman Scully: "Representative Rose, did you have a question for the witness?"

Rose: "Yeah, just briefly, a couple of follow-up points as I listen to the comments. Mr. **Cisel**, under item number five, which is the 25 percent reduction for the all-electric homes, it would take effect next heating season, as I understand what you've put forth, to address this heating season, you have this credit and then to address next heating season you've got this rate structure. Two questions on that point. First is, is that a permanent situation or is that only for next season?"

Scott **Cisel**: "The proposed 25 percent?"

Rose: "Correct."

Scott **Cisel**: "That would be a continuation program."

Rose: "Okay. Second is, what does that do to the rates of the homes that are not all-electric?"

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Scott **Cisel**: "I would need to get that data to get back to give you a specific response to your question."

Rose: "But the rate structure you're putting in place, it says here that you're going to redesign for the ICC, that would not involve a rate increase in all the other homes would it?"

Scott **Cisel**: "It'd be a revenue neutral filing which means the power supply cost that are not charged to that particular customer grouping would be picked up by the mass of the other customers."

Rose: "Would not?"

Scott **Cisel**: "Would be."

Rose: "Would be?"

Scott **Cisel**: "Yes, Sir."

Rose: "I'm not even sure if I want to finish the rest of my questions at this point. I think it was John... Representative Bradley had a question about the decision being made to notify customers and how to notify customers, was the all-electric issue raised at a point previous to that?"

Scott **Cisel**: "Do I recall the question from Representative Bradley?"

Rose: "Yeah, correct."

Scott **Cisel**: "Yes, I remember that exchange."

Rose: "Okay. And was the all-electric issue raised at a point in time internally in your company prior to that meeting where that decision was made?"

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Scott **Cisel**: "The rate design decision about how we'd file for that particular class of customers was captured in our delivery service tariff filing which had been back in January, a year ago."

Rose: "So then... Again, I guess I'm... I'm addressing just the issue of when you were going to notify the customers of that. Was there a discussion prior to this conversation and the exchange you had with Representative Bradley that was prior to that regarding the all-electric issue?"

Scott **Cisel**: "What I recall, and again I wasn't in those particular meetings, is that a decision was made to make the filing to do away with the subsidy. That filing was made with the Commission. The Commission staff and parties agreed to that decision. And after the filing was made with the Commission, there could've been changes to that. So, that principal decision to make the filing to reduce the subsidy was part of that January 2006 filing."

Rose: "And... and did you decide at that time to notify or not to notify your customers of that?"

Scott **Cisel**: "To my understanding, there was no decision about notifying the customers about that filing other than what's required to make any filing with the Illinois Commerce Commission."

Rose: "The next question, my Coles County Council on Aging senior center, Dee Braden, I talked to her this morning. She wanted me to pass along the following and I'm not gonna ask you to comment; it's late in the hour. But whoever is

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manning your phone banks, people can't get through. They've got questions at the senior center there. The senior center there does call on behalf of their client base and they're having an extreme problem getting through and she asked me to personally pass that along to you. And I'm.. I'm gonna do that. My last question is regards to number four and the fifteen million dollars (\$15,000,000). And I have a specific question about the money that will go to LIHEAP. As I understand it, the application window for LIHEAP is already closed. Is it your intention that that window would be reopened with this money?"

Scott **Cisel**: "The money that's part of our proposal would be targeting those who are above the LIHEAP eligibility category. So those who are at greater than 150 percent of the government guidelines but less than 200 percent over the increase would be eligible for this special funding."

Rose: "Okay. I'm gonna make a side note on that. The problem we're in is people who didn't know this was coming have already missed the window deadline of last September-October to apply for LIHEAP. Well, we can work on that as this issue moves forward. But one last comment. Is this fifteen million dollars (\$15,000,000) that you're referencing in addition to what the company had already put in its previous rate mitigation?"

Scott **Cisel**: "This is the details of that fifteen million dollars (\$15,000,000). It's not in addition to what was part of the Customer Elect Plan."

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Rose: "So this is the same item that you've already rolled out previously?"

Scott **Cisel**: "This is the referenced fifteen million dollars (\$15,000,000)."

Rose: "Thank you."

Chairman Scully: "Thank you. Mr. **Cisel**, regarding your eight-point plan, have you made an estimate of how much this eight-point plan is going to impair the profits of the Illinois rate regulated operations?"

Scott **Cisel**: "The anticipated cost for this plan is approximately thirty-five million dollars (\$35,000,000). The amount of the impact to the profit of the company with the tax effect, I don't know that specific number this evening, but it is additional expenses which will reduce the income of the three Ameren Illinois Utilities."

Chairman Scully: "Mr. **Cisel**, the normal tax effect I use for calculating corporate income taxes is 33 percent. Would that be a realistic number to use?"

Scott **Cisel**: "Certainly sounds to be within the ballpark, Chairman."

Chairman Scully: "So if there was a... If we assume a 33 percent tax effect, if Ameren is going to... the Ameren Illinois regulated operations are going to lose about thirty-five million dollars (\$35,000,000) pretax, that would be about twenty-two million dollars (\$22,000,000) after tax. Is that correct?"

Scott **Cisel**: "Yes, I follow the math."

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Chairman Scully: "Thank you. And two weeks ago, your parent company issued a press release estimating... stating that your earnings for 2006 were a hundred and fifteen million dollars (\$115,000,000). Do you recall that press release?"

Scott **Cisel**: "Yes, Sir."

Chairman Scully: "They also **estim...** expected that you would... Ameren Illinois regulated operations in 2007 would earn a hundred and fifteen million dollars (\$115,000,000). Do you recall that?"

Scott **Cisel**: "Yes, Sir."

Chairman Scully: "So this would decrease your profits for 2007 from a hundred and fifteen million dollars (\$115,000,000) to ninety-three million dollars (\$93,000,000). Is that correct?"

Scott **Cisel**: "If all that expense was occurred and the tax effect that we just discussed, yes."

Chairman Scully: "Thank you. Mr. Lang, did you have a question?"

Lang: "Thank you, Mr. Chairman. Good evening, Sir."

Scott **Cisel**: "Yes."

Lang: "Do you currently as you sit there today in hindsight, stand by all of your arguments and numbers as you gave them to the ICC?"

Scott **Cisel**: "Stand by the numbers?"

Lang: "Stand by the argument you made to the ICC about the... in the reverse auction and the tariffs. Do you stand by all

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the data you gave to the ICC? Do you stand by all of that, your proposal to the ICC?"

Scott **Cisel**: "Let me respond if I'm not respond... Please let... If you're asking me if the data that we provided was good data, we certainly stand by that data. If your question is, would we with hindsight go back and reconsider whether or not we should've continued some subsidy for electric space heating customer? In hindsight, we should've made that decision to have considered that."

Lang: "Is it too late for you to do that now?"

Scott **Cisel**: "Well, the proposal that I've mentioned tonight would be a fix of that on a forward going basis."

Lang: "But the fix isn't the same deal you had for those folks previously, is it?"

Scott **Cisel**: "The same level of discounting? That is correct."

Lang: "It is not the same level of discounting, is that correct?"

Scott **Cisel**: "That is correct, Sir."

Lang: "So, in... in hindsight, what other regrets might you have about your case before the ICC? Any?"

Scott **Cisel**: "The regrets? As far as the rate case itself, I would say the principal concern would've been to have revisited this issue about large energy users on the residential side and having some sort of a discount, if you will, on the commodity supply charge."

Lang: "Knowing what you know now about the pain that has been visited upon business and residences, as you sit there now,

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other than your eight-point plan, is there some other idea that is still in the works at Ameren regarding some relief for these folks on an ongoing basis?"

Scott **Cisel**: "Not beyond the eight-point plan that I presented this evening."

Lang: "So do you think, as you sit there now, there was anything you said or anything your company argued to the ICC that was misleading?"

Scott **Cisel**: "Sir, I was not part of that regulatory proceeding. So I would not be able to respond to that question."

Lang: "But you certainly have read the record. And... and your position in the company would seem to be one where you'd know what the case was all about. So I would ask you again, do you think anything happened before the ICC on behalf of your company that you now think might've been misleading?"

Scott **Cisel**: "My general knowledge is of a high level. And I'm not aware of any data or representation that we made in that filing that was misleading."

Lang: "But you would submit that the numbers in terms of the increases that are going around downstate, those large stack of bills in front of Representative Bradley, you would submit that those are larger increases than you indicated to the ICC that these people would sustain, is that correct?"

Scott **Cisel**: "What we stated to the ICC and to the public was the overall increase range for all the customers as one customer segment. What I had said tonight and previously,

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that when you look at the various customer groupings, there would be varying levels of annual percentage of increase."

Lang: "So if you didn't mislead the ICC, Sir, did you mislead the public?"

Scott **Cisel**: "I don't believe so. What we stated was accurate."

Lang: "So it may be accurate to state that the average is 52 percent. Let's assume it is. That number would be high enough if everybody was at 52 percent, but you have some people wildly over that number. Is that correct?"

Scott **Cisel**: "We have customers higher than that percentage."

Lang: "Yeah. Substantial number of customers, it's not just a few, it's a substantial number of customers substantially over a 52 percent increase. Would you agree that that's correct?"

Scott **Cisel**: "Substantially, for the winter rate, yes. On an annualized rate, you know, the range again that we said 40 to 55 percent captures the majority of our customers."

Lang: "Right."

Scott **Cisel**: "Residential customers."

Lang: "Right. But when I talk about misleading the public, when you advertise and you make statements to the ICC, and you make statements to the press, and you make statements to Legislators, and you send out writings that talk about a 40 to 55 percent increase, you are trying to lead the public into believing that while you know that's the average, that that's what they should expect. Isn't it?"

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Scott **Cisel**: "That was the overall expected average for the residential customer segment."

Lang: "Right. So you don't think it's misleading thousands of your customers to give them that number and not tell them that a substantial number of them are going to have increases in the range of 100 and 200 and 300 percent? You don't think that's misleading, Sir?"

Scott **Cisel**: "What I'd indicated earlier tonight that the detailed communication that we provided to the public, our customers, should have been more specific by customer groupings. That would've been helpful."

Lang: "Right. So you're... But you don't think it was misleading to leave that information out?"

Scott **Cisel**: "No, I do not."

Lang: "You do not. And so then why are all these people angry, Sir?"

Scott **Cisel**: "Because they're experiencing increases in the winter months higher than that projected overall average annual increase."

Lang: "Well, I... I would submit to you that they're not just angry 'cause their bill is higher. I would submit to you that they're angry because they've been misled. And I... And I am not an Ameren customer. And none of my constituents are Ameren customers, but just for the record, Sir, we're State Representatives. And all 118 of us represent everyone in the State of Illinois. Sir, you need to know that. And you need to know that when a person in Representative

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Stephens or Representative Bradley's district, which are hundreds of miles from my home, get a 300 percent increase in their electric bill when they've been told it would be 52 percent, that angers me. And when my constituents hear about it, it will anger them too. It will anger them 'cause they're angry enough that their rates went up under **ComEd's** plan. So you need to know that these people are angry because they feel misled. Whether you feel they've been misled or not, the rest of it is just rhetoric, just rhetoric, Sir. Let me ask you this. At the time that the freeze was getting ready to expire, the last year or two before the freeze was getting ready to expire and you knew this was going to be an issue before the General Assembly, what efforts did you make to negotiate any new rate or any new plan with the General Assembly?"

Scott **Cisel**: "To my recollection, Sir, we did not come forward to the General Assembly with any sort of a rate design. We certainly talked about our willingness to sit down and to develop a constructive resolution, but we certainly were opposed to the extension of the rate freeze."

Lang: "And did you sit down with any kind of constructive plan or did you just simply try to wait us out hoping the rate freeze would end?"

Scott **Cisel**: "We had discussions, I can't recall with all the detail this evening, of willing ways to have a phase-in program with certain conditions embodied into such an approach."

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Lang: "When would those discussions have taken place and with who?"

Scott **Cisel**: "I would like to be able to get details back to you on that. I mean, I wasn't personally involved with all that, but we... we had voiced, I would generally recall, our willingness to look at things such as at a spring ago or spring 2006."

Lang: "And is it your testimony then that nobody was willing here to sit down with you to discuss these weighty issues?"

Scott **Cisel**: "I don't know if it was nobody, but certainly we had voiced our willingness to do such in several public hearings."

Lang: "So you, as you sit there now, cannot tell us what proposals, specific proposals you may've made before the rate freeze expired that might've convinced those of us in this room to be helpful to Ameren and at the same time protect consumers?"

Scott **Cisel**: "What I recall, Sir was a willingness to do a phase-in, more of an optional rather than a mandatory requirement of customers wanted to phase it in. We also spoke about our willingness to do such if there were financial credit ratings embodied in case our overall ratings fell into a junk status. I mean, those were the kind of principles that we talked about."

Lang: "Would it be fair to say, Sir, that in fact, what you really did was just sort of wait us out? That you assumed that nothing would happen here and that the rate freeze

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would end, and you would move on your merry way to do what you wanted to do to raise rates. Isn't that a more appropriate response?"

Scott **Cisel**: "Sir, we were willing to talk about the phase-in approach at any particular time."

Lang: "Well, I cannot speak for anyone else here, but I for one would like to see the documents you're referring to. I would like to see in writing proposals you made, when you made them, who you talked to, what the response was. I'd like to know for instance, if you've ever had serious conversations with Chairman Scully, who's our leader in this area. I'm not asking him to respond. I'm asking you. I'd like to know if you spoken to President Jones, to Speaker Madigan, to Governor Blagojevich, to Leader Cross, to Leader Watson. I'd like to know when those conversations took place. I'd like to see document evidencing what your offers were. And I'd like to know what their responses were. And I'd like to know how far and how quickly and how aggressive you were to not only protect your company, which you do and you should do because you have stockholders, but to protect ratepayers in Illinois, thousands and thousands and thousands of them. Are you prepared to provide those documents to me, Sir?"

Scott **Cisel**: "If we have such documents, yes."

Chairman Scully: "Mr. Lang, if I could, I would like to correct you on a point. You said that he has shareholders. He does not have shareholders. He has one shareholder."

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Lang: "Very fine. Thank you, Sir."

Chairman Scully: "Thank you."

Lang: "So I assume if you've made offers, those offers are available. If they're not formal documents, they are notes. I would like... I want that information. I don't know who else wants it, but I want it. And if you provide it to me, I will read it. And if you don't provide it to me, I'll assume that what you've said is something we can ignore because if you don't have the information, then telling me that you've made these offers is specious unless you can tell me what those offers are. I hope you understand my point, Sir."

Scott **Cisel**: "I do, Sir."

Lang: "One additional point and then, Mr. Chairman, I will be complete. I thank you for your indulgence. I... I don't think you should misunderstand or underestimate the people in this room and the Members of this Body who are not here, Sir. We care about people all over the State of Illinois. And while someone in your corporate boardroom may assume that because a lot of us from Cook County deal with ComEd and not you that maybe we don't give a darn about what goes on downstate, but I assure you we do. Many downstate folks tried to help people up my area with some huge property tax increase as I've had some Bills to deal with that. And people like Representative Stephens were helpful to me. So you can be assured that I'm gonna be standing on this floor defending my colleagues from downstate against your abuses,

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against your ignoring the needs of the people, and against you failing to understand that consumers of electricity have nowhere to go but to you to get it. And simply coming here and saying you made an offer and not knowing what it is, simply coming here and coming with an eight-point plan that is somehow scheduled in your corporate boardroom to put us aside. Your eight-point plan, did you think you were gonna come here with an eight-point plan and Representative Bradley and Representative Stephens and other Representatives from all over downstate Illinois were gonna say, wow, how fabulous you are protecting our people. I say you're here too late, you're not responsive, and I believe you duped the ICC. And you're not gonna get away with duping the Illinois House of Representatives. Thank you, Mr. Chairman."

Chairman Scully: "The Chair recognizes Representative Flider for a question. Thereafter, I will recognize Representative Reitz. Mr. Flider, please proceed."

Flider: "Thank you, Mr. Chairman. And Mr. **Cisel**, I know it's been a long night. Been a long... long day for everybody here, certainly a long winter for consumers, and... and a long night, a long day for Brandy Brown from Decatur who came here at 3:00 today to testify and talk about some of the concerns that she and her fellow neighbors are... are experiencing. A lot's been said. A lot's been talked about. And a couple of questions that I have relate to the issue that many of us believe if... if there was a way to have

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done this a little differently, purchased power a little differently, the prices may not have been so high and as a result, we may not face... be facing all these difficult issues today. The question of the reverse auction, do you know who came up with that idea or, ya know, was that an idea that... that came up within Ameren or was it an idea that came in... came up outside the company, maybe from another utility? Who... who actually came up with that idea in Illinois? Do you know?"

Scott **Cisel**: "I don't know, Representative."

Flider: "Okay. The... the thing that I... I often think about and I understand we had the ICC here and they provided their expertise a little earlier about the way power is purchased and... and the way it's priced and so on. But I have a number of municipal utilities in my district: Bethany, Illinois; Sullivan, Illinois, among them and, ya know, their... their directors of public works and their city council members maybe make, ya know, five thousand dollars (\$5,000) a year, six thousand dollars (\$6,000) a year. And they... they are members of the Illinois Municipal Electric Association which is able to somehow purchase power for the needs of those municipal utilities at what looks like a pretty decent rate, at least historically for many of those utilities. And these are guys who, ya know, go to meetings with plaid shirts and, ya know, they're not high-powered executives and... and, ya know, so they don't have a lot of expertise, but somehow they manage to cobble together a program.

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They've got an agency and they got out and they buy power and they're able to buy power at a lower price for their constituency. And then maybe the reason is because it's not a fiduciary responsibility, although I think one could argue an elected member of a council has that kind of responsibility. But it's one of constituent service and it's one where, ya know, if they don't do a very good job, they're gonna get, ya know, thrown out of office. And.. and I guess you've heard a lot of concerns about... like that tonight. But I guess my question relates to the way power is purchased. And was there a problem with going out in the market like the municipal utilities do doing long-term contracts, short-term contracts, buying in bulk, get... getting dedicated power for a system? **Wa...** was... was there a problem with that process or was... was that not a possible way of doing business?"

Scott **Cisel**: "Well, certainly there are other alternatives than using the reverse auction process to secure the power. One process would be to have a third party administer the requests for proposal for power on behalf of the electric utilities. And as you described, it could be for varying amounts of power for varying terms of power. So, ya know, there are other options other than the one that we followed here in Illinois."

Flider: "And.. and I appreciated the fact that you said in your comments that you are open to new ways of buying power which indicates to me that those could, ya know, in the future, ya

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know, the hope would be that just like the municipal electric utilities are able to do, that perhaps the industrial utilities might also be able to bring back lower prices through negotiations. And I... I recognize it's a challenge and... and I recognize you're a business and you have responsibilities to shareholders. But the fact of the matter is, ya know, there's always been this... sort of this regulatory bargain, this balance. And of course with the new world we're in with... with deregulation, it seems as though that bargain's kinda gone, it's off the table. And I... I know I've known you for many years. And I know that in... in many years ago during the days of regulation, whether with CIPS or CILCO or Illinois Power, ya know, they had customer service representatives in... in each of the office... each of the towns they represented or the bigger towns. And... and, ya know, those days seem to have passed us by. And it... it seems as though along with that, ya know, there were... along with those days there was a certain kind of social responsibility. People in those communities, they were part of the community. Ya know, you... you'd see your lineman or you'd see the customer service rep in a restaurant and ya know, he'd be mingling with the banker. And those days are kinda gone. I mean, ya know, in the smaller towns, ya know, we don't have that representation anymore. So obviously, it's tougher to communicate these days. And, ya know, so I... I guess the question kinda comes down to here we are in... in this challenging time. Do you

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believe that utilities have... have a social responsibility for... for trying to moderate rates for people? And if so, ya know, were there any discussions along those lines when this rate case was filed with... with the higher all-electric rate, ya know, going into effect? Were those kinds of discussions occurring within the company at that time?"

Scott **Cisel**: "Well, we certainly take very seriously our corporate responsibility to serve our customers. Those sorts of discussions are part of pure-rate design discussions, probably are not forefront with those sort of objectives. The history that you described of what the utility and local service operation used to be has... has changed."

Flider: "Do you miss those days?"

Scott **Cisel**: "I remember those days fondly. But I also say there are opportunities to look at **reregulating** certain portions of our business beyond our delivery service component."

Flider: "I know a lot of times a utility company would go to the Illinois Commerce Commission with a proposal, ya know and you... you'd... you'd go in and here's my case and here's what I need and here's why I need it. And you, ya know, have witnesses and testimony and facts and figures to support it. And then what you usually get is some pushback. And you... you very rarely get everything that you wanted and so on. And I guess my question relates to the rate design aspect and... and the all-electric rate. Did you expect any kind of

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pushback? Or I think you indicated earlier you weren't aware of the specific proceedings at the ICC. But ya know, I guess, ya know, having heard the testimony here today and... and talking to the Illinois Commerce Commission and they indicated that, ya know, perhaps they could've missed this one or there... there was an opportunity that they missed. Do... do you think that when you asked for this you really expected that this would... what would be... be what was approved?"

Scott **Cisel**: "Well, what we filed concerning that particular rate design was a filing that certainly we thought was justified. But with any filing we also expect that the various customer groups or the various parties that intervene would challenge not only that design, but any design. And perhaps what we filed would've not eventually have been approved."

Flider: "One of the things that is of... of interest to me is that, ya know, as... as we discuss and debate this and we've had hearings, I rarely hear about the generators, those that are producing power and selling it on the open market, those who... where the 'competition' is... competition is in the so-called generation. But they're never here representing their interests that I'm aware of. At least they're not weighing in. And we don't seem to be **taying**... teeing off on them very much here. And... and they're... they're not regulated at all by the Illinois General Assembly. But I... I still find it fascinating that they're not here telling

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their story about why the power prices they're charging are reasonable and why the prices they're charging are competitive. And do you find that curious at all?"

Scott **Cisel**: "Well, I guess it's curious. But I think from a supplier point of view, which I don't represent, their position is they participated in the reverse auction, settled out. They agreed to supply the power for whatever price they agreed to. And so I... I think their general thought, perhaps, Representative, would be that, ya know, if they don't sell it in Illinois, they would sell it on the market someplace else."

Flider: "Well, who would sell it in Illinois? I mean, here we are... Ya know, the transmission system really still isn't built for competition. And I know the Federal Government, ya know, in the 80s wanted to move the whole nation toward competition. And... and of course Illinois, ya know, was one of the first in the nation to try and get there. But the idea was that the transmission lines would be the superhighway to, ya know, transfer electrons. And that this competition really could occur only if new transmission lines were built. But in fact, really, no new transmission lines have been built. We still have, ya know, just transmission line that was built for reliability. Back in the good 'ol days when utilities were concerned about, ya know, making sure they had enough capacity to serve their customers. And if they didn't have enough power or if one of their power plants wasn't running, they could depend on

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the interchange market within Illinois to transfer power. I mean, that's how the transmission lines were built. And that's still how they're built. So, I guess I'm kinda curious as to if... if we're not buying their power, if they're not selling it here, and, ya know, every other state's regulated and it's regulated on the basis of cost, who's gonna buy that power at that kind of price?"

Scott **Cisel**: "Well, I only can presume that the generators would sell their power at whatever price is available in the wholesale market. Whether that's to other utilities or other marketers, ya know, whoever happens to meet their expectations they would sell it to."

Flider: "Ya know, I couldn't help but notice last year right after the reverse auction, one of the state's most prominent generators filed a... Right after the reverse auction they went to the SEC and filed a... a notice that they believe that their profits for the coming year would increase substantially. In fact, their bottom line would increase... I... I can't remember the percent, but I know it was in the double digits. And which obviously took a lot of people, ya know, kind of by surprise because, ya know, that was a significant enough event for them to report. But then the next day, they sort of filed an oops. They said, 'oops, never mind. Forget about that filing.' And they pulled it back. And I think the reason... And... and from what I was able to gather in the comments made to financial analysts is that that... that company felt that there still could be some

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regulatory hurdles and problems in Illinois in which the Illinois... this might not sell... set well either with the Illinois Commerce Commission or the Illinois General Assembly. And so as a result of that, maybe they shouldn't be counting their chickens before they hatch. And so that oops, ya know, was sort of a... a signal to me that perhaps the generators are expecting some kind of adjustment. On one hand they were gleefully happy to point out to Wall Street, to the SEC anyway, that their future profits would be going up. And then they, ya know, kinda recognized well that might be a problem for regulators so let's not count our chickens before they're hatched. Any observations about that?"

Scott **Cisel**: "I... I wouldn't attempt to speculate and speak on the behalf of any other utility."

Flider: "Yeah, and I... and I don't blame you. And this was actually a... a generator and not a utility. But it was... it was a generating company. But what that suggested to me was that this really wasn't over, that everybody recognized, even the **gen...** generators realized oops, ya know, we... this looks pretty good. And how good, ya know, pinch me. Can this really last? And so, as we talk about the rate..."

Chairman Scully: "**Mr...** Mr. Flider, do you have a question for the witness?"

Flider: "Well, yeah, I guess... I guess I'm being a little conversant. I would just follow up with... with a couple of questions relative to customers, customers who... who I know

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in the neighborhoods I serve who are gonna be dealing with situation that it sounds like it was sort of maybe intended but not... not intended and then certainly not intended on... on our part. Ya know, you've come up with an eight-point plan and... and involving credits for customers who are high use customers. But, ya know, a lot of the people in our neighborhoods are... are grandmothers or... or... or ya know, elderly people who truly are on fixed income. I mean, it... it amazes me how many people truly are trying to survive on... on Social Security. And just through habit or otherwise... and these are people who don't accept handouts, these are people who would never have accepted a handout, never would've accepted any kind of low... low-income energy assistance. I worry about them around April when, ya know, they may not have the ability to pay their bill. And I guess my question kind of gets back to this whole issue of social responsibility and... and, ya know, being the hometown provider. Do you believe that Ameren will be able to look at these situations and... and say, hey, we can't cut off somebody like that, somebody who through their... no fault of their own ended up with a higher utility bill, may not have understood, ya know, the situation where that credit may not have reduced their bill enough? Do... do you believe Ameren has the capability of **relooking** at that situation and saying, perhaps we don't have to cut that person off?"

Scott Cisel: "Representative, I think for any of our customers we try to analyze that. And the situation that you

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described this evening here, we would work with that customer to do our very best to keep from taking disconnect activity with the situation that you just described."

Flider: "Okay. Thank you very much."

Scott **Cisel**: "You're welcome."

Chairman Scully: "Representative Reitz, did you have a question?"

Reitz: "Yes, I did. Thank you, Mr. Chairman. Mr. **Cisel**, in your eight-point plan, I guess hearing it for small businesses, they have an opportunity to do more Budget Billing. Is there any other options out there for small business?"

Scott **Cisel**: "In what we proposed, that's the option for the smaller business, other than the Customer Elect Plan."

Reitz: "Okay. I think one of the problems we have or we're going to have in downstate Illinois or all throughout Ameren territory, especially now, is... is that a lot of these were hit with large increases. And they're gonna get hit doubly. They're not going to be able to take the increase in their electric bill out of the profits that they make at their business. Plus, they're going to have less disposable income within the community so a lot of small businesses in our area are going to fold. And that's a concern. So anything... if you're going to put together a plan, I'd appreciate something you could do to help assist small businesses also. And in your... I guess and some of the other questions we're asking, do you... do you have a plan if a

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senior or a young family or someone just can't pay their bill? I mean, they may be able to pay it the first month, can't pay it the second month. How are you... how do you plan on dealing with that?"

Scott **Cisel**: "Representative, if they become eligible for any of the programs that I described tonight in the use of the fifteen million dollars (\$15,000,000), they certainly would be a recipient of that. Putting that to the side, if a customer's still having difficulty then we would encourage that customer to contact our contact centers and try to work out a payment plan that would keep the lights on for that particular situation."

Reitz: "Thank you. And I just echo what all of my colleagues said. We have a tremendous problem in southern Illinois and downstate Illinois all trying to deal with this. I think a lot of it was the misrepresentation. I mean, in trying to prepare people for how bad this is going to be, it's been a lot worse and a lot of that has been the... the inability to tell them beforehand that the all-electric rate wasn't... was going to no longer exist. And most of the calls we're getting have been from people that haven't experienced the 30 or 40 or 50 percent increase it's 100 or 200 percent. And no matter what they do for a living, it's hard to budget that into your income and take that away from your family. So we appreciate everything you can do and we'll hopefully follow through and do what we can do. Thank you."

Scott **Cisel**: "I understand."

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Chairman Scully: "Thank you. No other Members seeking recognition to ask further questions of this witness. Mr. **Cisel**, thank you very much for joining us. I would greatly appreciate it if you would... you or a representative of your company would stay in the chamber until the conclusion of this hearing."

Scott **Cisel**: "Okay."

Chairman Scully: "Thank you, Mr. **Cisel**."

Scott **Cisel**: "Yes."

Chairman Scully: "I'd like to call a panel of three witnesses who've asked to testify. I want to reemphasize, I... I ask the witnesses to stay on point, to not repeat testimony that we've already heard. Brandy Brown will be giving testimony. Brandy Brown is from Decatur, Illinois. Mr. Don Yost is a senior **citi**... housing developer from Charleston, Illinois. And Brad **Voyles** is the president of Emerald Glen Management Group of Effingham, Illinois. Could the witnesses please stand and raise your right hand, facing the Committee. Do you solemnly swear... solemnly affirm the testimony that you're about to give be the truth, the whole truth and nothing but the truth?"

Witnesses - et al: "I do."

Chairman Scully: "Okay. Ms. Brown, would you please proceed with your testimony."

Brandy Brown: "Yes. I am here tonight to address the General Assembly. I am here from Decatur, Illinois, Mr. **Flider's** district. I am here to express the deep concerns regarding

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our utility rates, the hike and extreme difference in our bills this month. Many of us are citizens on fixed incomes, senior citizens, and the working class. It is almost next to impossible to... withstand the extreme increase of our utility bills. A majority of us will be forced to let other imperative necessities go, such as medication, nutrition, and other utilities. We would like to keep in mind that we are all taxpayers and have played a majority role in many of the successful elections. We pray and we hope that you will keep are best interests at heart. My... I am here to express my concerns because my power bill has never run over two hundred dollars (\$200) a month. And my power bill was six hundred and fifty-two dollars (\$652). I have neighbors that don't make... nine hundred and eighteen dollars seventy-four cents (\$918.74) twice a month and their power bill was seven hundred and sixteen dollars (\$716). You have to decide between transportation to work, whether you're gonna buy food to put in the freezer, or provide child care for your children, or pay a utility bill. I'm just here tonight to ask the General Assembly, as well as, the Senate and the House to please recons... reconsider the decision on the rate increase. Thank you."

Chairman Scully: "Thank you, Ms. Brown. Mr. Yost, of Charleston, Illinois, please proceed."

Don Yost: "Good evening, Mr. Chairman, and Mr. Speaker, and Members of the Committee and Members of the House. My name is Don Yost and I'm the owner and managing member of **Cougill**

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Senior Apartment, located in Central Illinois, Charleston, Illinois, and I would like to thank the Speaker, the House, and you, Mr. Chairman for an opportunity to testify about this very important issue. I come before you today not only talking about my business, but as Representative Rose, my Representative, mentioned earlier, I'm here today to represent the Coles County Council on Aging and offer a voice on their behalf, and Coles County Housing Authority. I operate a hundred (100) unit, sixty-two (62) years and over senior complex, where the majority of the folks range in age from seventy-five (75) to one hundred and four (104) years old. These are the people that Tom Brokaw referred to as the 'greatest generation', which I add my mother and father as a part of that group. The past couple of months I have witnessed daily the pain and suffering of these seniors are experiencing due to the recent increase of electric rates. Our facility is totally electric and each apartment consists of about five hundred and fifteen (515) square feet. Last year the average cost utility per apartment, per month, was fifty-one dollars (\$51). The residents who live in our apartment complex are retired and operate on a budget under normal circumstance. They're good and decent people and they're proud and they raise very few concerns. However, the new electric rate increases is having what I call unintended consequences and lot of their bills have jumped considerably. What happened as was mentioned before the dollar-a-day cap rate. What happened to the discount

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and incentives Ameren had in their old plan, all-electric incentives. And why is calling 1-800 customer help, so difficult, especially if you're... you're a senior, try it sometime and you'd better understand. The rate increase as seen by my residents who are on air support or oxygen in particular, have seen their bills jump from sixty dollars (\$60) to as much as one hundred and fifty (\$150) and beyond. The remaining seniors are finding their electric bills going up more than the sixty (60) percent than they can afford on their fixed income. This new rate increase is forcing my seniors and seniors all over this state, the greatest generation, to make a decision about medicine and food and essential clothing versus paying their utility bill. I'm hearing families who live in other affordable housing developments which I have built in Marion, Metropolis, and Charleston, also that are feeling the electric increase. I have had the privilege... I am not a young man... to work for six Governors since 1970 and lived in Springfield on three different occasions. I have an enormous amount of respect for the House, Senate and Governor. I worked with many Legislators on both sides of the aisles in the House and Senate, mostly on senior issues and affordable housing. Earlier I mentioned the unintended consequences; I want to get to my point. I do not believe for one second that anyone in this chamber or the Senate chamber or the Governor's Office want to hurt seniors or working families or young families making minimum wages. However, the sad

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reality reflects our new electric rate system is not working, is not fair, and is being put on the backs of seniors, in particular, who cannot afford the electric rate. These people are your aunts, your uncles, your grandparents, in some cases, your parents. The system is broke. It is causing pain and hardship that is not deserved. This is a statewide problem from Metropolis to Chicago. I do not have a personal axe to grind with the utility companies and in particular Ameren in our area, but when I look at their quarterly profit reports and find they are making millions and my senior citizens have to make decisions between medicine and food, I find it very difficult if almost impossible to have any sympathy under those circumstances, and I might add the current system. I'm also aware that there has been a freeze or a cap rate for 10 years and in all honesty, I admit in hindsight, maybe that wasn't such a good idea from a business point of view. The bottom line, looking back, meant if you don't pay me now, you'll pay me later. Perhaps applying a temporary fix then, that has now come back to be dealt with, with this Body, the Senate, and yes, this Governor. I am a businessman and I understand how to make a payroll, know how to read a profit and loss statement and I cannot in good conscience stand by as a witness to this system that is destroying a life of quality for senior citizens and working families in Illinois. So what is the answer? What can be done? What should be the appropriate remedy to correct this current flawed system?

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I've been around for almost sixty-four (64) years and realize when you identify a problem you also should come up with a solution, so I will attempt to start the process. One positive aspect I think that hasn't been mentioned enough tonight, this a bipartisan issue; this is not a Democratic issue, this is not a Republican issue, this is a people issue and this is something that I know this House is gonna come together on and I'm hopeful that they will be joined. I call upon the Governor, I call upon the Speaker of the House, the President of the Senate, the Minority Leaders in both Houses, in good faith to share the unintended consequences as you have tonight, but maybe in... before the ICC, again in good faith, about the new electric rate system and explain how it's hurting senior citizens. I call upon the same leadership to meet and show bipartisanship and leadership and correct the system on behalf of the Illinois citizens. You owe nothing less to the citizens who are hurting as a result of this new electric rate increase. I have confidence that working together on behalf of the people of Illinois you can collectively solve this critical problem. I would like to thank the Speaker, the Chairman and the Members, in particular, of the House, for allowing me for this honor and high privilege to testify before you. And I pray that, as all of us get up tomorrow, that the Governor, the Speaker, the Senate President and the two Minority Leaders will move

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as fast as people have talked about moving today and do the right thing for the people. And I thank you, Mr. Chairman."

Chairman Scully: "Thank you, Mr. Yost. Mr. **Voyles**."

Brad **Voyles**: "Good evening. Mr. Chairman, and the House of Representatives, I, too, want to thank you for allowing me to be here tonight to give a basis of what... what's happened to the small business people and what this rate hike has done to us. My name is Brad **Voyles**, I'm the President of Emerald Glen Management Corporation and we build, operate and run small senior living... assisted living facilities across Central Illinois. I'm here tonight to express our concern, as well as others, on what this rate hike has done to us and to provide you with few facts. There has been a lot of testimony here tonight about how this has affected everybody so I'm not gonna... beat... beat this up, I'm just gonna tell ya exactly what it's done to us. I want to tell you that I've heard also some testimony tonight of deception and if there was no deception from AmerenCIPS and there was no... **mis**... nobody was misled about the electric and the electric rates, well, I want to tell ya, I'm here to tell ya during the fall of 2005, late 2005, October, November, December, we began a discussion with Ameren about a construction of our third building in Greenville, Illinois, in State Representative Ron Stephens' area. At that time, we were told that it would be in our best interest to go one hundred (100) percent electric in our building. The to facilities we had built prior two that were all gas. And at

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that time the rates were affordable for us, but we were assured that if we went all-electric that that would be a large increased savings for our company. They knew we were getting ready to build that building as well as a second building and they encouraged us to do that second building. They knew that is was going to be constructed in 2006. We did exactly what they asked us to do. We did exactly what they told us to do. And now we find out that's not... that wasn't the right thing to do. I also want to reiterate something else, during a conversation that we has with Ameren about deception and about the way I feel like they operate. We sat down with Ameren in that same meeting with... in Greenville... with Representative Ron Stephens and the city manger. And Ameren told us at that time exactly how we were gonna construct our power to get into our building at that time. They made us put two separate loops to go into a building when only one loop was necessary. And the cost of that... to run that... that power three hundred (300) feet was sixty-five thousand dollars (\$65,000). The two prior facilities we had were AmerenCIPS, we ran the same power and to the same facility five (\$5000) and six thousand dollars (\$6000) it was hard for me to understand how we could have two facilities providing power from the same company at another location cost us so much money. I asked them specifically during that meeting what if anything can we do about this. And their comment was this... this comment exactly was, 'there is nothing you can do about it.' And I

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said there is absolutely nothing?. 'No, if you don't what we tell you to do and you don't pay the sixty-five thousand dollars (\$65,000) you're not going to get power to your building.' Well, obviously, as a small business owner at that time I was nervous and I was scared we had already bought the property, so what did we do? We went ahead and paid the sixty-five thousand dollars (\$65,000) and went right along with what they told us to do. Well, I want to tell you that in January and February of 2006 the average monthly cost of our bill... for our billing was twenty-five hundred and thirty-seven dollars (\$2537) a month. In January and February of 2007 our average bill fifty-six hundred and forty-nine dollars (\$5649). That's a hundred and twenty-six (126) percent increase in a small business operational cost. That is right off the bottom line. Now I have been hearing all night long one dollar(\$1) and two dollar (\$2) and maybe even I'll stretch it out and say three dollars (\$3) a day on this. That was a hundred and three dollars and seventy-three cents (\$103.73) a day increase. That's not the dollar (\$1) or two dollar (\$2) I've heard about, that's not what they told us when we sat down across the table with them and asked them how was this going to affect us. It was going to save us money. It cost us a hundred and three dollars and seventy three cents (\$103.73) a day. Okay. A hundred and twenty-six (126) percent increase. I just want... I want to thank you for allowing us to testify here. And what I would like do, I'd like to ask

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you and beg and the same as my constituent over here, please say some prayers for us and everybody in the State of Illinois, not just for us small business owners, but for everybody. Thanks again for allowing us to testify."

Chairman Scully: "Thank you, Mr. **Voyles**. I want to remind that all the people who've testified... that I invite you to submit any written testimony for the record. Are there any questions from Members of the Committee of these witnesses? Seeing no questions, thank you very much, for your participation in this hearing. The next person who will address the Committee of the Whole is Lieutenant Governor Patrick Quinn. Lieutenant Governor Quinn is not going to be giving testimony. He is going to be giving a position statement, therefore, he will not be sworn in as a witness. Mr. Quinn, please proceed."

Lieutenant Governor Quinn: "Thank you very much..."

Chairman Scully: At the conclusion of Mr. Quinn's testimony we will ask the **Comm...** the representatives from Commonwealth Edison to come forward as witnesses to make their presentation and to answer questions of Members of the Committee. Mr. Quinn."

Lieutenant Governor Quinn: "Thank you very much. It's not often that I get the opportunity to be the lead-off act for **Commwealth** Edison, but I'm happy to provide that. I do want to commend Speaker Mike Madigan who was the Sponsor of the Citizen Utility Board Law, nearly a quarter of a century ago. Today is the Primary day in Chicago and Speaker

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Madigan was Speaker for the first time when he sponsored the CUB Bill that was enacted in 1983, and it's a good law that stands up for consumers and that's exactly what this hearing is all about, to make sure that the people of Illinois, the consumers have a chance to speak on a very important subject that affects their lives and pocketbooks. I also want to commend the chairman of today's proceeding, Representative Scully, who has handled himself in a very positive manner, allowing all to speak and has handled this overall issue in a very scholarly way. Indeed, I believe the word Scully and in Gaelic mean scholar and I want to thank Representative Scully for his good performance here and I think I'd be remiss if I didn't acknowledge the encyclopedic and outstanding for entries in information that we received from the Attorney General's Office; they've done a very good job at making sure that all of us know that there's not a single word in the Statue... that's been passed by the General Assembly that allows for a reverse auction in Illinois. Nothing in statue permits that, that was made up out of whole cloth, by the Illinois Commerce Commission and I think all of us who were here today and heard the presentation by the Illinois Commerce Commission had to be quite disappointed and indeed, I think that should be one of issues that comes out of this proceeding to night and into the weeks ahead. We need to take a look at structure of the Illinois Commerce Commission, the people who are appointed commissioners have in my opinion have let the public down

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grievously in the past year and I want to thank Representative Flowers, for her Leadership in this area I am going to be with her tomorrow to speak about some of those issues regarding the Illinois Commerce Commission and improving how the public can make it more accountable. And also want to salute I think all of us have permanent debt of gratitude to Representative Bradley and his colleagues who have... especially in southern Illinois, where I once lived, who have asked the public to come forward with specific information on this issue of unfair utility rates. Of all the elected officials statewide in Illinois, I think I'm the only one who's lived in southern Illinois and I know I am the only one who's been a customer of what was then Illinois Power and is now is Ameren. And I want to make sure that all people of southern Illinois and Central Illinois know that this Lieutenant Governor cares about what they pay for electricity, their families, their businesses and their governments, and it's very important that we take a look at this issue in every part of Illinois. I know that the hour is late and people have been very patient here. I just want to make a few points that I think that we need to keep working on until we get solutions. Basically, what we're talking about here with Ameren and Commonwealth Edison are deregulated monopolies, just about the worst thing you could have in life, a monopoly and then one that is not regulated. So, we really have to focus on improving the regulation of these entities that are overseeing the transfer of almost

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two billion dollars (\$2,000,000,000) from the pockets of families and businesses and governments to their own pocket. I think some of the issues that have been talked about here such as municipal aggregation, we need to focus on another issue is net metering, that the utilities have always tried to defeat here in the General Assembly, giving those who have renewable power the opportunity to sell that power back to the grid. A couple of years ago the Governor appointed me to head up a commission called the Blackout Solutions Commission, it looked very carefully at the Illinois electric grid. And we had a number of recommendations about improving the reliability and affordability of electricity, unfortunately, many of those fine recommendations have been rebuffed by our utility companies in Illinois. And I would urge them to take another look, to be more open to renewable power, to energy efficiency and to make sure that reliability is always on their priority list. The Ameren Company last December let its customers down with tremendous reliability problems that led to a blackout that lasted for more than a week for customers. That's just not right. There are Bills before the General Assembly, one dealing with tree trimming and reliability issues, that we really need to address this year. It's bad enough that consumers have these sky high unfair utility rates, but then to have companies that don't deliver reliable electricity is adding insult to injury. One issue that I think the General Assembly should continue to have hearings on, that Chairman

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Scully has focused on is, what is indeed the market value that was paid by Exelon Generation for the assets of Commonwealth Edison and what were the market prices paid by Ameren Generation for the assets of the Ameren Companies with respect to generation. Other states have decided to have legislative hearings that really focused on this issue and brought forward these executives who have presided over transfers of generation assets oftentimes for what many feel are less than fair market value. That issue should be addressed and another issue that should be addressed is indeed the salaries of these highly paid executives. I revealed last fall the salary of the Commonwealth Edison executive of 2005, twenty-seven million dollars (\$27,000,000). When people have those very high salaries paid for by the company for which they work they can forget the hard challenges that people who live from paycheck to paycheck have with respect to paying utility rates. I think this has to be year... a year of the consumer in Illinois. That's what we're counting on this House and the General Assembly to do on behalf of people of Illinois, who frankly, were disappointed in particular by the actions of the Senate last year in failing to address, and even vote on a Bill that passed this fine House, a Bill that would have frozen electric rates and allowed us to have an opportunity to have a comprehensive energy Bill bringing the utility companies to the bargaining table to make sure that we get fairness for consumers. I did, with interest, read the proposal of

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Ameren here tonight. We're happy at least that they've got the wax out of their ears, they have a long way to go. But I would tell the Ameren Company that it's not enough to try and put perfume on a skunk. Their behavior over the last few months has not been up to par for Illinois, nor has Commonwealth Edison. Commonwealth Edison which put together a fake **astroturf** group that was down here on Columbus Day, singing, We Shall Overcome. We Shall Overcome at a committee hearing as we tried to debate the importance of holding the line on electric rates, they had these paid-for protesters, paid for by Commonwealth Edison, saying we're going to overcome the consumer resistance to paying high utility rates far beyond what is fair and reasonable. So, as someone who has been a customer of Commonwealth Edison, as well as one of Ameren's predecessors, I think it's very important that we work together in Illinois in the coming year to make sure that we do get a reform Bill that will make a difference for every consumer and family and business in Illinois. We need to roll back electric rates to the level they were at before January 1, we need to repeal the reverse auction and we need to change the structure of the Illinois Commerce Commission."

Chairman Scully: "Mr. Quinn, could you bring your remarks to a close?"

Lieutenant Governor Quinn: "I will, indeed. And I want to thank this commission (sic-Committee) for listening. In closing, I would be remiss without mentioning where I

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started this morning in Edwardsville Illinois, where I used to live at the funeral of Ryan Grabs, a wonderful young man who at twenty (20) years old gave his life for our county in Afghanistan. He gave his life, Ryan Grabs, along with his comrades, 157 from Illinois, who've been killed in action in the global war on terrorism. They gave their lives and so did Ryan on behalf of what we're doing here tonight and all this day, having a robust debate in the Land of Lincoln, the government of the people by the people, and for the people, it shall not parish from this earth. Be glad to answer any questions?"

Chairman Scully: "Thank you, Mr. Quinn."

Lt. Governor Quinn: "Thank you."

Chairman Scully: "Seeing no questions from Members of the Committee, thank you very much for your presentation of the Committee. I would like to now ask the representatives from Commonwealth Edison to step up to the table. First of all, I want to thank the representatives of Commonwealth Edison, Mr. Clark and his staff, for their patience today. If you could, Mr. Clark, would you please face the Committee. And I'd ask that you raise your right hand. Do you solemnly swear and affirm that the testimony that you are about to give will be the truth, the whole truth and nothing but the truth?"

Frank Clark: "Yes."

Chairman Scully: "Thank you very much. Mr. Clark, please proceed. Mr. Clark has asked if he could make his statement standing

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and the only limitation, Mr. Clark, is that I want to make sure you're speaking into the microphone, so you can be heard."

Frank Clark: "Can I pick it up?"

Chairman Scully: "Certainly."

Frank Clark: "I... I ask to stand. I'm of an age when I sit as long as I've been sitting, the body stiffens up. So, this allows me to be able to get up, so I hope that you pardon my standing, I know that that's not normal protocol. I'm going to go through my presentation as quickly as I can. Because we've all been sitting here a long time, but this is such an important issue, I've learned a great deal listening to all of the witnesses that have already testified. I want to start by answering some questions that I believe the Speaker asked in his opening comments. He asked whether ComEd or Exelon operational funds would be used to bid on Texas Utility's power plants. Speaking as Chairman and CEO of ComEd, I can tell you the answer is 'no'. I cannot speak for Exelon; I don't know what they're gonna do if anything, but speaking for ComEd, the answer is absolutely 'no'. He asked how can Texas Utility be promising a 10 percent rate cut... and apparently, that's the part I got. I don't know that I understood the rest of it. Well, let me just tell you this, the Texas Utility rates are about fourteen and a half (14.5) cents per kilowatt hour. Even with the rate increase, the ComEd rates are about ten point six (10.6) cent per kilowatt hour. So, that 10 percent rate reduction

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will bring the Texas Utility rates down to about thirteen (13) cents a kilowatt hour, a full 23 percent higher than the ComEd rates. So, even with that rate reduction they will be, in my judgment, substantially higher than the ComEd rates. And there was a question about Virginia restructuring and whether that would be something we should be looking at in Illinois. I thought that the representatives for the Attorney General responded pretty much the same way I would've. The situation in Virginia is somewhat different. I believe the Virginia utilities still have the power plants in the company; they didn't separate them from the utility. That is not true in the State of Illinois. Both the Ameren companies and ComEd are distribution companies only and frankly, we don't own the generation plants. Now, there were some other questions raised that I just think they're so very important and they go as... they go like this. There were so many questions asked of the president of Ameren Companies that dealt with Odyssey and dealt with integrity and dealt with whether or not the deceit had occurred. I can't speak for anyone other than ComEd, but you may recall last year I personally went on T.V., much, much against my desires to tell all of... I say much, I guess my desires 'cause you're losing privacy, to tell all of our customers, personally that your rates were going to go up. I said it over and over and over again. I also told them that their rates would go up from 15 to 25 percent because I didn't actually know the full amount until

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we saw the results of the auction and the result from the delivery service case, just as the ICC mentioned, but I gave them a range based on my best estimation. In fact, our rates have gone up; they've gone up 24 percent. Many of the opponents said that our rates would go up 50, 60, 70, and 80 percent, based on my recall that did not occur. We said your rates would go up 10 to 15 percent... 15 to 25 percent and they went up 24 percent. And as you're going to see from some of my slides, even with that our rates remain today lower than they were in 1995. And I'll tell you something else we did; we told our customers not only would your rates go up, that we would do everything we could to help you transition to the new rates, we told our customers that we would provide a phase-in plan. This is before the Commerce Commission even acted on it. We went to them and asked for... we went to... The President of the Senate passed a Bill which we supported which provided for a phase-in plan, So we told our customers that we would provide a phase-in plan and there will be a phase-in plan. We told our customers that we would provide help for low-income customers, for the working poor, for senior citizens and we have a plan which we have actually put in place that will be doing that. What we said, we did; what we promised, we kept. We kept our word to our customers; that doesn't change the issue you have here. I listened to people testify for 9 hours and... it was just very moving, very touching. I care about people first and foremost. I care

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about people, in my judgment, as much as you do. I care about your constituents, 'cause many of them are my customers. We didn't just start caring about people when we knew that our rates were going to go up. For as long as I've been a part of ComEd, particularly in the leadership, we have reached out and done things in the community. I care about people as much as you do, and I was concerned about the rates going up. I'm gonna tell the story about the 10-year rate freeze and you've heard the story, but I'm gonna tell it fast so I'm not being redundant. Maybe we should have had a escalator when we passed the law in 1997; hindsight is perfect, but we didn't. And if you ask ComEd, did we come forth with a plan, we came forth with a plan again, and again, and again, and the last one was rejected right here in the House. In fact, it never went to a vote. We have tried to avoid exactly what's occurring today, and it frankly, breaks my heart to hear hardworking people come in here and talk about bills that went from three hundred dollars (\$300) to nine hundred dollars (\$900), even though I can logically understand exactly what took place, even though I can understand that you pay for the usage... for the kilowatt hours that you use, it is heartbreaking to hear people tell these stories, and I agree with this Body, something needs to be done. As I walk through my presentation and I really will do it quickly, all I ask you to do is bear in mind the balances that you want to strike, that you want to protect the integrity of the electric

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structure in this state and you want to also to make sure the customers are being treated fairly, that customers are allowed to be able pay their bills and that the bills are affordable. And with that, before we go to the first slide, hold on and just one second, you don't have the slide but it's gonna be in the handout that hopefully you have. There is another reason I know that our customers have heard our message. Commonwealth Edison serves three million seven hundred thousand (3,700,000) customers, about 70 percent of the state's population... eight or so million people. Of all of our customers, in the month of January, I asked this morning to give me the number of complaints that we received about high bills. So, in all of our service territory from Lake Michigan to the Mississippi River, from the Wisconsin border to a little bit south of I-80, we've received in the month of January a total of two thousand seven hundred and fifteen (2,715) complaints, two thousand seven hundred and fifteen (2,715) complaints. Now that I'm saying this, I am sure someone will start a call bank and we'll get more, but the fact is we've received two thousand seven hundred and fifteen (2,715) complaints, and that's because our customers knew what was going to happen, that's because we did what we said. First slide, please."

Chairman Bradley, J.: "Bradley in the Chair."

Frank Clark: "Your very first slide in the package we give you and you can also see it in the bulletin board. I have my very high tech people here, we wanted to use your bulletin

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board but... they were told that the displays wouldn't show up, so this is the substitution. Competition has worked in Illinois, notwithstanding the issues that we are confronted with today, in my judgment. Four billion dollars (\$4,000,000,000) in customer savings and that's simply what the rates would have been but for the 20 percent rate increase that customers enjoy, that's a number that anyone can calculate and in my judgment not subject to refute. We have put four point seven billion dollars (\$4,700,000,000) to strengthen our system and I know that it has been well placed because before I came down here I looked at the number of customers that are out in all of our system, all three point seven million (3,700,000) customers, and you know how many customers are out right at this moment, twenty (20) customers. That may be hard to believe, twenty (20) customers, I get the outages real-time. Twenty (20) customers were out in all of the ComEd service territory, and that's twenty two million (22,000,000). But the money we spent has been well spent; the money we've invested in the system has been well spent because our customers are seeing fewer outages and those outages that they are experiencing are lasting for a shorter period of time. Flip to the next chart, please. I believe it was the AG who made a comment about comparisons on cents per kilowatt hours based on cities around the United States. Well, I didn't selectively choose just those cities that made me look good, in fact, some of them don't make me look good. I chose the

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top cities in the United States, the first, the second, and the third largest city in the United States. New York's rates today, and I believe they may have a rate increase pending, is twenty-one point one (21.1), Boston, fifteen point one (15.1) cents, San Francisco, fourteen point six (14.6), ComEd, ten point six (10.6). Detroit is lower, Phoenix is lower, and Indianapolis is lower. If there is anything I can learn from those... those cities or those... or go into those various states, I'll go in and learn it. What I'm telling you the rates that you're paying right now, even with the problems that we have that we must address, are nowhere near the highest rates in the country, quite the contrary. Next slide. I've also heard some of our critics talk about the Midwest average. So, I went and looked at the cities in the Midwest and again, I'm not selecting... I'm not trying selectively put up cities to make me look good, I looked at cities in the Midwest. And there... there are a number of them that are lower than us and there are some that are higher. But you know, honestly, if you live in the City of Chicago versus Kansas City, there's nothing wrong with Kansas City, Missouri, but they are not comparable, the cost of living is not remotely comparable. And I will also tell you that every one of the cities in blue, every one of them, have pending rate increases, so these numbers are artificially low. Next slide. Even I admit this is a little bit of cynicism, but people say that your rates should be no higher than the Midwest average. I went and

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took a look at other things that go with the Midwest average, and wages in the great State of Illinois, average wages are thirty-nine thousand dollars (\$39,000) a little bit over that. A lot of people make less, a lot of people make more, but that's the average wage. And in the State of Indiana, it's fully five thousand dollars (\$5,000) less. No one will suggest that wages in Illinois should be at the Midwest average, and I... and I would say to you, you can't make a valid case just to make a blanket statement, that energy rates should be at the Midwest average. Next slide. And as I go through this, I don't want anyone... any of the Legislators here, I heard the same stories you heard and something has to be done. I'm not presenting these slides to say I don't think there's an issue that has to be addressed, I know better than that, but I do want to add a perspective. So, here are all the very commonplace commodities that have gone up in the last 10 years, and, ya know, I just chose some that all makes sense. The one that stands out to me is public transportation. Public transportation is generally municipally owned and government run, and even that's went up over 30 percent. The fact is, ComEd rates went down 20 percent and with the rate increase we have right now, the ten point six (10.6), ComEd rates are still lower than they were in 1995, that's a undisputable fact. It just doesn't make your problem go away, but it is a fact. Next slide. I said that we care about customers; I said that I care about customers. Can they see the other

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slide? Thank you. Cheryl is a small lady and it probably takes her a little bit longer to look that slide up. Thank you, though. Here is the program that we have already announced. When I was doing that commercial I told folks that besides a phase-in which you see on the right-hand side there, and we do have a phase-in, that we'd also do things to help them control their energy costs. We established a Web site... a Web site where customers can go in and do energy audits to reduce the cost of their consumption. A large part of what we have to do to get control of the increasing costs in energy use is to teach people how to use the energy more efficiently. That is not a small thing to do because it requires people to change their habits and it's hard to do, but it will pay dividends in the future. We... we have already given out one million (1,000,000) light bulbs, and I'm talking about high efficiency light bulbs. And we discounted those light bulbs by a substantial margin, I believe they cost... they cost three dollars (\$3) and we discounted them to ninety-nine (99) cent, and for low-income folks, we gave two hundred and fifty thousand (250,000) bulbs away free. Now, I learned a lesson about those light bulbs, they look like a little ice cream top. People don't like them, they don't like the way they look. So, even when we give them away, people don't screw them in, or if they do screw them in, they put them in a closet and they never turn the light on, because they don't like the way it looks. We need a better education effort and we are

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going to do that, to show people the benefit of those light bulbs. My very sharp technical people tell me that if you put six of those light bulbs in high uses areas you will reduce your energy cost by 4 percent. You will reduce your monthly energy cost by 4 percent, that's what they tell me and that's what I believe. There are also some special programs that we're already involved with. We've contributed over three million dollars (\$3,000,000) out of **ComEd's** funds, this is... this is before all of this happened, and we will continue contributing money to LIHEAP out of our pocket to help 'cause funds run out every year. And we have tried to find ways to come in and add money to those funds even though a substantial portion of those funds go for heating, we are still a big contributor to LIHEAP. And we've done it; these numbers here go back from 2005. So, I didn't do that in anticipation of this hearing. We just announced a program a few weeks ago... maybe a week ago... with the City of Chicago, it's called Power Up, where we agreed to provide a million dollars (\$1,000,000) to help the working poor. This is people who are not LIHEAP eligible, and again we're gonna offer more free light bulbs. Next slide, please. There was Bill that passed the Illinois Senate, that Bill among... that also provided for a phase-in, also provided for a thirty million dollar (\$30,000,000) contribution from ComEd and I believe a fifteen million dollar (\$15,000,000) contribution from Ameren to provide assistance to customers. We have been in talks with a

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number of people, including CUB. Is that... Okay, we walked 'em through it. I don't want to say anything under oath that's not as precise as I can be, and if I wasn't under oath I wouldn't want to do that. But we have been working also with Senator **Clayborne's** committee on how we would distribute those funds, and this slide is really attempting to go through that. You can read it; I won't walk you through it, but that's an additional thirty million dollars (\$30,000,000). Next slide. This is a very important slide. I have all the respect in the world for what I think is an outstanding Attorney General in the State of Illinois, but on one issue we completely disagree and that is whether these contracts are binding or not. I will tell you that the claim that under... if a freeze legislation were to pass that these supply contracts could be voided is completely and totally wrong. This issue has been litigated in one fashion or another, including the authority of the Commerce Commission to pass through these kinds of rates, whether the auction was legitimate, et cetera, et cetera, fourteen (14) different times. There have been fourteen (14) legal challenges in various forms from the Attorney General's Office. All fourteen (14) have failed. I just wanted to check with Darryl, my general counsel, 'cause I want to be precise..."

Chairman Bradley, J.: "Dropped it. It shuts off at eleven."

Frank Clark: "What was that?"

Chairman Bradley, J.: "It shuts off at eleven."

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Frank Clark: "I was just gonna say something about hot air. Well, okay. The fact is this... the fact is, and then this is just... this is historical, I openly admit things can change, but this issue has been litigated in one form or another at FERC, Illinois Supreme Court, the ICC, in one form or another fourteen (14) different times and fourteen (14) different times they have failed. Next chart. This is a tough one because this is what you want to do, but I will at least give you my opinion. Freezing rates gives immediate relief for many of the people that were here today. It is a short-term remedy; long-term it's a complete disaster. That's my opinion; I'll try to back it up. It doesn't mean that we can't solve the problem, and that we must solve the problem, but you can create a greater problem you can make a situation worse. The legislation, as I understand it, although I haven't seen the recent form of the legislation, basically said that there should be a rate freeze until competition exists. And yet, you've heard it from other witnesses and that... and depending upon how late you go today, you may hear it from others. There can be no residential competition with artificially frozen rates; no one can come in, there is no head room. Whether you like hearing that or not and I regret it if you don't, it is a fact. There will be no residential competition ever if you continue to keep artificially low rates, and what you will do is solve a short-term problem but you won't give your... the residential customers the long-term benefits of a

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competitive marketplace. The market goes up, the market goes down. We've been in a cycle when the market was going up; it is no different in the stock market. No one has ever figured out how to time it. To be in it long enough you do well, but if you jump in and jump out because things are going good or things are going bad, you tend not to do very well. Next slide. There is also a suggestion that we should go back to the old way. The reason we have the Illinois Restructuring Law is because the old way hadn't worked well for a long time. Utilities were building power plants and those power plants were not running very efficiently and they were getting... putting those power plants into rate base and customers were paying for power plants that run... weren't running very efficiently. I took a look at the states that didn't deregulate, and this is what you have. The State of Oregon, since 2000 to 2007, their rates have gone up 33 percent. Wisconsin, a neighbor, 47 percent; the State of Florida, 52 percent; Georgia, 37 percent; Louisiana, 45 percent; Oklahoma, 39 percent; Colorado, 30 percent; Oregon, 33 percent; Nevada, 62 percent; ComEd, 24 percent and that's over a 10-year period. That does not solve your problem, it doesn't make those stories you have... you heard and I heard less urgent, but this is reality. Next slide. It's another one of those stories that when you see it you don't want to see it, maybe you don't believe it, I can't make you believe it. A rate freeze would keep... cap our rates at the six point four

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billion dollar (\$6,400,000,000) level, that's an awful lot of money. But the fact of the matter is, if you look at where we spent our money, power and transmission costs, of that five point seven billion (\$5,700,000,000), about five point two (\$5,200,000,000), five point three billion (\$5,300,000,000) is for the supply and the other four or five **bil...** four or five hundred million (\$400,000,000 or \$500,000,000) would be the cost of transmission. I could be a little off on those things, but the combined number is correct and the bulk of it is of course, for the power and the two point one billion (\$2,100,000,000) that's how I keep the system up. A billion (\$1,000,000,000) is capital and a billion (\$1,000,000,000) is O&M and.. and that's how I pay the ComEd employees out of O&M, that's how I build new poles, that's how I invest back into the infrastructure, that's how I can stand and tell you that the twenty (20) customers as we speak and out of three point seven million (3.700,000) customers... without service, twenty (20), that means we spent our money well. Now, next slide. If you freeze rates, which you obviously can, here's what will happen; choices will have to be made immediately. Do I cut back on operation and maintenance, do I cut back on new businesses, do I cut back on system improvements, do I cut back on municipal projects? Many of you call the company and we need to move poles, we need to make public improvements. Do I cut back on tree trimming, I bet you're shocked that tree trimming is a hundred million dollars

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(\$100,000,000) but is one of the cities most biggest factors contributing to outages. Next slide. Again, I won't read all, this just the last paragraph. The perils of freezing electric rates, sounds like a book. Whatever short-term gain might be enjoyed by extending the Illinois rate freeze it will be greatly ellipse (sic-eclipsed) by a long-term pain that will follow, don't do it. Now, this is people out of the California... Public Commission and, you know, you probably don't want to give them a lot of credence 'cause they have a lot of problems, but they also had a lot of experience. Here's my last slide. Some of you know we've already declared... declared an energy crisis in Illinois and since the Legislative Body has declared it, I accept it. But what I'm telling you, that we're at a crossroads and we do have to make a choice and when you fix this problem you don't want to go down the path that could go from crisis to chaos. There are ways that we could get together and figure out how to take care of these customers with these huge bills in Central and southern Illinois. You haven't had the outcry in Northern Illinois because we did what we said. And because we are helping customers control their energy costs, and because we have been working with low-income customers and working with the working poor well before this issue came up. Thank you very much for hearing me and obviously, I'm here to answer any and all of your questions."

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Chairman Bradley, J.: "Thank you, Mr. Clark. Do we have any other members of your team that would like to offer testimony at this time?"

Frank Clark: "They will join me in answering questions."

Chairman Bradley, J.: "Okay, very well. Representative Mathias, question."

Mathias: "Thank you, Mr. Chairman, and thank you, Mr. Clark for coming here today and waiting this long time to testify. It seems to me that the... one of the very crucial questions that is in dispute is this issue of the supply contracts."

Frank Clark: "I agree."

Mathias: "I... I think everybody here knowing Economics 101 knows that if you buy something at one price and sell it for a lesser price you... you're not gonna make a profit. So the real issue that I see in my mind, whether it's downstate or upstate, you know, it's the same issue, is... are these contracts binding or aren't they? And I heard your view of it, I've heard the Attorney General's view... from their representative and I certainly respect both of you. But the question is how do we get to the right answer and I think... since... with... with... at least with the indulgence of our chairman, if I... if I could ask our Attorney General to give us a legal opinion of... of... for the members here of how they decided that it can be done, because obviously, as you've stated before there's case... there must be cases on it, this is not the first time this has happened and I guess I would ask both Commonwealth Edison and the Attorney General to

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give us their opinion because, really, to me it seems that the supply contracts goes to the whole crux of what you can do and what you can't do. And... so, I would ask our chairman if... if... if I can make that request through him to both Commonwealth Edison and through the Attorney General's Office to give us a written opinion including the case law of the supply contracts, 'cause I think that is a big issue in deciding what we can't or can do. And I hope, Mr. Clark, you will..."

Frank Clark: "The answer is 'yes', for my part, absolutely."

Mathias: "And I don't know if there's still representatives here from... from the Attorney General's Office and what they would require to do that."

Chairman Bradley, J.: "Your request is duly noted and I can't speak for the Attorney General's Office. Commonwealth Edison has indicated that they're willing to provide the information you request. Is that correct, Mr. Clark?"

Frank Clark: "That is... Yes, that is correct."

Chairman Bradley, J.: "I think it would be helpful to all of us to have those contracts to be able to review the language."

Mathias: "Yes. If you... if... I don't know what type of... in order to... if those are public contracts that you have to file with either the State or the Federal Government right now."

Chairman Bradley, J.: "Chair..."

Darryl Bradford: "Representative, we have those contracts. We can provide them to you and it may be the easiest way to... to do this or quickest way is the Attorney General went to the

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Illinois Supreme Court to seek a stay of these rates before they went into effect. And the issue of the binding nature of these supply contracts was briefed before the Illinois Supreme Court. We briefed it. The Attorney General briefed it. The Supreme Court denied the Attorney General's motion, didn't talk about the supply contracts, specifically, but we have those briefs. We have the briefs of the suppliers that say essentially that if we do that, they'll sue us for breach of contract. So, all that is of public record and can be made available very promptly to all Members of this Body that are interested."

Mathias: "Now, what percentage of the supply... your supply that you do pass through... comes from your parent company?"

Frank Clark: "The Illinois Commerce Commission limited us... limited any one supplier that we could purchase from at 35 percent. So, the most we can get directly from Exelon is, I believe, is 35 percent."

Mathias: "Which again is... is a substantial amount of power..."

Frank Clark: "Yes."

Mathias: "...and since it is your parent company and you understand the problems we're having in Illinois here, what is the possibility of you going back and renegotiating either with... with your parent company or with the other suppliers, especially since I hear... and I... I may be wrong... but if you had held the auction today, for example, and I'm, again, I heard of this maybe a few weeks ago that actually the price has gone down since that time."

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Frank Clark: "That is also correct."

Mathias: "And so, I guess the question is, if the price today is lower, then what are the possibilities of you renegotiating these contracts?"

Frank Clark: "The timing of the market for supply is like the timing the market for stock. When you get in it and you make your decision, you're bound by it. We believe the contracts are binding. My job and my only interest is passing through the lowest possible cost for supply for all the three point seven million (3,700,000) ComEd customers. I want the lowest possible price. That's my drive. I don't have any other drive or above that."

Mathias: "But that's not the answer to the question. The question really is, what are the possibilities and has it been done, I don't know the history of it either in Illinois or in other states, what's the history of renegotiating contracts when the price does go down?"

Frank Clark: "Well, if you're in a binding contract and you try to renegotiate that contract, you generally lose. If you're in a... if you're in a... and I believe we are... if you're in a binding contract and you walk away, you're sued."

Mathias: "So, in this case you're saying, in effect, your father's gonna sue you."

Frank Clark: "In this case, I'm saying, a fully competitive company Exelon is headquartered in the State of Illinois, but Exelon is really in about a dozen states and the shareholders of Exelon will surely sue."

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Mathias: "Are there any... at this point, is there any control..."

Frank Clark: "In my judgment. Wanna add in my..."

Mathias: "Right. Is there any under... and I should have probably asked this to the IC Commissioners... but do they have any jurisdiction over Exelon in their... in the contracts, ya know, as a result of the auction?"

Frank Clark: "The Illinois Commerce Commission regulates... regulates utilities. And Exelon is a generating company that is not regulated by the State of Illinois and those wholesale market prices are regulated by the Federal Energy Regulatory Commission."

Mathias: "Outside of buying..."

Frank Clark: "...may I. Because this is... I think the ICC addressed this. What the ICC does regulate is the price that ICC gives pass-through rates. They really can't regulate the contract. These are wholesale contracts and they're at the federal level and Federal Law will preempt State Law. But the ICC clearly regulates the price that we can pass-through. If they think those prices are not just and reasonable, they will not allow us to pass 'em through."

Mathias: "So, what is the answer, in your opinion? How do we get lower rates without... I mean, I understand what happens if there's a rate freeze and I understand what's... what... what would happen as a result of that, but yet, as you heard today, the stories of ...especially in southern Illinois..."

Frank Clark: "Yes."

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Mathias: "...and I know you don't service that area, but it's...
it's still..."

Frank Clark: "I..."

Mathias: "...there are still plenty of people..."

Frank Clark: "Yes."

Mathias: "...up here who are seniors, who are on fixed incomes..."

Frank Clark: "Yes."

Mathias: "...that contact all of our offices and don't know what
to do."

Frank Clark: "Several..."

Mathias: "Outside of buying cheaper light bulbs, what... what's
the answer?"

Frank Clark: "Actually, the light bulbs are expensive. The
power you save..."

Mathias: "Right."

Frank Clark: "...ultimately justifies 'em. Several lawmakers in
Northern Illinois made it clear that they feel that this
issue is statewide. Not that the effect is statewide, but
the policy is statewide. So, I don't look at this and view
this as this is not my problem. I don't view that... I don't
look at that at all. Plus, when I listen to people talk
about their own issues and you know this is impacting people
the way this is, I feel as responsible for it... It doesn't
matter if these are not ComEd customers. I do believe the
issue needs to be addressed, but I think it's addressed in a
multitude of ways. There's not one fix. Going back and
changing the rate design, something they said they want to

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do, is a very good idea. The different ways to do that to have minimal impact would they... which you don't want to see is a huge increase for other customers. There are ways that you could do that... that I'm sure the Illinois Power or the Ameren folks are smart enough to think about, but that's their call, not mine. But the fact that they're addressing rate design issues is one piece of this because the heating customers, the all-electric customers in **ComEd's** service territory... and I want to say it's about 6 percent of our customers... would have had a very similar problem but for a cap and someone said 20 to 30, it's a 28 percent cap and that was part of the rate design. And it has worked, which is why we got two thousand seven hundred (2,700) complaints not tens of thousands of complaints."

Mathias: "Well, what is, at the present time, what would you say is the average increase in your customers' rate or bills and what is... do you know what the... the highest percentages along with each of..."

Frank Clark: "The average, I'm sure, is 24 percent. And for the space heating group it would be capped at 28 percent, but have there been higher than that? Right."

Chairman Bradley, J.: "Okay. I'm gonna... I need to... I need to clarify here. If somebody other than Mr. Clark is gonna testify you need to identify yourself for the, and for the record 'cause we haven't read ya into the record yet. So, please identify yourselves."

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Anne **Pramaggiore**: "My name is Anne **Pramaggiore**. I'm the regulatory person at ComEd. What Frank stated was correct. Our average residential rate increase is 24 percent. Our average residential space heating rate increase is about 28 percent. There are customers who fall below the average and above the average. I don't have the range. We can certainly get that data for you, but the average is 24 and 28 percent."

Mathias: "And tell me again how you address that as far as I know you... you've done... you had talked about deferring some of that cost."

Anne **Pramaggiore**: "How we address the space heating..."

Mathias: "Yes."

Anne **Pramaggiore**: "...problem? It was a rate design issue. It was built into the rate design and basically, what happened is a cap was put in place for space heating customers. Their rates couldn't... if they exceeded a particular cap, the difference between what the ultimate rate was and the cap was spread among other customer classes. It's a very traditional reallocation method that's been used in regulatory... the regulatory arena for many years. But that was the problem that was identified early on and actually put into the design of the rates early on. That's essentially how it worked."

Mathias: "And for those who have received, let's say, a 24 or a 28 percent increase, is there any... I know you did go to the ICC to get permission to, I believe, to defer some of that

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and.. and could you tell us what.. how that affects the bills?"

Frank Clark: "Yes, I will. See, you... I wanted to go back to your other question, I believe, that'll be the answer to this one too. There are... as I said, there are a number of things that can be done and I said rate design is one. I'll tell ya, candidly, there's another that I personally think works. I know this is the House and I'm in the House of Representatives of the State of Illinois and I know that and I say this respectfully, there was a Bill that passed out of the Illinois Senate that would have phased in these rates and capped these rates and frankly, I think that would have also helped tremendously for some of the problems you're seeing now. Phase-ins work. Phase-ins work, particularly, and the Commerce Commission phased-in which is higher than the Bill that passed out of the Senate means that you have almost no deferral at the back end. So, it's not pay me now, pay me later, it's a step, step, step. Now, I'm not saying a zero deferral, but it's a much, much smaller number because it's 10, 10, and 10."

Mathias: "And what is it today under... under the ICC..."

Frank Clark: "It's 10 percent, 10 percent, 10 percent."

Chairman Bradley, J.: "Would you still owe the total amount, though? I mean, Ameren was in... you heard Ameren earlier..."

Frank Clark: "I am not..."

Chairman Bradley, J.: "...or would that just be a flat cap?"

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Frank Clark: "No, no, no dispute of that. The question was did we still... the customer still pay the full amount? I didn't say they didn't pay the full amount. I did not say that and I don't want to mislead in that regard. That's why I went through all the trouble to show you all those slides so you put in perspective, notwithstanding the impact it has on customers today, a issue that we have to address today, the fact to where our rates are at compared to many, many other locations, Illinois rates and I... and I say this, I'm not ignoring the problem. The problem has to be fixed. But Illinois rates are not out of line, quite the contrary."

Mathias: "So, you... but you stated it's a 10... it's a 10, 10 and 10."

Frank Clark: "Yes."

Mathias: "So, obviously, if the rates go up 20... an average of 24 percent, that means in the first year someone is not paying 14 percent of that and for the next 2 years, they're not paying it, so that's..."

Frank Clark: "Well, you're speaking of Ameren. I'm sorry. I was..."

Mathias: "No, I'm talking about you, Commonwealth Edison."

Frank Clark: "Right."

Mathias: "I'm talking about Commonwealth Edison."

Frank Clark: "Yeah. Ameren was 14, 14, 14."

Mathias: "Yours is..."

Frank Clark: "Ten, 10, 10."

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Mathias: "Right. But you're saying your average increase was 24 percent."

Frank Clark: "You're right."

Mathias: "So, something happened to that 14 percent that they're not paying this year. It's be..."

Frank Clark: "It go... it goes into deferral, but 10, 10 and 10 also adds up to be more than 24 percent. Ten, 10, and 10 obviously is 30 percent and what's happening by paying 10, 10, and 10, you eat up the deferral. So, you never see a large deferral that comes in and hits you on the back end."

Mathias: "Yes. But if you're paying 24 percent more this year and there was no deferral, that means next year you're still paying that 24 percent extra, right? Now, we're at 48 percent, the number..."

Frank Clark: "No, no, no."

Mathias: "Maybe my math is... is not right, but I'm... If the rates go up 24 percent this year, they're not going back down to zero next year..."

Frank Clark: "But they..."

Mathias: "...and they're still gonna be up 24 percent."

Frank Clark: "No. But the rates stay at whatever level they go up."

Mathias: "Yeah. Right."

Frank Clark: "They stay there unless there's another rate increase on top of that."

Mathias: "Right. But it's a 24 percent increase."

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Frank Clark: "But it's not a... it's not a cumulative 24 percent increase. It's not 24, 48, whatever it doubles and doubles and doubles, no."

Mathias: "No, I understand it's not doubling next year from what it was this year. I'm... But... well, you're saying there's a 10 percent cap. How do you... A 10 percent cap on what, then? How do you figure that cap?"

Chairman Bradley, J.: "I think what he's saying is, is this 10, 10, and 10, adds up to 30 which is more than 24, so actually the interest is built in."

Frank Clark: "What I'm saying and what I said, to respond to that, I'm sorry if I wasn't following your math, I apologize for that, but I have smarter math people sitting here and one of them, if I get too far astray, will take care of that. All I was saying is that by paying 10 percent, 10 percent, 10 percent at 3 consecutive years, the deferral that would be building up because you didn't get the 24, you got the 10, is not gonna be as high 'cause you're gonna get 10 the next year. And then the next year you're gonna get 10 that has some of the deferral built into it, so that people never see a big jump at the back end. That's why the Commerce Commission pay their phase-in at a higher number 'cause they didn't want to see the deferral."

Mathias: "So, it's basically spread out equally?"

Frank Clark: "Yes, Sir."

Mathias: "As opposed to at the end..."

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Frank Clark: "And it's not a perfect solution, it's simply a better solution."

Mathias: "Right. Okay. Thank you, Mr. Chairman."

Frank Clark: "Thank you."

Chairman Bradley, J.: "Thank you. Thank you, Representative Mathias. Chairman Scully has some questions and I think he's gonna be directing 'em to the entire panel so I would ask the panel members to respond to the questions specifically directed to you. Okay? Thank you. Can we get some..."

Scully: "Thank you very much. Earlier this evening, you may have heard our questions to Mr. **Cisel** about the stock option plan for executive officers at Ameren. Does Commonwealth Edison have a stock option plan for executive officers? Mr. McDonald, could you answer that question, please."

Frank Clark: "I'll..."

Scully: "I posed the question to Mr. McDonald."

Frank Clark: "I believe I'm chairman of the company and I believe I make the decisions on stock option plans, so I don't think you could tell me I can't answer. Now, if you want Mr. McDonald to offer my answer, that's fine."

Chairman Bradley, J.: "I think Chairman Scully has the right to ask questions of who he wants to."

Frank Clark: "I think I'm president and chair... I'm chairman and CEO of ComEd. I make the decisions on the stock option plan and I'm sitting here."

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Chairman Bradley, J.: "I... I think that Chairman Scully has the right..."

Scully: "Mr. McDonald, would you please answer my question?"

Robert McDonald: "I'll defer to the president."

Frank Clark: "Answer his question."

Robert McDonald: "For the senior executives of ComEd, we are not tied to... there isn't a stock option plan. For 2007, it's a plan based on ComEd measures and it's a cash plan. There's no stock involved."

Scully: "Is there a plan that gives executive officers of Commonwealth Edison shares of stock of any company at less than their market value?"

Frank Clark: "There is no plan... there is no plan in 2007 because I changed the plan. If you want a good answer, direct it to me."

Chairman Bradley, J.: "All right. With all due respect, Chairman Clark, I don't think you're in a position to dictate to the House of Representatives..."

Frank Clark: "No, I'm not and I'm fully aware of that."

Chairman Bradley, J.: "...who is gonna answer questions and who is gonna ask questions. Now, Chairman Scully has a right to ask different members of your... of your board or your team here. If you don't want them to answer questions, then they could leave the room and you could be here by yourself. If you... if you're gonna keep 'em at the table, he has a right to ask questions to them. I believe, maybe we could get a parliamentarian down here to... I don't think that's

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necessary 'cause I think that's pretty much the way it goes."

Scully: "Mr. Chairman, I'll rephrase my question. Mr. Clark, does Commonwealth Edison have a stock option plan for its executive officers?"

Frank Clark: "No."

Scully: "Has it had such a plan in the past?"

Frank Clark: "Yes."

Scully: "Which executive officers are eligible to participate in the plan?"

Frank Clark: "The top officers of ComEd which would be senior vice president and above would have been eligible to participate in the Exelon stock option plan. I stopped that. It is no longer effective and in 2007, no one here, including myself, receives stock options or stock as a part of their compensation from Exelon."

Scully: "Have any of the members of your executive team received stock options in the past?"

Frank Clark: "Yes."

Scully: "What's the structure of the stock option plan?"

Frank Clark: "Well, it's tied to compensation based on performance."

Scully: "What's the structure of the plan, the plan that did exist?"

Frank Clark: "The plan that did exist is tied to your performance and based on your performance, whether you hit target, whether you're below target, or whether you're above

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target of the... the Exelon board, actually, would have made a allocation of stock."

Scully: "Would that be stock of Commonwealth Edison or stock of Exelon?"

Frank Clark: "Commonwealth Edison does not issue a public stock anymore. That would have been stock from Exelon Corporation."

Scully: "Does this stock option plan give the executive officers of Commonwealth Edison a financial incentive for the parent company to do well?"

Frank Clark: "Yes."

Scully: "**Caus** you said that you wanted the lowest possible price for the customers of Commonwealth Edison. Is that correct?"

Frank Clark: "That is correct."

Scully: "But doesn't the stock options plan give the executive officers of Commonwealth Edison a financial incentive for the parent company to do well?"

Frank Clark: "That is why for senior executives at ComEd I asked that that pass the board of ComEd to stop that plan. I agree with you."

Scully: "How... how recently was that plan discontinued?"

Frank Clark: "I just stopped it. It is effective for 2007."

Scully: "Could you give me a more specific date when you stopped it?"

Frank Clark: "At the... the last Exelon... at the last board meeting of ComEd, there's an actual vote. The proposal was made a

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couple months ago so I... It was Monday when we had the last... most recent board meeting of ComEd directors."

Scully: "Would that be Monday, yesterday?"

Frank Clark: "Yes."

Scully: "So, on February 26, the plan was discontinued. Is that correct?"

Frank Clark: "The date when the board acted was..."

Scully: "By the way, it's still Tuesday."

Frank Clark: "Well, ya know, you have the right to be cynical and I'm gonna try and give you respect you're not giving me, but I will tell you, the decision to stop taking stock options from Exelon was the decision that I made months ago. It takes time to enact it. I didn't know this committee was going to be called when the board meeting was set. So, you can draw any conclusion that seems appropriate to you, it does not make it right."

Scully: "Mr. Clark, I'm not drawing any conclusions. I'm just trying to figure out whether the stock options plan was discontinued yesterday or eight (8) days ago."

Frank Clark: "The stock option plan was discontinued by the board of ComEd yesterday."

Scully: "Thank you. I have a couple questions regarding the 10(k) report that was filed with the SEC by Exelon Corporation earlier this month. Mr. McDonald, I've given your legal counsel a copy of that report. Are you familiar with this report?"

Robert McDonald: "I've seen it before, yes."

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Scully: "Thank you. I'd like to ask you a couple questions about the financial structure of Exelon Corporation and its subsidiaries. And many of these questions are gonna be things that... matters that you and I have discussed in meetings previously, Mr. McDonald, please excuse me if I'm being repetitive but I want other Members of this committee to have some of this information available to them. Mr. McDonald, how much... do you know how much... Excuse me. Let me refer to you page 155 of the report."

Robert McDonald: "Okay."

Scully: "Page 155 is the consolidated statement of operations for Exelon Corporation and subsidiaries. Is that correct?"

Robert McDonald: "Yes, it is."

Scully: "How much profit did Com... Exelon Corporation make in 2006?"

Robert McDonald: "According to this statement it made one point... one billion five hundred and ninety-two million (1,592,000,000)."

Scully: "Thank you. And is that a significant increase from the prior year?"

Robert McDonald: "In 2005, it was nine hundred and sixty-five million (965,000,000)."

Chairman Bradley, J.: "Mr. McDonald... is it McDonald?"

Robert McDonald: "Yes."

Chairman Bradley, J.: "Could you... could you scoot just... I know it's late and I apologize... could you scoot just a little bit closer..."

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Robert McDonald: "Certainly."

Chairman Bradley, J.: "...to the mike. Thank you."

Robert McDonald: "Sorry. I was just trying to balance the book and the microphone."

Scully: "Mr. McDonald, do you... you're the Chief Financial Officer of Commonwealth Edison. Do you know of how much of that profit was contributed by Commonwealth Edison to the bottom line?"

Robert McDonald: "Commonwealth Edison... and we can find it in the book, as well, contributed in these statements a negative net income in '06."

Scully: "Okay. Mr. McDonald, the consolidated statement of operations for Commonwealth Edison is on page 167 of that report."

Robert McDonald: "Right."

Scully: "Thank you."

Robert McDonald: "The negative a hundred and twelve million (-112,000,000) in '06."

Scully: "Now, in... in 2006, Commonwealth Edison sustained an operating loss of a hundred and twelve million dollars (\$112,000,000). How much was the loss in 2005?"

Robert McDonald: "Six hundred and eighty-five million (685,000,000)."

Scully: "And how... how about 2004?"

Robert McDonald: "In 2004, there was a profit of six hundred and seventy-six million (676,000,000)."

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Scully: "Mr. McDonald, is there anything that... in particular that you would attribute that shift from a profit of six hundred and seventy-six million dollars (\$676,000,000) in 2004 to a loss of six hundred and eighty-five million dollars (\$685,000,000) in 2005?"

Robert McDonald: "Sure. In 2005, we impaired one point two billion dollars (\$1,200,000,000) of goodwill and in 2006, we impaired seven hundred and six... seven hundred and seventy-six million (\$776,000,000) of goodwill."

Scully: "So... but for the operating expense of impairment of goodwill, Commonwealth Edison would have been profitable the last 2 years. Is that correct?"

Robert McDonald: "That is correct."

Scully: "How much goodwill does Commonwealth Edison have on its assets?"

Robert McDonald: "Right now, about two point six billion (2,600,000,000)."

Scully: "And where'd that goodwill come from?"

Robert McDonald: "That was the result of the merger of PECO and Unicom which was the parent of ComEd right at the time prior to that merger."

Scully: "And when did that transfer occur?"

Robert McDonald: "That transaction, the merger, occurred in 2000, October of 2000."

Scully: "And specifically, what transfer of assets created the five billion dollars (\$5,000,000,000) of goodwill?"

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Robert McDonald: "There was no transfer of assets that created the five billion dollars (\$5,000,000,000) of goodwill."

Scully: "There was no transfer? Where'd the goodwill come from?"

Robert McDonald: "The merger between PECO and Unicom. That's purchase accounting in a merger context. Goodwill is the result of taking the purchase price, compare it to the fair value of the assets of the acquired company. So, at the time of the merger, we had to go through a process of fair valuing all of the assets of ComEd. We did that and then you compare that to the purchase price, the result is goodwill. That's an accounting that goes on your balance sheet of the acquired company."

Scully: "The assets that were transferred, the nuclear power plants, how much were those assets valued at the time of the transfer?"

Robert McDonald: "At the time of the transfer, they were still valued at two billion dollars (\$2,000,000,000) which was the value established at the merger."

Scully: "Is it... were they valued at two billion dollars (\$2,000,000,000) on the assets of Commonwealth Edison at the time?"

Robert McDonald: "Yes."

Scully: "It was my understanding that they were valued at about seven billion dollars (\$7,000,000,000) at the time of that transfer."

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Robert McDonald: "No, that is not true, unless I'm misunderstanding your question. At the time of the merger, they had to be fair valued and I believe you have a copy of the report from Stone & Webster that was done to assess the fair value of the nuclear plants at the time of the merger."

Scully: "Yes, Mr. McDonald, in fact, I received at about noon today a letter from you dated February 21, delivering a copy of that appraisal report to me. Mr. McDonald, I understand the appraisal report valued the nuclear power plants at two billion dollars (\$2,000,000,000). My question related to the assets and liabilities of Commonwealth Edison prior to the transfer."

Robert McDonald: "Prior... at what point?"

Scully: "Prior to the transfer, how much were those nuclear power plants valued at?"

Robert McDonald: "At what point, prior to the transfer? At the time of the transfer, right before the transfer, the transfer occurred after the merger. At the time of the merger, they were valued at two billion dollars (\$2,000,000,000)."

Scully: "How about if we back up to January 1 of 2000."

Robert McDonald: "Okay."

Scully: "The beginning of the year in which the merger occurred. How much were the nuclear power plants valued at?"

Robert McDonald: "At that time, I think they were around six and a half (6,500,000,000), seven billion (7,000,000,000), somewhere in there."

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Scully: "Mr. McDonald, I'm gonna ask you a questions about the assets and liabilities and the financial statements of Exelon Generation Corporate... Company, LLC. I understand that you are not the chief financial officer..

Robert McDonald: Right."

Scully: "But I'm referring to page 161 of this report and page 163 of the report. First off, if I could refer you to page 163 of the report. Exelon Generation Corp... Exelon Generation Company presently owns the nuclear power plants that used to be owned by Commonwealth Edison. Is that correct?"

Robert McDonald: "That is correct. They also own a number of other plants as well."

Scully: "And in this consolidated balance sheet it shows that Exelon Generation Company owns property, plant and equipment, valued at seven point five billion dollars (\$7,500,000,000). Is that correct?"

Robert McDonald: "That is correct."

Scully: "Do you know how many... how much of that money is attributable to the nuclear power plants that were... used to be owned by Commonwealth Edison?"

Robert McDonald: "Two billion (2,000,000,000)."

Scully: "Thank you, Mr. McDonald. Could you... could I refer to you page 161 of the report. Page 161 is the consolidated statement of operations for Exelon Generation Company. Can you see the... can you tell the committee what the net income was in the year 2004?"

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Robert McDonald: "In 2004, it was six hundred and seventy-three million (673,000,000)."

Scully: "And then 2005 how much was it?"

Robert McDonald: "One billion ninety-eight million (1,098,000,000)."

Scully: "And then from 2005 to 2006 how much did the net income of Exelon Generation increase?"

Robert McDonald: "Roughly, three hundred million dollars (\$300,000,000), three hundred and ten million (310,000,000)."

Scully: "And the profits of Exelon Generation, the net income of Exelon Generation, doubled from the year 2004 to the year 2006. Is that correct?"

Robert McDonald: "That's what this says, yes."

Scully: "Now, for year 2006 the net income from Exelon Generation was one point four billion dollars (\$1,400,000,000). Is that correct?"

Robert McDonald: "Yes."

Scully: "In referring you back to page 155, the net income for Exelon Corporation and all of its subsidiaries was slightly less than one point six billion dollars (\$1,600,000,000). Is that correct?"

Robert McDonald: "That is correct."

Scully: "So, of the one point six billion dollars (\$1,600,000,000) of net profit made one point four billion dollars (\$1,400,000,000) came from the Generation... Exelon

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Generation Corporation. Thank you. I have no further questions at this time."

Chairman Mautino: "Thank you, Mr. Chairman. Representative Mautino in the Chair. Further questions? Representative Flowers."

Flowers: "Thank you, Mr. Chairman. I want to go back to follow up on a little bit of Representative Mathias' line of questioning in regards to the billing practice. The Commonwealth Edison customers... rate increase only went up... well, it went up a total of 22 percent or 24 percent?"

Frank Clark: "Twenty-four percent."

Flowers: "And so, it went 10, 10, 10."

Frank Clark: "No, Representative Flowers. The 10, 10, 10 is a phase-in proposed by the Commission. We have, I believe, about twenty thousand (20,000) customers who are either signed up or in queue to sign up to take that phase-in."

Flowers: "Okay. The 10, 10, 10 is for the phase-in..."

Frank Clark: "Yes, Ma'am."

Flowers: "...and those are the ones that will be paying the 3 percent... is it 3.25 percent interest?"

Frank Clark: "Yes, that is correct."

Flowers: "Okay. So now, would that group with the phase-in, at the end of the... how many years is it?"

Darryl Bradford: "It's 3 years of rate caps and then 3 years to pay the deferrals back for a total of 6 years."

Flowers: "So, for a bill that I had in January, it's gonna take me a total of 6 years to pay that bill?"

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Frank Clark: "No, Representative Flowers. The bill that you have in January you will pay in January. That bill will be capped at 10 percent for the first year, unless they... they extended your rate increase for year 1 and in year 2 it'll be another 10 percent and in year 3 it will be another 10 percent. So, you'll see your bills escalate at 10 percent, 10 percent, 10 percent, but in year 1 it's 10 percent."

Flowers: "Okay. But year 1 it's gonna be 10 percent."

Frank Clark: "Yes, Ma'am."

Flowers: "Okay. But you said my bill would be paid, my January bill will be paid in January. That's not quite true because if I'm on the... for the old terminology for me is the deferred plan... if I'm on the deferred plan and I'm only paying the 10 percent with the 3.25 percent will be, that's the assessment for being on the deferred plan. Right?"

Frank Clark: "No, it isn't."

Flowers: "So, I'm not **payin'** the whole bill."

Frank Clark: "No, Ma'am. The 3.25 percent is less than our cost to borrow the money. One of the other Representatives asked the question that ties right into what you're saying now. When... if we don't get... if our rates went up 24 percent and you're only paying 10 percent, we have to go out and borrow the other 14 percent and our cost of borrowing is greater than 3.25 percent. So, what you're paying is part of our cost to borrow the money. The other part of the cost we eat."

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Flowers: "But see, I disagree with you. I disagree with you as far as... as far as the borrowing is concerned. I don't think you really need to borrow the money because your company is very solvent, you're not about to go into bankruptcy because remember, you got the... you got the rate increase. So, I think you're doing a disservice to your customers who's really trying to pay their bills. But I have to go back..."

Frank Clark: "Can I answer?"

Flowers: "Well, but let me finish this."

Frank Clark: "Okay."

Flowers: "I have to go back to this 10, 10, and 10 because that first 10 is gonna be compounded by the second 10 and then those next two 10s are gonna be compounded by a third 10, so that's 30 percent on top of the 3.25 for the first set of 10s and then another 3.25 for the second set of 10s and then another 3.25. So, really, how much will this bill... At the end of the 6 years, because see what... the part that really amazed me is that you're **givin'** the people the impression that after 6 years their bill is paid in full and that's not true because they will not be able to continue on with that seventh-year bill if they're not finished **payin'** the 6-year bill, because you're... is... we will constantly need the use of our utilities and because you say it's only 6 years that's how long your program is before the balloon bursts."

Frank Clark: "Representative Flowers, I'm gonna try and digest your math and here's how I would respond, respectfully. Number 1) the 10 percent, 10 percent, 10 percent option is

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just that, it's an option. No customer's forced to take it if they don't want to and we have, as I said, about twenty thousand (20,000) customers who have either signed up for it or in queue and other customers may choose to take it. It is really a way to help customers manage their bill and it's an indo... individual choice. Your assessment of **ComEd's** credit worthiness on our financial position, I certainly respect that as an elected official, your math is simply incorrect."

Flowers: "Which part of my math is incorrect, Sir?"

Frank Clark: "Oh, you said that you did not believe that ComEd had any financial difficulty. Commonwealth Edison, and frankly I'm in a position to know, Commonwealth Edison, as we stand right now, will earn far less... far less, than our allowed rate of return. When the Commerce Commission came up here and spoke, I thought that they did a very good job explaining how rate making works and that is they actually grant you an allowed rate of return. Let's say, it's **somethin'** on the order of 10 percent overall for our return on equity and 8 percent on our overall return. The numbers are representative, but they're close. The fact is ComEd, based on the most recent rate increase, will earn... what is it, Bob, about two and a half percent?"

Robert McDonald: "Two and a half to 3 percent."

Frank Clark: "Nowhere near our allowed rate of return. We're... we're earning so much lower than our allowed rate of return and let me tell you why this is important, Representative

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Flowers. For your very customers, for your constituents that you're responsible for, my number one responsibility is every time they flip that switch the power has to flow. That means that I have to make enough money to reinvest in that system. When I showed you the four point seven billion dollars (\$4.700,000) that we've invested in that system, I was showing you the reason there are twenty (20) customers out of service out of three point seven million (3.700,000) customers. It takes... it takes constant investment, constant maintenance, constant reinforcement to give you the reliability your customers are experiencing. And I know the importance keeping up... of keeping rates low, but I also know the importance of keeping the reliability as high as I possibly can."

Flowers: "Okay. I've understood everything that you've said to the best of my ability. This is your forte. Okay? The fact of the matter is, you can say whatever you want because you are not just ComEd, you're also Exelon. So, as a result of being under the umbrella... so I know very well that your company is very solvent and if you were not, you wouldn't be here... but the fact of the matter is..."

Frank Clark: "May I respond?"

Flowers: "Well..."

Frank Clark: "You're makin' statements. Are you gonna..."

Flowers: "No. Well... now, let me say this. Let me say this because you took the liberty to talk about you're the CEO of

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this company, I'm the CEO of this seat at this time right now. Please, okay?"

Frank Clark: "And I respect that."

Flowers: "Now, let me have my day. Now, let me just go on to talk about the deferred payment of 22 percent, which will be like a balloon... Well, let me just go back a little bit. What is the total amount? What is gonna be the end result? Because after we passed the rate increase when we left here in December, when we were in the Old State Capitol, then in the newspaper the next day they were talking about you were coming in the very next day to the ICC asking for another rate increase. Is that true?"

Frank Clark: "Representative Flowers, I'm... I'm having some difficulty your time line, but I will tell you exacting what we're doing. Commonwealth Edison Company just received authorization from the Commerce Commission to raise our rates to reflect the cost of supply, that's 22 percent. The Commonwealth Edison Company, near the end of the year, received the authority to raise our rates to reflect the cost of our distribution company, about a percentage and a half. That took the 22 percent to roughly 24 percent. We also have a transmission piece of the business that if we get federal relief on that would probably add another half to maybe or another percent. I don't really know what the number will be. When you put all that together, we're still talking about rates that look a whole lot like they looked in 1995 but to fully answer your question, Commonwealth

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Edison Company will have the responsibility to maintain the system, I hope, for a very long time. And in order to do that, we will from time to time come before the Illinois Commerce Commission to justify our cost of service and to ask them to find whether or not we can justify our just and reasonable rates to reflect our cost of service and that could from time to time create a rate increase. That is how the process works."

Chairman Bradley, J.: "Bradley in the Chair."

Flowers: "You mentioned the fact about the rate increase and how we still look like we're looking in 1995, I have a 1995 chart here. And in 1995 we were... that's when we were the highest in the Midwest as far as the amount of fees or rate that we were paying. And this red line is where we are today. So, the blue line is here for 1995 and the red line is here. So... and I'm sure... this..."

Frank Clark: "I... I can't see that but I have no reason to refute what you... You don't have to give it to me. You've told me, I'll take your word for it obviously. But with respect to where we were in 1995, whether we were... I don't really remember where we were with respect to other Midwestern rates. I showed you charts early on for this very reason to give you a perspective on where rates on in ComEd service area compared to many jurisdiction, the Midwest as well as other large cities, around the United States. And in fact, our rates are among the lowest."

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Flowers: "Well, I beg the difference. But I would just like to say to you that you made your opening statements **braggin'** on the fact about how many... few telephone calls that you have received in regards to the rate increase, and I would just like to bring to your attention the headline in today's paper that's talking about the amount of how many homeless people there are and how many people that are in need of public service like public aid and those types of things. And the reason why, Sir, is because people are hurting. They can't afford to do what it is that you want us to do as far as our rate increase and as far as the high gas for our cars and the high gas to heat our homes and the low pay that they get. And unfortunately, this burden is being shifted more to the taxpayers of the State of Illinois. And with this particular issue here, it's gonna be... it's gonna be another tax increase on the poor people for the Commonwealth Edison services. And I think that's a disservice. And when talked about the different programs that you have, and I have your press release here, and you talked about you're gonna get forty million dollars (\$40,000,000) over the next 4 years. The forty million dollars (\$40,000,000) over the next 4 years equal to about ten million dollars (\$10,000,000) per year, which would be about twenty-five thousand (\$25,000) per person receiving an average of three hundred and seventy dollars (\$370) for a one-time... a one-time payment that's... the money that you're giving is really coming directly back to you. You talk about what you're

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giving but it's really a wash because it's coming directly to you. But after this one-time payment, then what? Where do we go? Where does a senior citizen go that's on a fixed income, who's exceeded her allotment for IHEAP (sic-LIHEAP). Where does a mother who has a child that's on a life support? And I have known you... or your company to turn off people's electricity that's on life support. Where do they go once they get this one-time payment for IHEAP (sic-LIHEAP)? So would you please answer that?"

Frank Clark: "In all honesty, Representative Flowers, I don't know what you're talking about... about a one-time payment. I just don't. I don't know what you're referring to."

Flowers: "So, what... well, let me just ask you this. The IHEAP (sic-LIHEAP) program, how many times can a person apply for that in a year?"

Frank Clark: "Well, the Illinois..."

Flowers: "Is it every month?"

Frank Clark: "Yes, the Illinois Heating... the Illinois LIHEAP program..."

Flowers: "Right."

Frank Clark: "...is controlled by, I believe, the state not by Commonwealth Edison. What I said about Commonwealth Edison is that we have been a longtime contributor to that program above and... you know, we don't have to do anything with that program but we do for the very reason that you're pointing out. You talked about..."

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Flowers: "How many times will a person be able to benefit? According to this article here, Clark says, 'He also pointed out that Commonwealth Edison will spend forty million dollars (\$40,000,000) over the next 4 years to help people deal with increases in their bills.'"

Frank Clark: "Yes."

Flowers: "So, now, forty million dollars (\$40,000,000) over the next 4 years is ten million dollars (\$10,000,000) per year on an average of 25 thousand people receiving an average of three hundred and seventy dollars (\$370) per person. How many times will a person be able to get the benefit?"

Frank Clark: "I thank you very much. I do understand what you're asking me and I'm sorry, I didn't understand originally. This is a program.. this is an effort designed to augment what the state's already doing. And this is something, frankly, I've been personally involved with on several levels for a number of years, Representative. And you did some calculations that got you a specific number of customers, we're addressing.. trying to help fill the void where state dollars run out. We're trying to step in to help people who are not LIHEAP eligible. I mentioned senior citizens that are not LIHEAP eligible and I mentioned the working poor. I didn't.. I did not..."

Flowers: "How many times, Sir, how many times will the people that the state is trying to help.. and I understand from this news article that the city is gonna help..."

Frank Clark: "Yeah."

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Flowers: "And I understand that you are gonna put in about a million dollars (\$1,000,000). How many times will the people, the poor people, of this state, Sir, be able to come to your well before you tell them it's dry?"

Frank Clark: "Well, you..."

Flowers: "Because the state's program ran out within the six-month's period and then they had to go back to the Federal Government and ask the Federal Government to give them some more money to take them to the next six-month period. What if the Federal Government, because of this war, says, no more state, no more? And then what about you, Sir, what... when... when do you cut it off? Then what are these people supposed to do?"

Frank Clark: "I have no idea, obviously, what will happen with the Federal Government and the State Government because of spending on Iraq, I think you're making reference to. I have no idea about that. I will tell you that **ComEd's** commitment and my personal commitment to helping customers will continue certainly as long as I'm there."

Flowers: "How many times can they come to you, Sir."

Frank Clark: "As... as long as I'm able, Representative."

Flowers: "So, wait a minute. I just wanted to be... okay, this is... I need to know. If a senior citizen who's on a fixed income and their light bill may be three hundred (\$300) and some odd dollars a month as a result of this rate increase and if they need to come to you once a month to get assistance, you're saying he or she can do so? Or a family

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of four that don't have enough moneys to pay their utilities, they could come to you... your company for assistance?"

Frank Clark: "Representative, I want to be very, very clear."

Flowers: "Please be clear."

Frank Clark: "And I want to address your question as well as it can be addressed. You're asking me to answer a question that even the state can't answer."

Flowers: "I'm asking you, Sir... when it's time for me to question the state about what it is in regards to the appropriation, I'll do that."

Frank Clark: "Yes."

Flowers: "But I'm talking about what I read about what you said and I'm asking you, because of the program in which you enunciated. How many times can I come to you?"

Frank Clark: "Well, you know, frankly, the number of times is... I don't think that's a number that can be calculated, which is what I'm trying to tell you. The dollars that are available are the dollars that I stated."

Flowers: "So will the dollars run out?"

Frank Clark: "When the dollars run out, I hope there will be more help from other sources. Commonwealth Edison is one company."

Flowers: "But it's not. Because I see where you're asking the people of the State of Illinois who you've just given a tax... or an increase to, it may as well be a tax increase. The people that you've just given an increase to, you're asking

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us now to do a little check-off to give more moneys. Is... is that not true?"

Frank Clark: "That's **abso...**"

Flowers: "Did I..."

Frank Clark: "That's absolutely true."

Flowers: "Oh, okay."

Frank Clark: "And I'm also, if I might finish my response, my number one responsibility, Representative Flowers, is to provide reliable service. Not only do I have to be able to pay for that service out of the supply, I also have to be able to have enough money to invest in the system. Every one of the people you identified: senior citizens, working poor, very poor, every one of those people are entitled to electricity, which means they ought to expect and have a right to expect when they flip that switch the power will flow."

Flowers: "They have a right, Sir, to expect that they could afford it as well. Okay. That's what they have a right to. Because un... unlike what we said in 1997, in regards to if you are... if there is going to be deregulation, there must be competition. And there is no competition, there is no competition. The little old lady across the street, because you just raised her rate, she can't say, well, I'm just going to go to X, Y, and Z company because that company does not exist. And I need for you to clarify something or please, I just want to clarify something for you. You always bring up California and what happened in California.

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And I just got this off what is called, Wikipedia, and it's regarding the California electricity crisis. And it says, 'That the California electricity crisis of 2000 and of 2001 resulted from the gaming of a deregulated California energy system by energy companies, such as Enron and Reliant Energy. The energy crisis was characterized by a combination of extremely high prices and rolling blackouts. Price instability and spikes lasted from May of 2000 to September of 2001. Rolling blackouts begin in June of 2000, because of the games that other people were playing. And it wasn't until September of 2001 when the energy prices normalized did it cease and desist.'

Frank Clark: "You know, Representative Flowers, I respect what you just read. I know an awful lot about the energy crisis in California and there's no one explanation to it. One of the contributing problems had a great deal to do with price caps and people were... if you'll let me finish... people were forced... utilities were told, I don't care what the price is, this is all you can charge customers. It just doesn't work and it didn't work."

Flowers: "What about what I just enunciated? The companies such as Enron was playing with people's lives."

Frank Clark: "I think that it's no question that some Enron executives who have been..."

Flowers: "So, but I've never heard you... I've never heard you..."

Frank Clark: "Well, I'm getting ready to say it now..."

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Flowers: "...and the organization... the organization that you created over the last few months. What was the name of the organization?"

Frank Clark: "I'm getting ready to respond to that now, if I could."

Flowers: "What was the name of the organization?"

Frank Clark: "CORE... C. O. R. E."

Flowers: "Okay. Your organization, I've never heard your organization, CORE, or you enunciate any of what I just read to you about the games that Enron was playing with people lives. But yet, I did see and I watch you on television threaten to do the same thing. **Sayin'**, 'Not unless you want what happened in California to happen here.'"

Frank Clark: "Well, Representative Flowers, you have as you... as you have told me very clear, this is your House."

Flowers: "This is my House."

Frank Clark: "And you have the right to characterize any way you choose. I know what I said in the commercial and I actually think it was a very... if you allow me to finish, I actually think it was a very fair representation of exactly the problems I was trying avoid. I told customers that their rates would go up. I told them how much. I also told customers there are things we can do to help you control those costs and in fact, those things help customers control their costs. And that's why today in northern Illinois, out of three million seven hundred (3,700,000) customers, we've

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had two thousand seven hundred (2,700) high bill complaints.
And that's..."

Flowers: "And the reason why, Sir, you probably only had those because the other people... no one answered their phone or maybe they don't have a telephone services or they just know it's just a total waste of time."

Frank Clark: "I hope they don't think that."

Flowers: "Well, you know what, I think so, because I've had plenty of calls. And I've asked people to call you, so you will know just how they feel. But thank you very much and I appreciate your time."

Chairman Bradley, J.: "Thank you, Representative Flowers. Next speaker would be Representative Meyer. We have several people that want to speak. So I'll... it's 12:15 and we're going let everybody goes as long as they want but we have several people that are wanting to ask questions."

Meyer: "Thank you, Mr. Chairman, and I will try and be as short as I can, but there have been a number of things I've talked to others about where ComEd was referenced and I would like to have their side of it. But I... I will hasten. Earlier today, we had the ICC here and they talked about the ComEd low-income plan and I understood it was probably and I'm trying to correlate that... what they were talking about with what you're showing in your slides. I assume it was the thirty million dollars (\$30,000,000) of assistance for environmental education programs and the like that you showed the slide on. My concern is that... and could I go

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back. Did you say the return on capital that you were looking for was 2.4 percent or something like that?"

Bob McDonald: "We just said that for 2007 given our projections of revenues, we're going to earn in all the investment in the system about two and a half to three percent."

Meyer: "Oh, okay. And the reason why I wanted to make sure I understood you correctly is that the thirty million dollars (\$30,000,000) that you're talking about in assistance here, is that coming off of your chunk of earnings or are you cost shifting that over onto the consumer as a part of the billing?"

Bob McDonald: "Yeah, we have said that we are not going to be trying to recover those through rates."

Meyer: "Okay, I just wanted to verify that. Thank you. There is another issue in... that was with the reverse auction. I believe the Speaker started out and I... at one point... did you all hear him speak earlier when the Speaker opened?"

Bob McDonald: "I did."

Meyer: "You did. Okay. He talked... he used the word 'fix' and it's been awhile ago and I don't want to put any inference on what he said, because I can't remember his exact statement anymore. But what was your reaction to... that word being used in terms of reverse auction?"

Frank Clark: "I didn't personally hear it but it was reported to me. I don't... I cannot and don't pretend to know what's in the Speaker's thoughts and if that is his view, I think that it is not a view that I share, but I respect his view."

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Anne R. **Pramaggiore**: "I would just add we spent a lot of time..."

Chairman Bradley, J.: "Can you identify yourself. I'm sorry."

Anne R. **Pramaggiore**: "Sure. Anne **Pramaggiore**, the regulatory manager. Again we spent a lot of time at the Illinois Commerce Commission talking about debating different procurement processes. We spent about seven months in a workshop process. We looked at roughly 12 different approaches to procurement or moving forward in the transition period. When we came out of that process we then went into a year-long or 11-month-long process at the Commission, a formal proceeding, where the auction was explored. There were other procurement methods that were thrown in and evaluated within that process, but the primary focus was the reverse auction process. We also submitted the reverse auction method to the FERC... the Federal Energy Regulatory Commission for their review. The FERC has jurisdiction over wholesale markets. What they look for is just the type of abuse that I think people are concerned about with respect to the auction, abuse or advantage given to an affiliate of a utility in a procurement process. So, the **FERC's** very specific job in reviewing this procurement method was to look and see whether it was a fair playing field for competitors in this process. They reviewed it and approved it. So, there's been a tremendous amount of review by regulatory agencies, both federal and state over this process."

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Meyer: "Did they make any change... suggestions to the process as a part of their review?"

Anne R. **Pramaggiore**: "The Illinois Commerce Commission certainly did. There were a lot of changes made throughout the 11-month proceeding at the Illinois Commerce Commission. I don't believe there were any changes made at FERC, but by the time FERC had seen, it was pretty well along in the Illinois Commerce Commission process. So, by the time they got a hold of it a lot of the changes that we were making in the in the state proceeding were incorporated at that point."

Meyer: "Were all of the ICC suggested... suggestions followed?"

Anne R. **Pramaggiore**: "I don't know that they all were, but I would say the lion's share were. I mean, we'd have to go back. This was a proceeding that had about six thousand (6,000) pages of testimony, about twenty-eight thousand (28,000) pages of data, I think there were over 40 witnesses in the proceeding. So, it was a pretty complex proceeding. I don't know that every suggestion was taken, but I do believe the lion's share of the staff's suggestions were."

Meyer: "Okay. Well, the reason why I raise these par... or ask these questions, I represent a Commonwealth Edison area. And of course, one of the concerns that I've had expressed to me by constituents is because of the more or less incestuous nature of the relationship between ComEd and Exelon. That is a concern of the... your constituents and my constituents. And I need... I believe that needs to be

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addressed and reinforced or if changes are necessary to make certain that the process is genuine and fair to the consumer as well as to your corporation, that those changes be considered and made. Also, when the Attorney General's representatives were here, the bidding... or the auction process came up also as a concern of theirs. I heard... I believe I understood earlier that you said that 35 percent of the energy was supplied by Exelon. Is that correct?"

Anne R. **Pramaggiore**: "That is correct."

Meyer: "When I asked them about the percentage, I believe they gave a figure of 94 percent that there were other ties with other companies that were part of that bidding process, part of the 15 or 16 that actually bid that made up 94 percent of the energy that's actually supplied. Do you agree or disagree with that?"

Anne R. **Pramaggiore**: "Well, I can't speak for the Attorney General, but what I thought they were referring to the auction was set up with contracts of different lengths that are blended together for a total rate. So, for instance, the residential customer is served by a series of contracts that last 1 year, 2 year, and 3 years and the reason is when we run the next auction only a third of the load will be up for **rebid** in the market. Two-thirds, based on two longer term contracts, will actually be still in place and the idea is it creates more stability in the rate. You're only exposing a third of your load to the market in any given point in time. And so that's part of the design of the

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auction so that, ya know, for instance, this year where we saw a 22 percent increase because that's where the wholesale markets went. If in fact you would only have a third of your load out in the market, you would see, you know, a third of that increase or, you know, 7 percent. So, that's the idea behind it. I think what the Attorney General was referring to and again, I can't speak for Ms. **Hedman** who was here at the table, but that out of the 1-, 2-, and 3-year contracts that Exelon had a larger portion of one of those slices. I think the longer term contract is what she was referring to. But I'm... I'm kind of guessing here based on what I heard. But... but the total cap... the bottom line is the Illinois Commerce Commission ordered that no supplier, whether it be Exelon Generation or any other supplier can supply more than 35 percent of the load in the auction."

Meyer: "Would... would the remainder of that... well, 65 percent that has to be supplied by somebody else, is there... are they allowed to have any type of financial relationship with Exelon or with Commonwealth Ed?"

Anne R. **Pramaggiore**: "Well, I'll answer your first question. The auction manager and the Illinois Commerce Commission staff review the relationship between all of the suppliers before they actually go into the auction. There's about a hundred and fifty (150) page application that each supplier has to fill out that's reviewed before they're given permission to participate in the auction. And they look at their credit ratings, a key issue, but they also look at the

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relationship between the suppliers so that if they find anything that's too close or that it's, you know, one supplier is really a shell for the other supplier, their... they won't let them participate in the auction. So that's reviewed by the Commerce Commission, by the auction manager, and the auction expert that the Commission hired to review this. So, there may... I'm not saying there aren't **necess...** there aren't in any case financial relationships between suppliers, but that they are reviewed for improper financial relationships or financial relationships that would make the auction unfair. And that is policed."

Meyer: "If... if those types of relationships are allowed to exist in a reverse auction process, how can we insure that it is fair then, no matter what that relationship is?"

Anne R. **Pramaggiore**: "Well, the... that's... that was part of the Illinois Commerce Commission's year-long process and part of the **FERC's** process was to make sure that the rules around the inspection of those financial relationships were such that the... the auction would be a fair process."

Meyer: "Well, perhaps maybe you're not the right parties to ask this question... next question, but is there anything that should be implemented to make that process even more transparent?"

Anne R. **Pramaggiore**: "Well, the way... my response to that is that the Commission's now got a post-auction proceeding, that they are engaged in. All the parties who were a part of the original auction proceedings are involved in that. They're

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looking at those sorts of things; are there refinements we can make to the reverse auction process to make it a better process. So, that's being debated right now at the... at the Commerce Commission."

Meyer: "Having gone through the reverse auction process now the first time... for the first time and given the fact that you recognize that there were other alternatives out there, do you still believe the reverse auction is the best way to go?"

Anne R. **Pramaggiore**: "The reverse auction process is really a state of the art procurement process. If you look around the country, it's something that's used not just in the electric industry but in many industries. It's used by some of the companies in the country that we would consider the most value-oriented companies, value oriented in terms of their approach to customers. Target uses reverse auctions to procure, Sears uses them, Dell Computers, Southwest Airlines, GE, 3M, it's a very well accepted process. We think it did a very good job in managing the price for our customers."

Meyer: "Do they... when dealing with their suppliers because of their type of business, do they run the risk of having that too close of a relationship in order to be fair versus what they're doing with their auction?"

Anne R. **Pramaggiore**: "Yeah and I can't comment on whether any of those have an affiliate relationship that... if it is involved."

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Meyer: "Okay. Well, I think you've been very forthright and certainly we can work with the ICC to make certain that we continue to push for that transparency and to make certain that we get the fairness out of it that our constituents... joint constituents expect. Thank you."

Chairman Bradley, J.: "Thank you, Representative Meyer. Representative Flider."

Flider: "Thank you, Mr. Speaker. Just have a couple of questions."

Chairman Bradley, J.: "It's Mr. Chairman."

Flider: "I'm sorry. Mr. Chairman. Before your time, before your time. It is getting late. Question... a couple questions for ComEd. Whose idea was the reverse auction? Whose idea was it to propose it to the Illinois Commerce Commission?"

Anne R. **Pramaggiore**: "Well, we went through a very involved analytical process internally where we looked at a number of different procurement methods. We then were involved in the Commission procurement process or the Commission workshop process to analyze a number of different procurement methods. We... you know, at the end of that process, we as a company had to make a decision as to what we would propose to the Illinois Commerce Commission. So, you know, ComEd made the decision after the internal analytical process, after the workshop process, where we got feedback from other parties ComEd made the decision to make the filing at the

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Commission asking that the auction, the reverse auction be the procurement method that we would follow."

Flider: "Were there meetings between you and other companies before proceeding on... in other words, outside the realm of the Commission? In other words, hey, we think the reverse auction's a good idea, what do you think, kind of a thing."

Anne R. **Pramaggiore**: "We had... we had a number of different meetings. We had meetings, obviously, within the workshop process itself. We also had meetings while the workshop process was going on but outside the workshop process. We really... you know, our focus was to get as much input as we could. We had really hoped to go into the Commission process with consensus around how we should move forward. So, we spent a lot of time meeting with parties."

Flider: "Okay. Why not... why not just purchase electricity on the open market through long-term contracts, spot market, short-term contracts? You know, why not do like the municipal utilities do, the municipal utility association does where they buy for their cities? You know, and this is just a bunch of guys who, you know, kinda... they come to city council meetings with their plaid shirts and you know, they're paid, ya know, five or six thousand dollars (\$5,000 or \$6,000) a year and they work with the Springfield-based Illinois Municipal Electric Agency. And somehow they can come up with these pretty decent prices for their customers that we as representatives of the investor-owned utilities can't seem to get for the customers of those utilities."

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What... why the disparity? What... why can't the investor-owns do what the small... these small guys do, you know, in their communities?"

Anne R. **Pramagiorre**: "Well, I... I don't exactly know what the companies that you're describing do, but what I would say..."

Flider: "Well, they're municipal utilities. Okay. They're all... they're all municipal... so like for example, I have some in my district. You know, they... they are invest... they are municipal utilities, not investor-owned, so they run the wires, they run the pipes for gas utilities, and they go out on the open market and they, you know, contract with... through the Illinois Municipal Electric Agency, which is like their power broker. They go out on the open market, they get generation, and they serve all these different cities. And they do it a lot cheaper than the investor-owned utilities and they don't have a reverse auction. I'm just kinda curious why we can't do it that way."

Anne R. **Pramagiorre**: "Well, the reverse auction actually does incorporate a blend of different lengths of contracts. You know, right now, we've got in place 17 month, 29 month, and 41 month, which seems sort of odd, but it's sort of the first round to get us off the ground we're syncing up with some other dates. But it does blend short-term and medium-term contracts. There was actually a debate about whether we wanted to incorporate a longer term contract into the process during the Commission proceeding and that was rejected, it would've been a 5-year contract. So, we

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actually do... the auction actually does in a sense what you're saying is that it... it purchases a series of different lengths of contracts in one... in one bundle."

Flider: "But it does it at so much of a higher cost. In fact, some of the municipal utilities are so concerned about how this work that they think the reverse auction is the wave of the future and they're gonna see massive rate increases now too, because of the way the process worked for their investor-owned utilities. When they were out negotiating, you know, pretty low cost... I don't understand why we can't just go out and negotiate power, like the gas utilities go out and they buy gas on the open market. They hedge, they buy some in the future, short-term, long-term. You know, they do all kinds of things. And, you know, so here we have to have a reverse auction that we know whether... you know, and nuclear units of the subsidiary of Exelon we know are humming along, the lowest cost producers in the State of Illinois. Yet, it's sixty-two (62) mega watt hour... dollar... sixty-two dollars (\$62) a mega watt hour at eighty-five dollars (\$85) as people are sleeping. Same price as during the, you know, day when businesses are operating. And so, there's a huge profit margin there. And you know, I guess it just seems a little odd to me that we'd go out and choose this system when there's a tried and true method known. And that power that the municipal utilities are buying through their municipal agencies, also are federally regulated. So, you know, we can't say, well, the feds, you know, have a say

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in that, 'cause that's all regulated too. I mean, I don't understand why we can't just go out and do it just like they do it. What's so hard? Why do we have to go to the ICC and ask permission for blanket approval to do something that should come fundamentally to a utility?"

Frank Clark: "Part of the answer to that, Representative Flider, is that the method you describe was the method that they... the utilities in fact used for the better part of their history and about a decade or so ago people thought it wasn't working particularly well and which is why we have the Illinois Restructuring Law. So, I'll be candid with you. I'm less wedded to how we procure power; I'm wedded to being able to recover the cost of how we procure power. I think the ICC correctly said that the reverse auction was not the problem, even though you think it is the reverse auction didn't drive prices up. The reverse auction in my judgment reflected prices in a very transparent way and I think it forced the price down. That's my... that's my opinion. You have a different opinion and I respect it. It is not the auction process, whether traditional auction or reverse auction, where the pay as bid, where there's an RFP. We will procure power the way the Commission tells us to procure power as long as we are allowed to recover the cost of that, because we have no markup, we have no incentive to do anything other than get it at the lowest possible price. We believe the reverse auction actually accomplished that. We believe that's the best method in the State of Illinois.

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If there is a better method, we're not gonna stand up and block it."

Flider: "I understand that your number one objective is to make sure you recover the cost for power. I understand that."

Frank Clark: "My number one objective is to provide reliable power to 3.7 million customers, Representative Flider, truly at the lowest possible cost. That's my number one objective. But in order to do that... in order to do that, I must at least recover the cost of supply, because there's no profit margin in it for us. If we don't recover the cost of supply, you're putting every utility in the State of Illinois under, whether you want to accept that or not that's the reality."

Flider: "And I appreciate that. I guess my concern just overall here is that on one hand, I certainly don't deny your objective as the president/chairman of Commonwealth Edison and respect you for the job you do. I understand that, you know, you want to recover all the... all your costs, at the same time I also understand that, you know, there is a sister company with... with man... with a possible chairman or president and I don't know what the position would be who reports to the ultimate chairman of Exelon whose job is to make sure he maximizes... maximizes the profits of that unregulated subsidiary, as I can certainly understand in a... in a free market type of situation. I guess the challenge for us all is that, you know, the person who's calling the shots for the entire Exelon Corporation pretty much says,

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you recover your costs, you drive them up. And you know, get as much profit as you can. And you know, it's a monopolistic system. Fundamentally, I think that results in higher prices than otherwise we might see and I think that's the challenge that we have here in the Legislature. I am pleased to hear that you would be willing to look at other ways to purchase power but I also understand your objective, you do need to recover those costs. I certainly understand that."

Chairman Bradley, J.: "Thank..."

Flider: "One other... one other issue. I guess I would like to take issue with the... and piggybacking on Representative Flowers' comments... with the issue that a California crisis is looming in Illinois. You know, that was a unique situation there, when they... when California restructured there, they: (a) forced utilities to get rid of all their generation and (b) did not allow them to enter into long-term contracts. They forced them to buy on the spot market. So, as a result of that, you know, we did have the market manipulation that was going on. And at the same time in the infinite wisdom of California, they for a variety of different reasons had environmental restrictions on plants. They could not run at certain times. They had a power shortage that summer where they... it was actually a drought and the streams that provided hydropower went dry. They didn't have that power. And the surrounding states that California depended on to import power to them said, forget

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it, we need that power for ourselves. So, I think that that was really the cause of the California situation. A lot of Enron executives got very rich over that. There was a lot of market manipulation. But I believe that we here in Illinois worked very hard in 1997 to make sure that we would not have that kind of crisis and I think those are some of the facts that are definitely being left out of that debate on whether a California crisis could happen here. I just wanted to mention that for the record. Thank you very much."

Chairman Bradley, J.: "Thank you, Representative Flider. Okay. It's twenty 'til one; we have six people seeking recognition. We have at least six witnesses, maybe ten. Representative McCarthy, questions."

McCarthy: "Thank you, Chairman, I'll be quick. The... first of all for Chairman Scully, Representative Mathias made a wonderful suggestion in the beginning to ask for an opinion from the Attorney General. I would ask you to also include in that opinion to request whether municipal electric agencies, the contracts that they've signed into, whether they would also be able to break those or not. Because I know that the municipal agency that I've spoken to, in order to become familiar with the issue, feels very strongly that they would not be able to break the contract that they signed with their new power supplier. The... as far as communication with the customers, Chairman Clark, I was the one who kind of made a little joke about the... all the kids

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in my area knowing that you started in the mailroom. But I know that that wasn't the only thing you did as far as communicating the expected rate increase to customers. Could you give us a couple other examples of things that the company took part in, in order to let the customers know that this impending rate increase was coming?"

Frank Clark: "Yes. We held a series of discussions in towns and municipalities throughout northern Illinois. I personally did spots on TV along with other senior... and... and radio along with other senior ComEd executives. And we also put literature out in our mailings to our customers, to name some."

McCarthy: "Okay, thank you. The Residential Rate Stabilization Program... just so I think I... I've been listening to the discussions and it seemed like there were a lot of different things said. But that is the program that would not start 'til April, right, if you put your application in by March 24? So, all the talk about the January bill was really kinda off the record a little bit."

Frank Clark: "That is correct."

McCarthy: "Okay, thank you. The other thing is... as far as the... during your remarks and you had one slide that showed a 1.4 billion dollar (\$1,400,000,000) loss but it didn't show a time frame. Was that anticipated in the first year or the first month, the first two years, whatever?"

Frank Clark: "These are estimates so... these are just best judgments. I don't purport that they're 100 percent

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accurate, but they're in the ballpark. We believe that if a rate freeze went into effect tomorrow, we would start losing roughly 90 million (90,000,000) or so a month almost immediately. Because that's just..."

McCarthy: "So the 1.4 billion (1,400,000,000) would be for an annual loss?"

Frank Clark: "For 12 months, yeah."

McCarthy: "An annual loss, okay. And lastly, you'd insinuated, when you were making those comments, that the rate freeze may be worse for us, the ratepayers, in the long run."

Frank Clark: "Yes."

McCarthy: "Would you just give a couple comments on that quickly?"

Frank Clark: "Yes. It is my absolute belief, notwithstanding the challenges, that I made with respect to the California scenario was because there where you had government trying to manipulate market forces you get a reaction that I think is very bad for customers. In respect to Illinois, it is my belief that when I can no longer pay my bills because I'm in a rate freeze, I already know that I'm gonna see the credit of ComEd deteriorate 'cause I've already seen evidence of that. Ameren is not a junk bond, but Commonwealth Edison is at junk bond status today for our unsecured debt. That has already happened. It could only get worse for us if we can't pay our bills. But if we can't pay our bills just like you and the audience, you get charged a higher interest rate when you become a greater credit risk. If we can't pay

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our bills, our suppliers are going to demand more frequent payments. They're not gonna wait for us, they're gonna want it paid upfront. That means I'm gonna have to go out and borrow money and I'm gonna have to borrow money at a very high interest rate. All of this becomes the cost of doing business. If I ultimately go... become insolvent, which I would in my judgment relatively quickly, the cost of bankruptcy is phenomenal, I don't know the number. But it's not a million (1,000,000), it's not ten million (10,000,000). I believe it's hundreds of millions. And ultimately those costs gets passed on to customers. But more... most importantly is you jeopardize my ability to reinvest in the system. We put 4.7 billion dollars (\$4,700,000,000) in the system. I need to be able to continue investing in the system to... to have the kind of outages that I reported to you earlier when I told you that at about 11:30... I believe that was the time anyway, I've lost track... there were twenty (20) customers out of service. I'm proud of that. And that's exactly what I owe the 3.7 million (3,700,000) customers in the State of Illinois. All of that becomes in jeopardy."

McCarthy: "Thank you, that's... Thank you, I appreciate that. Thank you, Chairman Bradley."

Chairman Bradley, J.: "Thank you, Representative McCarthy. Okay. Any witnesses that are still here we're gonna ask you to come back here, behind the Speaker's podium and get in line and we're gonna continue with questions here. But if

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you're still here and you want to testify, come back here and get ready. Representative Dugan."

Dugan: "Mr. Clark, hello. How are you?"

Frank Clark: "Good evening, Representative, maybe it's good morning."

Dugan: "Yeah, I think it is good morning. You're right. And of course, I don't want to get into 'cause certainly I don't want to go into it with **Mr...** with Representative McCarthy as much as I certainly respect him. But do you... do you have an answer when we... Let's just talk about the nuclear plants very quickly, 'cause we're not gonna get into the discussions you and I have had before about the nuclear plants. Have we found out yet, since the fall, how much the nuclear plants cost? Can anybody give me that answer yet? How much it actually costs to build the nuclear plants?"

Darryl Bradford: "The... the initial construction cost was about 17 billion (17,000,000,000) for the whole fleet."

Dugan: "Okay. And... and have you found the answer to the amount of money that ComEd customers paid extra on their bill to build the nuclear plants, what was that figure? Have you found that out?"

Darryl Bradford: "I apologize. I'm not sure what you mean by that."

Frank Clark: "Well, let me... I think I know..."

Dugan: "Okay."

Frank Clark: "...what Representative Dugan..."

Dugan: "Yes."

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Frank Clark: "My answer is I don't believe they paid any extra. One of the things the Illinois Commerce Commission, when they testified stated and it is the law, we're only allowed to pass into rates what they determined to be just and reasonable. And they do **prudency** allow... they to... did a **prudency** review before we were able to pass into rates any of the costs of the nuclear plants. And they did **prudency** disallowances where they thought we had unjustified cost overruns. So it is my judgment and my testimony that what was passed into rates to customers were rates that were found just and reasonable through the process in the State of Illinois as ruled on by the Illinois Commerce Commission."

Dugan: "Okay. And... and I appreciate the fact of you want to keep explaining to me about the ICC and of course, we've asked the ICC these questions, also. My question just was, if there was no nuclear plant built... let's put it that way... if ComEd wouldn't have built nuclear plants would the customers of ComEd still have paid the same rates that were paying back when we were building the nuclear plants?"

Darryl Bradford: "I don't know..."

Dugan: "Probably not, I'm assuming."

Darryl Bradford: "I have no way to answer that 'cause you'd have to replace that with some other kind of generation. I don't know really how..."

Dugan: "Okay."

Darryl Bradford: "...to answer that."

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Dugan: "But that... but that would be a fact. If we hadn't have built them, then we wouldn't have paid the extra to build them? Correct?"

Darryl Bradford: "True, but you would have had to bought something. You would have had to built some generation."

Dugan: "Okay. Correct. Okay. So I'm just asking. So I just want to check so the seventeen billion (17,000,000,000) is what did it cost to build them, but yet then the testimony you gave when Representative Scully had asked, back when they were transferred then to Exelon, the parent company, at that time. Then **somethin'** that cost seventeen billion (17,000,000,000) to build was only worth two billion (2,000,000,000)?"

Darryl Bradford: "At that time, that is correct."

Dugan: "So... and how many years was that, that it went from a value of seventeen billion (17,000,000,000) down to two billion (2,000,000,000)? How many years?"

Darryl Bradford: "...what the seventeen billion (17,000,000,000) wasn't a value, that was the cost of the construction over a period of time."

Dugan: "It's what we paid for 'em. Correct?"

Darryl Bradford: "It's what shareholders paid for them, yes."

Dugan: "And ratepayers of ComEd paid for them. We didn't pay all the seventeen billion (17,000,000,000), but we certainly paid some."

Darryl Bradford: "They paid some, but not nearly all the seventeen billion (17,000,000,000)."

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Dugan: "All right. Okay."

Darryl Bradford: "That had to be financed by shareholders."

Dugan: "So... so they went down in value, the nuclear plants did, correct? Is that what we're assuming then? They went down in value 'cause they were only worth two billion (2,000,000,000) in the end?"

Darryl Bradford: "We were never able to get all of that seventeen billion (17,000,000,000) into rate pace, that's what the shareholders had to absorb, so I gave you the original construction cost. What... what Frank mentioned is quite right, that the Commerce Commission took a look at what the construction cost was and only allowed what they felt to be..."

Dugan: "Okay and I understand that. I guess my question just is if the value was and let's just say it wasn't seventeen billion (17,000,000,000) then if that is what it cost them to build them and you're saying that doesn't mean that's what the value of them is. I'm going to assume that something that cost us seventeen billion (17,000,000,000) to build somehow was worth a little bit more than two billion (2,000,000,000), so that means that they went down in value two billion dollars (\$2,000,000,000), and I'm just asking how many years that happened or why that happened? Why did it go down?"

Robert McDonald: "It went down for a variety of reasons as you heard earlier in testimony from the AG's Office. They weren't... at the time of 1997, they weren't being operated

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particularly well. Market prices were also very low at that time. There were just a lot of issues. You could not really find buyers for nuclear plants at that time. There were a lot of transactions at nuclear plants that went basically for the fuel that was in the core."

Dugan: "Okay."

Robert McDonald: "People didn't want nuclear."

Dugan: "Okay. Who did the appraisal?"

Robert McDonald: "Stone & Webster."

Dugan: "And they were brought in by who, the ICC to give... to give us, the ICC or the state an appraisal?"

Robert McDonald: "At the time of the merger between PECO and Unicom, we were required to do a fair value assessment of all of our assets, so Stone & Webster was brought in to do that appraisal because we had to mark our books down to fair value."

Dugan: "Okay. I guess... then, that's fine. Thank you. Okay. I just... I wanted to ask that just so that I understood for sure if we finally came up with a figure, 'cause we didn't have a figure in the fall. And we're not even gonna get into the goodwill and all of that and the fact that, ya know, our nuclear plants which was the generating portion that then was transferred, 'cause we've talked enough about that and my stand on that it certainly doesn't agree with you guys, but that's fine."

Robert McDonald: "Okay."

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Dugan: "The... I hear you say, Mr. Clark, and I have heard that quite frequently in the last year, year and half that I have been working on this particular issue, that there will never be competition in the residential market in Illinois as long as there's a rate increase. Is that a proper statement?"

Frank Clark: "As long as you have artificially low rates or frozen rates it is very difficult for anyone to come in and compete against that rate and make a profit, so they won't do it. That is... that is correct."

Dugan: "Okay. And... and again I think... because there's still probably still some difference of opinion on artificial rates, but what I am asking you is you're saying if we continue to freeze the rates then there will never be any competition?"

Frank Clark: "That is my belief for residential customers, yes."

Dugan: "And so again, I will ask you as I asked you once in the fall, if that is so, in 1997 when the people of this state were told that the rates were going to be frozen and at the end of that rate period, that freeze period, we would have competition and then in addition of that, of course, to then procure electricity at the lowest possible cost, how can we say that the rate freeze is what's stopping competition when we put a rate freeze that ComEd was part of putting into place and now **tellin'** us that the reason we have no competition is 'cause there's a rate freeze?"

Frank Clark: "The idea in 1997 is that we would transition to competitive markets and that at the end of the rate freeze

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rates would be allowed to fluctuate to wherever the competitive market would be. It didn't necessarily have to be up, it could have been down."

Dugan: "Um hum."

Frank Clark: "And competitors would find a way at market prices to make money. The fact is if you... right now, if you just allow the rates just to continue doing what they're doing, you would have people... competitors coming in undercutting these rates, because they'll find a way to make money. The problem and why you won't get competitors in if you consider another rate freeze. So there is no inconsistency here yet."

Dugan: "Okay. Okay, I just wanted to make sure I understood that, that if a rate freeze is in effect we won't have competition, but yet we put a rate freeze into effect 10 years ago, so that... that was my only question. You talked about the increase that you went for that the ICC just allowed you which was... what, what did they give you, 2 percent or 2.4 or..."

Frank Clark: "On the delivery service case in round numbers a little bit over a percentage and a half."

Dugan: "Okay. So, that was for the delivery charge portion..."

Frank Clark: "Right."

Dugan: "...not ...not the supply?"

Frank Clark: "That is correct."

Dugan: "How much did you ask them for?"

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Frank Clark: "We asked for three hundred and seventeen million (317,000,000)..."

Dugan: "So what percentage is that, Sir?"

Frank Clark: "...and that would have been about six (6) percent on the customers' bills."

Dugan: "Okay."

Frank Clark: "And... and this always confuses people, but it is worth to mentioning. When you lo... when we talk about our rates, it's really... there's three pieces. The delivery piece is about... a little bit less than a third, the supply piece is roughly two-thirds..."

Dugan: "Correct."

Frank Clark: "...and the transmission piece when you round it in... it's what..."

Robert McDonald: "It goes into that last third. I mean..."

Frank Clark: "It goes into the last third."

Dugan: "Right, it's not very much."

Frank Clark: "It's a small... it's a very small piece. But those three pieces..."

Dugan: "Correct."

Frank Clark: "...all actually three separate rate cases, but they all go together to make one new rate."

Dugan: "Correct. And..."

Frank Clark: "So, sometimes when you hear us talking about rates it almost sounds like we are piling on, but we have to go to a federal jurisdiction to get the transmission rate increased, we have to go the Commerce Commission to get the

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delivery service piece, which is what ComEd is. And we go through the process of entering into contracts by whatever means the Commerce Commission says we can, and then we have to actually recover the cost of that, because that's just a pass-through, but it can sound like three rate increases for one rate."

Dugan: "I understand that, Mr. Clark, thank you. And of course, the two-thirds part of the bill, which is the big part of the bill that we're seeing, of course, the major problem with both in... in... I know you don't believe so in the ComEd territory, I can assure you of the twenty-seven hundred (2700) calls... I'm glad you said that... 'cause the more people that I've talked to and of course, they said we haven't heard anything from ComEd customers, I've heard from over three hundred and seventy (370) ComEd customers who... for whatever reason, so at least I was glad to hear you say that you did get twenty-seven hundred (2700) calls so that there is... it is known that ComEd and there are ComEd customers that certainly the Ameren customers have it much worse. There is absolutely no doubt in my mind and we will work and stick with the Ameren people and what we need to do to help those constituents, but it is a fact that there are ComEd customers that are having issues with their rates, it's just that it's certainly not as bad. What was... of the twenty-seven hundred (2700)... anybody give me any idea on what was the highest rate increase that may have come in from one of

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the those calls? You may have said that and I didn't hear you."

Frank Clark: "I didn't and I don't know what the individual calls were, these are high bill complaints. And high bill complaints don't always directly relate to a rate increase."

Dugan: "Okay."

Frank Clark: "It could be the customers thought they had unusual usage on their meter and they wanted to have it looked at."

Dugan: "Okay."

Frank Clark: "But Representative Dugan, I **bel**... I believe I need Anne to make sure this is a correct statement. I believe that in our case the 24 percent rate increase is what our customers would have seen with the exception of the space heating customers which we talked about and that would've they should have seen 28 percent."

Dugan: "So, I can assume that the electric bills that I have that show the usage was not that much more than it was last month, then I can assume that those particular bills are incorrect. Because I do have bills from ComEd customers that their usage did not double and that... and that there is rate increases that are doubling. There's... ya know, that are going up 60 to 70 to 80 percent and I am not sure why, if the cap... especially my all-electric people. If that cap is supposed to be at 28 percent then I'm not quite sure how it went from a hundred and seventy-eight (178) to four oh seven (407)?"

Anne **Pramaggiore**: "If I could answer that."

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Dugan: "Yes."

Anne **Pramaggiore**: "On the electric space heat, the 28 percent is an annual average. What happened is, in the original space heating design those customers saw a discount in the winter months and so what's happening now is they're making up for the discount that they had in the winter months, so the increase that they have in the winter is a little bit higher. They'll actually see a little bit of dip in the summer and what happens is it averages out to 28 percent over the year. So you will... you're right, you do have some customers who are seeing higher than 28 percent in these... the winter months, no question about that."

Dugan: "And... and I think it's kind of like what we've been talking about all evening. I think as when we explain this to the people... I know we have to explain it to our constituents... we can sit here all day long and ComEd can say that there's a 24 percent increase and there's a 28 percent cap on the space heater. Now, I'm not saying that there isn't, but the perception here is where we've got a major problem, because we're telling the people, it shouldn't be any higher than 24 percent, or it shouldn't be any higher than 28 percent, they don't hear average because that's not what we're saying. And when I get somebody that has 100 percent increase in this last month's bill and I can look at the graph, you know, that ComEd puts on their little bills that shows you what you use **las**... it's there. I can show very clearly that, unfortunately, these people whose bill

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was a hundred seventy-eighty dollars (\$178) last month is now four hundred and seven (\$407). No matter how you want to say it, annually over a year, this bill... I've got a disabled person, this is just another example and I'm not going to go over all the ones that I have from ComEd, even though everybody seems to think there's not a problem with the ComEd territory bills. You know, a disabled man who has an all-electric apartment, very small apartment, makes four hundred and thirty five dollars (\$435) on Social Security. His bill usually is a hundred and seven (107), it went to four hundred and seventy-five (475). His electric bill this month alone is more than what he gets on Social Security. So, as we go forward and as we look at what we need to do, the unfortunate part of what I believe has happened here is because we continue to want to make it a situation that is bad because the rates went up, I'm not blaming ComEd because Exelon is making billions of dollars of profit, but the fact is, the rate is as high as it is because of the reverse auction, which you and I, I'm assuming don't agree, did not work in the best interests of the consumers of this state and ComEd constituents. And so, perception as we go forward, and when ComEd continues to stay, the rates are going to go up 24 percent, you put us in a pretty bad predicament of trying to explain to people why you told them 24, and I've got three hundred and fifty (350) calls from people who it ranges between fifty (50) and a hundred and twenty (120). They don't care about the average over the

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year; they can't pay their bill this month, they're not going to be able to pay their bill next month. When we talk about the reverse auction, is it... I want to ask, and I think Flider, Representative Flider did. Is it or is it not, in your opinion, do you believe that the reverse auction worked and got the lowest price for the consumers of the State of Illinois?"

Frank Clark: "I answer this without any hesitation, the answer is absolutely yes."

Dugan: "Okay."

Frank Clark: "Yes, I believe that."

Dugan: "Okay and I just want to clarify one more time. I've only got two more things, Mr. Chairman. The reverse auction in regards, and I understand I'm sure you've held a lot of meetings, but I just want to clear up the fact and make sure that I'm saying this correctly to what I've been told. Was it Ameren and ComEd that proposed to the ICC to use the reverse auction process, 'yes' or 'no'?"

Anne **Pramaggiore**: "I can't speak for Ameren, but ComEd made the filing at the Illinois Commerce Commission proposing the reverse auction."

Dugan: "Thank you. And is it true that the entity that managed and ran the auction was NERA, is that correct?"

Anne **Pramaggiore**: "NERA was the consulting firm that was... that was the auction manager, correct."

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Dugan: "Okay. And they were the auction manager and is it true that they were paid by and retained by ComEd and Ameren? Did you pay the firm that then ran the auction?"

Darryl Bradford: "This is Darryl Bradford, the general counsel at ComEd. We paid for the fees, the auction manager worked under the direction of the ICC with the auction manager, so when you use the word 'retain', I just wanted to clarify that."

Dugan: "Right. Okay, but... but you did pay for the firm that was brought in. Did you... did you suggest this firm to the ICC?"

Darryl Bradford: "Yes."

Dugan: "Thank you."

Chairman Bradley, J.: "Thank you. I'm advised that Session starts in twelve (12) hours and we have to be done by then. Representative Tryon."

Tryon: "Thank you, Mr. Chairman. Chairman Clark, thank you for being here. I'm one of the few people in the House that actually voted not to freeze the rates and I happen to believe that a reliable utility beats a financially insolvent utility, and I also believe that consumer-driven economies will prevail and provide the best price, provided we have a free and open market for them to compete with. And so, I would... I have a lot of questions regarding did we actually get what we thought we were gonna get and is it gonna work the way we hope it would work, because 2 years from now it will be too late then to go back and say gee, we really made a mistake. That if you look at the reverse

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auction and the fact that you are buying 30... you are limited to purchase only 35 percent and you have these contracts, a third of the power the first year, third second year, third **third** year, and Exelon can only obtain 35 percent in any one of those contracts I assume, is that correct?"

Frank Clark: "That is correct."

Tryon: "Okay. Then, is that the right amount? I mean how was 35 percent selected?"

Frank Clark: "It was... it was ultimately the decision of the Illinois Commerce Commission, I think, based on the evidence in the record, they made a judgment."

Tryon: "Where they've used reverse auctions have they... in other power procurement settings, did they limit it, the parent company, to 35 percent or 40 percent? Was it..."

Frank Clark: Illinois was not the only jurisdiction to limit the participation by the parent, or by... in this case it wasn't the parent, in this case it was a subsidiary of the parent. Robert, do you want to add something to that?"

Anne **Pramaggiore**: "No, I was just gonna say, New Jersey uses a reverse auction and their cap is a third, so no single supplier can serve more than a third of the load, so it's in the same range as the 35 percent."

Tryon: "So, we've had kind of a precedent for... per third? And New Jersey's a little further ahead than we are, right?"

Anne **Pramaggiore**: "They run at five, (5) roughly five (5) times..."

Tryon: "Five (5) times?"

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Anne **Pramaggiore**: "Mmm hmm."

Tryon: "And how's it working there? I've heard rumblings that their rate's a lot higher than ours is today, correct?"

Anne **Pramaggiore**: "Their rates are higher. They pay... ya know, we... in our auction we ended up with about a sixty-four dollar (\$64) a megawatt price. Out East they're seeing a hundred dollars (\$100) a megawatt. It's not driven by the reverse auction; it's the market conditions out on the East Coast that are really driving that. The one thing that the reverse auction in New Jersey has done well is mitigate the rate changes. When I talked about the fact that you stagger these contracts you were only exposing a portion of your load to the market at any one time, really helps mitigate price jumps. I think last year's auction... there was roughly a 50-plus percent increase in the wholesale market in a year, and what the customers saw on their bills was a change of about 12 to 14 percent. So, the fact that they only had a portion of the load out in the market was a big bonus for consumers in that auction. So, I think that if you look at the New Jersey Commission approves the auction every year, they make a statement about it, and they've felt pretty good about the way that it... it has come out."

Tryon: "Okay. So, they have supply issues in New Jersey? I mean they're not generating enough power in New Jersey? Is that why the wholesale market's going up 50 percent?"

Robert McDonald: "It tends to be more of a gas and oil kind of market, so the prices in that region are driven more by

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what's going on in the gas and oil market in those are... and there isn't as much of a diversity of supplies in that region, nor is there the kind of transmission that work all the way into New Jersey that allows diversity of supply from other regions."

Tryon: "Okay. That kind of leads into my next questioning then. Does Exelon... how much of the power generated by Exelon in Illinois plants is sold in Illinois? Do... do you know?"

Frank Clark: "I don't know that I know exactly what it is. I'll give you the only frame of reference that I use. The plants owned by Exelon in northern Illinois probably make up about ten thousand (10,000) megawatts of generation capacity at peak. And Commonwealth Edison at peak, the most recent system peak, would need about twenty-four (24,000) or twenty-five thousand (25,000) megawatts. That gives you some perspective. Now strictly talking peaks, if you talk about the average load you get a different scenario, but frankly I have to have enough power on the hottest day of the year, when we charge the system peak, or we all have problems."

Tryon: "Okay. So, does Exelon sell power to other energy companies at a wholesale rate less than what they're selling to Commonwealth Edison?"

Frank Clark: "I can't tell you 'cause I don't know what they sell power for. My assumption is based... Exelon as the generating company sells power, negotiates the best

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contracts they can for Exelon, but I don't know what those prices are."

Tryon: "So, you don't know if they're selling rates like the Constellation Energy less than they're selling it to you or whether they're selling it to Wisconsin Power & Light less than they're selling it to Com Ed?"

Frank Clark: "I personally don't know."

Tryon: "That would be... ya know, I'd like to know that, you know, 'cause that would make me feel a little... a little more comfortable if I knew Commonwealth Edison was getting the best price from the parent company. I mean it's kind of like, ya know, you go buy something on sale, and you go across the street and it's cheaper, you feel a little stiffed by that."

Frank Clark: "I don't really know the answer to your question, but I will tell you that that would not be a consideration. They're not trying to do us any favors, this is an arm's-length negotiation. We treat them and I believe they treat us like any other arm's-length contractual negotiation, in fact, I think that's a requirement."

Tryon: "Okay. What... let me ask you this. We had eighteen (18) bidders?"

Anne **Pramaggiore**: "There were over twenty (20)..."

Tryon: "Twenty (20) bidders?"

Anne **Pramaggiore**: "...that participated in the auction. We ended up with about fourteen (14) suppliers to serve **ComEd's** load."

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Tryon: "Okay. And where we... and where we see, ya know, power procurement in other states that are deregulated, is that comparable to the number of bidders they see? Is the future we're only gonna have eighteen (18) bidders or is the future maybe we're gonna have fifty-four (54) bidders or something like that?"

Anne **Pramaggiore**: "Well, I think the, you know, the view of the Commerce Commission, and the auction manager, and the auction expert that the Commission hired was that having twenty (20)-plus bidders was a very competitive auction. So, they felt very good about the number of bidders. That's a little bit more than they've seen in New Jersey on a regular basis, so I mean, that was viewed very favorably. The... a number of the other states use less transparent processes for procurement, so they may do an RFP process where, you know, bidders send their bids in blind and they don't report necessarily how many bidders they had, it's not as transparent as this one. So, I don't know that we have a lot of other data on that... you may know more than I do..."

Tryon: "What... at any time during the course of the next year, would we see market rates potentially fall below the sixty-three dollars (\$63), and if they do is there any way you could take advantage of that?"

Frank Clark: "Well, that goes back to, I think, the question that a number of Legislators have asked. Our opinion is, we entered into contracts there were good faith, arm's-length negotiated contracts resulting from a competitive process.

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I just don't believe that we can legally break those contracts."

Tryon: "Maybe we could tweak the reverse auction so that a certain percentage could be left open for.. Has that ever been done?"

Frank Clark: "I would also.. that's a possibility. Again, that's really not.. that's a real possibility. I want to stress, what I am looking for, what ComEd is looking for, is the lowest price for supply. We believe the reverse auction gave us that, and I still believe it. If there's a better way to do it I'm not gonna close my door to it. I want the best, lowest price, because frankly, it's better for our consumers and I think the reverse auction did it, but if there's a better way and we can deliver a better price for our customers, we have an obligation to do that."

Tryon: "Okay."

Robert McDonald: "I would also just add that the auction provides, essentially the defaults apply, to the extent that market prices come down, **RESs** can take that.. alternative suppliers can take that opportunity, lock in that lower priced power and get customers. Customers aren't locked into.. to what they're getting out of the auction. They can choose to go to a different supplier, and that supplier may be able to avail itself if market prices have come down for whatever reason, suppliers may be able to get customers from.."

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Tryon: "I have... own a small business and so this year I shopped around, you know, and I did beat rates and was able to save about 10 percent."

Robert McDonald: "Okay."

Tryon: "When might we expect that type of opportunity for the residential market, do you think?"

Robert McDonald: "I think that goes along with what we've been saying, if there's more certainty in Illinois about what the structures are, I think some of the potential suppliers are a little concerned whether there is gonna be a rate freeze legislation. Do they really want to invest all their time and effort in this market if it might get pulled out from under them if there is freeze legislation? So, I think settling issues in Illinois, having some certainty, opens a little bit more of the door for that, but we always kind of knew that competition was gonna be more prevalent with larger customers, it will take some time to revolve through the customer classes until you get to the residential, but we think that opportunity is there, but I think you need a little more certainty in the state."

Tryon: "Okay. One last... one last question. I think there's... I've talked to a lot of Members and... that have been here a lot longer than I have and certainly some of them would like to roll the clock back to 1995 and maybe not take the move that we took in 1995, and still have a regulated utility. And if we had a regulated... if everything was left alone in 1995, what do you think our rate today would be?"

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Frank Clark: "That is a very... the honest answer is, we don't know. All I can speculate is that we would've still had... our performance of our nuclear power plants which is the heart of our generation that we used to own wasn't running well. The capacity factors were in the 50 percentiles back in the early '90s. It took a competitive market that basically says you'll **run'em** well we close 'em down to get the kind of production we're getting today. And as I pointed out in one of the slides, if you look at those markets that did not go to a competitive supply model, they look a whole lot like we look. On the other hand, Illinois got some unique benefits. You really did get a four billion dollar (\$4,000,000,000) savings, I'm talking ComEd alone, for our customers over the last decade, they really got that. So, there's some real benefits to competition that have... that we've seen in Illinois, and not the least of which some of the most efficient nuclear power plants in the country, so there have been benefits. Ya know, I'll emphasize this; it's sort of redundant, that I think it's worth repeating. If we knew how to time the market we would, but we don't. The price goes with supply and demand. If there's a better way to procure power than the reverse auction and the Commerce Commission will approve it, and we will be able to follow it and then recover only our cost, no mark up, we're going to follow it."

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Tryon: "Okay. So, kind of the answer is, we probably might not be any worse off than we are now had we not done that? Is that what you're saying?"

Frank Clark: "The answer is I don't know. But the evidence that I have seen suggests that the regulated versus the deregulated looked quite similar. The difference however is, in my judgment, the kind of savings you've seen in Illinois. I think the Illinois Restructuring Law was a wonderful, wonderful piece of legislation that the Illinois General Assembly needs to feel good about because of the huge customer savings that have resulted. There is an issue now that has to be resolved."

Ttyon: "Okay."

Chairman Bradley, J.: "Thank you, Representative Tryon. Representative Gordon. We have 13 witnesses on deck."

Gordon: "Thank you, good morning. Hi. How are you? First, I have just a few questions. First of all, I just want to start out. One of the very first things you said, Mr. Clark, was 'I can't speak for Exelon.' But yet, and you continuously and in every question you attempted to distance yourself from Ex... we're not Exelon. I don't know what they're charging other companies. But yet, as someone who has a district with three nuclear plants in the district, that's more than anyone else in the state as well as any other State Legislator in the country, I can tell you that every single person who works for ComEd, it says 'ComEd' on their shirt and then right underneath it **it** says 'an Exelon

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company'. So, just as a... just a random suggestion from someone who's never been in marketing or anything else like that, maybe you should stop that. So, that's just some free advice. But that's not what I'm here to talk about. Okay. First of all, I want to talk about your employees, the ones who come down here in the red shirts that say 'reliable electricity', the ones who I, along with many, many of my colleagues, get about 10, 12, 300 e-mails from. And the e-mails start out, 'I'm a veteran and a ComEd employee.' And they've... they wear shirts and these hats and everything else and I guess my first question is, who... who has given them those shirts and those hats, who's paid for them?"

Frank Clark: "I'm sure that we're supplying those to our employees, but they come down here on their own time."

Gordon: "Okay. And are they... but if they're working that day, are they being let off of work? Are they being given a vacation day or a comp day or a free sick day or something like that?"

Frank Clark: "I believe they're given the day off. If I'm incorrect, I will clarify it in the record when I go back and double-check."

Gordon: "Okay. So, it's not being counted against them?"

Frank Clark: "Actually, I was told two different things, so I just need to verify it. I don't want to give you an answer and be incorrect."

Gordon: "Okay. And the company's paying for their transport too, correct?"

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Frank Clark: "A bus is supplied. That is correct."

Gordon: "And it's paid for by the company?"

Frank Clark: "It's paid for by the company. That's correct."

Gordon: "And then when they get here, they're given talking points on sheets of paper by the company. Correct?"

Frank Clark: "I'm sure that there's a discussion that takes place on the bus."

Gordon: "Okay. And then they're divided up into groups and they say, you visit these specific Legislators. That's given to them by the company as well, right?"

Frank Clark: "They have a unique interest in the Legislators in their districts."

Gordon: "Okay. Now, what these Legislators... what they told me, anyway, I can say from my personal experience is that the company has threatened, the current employees are being told that their health care benefits are being threatened and that the retirees are telling me that their health care benefits and their pensions are being threatened by the company if I vote for the rate freeze to continue. Is that true?"

Frank Clark: "I have personally never told any employee that we would threaten any of their benefits, any of their wages or their employment. I will tell you that if we ultimately end up an insolvent company, it has consequences and the consequences are dire. What form they will actually take, I think, we still have to evaluate. But I've not used that tactic and I'm not using it now. Our **cus...** our employees

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come down here on a voluntary basis 'cause they want to and undoubtedly, because they're worried and they can read the tea leaves, but it's not because I've stood up... I've never stood up in front of a group of employees and told them that you're gonna lose your job."

Gordon: "Okay. Now, Mr. Chairman... Mr. Chairman... **Mr...**"

Chairman Bradley, J.: "Yes, yes."

Gordon: "**Thi...** this panel was sworn in under oath the same as every other panel today. Is that correct?"

Chairman Bradley, J.: "That's correct."

Gordon: "Okay. So, Mr. Clark, you're an attorney. Is that right?"

Frank Clark: "That is correct."

Gordon: "And I'm an attorney, just so you know. And so, we all know the part about asking a question that you don't know... you always ask a question but you know the answer to it first, right? We've all heard that. We learn that in law school."

Frank Clark: "I've never **prac...** I've never practiced law, so..."

Gordon: "Sure. Okay."

Frank Clark: "...you know more than me."

Gordon: "Always ask... when you ask the question and you generally know the answer first. So, you don't mess up your case. That's what we were taught in law school. Anyway, were there any type of... So, I guess my question then was, what was the company line or what was... was the term and you used the term 'dire consequences' when you just answered me now."

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Did you use the term 'dire consequences' when you talked to your employees about what would happen if the rate freeze continued or was put back into place or was that used by any of the employees or management that you're responsible for as CEO of ComEd?"

Frank Clark: "I don't know what every supervisor or manager may have said to the employee who came down here. I honestly just don't know. I know what I have said to employees when I have talked to employees and I have always emphasized that we need to get adequate rate relief for us to meet our responsibility. If we don't get adequate rate relief, it will have consequences and as I just testified a moment ago, those consequences could take many forms. I have not personally stated that we're gonna lose 'x' number of employees. I have stated that I think it will ultimately hurt reliability 'cause I think that's true."

Gordon: "Okay. We're... So, and did any of your managers or your supervisors make those statements?"

Frank Clark: "I think I've answered that the best I can."

Gordon: "So, you don't personally know if they did?"

Frank Clark: "I don't personally know what every supervisor that may have been involved in the conversation with employees. I think people make their own judgments and I think people make assumptions. Those assumptions may or may not be true and if people take those assumptions and pass those assumptions on as fact, that could have occurred, but if you ask me what I say to people, I try to be and I'm... I try to

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be very careful and not put in jeopardy and threaten employees that if you don't do x, y, or z, if we don't... if this doesn't happen, hundreds of employees are going to walk out the door."

Gordon: "So, any internal doc... I'm sorry."

Frank Clark: "If... if I can finish."

Gordon: "Absolutely. I'm sorry."

Frank Clark: "That's okay. What I do believe though if we don't get adequate rate relief and that continues over an extended period of time, if I start losing ninety million dollars (\$90,000,000) a month, it's going to have consequences and those consequences are gonna be on a number of different levels."

Gordon: "And if there were potentially any internal memos or documents that were circulated among your supervisors that were said, ya know, that this is what we should tell our employees. You weren't part of writing those or saying this is what they should say or this is what we should tell our employees? Is that what you're saying?"

Darryl Bradford: "If I could make a request because it's hard to answer these hypothetical questions, if there's a document that you'd like to show the witness so that he could see it and say whether he's seen it or not, that might be helpful."

Gordon: "Well, he's... No. He's saying he didn't personally say this. I'm saying was there a document written or was a general instruction given to supervisors saying this is how we should instruct our employees about how..."

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Frank Clark: "I am... yeah."

Gordon: "Excuse me, I'm not done with my question yet, Sir."

Frank Clark: "I'm sorry. Go ahead."

Gordon: "...about how we should instruct our employees about what's going to happen if this rate freeze continues?"

Frank Clark: "I'm not aware of documents that could have been written by any supervisor or manager that may or may not have made representations consistent with what you're saying."

Gordon: "Okay. And were these dire consequences that could have taken place with, ya know, if this rate freeze went into place that could have happened to your employees, to their health care, to their benefits, to their pension plan, were those also threatened to your health care, pension and benefits plans?"

Frank Clark: "I believe that any of the impacts that ultimately would accrue or go to our employees would have an impact on me also. What that would be and to what extent I cannot say."

Gordon: "Okay. Because..."

Frank Clark: "But I would not... I would not be free of the impact of a financial disaster to ComEd."

Gordon: "Because when I asked your employees that, when they came to my office and they told me about these threats that were made by the company and I said, did... did your managers and your CEO and your president, I said, were those same consequences and same things going to happen to his benefits

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and his pension plan and his, ya know, benefits that he was making from his stock options and they said, we don't know. And then I asked them, then why am I the bad guy? And they had no response for that. So... so, that information was not given to them about the potential dire consequences, at whatever level that may have been potentially, allegedly may have been, to your health care, to your pension, to your benefits and to your stock options, Mr. Clark? That didn't happen to your employees that you care about, that you testified about today in the same way that you said you care about your customers because your customers are our constituents. So, perhaps, you could be a little bit clearer when you bring your employees down here, when you give them their talking points because they didn't know how much you cared about them when you brought them here. Okay?"

Frank Clark: "Well..."

Gordon: "Just a couple more points."

Frank Clark: "Actually, I... ya know, you've given the information on people who talked to you. I wasn't there. I..."

Gordon: "These are your employees."

Frank Clark: "I know but..."

Gordon: "These are your employees with information..."

Frank Clark: "I'm gonna..."

Gordon: "...that was given to you..."

Frank Clark: "I'm gonna say..."

Gordon: "...that was given to them by you..."

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Frank Clark: "Yeah."

Gordon: "...by your company."

Frank Clark: "I'm going to say, I thank you and appreciate what you're telling me. If there are things that have been said that I would not agree to... agree with, I'm going to stop them from being said."

Gordon: "Okay. Then, perhaps, they should be instructed a little bit better. Next, as for... and this maybe just goes along again with what Representative Dugan was saying. I specifically have a bill here that once again is from ComEd. It's approximately a 53 percent increase. The people were gone from their house from January 2 until February 10. They had turned off as much as they possibly could. It was an electric heat house; they turned it down to 50... 55 degrees. Their bill was \$436. In December, when they were there and used the normal amount of heat that they used, it was \$229. Also, interestingly enough, the website that they're directed to go to on their ComEd bill for information about it is www.exeloncorp.com. Just so you know that that whole marketing thing might come into play on the bills, too, if you don't want to be a part of Exelon. And then finally, about the ice cream cone... about the ice cream cone light bulbs, I've used those. I don't care what the light bulbs look like and I have in Coal City, Illinois, where my district office is, I have a lamp next to my desk and so we've gotten those because they were better and everything else, but I'll tell ya what, I've had to use

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three times as many of those light bulbs than the regular light bulbs, so maybe that's another reason people aren't using 'em. So, thank you for saving the 4 percent on the energy, but they're not lasting as long. So, maybe your crack technical people could make a better light bulb. Thank you for being here. I'm so very tired and I appreciate everything that you've come and stayed and answered our questions 'cause it's not an easy job to do. Thank you, Mr. Chairman."

Frank Clark: "I... You're more than welcome. I'd like to just very quickly respond. I appreciate your comments on the marketing tips. I'll... we'll frankly look into them. I'm so very surprised about the bulbs. We don't make them, by the way. We don't manufacture any bulbs, but they should last longer than that. So, I take your input because we'll look into that because I've gotten obviously very different feedback, but you've had real experience and we'll take that. Thank you very much."

Chairman Bradley, J.: "Representative Riley, our final questioner."

Riley: "Well, I guess being.. being last in seniority in the House that's some distinction so I'm the final.. save the best for last. Thank you. Thank you. Good morning."

Frank Clark: "Good morning, Representative Riley."

Riley: "It's... it's been a long time and I missed part of your testimony. I guess being in the chair for about nine (9) hours, I did have to leave for a little while. I came back,

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so if I ask a question that's been asked, just please indulge me. But there's an old spiritual that says 'I don't feel no ways tired.' And I think that a lot of us here in this House and a lot of people who are really concerned about the state of the provision of energy in this state don't feel tired either. And Mr. Clark, I think you would probably say that this exercise of questioning and answering where all of our constituents and the people who you provide service to are listening probably has done more to give them information than... than any commercial that any of us could have made on TV and I hope you... I hope you believe that. A couple things. I think it might have been said earlier that 35 percent of the energy that ComEd provides or was purchased was from Exelon. Was that..."

Frank Clark: "That... that is correct."

Riley: "Okay. Who does the other 65 percent come from?"

Frank Clark: "Well, I... I believe Anne **Pramaggiore**, our senior vice president of rates and regulatory affairs, testified that probably from another 13, 14 different suppliers."

Riley: "So, the they're the suppliers. Do they get the energy from Exelon also?"

Frank Clark: "Some may or... and ya know, I don't know where they got the energy, but it's logical that some of them would have gotten some of it from Exelon."

Riley: "So, then it could be that some large percentage or maybe even 100 percent still emanated from Exelon."

Frank Clark: "Well..."

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Riley: "Possibly."

Frank Clark: "...that ...that wouldn't be the case because, as I indicated, the Exelon capacity in northern Illinois and I'm specifically speaking northern Illinois, is about the output of the nuclear power plants, it's about ten thousand (10,000) megawatts at peak. And the requirements of ComEd in our service territory at peak is somewhere between twenty-four (24,000) and twenty-five (25,000) thousand megawatts. So, and the answer to your question, I'm sure that it came from sources well beyond Exelon but I'm sure Exelon was one of the, ya know, substantial suppliers. That would make sense."

Riley: "Okay. So, the... so, the... well, then at least the critical... being a statistician there's something we call the error factor. So, considering the rest that might have come from some other source, the critical mass, could we say, came from Exelon?"

Frank Clark: "We just don't have a way of knowing that."

Riley: "Okay."

Frank Clark: "And I don't know."

Riley: "Okay. Now, I might have missed this, ya know. One of the things that I think that you're saying and it's... and it's really unfortunate. You've heard a lot of stories about people who are really suffering. There seems to be mistrust, distrust on all sides and I think that we really need to come together if... if what we're trying to do, 'cause we're representing our constituents and you, I guess

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different from a typical publicly held, closely held company, a public utility is a public trustee. And I think that by virtue of that you've got maybe a little bit more responsibility than a normal corporation would have. So, I just wanted to know, how... we're talking about a rate increase... how was... how were those rates determined? What were the components or the determinants of the rate increase that... that you want to... to pass on to... to our constituents?"

Frank Clark: "It... it really is the three parts that I discussed earlier. It's the transmission piece that will be decided at the Federal and the Regulatory Commission. It is the distribution piece which is what ComEd is. And it's the supply piece and that's roughly two-thirds, one-third. And the 22 percent rate increase was directly associated with the cost of the supply that came as a direct result of the market prices that reflected from the reverse auction, not from the auction itself; the auction didn't create the price, the market created the price. That... so, 22 percent is just to buy the supply to serve the customers that we have in northern Illinois. About a percentage and a half... Then you... I rounded it up to 24 percent, is directly related to the cost to maintain the system, to continue to invest in the system, continue to upgrade the system, to continue to maintain the system, to put in new wires, new cable, new poles, new infrastructure, et cetera."

Riley: "Okay. It was said earlier and it... well, it was a long time ago so I know I'm paraphrasing but when the ICC was

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testifying, there were some questions posed to the ICC and I may not have it right because that was hours and hours ago, but I think it came down to and these are my words... when they were posed with a question as to their oversight of the decision for the increase, could they have done a better job, it seemed as though they **leacked**... they lacked oversight or methodological wherewithal to really evaluate what an optimal rate should be. Oftentimes and I remember, for example, every 10 years redrawing district lines, we go to academia for help. I mean, they're... ya know, they're charged with doing these kinds of things and with, ya know, really giving academic thought to solving problems. How would you feel about... and I know that there's been, ya know, economists on both sides of the issue and so forth... but maybe a blue ribbon panel of economists and policy analysts to really impartially think this thing through and really come up with an optimal solution of a rate increase. Ya know, people here, my constituents say that, ya know, they don't like what's happening at all. None of them begrudge that there may be some increase that should be granted. The question is to what magnitude and how should it be implemented. So, how would you feel about that kind of impartial blue ribbon panel of academics to help us with this process?"

Frank Clark: "I think having an impartial blue ribbon panel review of how decisions are made on price and energy in Illinois is completely up to the authority and the decision

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of the General Assembly if they want to do that and authorize that. I think that the Illinois Commerce Commission is a body of technical experts who are equipped to make that determination and I think they do a good job. The rates that are in effect are rates that are only just and reasonable. I mentioned to... someone asked me... one of the Legislators asked me... on my delivery case, what did you ask for and what did you get? I asked for a three hundred and seventeen million dollar (\$317,000,000) rate increase after a 10-year freeze and I got... it was for the Representative... a 6 percent increase on the delivery piece alone and I got eighty-two million (\$82,000,000). They disallowed the rest. Do I agree with that? I absolutely don't. But that was their decision. So, I think the process works quite well. On the supply side, the Illinois Commerce Commission conducted what I think was a very thorough and very excellent audit, audited by any number of different experts, and gave all the participants rules to follow in order to comply with that. They made their decision on what they would allow to be pass-through rates only after that process was put in place. And before they put that process in place and representing ComEd was involved in a series of workshops for over a half a year. I... I don't want to say that there's no process that can't be improved, so to that extent obviously your suggestion has merit. But I do wanna, ya know, go on record saying that the process that has been used, in my judgment, was very

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thorough and very comprehensive and resulted, in my judgment, in the lowest possible prices on the supply side being passed on to customers. And it was a very transparent process."

Riley: "Okay. Well, ya know, thank you for your testimony and thank you for helping us take all the time that we need to take to really get the information out to the people who really count and those are the consumers and our constituents. I will say that the role that the ICC played did come under question in previous questioning and testimony, but thank you very much and again, ultimately, we're all hopefully trying to work together to provide the best service that we possibly can to the consumer. I mean, 'cause that's... that's what the bottom line is."

Frank Clark: "I agree."

Riley: "Thank you for your testimony."

Chairman Bradley, J.: "All right. Thank you very much. Thank you for staying here late into the evening. Appreciate you being here. You're dismissed. Okay. I think it's a testimony to the magnitude of this issue that we have so many people that have stayed so late into the night to work on this. There are several members of Alton here, people from Alton. Would you come forward and if you would just take the microphone... First of all, let me swear ya in, if you'd raise your right hand. Do you swear to tell the truth, the whole truth, nothing but the truth, so help ya God?"

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Et al: "I do."

Chairman Bradley, J.: "Okay. If you would just take the microphone, introduce yourself and then give some brief remarks to the crowd rather than me try to go through all that at this hour of the night. And Scully's in the Chair."

Wendell **McAfoos**: "My name is Wendell **McAfoos**. I'm from Alton, Illinois. I have a family business there which is a health club. The rate increase, the electric rate increase that we incurred this season has just been devastating to our business. To give you a little bit of history and I'll get through this as quick as I can. In 2004, we developed an energy conservation plan. We studied all elements of the energy conservation. We did actually a geothermal study, also, electric conversions, because most of our heating was done by gas. In 2005, we implemented what we thought at the time was the best option on energy, bearing in mind that we had studied, I have a forty thousand-plus square foot building, we had in hand a plan for a conversion to geothermal which would have cost about two hundred and fifty thousand dollars (\$250,000) to implement. With the help of the engineers from Ameren in Alton, specifically, Matt **Killebrew**, we were convinced that the most economical option would be to go electric on all of our furnaces and boilers. That's what we did. Ameren showed us how actually by using more electricity would put us into a larger demand level and even against our electric rates they would be reduced and of course, compared to the gas rates, we would have even

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further savings. We did, in fact, go electric and it worked great for 2 years. Nobody told us and I have to plead ignorance, I didn't know anything about the freeze on electric rates and Ameren certainly didn't tell me about it either. With the rate increase, to give you an idea of what has happened to us, December of '06 our electric cost was two thousand four hundred and seventy-four dollars (\$2,474) which, actually, I was very pleased with. My partial rate increase in January jumped to fifty-five hundred dollars (\$5500) and then with my full month of February under the new rates we went to six thousand five hundred and eighty-four dollars (\$6,584). The weather really did not impact us that great. December, we used sixty-two thousand (62,000) kilowatts. In February, that last full month billing period, we used seventy-six thousand (76,000) kilowatts. That's an increase of only 20 percent. The dollar amount of our increase amounted to over 200 percent, but what's really significant to what Ameren has done to us is in the actual rate. We're on a demand rate and we, of course, we have peak rates and then off-peak rates, but the peak rate went from .014 blah **blah** to .088. My off-peak rate went from .0144 to .0539, averaging the kilowatt hours out over peak and off-peak demand that rate increased 399 percent with the new Ameren rates. In total dollar amount increases in the past two months we've incurred pushing almost seven thousand dollars (\$7,000) over what we anticipated. My wife and I who own the company are paying that out of pocket,

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basically, that's coming out of our retirement funds 'cause we don't have that kind of cash flow to maintain those kind of rates. We talked to Ameren about it. Ameren told us if we don't like the rates we can go anywhere we want to **to** get our electric service. They were even kind enough to fax us a copy of the companies that can supply that electricity. They told us, go anywhere you want, we're really only interested in delivering the electricity, which by the way, my delivery charges were almost two thousand dollars (\$2,000) in this last billing period. But at any rate, we have been trying to contact and have contacted two of the suppliers on this list and here's where they really jam you up. There's no such thing as competition 'cause here's what these guys want. They want you to send them their... send them your meter number, send them your account number so they can go into your account, look at what your usage is, look at what your rates are and then tell you what they'll do for you. Who in the world would do that sort of thing? I mean, that's not competition that's... that's robbery. So, at any rate, we have not found a better supplier. As a of these increases, to date... Now, I have a lot of part-time employees, but if you lump all of our employees together, we have somewhere between 12 to 14 full-time employees. Since December, now this is through attrition because I've had two employees move on to greener pastures, but I have not replaced those employees. So, I would have otherwise had to lay somebody off, but that's one and a half full-time people

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that we won't be hiring back. As we go into this, I... I really don't intend to lay anybody off, but I have a lot of young folks and I know I'll be able to reduce my costs and everybody's just gonna have to cover more ground. We'll do the best we can, but we will be losing staff. What we've done now is we're looking now at going back to gas, but if you look at the gas rates, there's no real help there. So, we pulled out our energy conservation plan, looked at the geothermal again, I have contacted the two companies that quoted this. It's still doable; it's still in the same range; it's still gonna cost me two hundred and fifty thousand dollars (\$250,000), in that neighborhood, to convert to geothermal. Solar is out of the question, but the geothermal is doable. We've been to... we contacted initially the State of Illinois. There are some grants available, but the glitch that we run into is we are for... we are a for-profit or at least we are trying to be. Grants for for-profits are very difficult, but at any rate, I don't know what the difference would be because I don't know how energy knows who's using it. But we're stuck and I don't know what we're gonna do in the future. Thank you."

Chairman Scully: "Thank you. The next witness."

Wayne Watson: "Yes. My name is Wayne Watson. I'm from Brighton, Illinois, which is a small farming community north of Alton. My energy rates went up 300 percent. I want to bring to your attention the delivery service fee charged by AmerenCIPS. This is not the fee for the electricity itself,

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but just the delivery fee. The fee for January was more in January than what I paid for six of the months on my bills in 2006. So, for six different months in 2006, I paid for my entire electricity for what I paid for in January. I did have a little bit of deal on Saturday. I lost my power for four hours; I thought I hadn't paid my bill. I was lucky. It was just Ameren's tree trimming that caused it. The wind blew and the power went out for four hours, so luckily it was just the tree trimming of Ameren. But anyway, the second thing I wanted to bring up, the ICC has been here today, I heard 'em at the Senate hearings down in East St. Louis. You've heard what they've had to say. As a citizen of Illinois, when you get this resolved and I know the House will and I appreciate what you're doing, you're gonna bring the attention to this and I think the Senate will follow because you're bringing the attention to it. But when it's all said and done and you've got the rate back to what it should be, there's probably gonna need to be some laws brought to the ICC, but before you do that I would ask that you think about restructuring the ICC and putting some accountability back to the people because there's no accountability there. There's just no accountability in the ICC. They sit up here; they talk and what did they say? They say things. They knew the rates were going up. They knew that the all-electric customers were gonna get that high rate. Did they tell any of you? Did they tell Ameren, you're being kind of deceitful with your advertising? They

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didn't say a word. They could've at least said to Ameren, quit advertising like that, but they didn't. They have no accountability whatsoever. I would ask that a few months from now when things calm down a little bit you look at that issue. My last thing is, prior to my retirement in my past life when I actually earned money, I was an Illinois State Police officer and my last assignment was the commander of the district office at Collinsville, Illinois, which is the second largest district in the state. In that position, I interacted with a lot of communities, sheriffs, mayors, police chiefs. We had to do a lot of contingency planning. We had to think of disasters that were gonna occur. I went through the great flood of '93 down there, set down with a lot of people, we did a lot of planning. As much as I hate to say this, if this rate hike stays in effect, there will be a lot of contingency planning this summer. They'll be a lot of police agencies, a lot of mayors, and a lot of agencies sitting down, planning what to do about cooling centers, transportation for certain groups, volunteer systems to contact residents will be required to ensure that elderly and some other groups are taken care of. **People'll** say, well, why don't they turn on their air conditioners? Some people don't have any. Then they'll talk about this energy assistance. Some people won't even know about those energy assistance programs. Some of the assistance programs will all be... already be out of money. Some people will make about ten (10) bucks too much to take... take advantage of

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'em. There is no doubt in my mind that if this rate hike takes effect that there'll be police officers that will respond to houses where senior citizens or disabled people haven't been heard of for a few days and they'll knock on those doors and they'll finally make entry and they'll find those people in there. The air conditioners will be turned off and it'll just be a death. But you know what, it'll be somebody's loved one and Ameren's feeding frenzy for these rate hikes will have caused it. And I truly hope I'm wrong, but I don't think I will be. But you all can make a difference and I know you're going to and I truly appreciate what you're doing and I thank you very much."

Bruce **Schoeneweis**: "My name is Bruce **Schoeneweis** from Alton, Illinois, residential customer. I also have a business, but this is about my residential billing. The... I do budget billing and I have a three bedroom house, my wife, myself and one dog and our bill is actually quite reasonable. We have geothermal, multiple geothermal units. In 2005, I paid an average budget billing of one hundred thirty-six dollars (\$136). In 2006, an average of one hundred and thirty-nine (\$139) budget billing and estimated on my bill for 2007 was one hundred thirty-eight dollars (\$138). The proposed increase that was published between 42 and 55 percent along with the statements on the UE bills or Ameren bills of all-electric customer being close to two dollars (\$2) a day year-round increase would have increased my budget billing including tax to approximately one hundred ninety-two

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dollars (\$192) to two hundred and one dollars (\$201). The... the part that... the funny math part that came in and my numbers are only going to be as good as the information I received about the summer billing from Ameren which will actually be lower than the last 2 years or quite some time back. They told me it would be .06729 versus .08673 in the past. I've taken the 2-year average, mean average, of my billing and added all of the new increases for energy and all of these new phantom increases for the distribution charges, the total increase for my billing was 104 percent which will take me up to a budget billing of two hundred and seventy dollars (\$270), 53.76 percent of that increase is new items that were never on the... the previous bills. The energy charge, I don't know how... I don't know how Ameren was actually figuring this phase-in 14, 14, 14 and balloon at the end because people... I presume it was for the energy cost increase only and had no account for the... all the new tagalong items they've added on... but the people did not have... elected to take that 14, 14, 14 certainly will not have the money to pay at the end, plus they would not have the money today to pay their normal bill plus the 53 percent increase for the new add-ons. I think Ameren did a extremely poor job of marketing, their math is terrible. What they meant certainly wasn't what they said. The... I... In talking to the Ameren representative on the phone, I asked what the average all-electric customer... what they considered to be the average all-electric customer in

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kilowatt hours or dollars and they told me that they don't have any idea what the average all-electric customer is. They call an average customer, the total number of kilowatts divided by the 1.2 million residential customers and that represents the average customer. Well, when a majority of those people are heating with gas or other means, I don't understand how they can call that an average. Anyway, that... that's all I have. Thank you."

Chairman Scully: "Sure. Thank you."

Dawud Muhammad: "Okay. My name is **Dawud** Muhammad and I am the owner of **JosephsVisions** Technologies and Economic Development. And what I have here is I've... for over 5 years we've been doing research... I'm trying to get this together here... with all the companies in the area, in the Madison County area, St. Louis area, and we have done a lot of research and this research had helped result in the City of Alton in passing a resolution for the city to go 10 percent of renewable energy by 2010. Now, this was something that they did as a municipality, as a vision on their own part, but here we need vision. And right now, the way it looks, from based upon what I'm hearing how the utility companies is... from just their attitude, I mean, it's strange, but this Body of the... I wanted to first give special thanks to the chairman and the... the chairman and to the aldermanic I'm talking about the... all the State Representatives here in the House and also the Senate. But what their problem here is **is** that this Legislative Body is the root... is to what

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created the deregulation which created the laws, the body of laws, for which these corporations, these parent and transparent subsidiary corporations, is able to perform its operation. But when you have a blatant, outright attitude, this is showing you that what happens when you have the ICC that does not... is not really thinking in the best interests of the public well-being. I'm looking at this issue and it's getting to be worse. The reports are coming back **worser** than what you think. We have to look back 5 years ago and in that report we were able to show that most accountants only look at a 20 percent projected increase in utility rates overall. Even with the... most of these companies that are here, the basic accountant's only gonna look at maybe at the most 15 percent. But how do you calculate a 15 to 20 percent increase overall? What we have is a very serious problem and I'm gonna say this much, I promise you that this won't be my last time **comin'** up here to speak before you. But I wanted to say in closing that here we have... they say it opened the marketplace, you hear this term, let the open... the free marketplace address the social and extending problems that exist in this society. But when we talk about the free marketplace, then obviously if you're gonna talk about that, then you have to talk about competition in the marketplace. The marketplace do not have competition; it does not exist. And these electric power companies are in fear of the term 'competition' within the marketplace. The public service commissioners or whoever

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are thinking of ways to find balance between the middle ground for the state-run regulated monopoly of the utility companies and the public interest, but the real solution they bring in is even harder choices for both parties which speaks in behalf of the public interests. But what if the liability increases from the wrong choices and decisions be due to gross neglect. And what I'm getting ready to say is by gross neglect is this. There is a case of class action suit in New York against Com Edison as we speak. There... and have anyone even questioned Com Edison in Chicago, the one that was standing up in front of us about is there... do they have any pending, new class action suits against them? And let me give you something to think about. When you think about... I saw one case that they were talking about that they were being... there was a group of journeymen linesmen wanting to sue ComEd because of the fact that they're saying that they didn't have enough manpower to be able to address a natural disaster. This is something to think about. If you're gonna look at Ameren, for example, Ameren misrepresented before this august board before, I mean, before the State Legislators here and yet, they made one statement in the news media and then tried to pretend that what you guys have been **hearin'** all the time, you really didn't hear this from us, you didn't... you didn't really believe that you heard this from us, did you? Ya know, but the newspaper... the newspapers are not lying. What you're hearing in your ears are not lying and what I'm **sayin'**

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today, what you hear these gentlemen are talkin' about, you gonna see, what he just said about finding dead bodies inside these houses because one State Representative said about the fact about older people havin' so much pride, havin' pride that they don't want to tell the next door neighbor that their lights are cut off. These people are cold and callous. And what I'm gonna say in closing right now is that I promise down the road that I'm gonna come back with some more ideas but here I would like to suggest that if we have strong net metering laws immediately be implemented. But the warning here is do not let the utility companies be the ones to write that utility... that... the net metering laws. What does the net metering laws mean? That means that you could be able to tie in the solar energy, wind and other type of renewable energy sources. Could it be if Ameren and if ComEd, if they was sincere about hearing what you all are appealing before because you represent millions of people in this room. That's what you actually do. You represent... and each and every one of you represent millions of individual home lives, but when Ameren and ComEd couldn't they've been able to been... say, well, look, we're gonna put a benchmark on ourselves and be willing to take on a energy grid system, take on paying for another source through the solar energy or renewable energy technologies. We're trying to educate the people about technologies and because of this point I'm saying that we need strong, right now, we need... we'd like to see it and I hope it'll be

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happenin' very soon, that we have strong grid-tie laws and net metering laws that would mean that they will pay, not at a avoidance cost, but at a... at the cost that would help introduce the technology to create the competition at a rate that is gonna be competitive for the beginning. And don't let them tell you, well, we're gonna incur a cost. Well, the people who gonna buy the solar systems and put it on their houses, they gonna pay anywhere from twenty to thirty thousand dollars (\$20,000 to \$30,000) themselves. So, what about their costs? All they're gonna do... they gonna send a man out and to connect the lines through the... to the grid and they're gonna feed the power back to the grid. So, how simple is that? I mean, what is it that they got to be concerned with. It's the people who's got to pay that money or... ya know, to save their self from these high utility bills. So, in essence, I just want to strongly suggest, as I said, again, we need strong net metering laws, but do not have Ameren or ComEd to do it. Make sure that they're... that whatever these small power generating plants produce, that they get a fair wages or price for what they produce electrically. That's all we're askin'. Thank you."

Chairman Scully: "Thank you. Mr. **Schoeneweis** (sic-Albanese)."

Dennis Albanese: "My name is Dennis Albanese. I'm... we're from Albanese Development Corporation which is a family-owned company, incorporated about 25 years ago, here in Springfield, Illinois. Our company developed the Holiday Inn in Alton back in 1982 and I'm just here to testify on

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our electric. I was very... I almost hit the floor, more or less. I have a copy of our bill here and it reflects just about a 300 percent increase in **dollarwise**. The actual rate per kilowatt hour went from about three and a half cents to eight cents which means for the month of January averaged about six to eight thousand dollars (\$6,000 to \$8,000) went to eighteen thousand (\$18,000) overnight. We are aware of cost increases over the last 20 years, obviously. The cost of a room has gone up significantly, the cost of employment has... employing people has cost... has gone up significantly, but it hasn't gone up in one month. I'm not sure how to explain to a guest that in order to recoup last month's bill they're gonna have to pay 25 or 20 percent higher rate and... but I'm about ready to put a map behind the front desk and show 'em my bill and where that increase is goin' to exactly. I don't want anyone pointing the finger at me and I think it's just absolutely appalling. I have the utmost respect and pride in the people in this room who I... and after sitting here for about 13 hours... I can appreciate they're extremely intelligent and I know they're gonna come up with the right decision if they keep their heads to it and not **lettin'** it get passed, because I believe that the outcome will be catastrophic and for the State of Illinois, you able... you've only just begun to see what will become an implosion here on a economic level. The chain reaction from these types of costs, I mean, I'm gonna try just to be brief here, but I can say that that kind of an increase affects

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our fixed costs, regardless of how many people are **stayin'** at the hotel and we're gonna obviously have to try and find a way to recoup that so we continue to offer the increased wages which we are also imposed on. But due to the staging affect, fortunately, we're trying to bill the rate in order to offset those costs which, by the way, I understand the Governor's travel board has denied an increase. So, I guess the state thinks they should be able to stay for free or basically a lower than cost rate. But I would... I would predict that they'll be less and less state's... state rates available to state travelers at the hotels as they realize they can't afford to keep 'em there at that rate, particularly with the impact of both costs. As I mentioned, roughly ten to twelve thousand dollars (\$10,000 to \$12,000) a month will probably at an annual rate reduce the property value at our facility by close to a million and a half dollars (\$1,500,000) which I do plan to appeal my property taxes at the appropriate time. And you're gonna see a huge, huge tsunami of negative cash flow here. You have no idea. We happen to be in the process of refinancing, which most real estate ventures require, most have a 5- to 7-year balloon occasional... occasionally people have a longer term but in order to be able to upgrade and maintain the facility, like the utility company needs to maintain their capital, every so often we need to borrow back money to upgrade and we got plans for mattresses and the like. But right now at this point I've got a proposal from our current

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lender and I'm gonna... I'm gonna try and get it signed as soon as possible because when he sees the new numbers, he probably won't even want to renew the loan and that's gonna be **comin'** up in March and at that point he's gonna have the FED lookin' down his throat while he... why he doesn't have a loan renewed and I'll probably be one of several if that happens. For those that aren't as fortunate to have anything in the works, ya know, God help 'em. There are other hotels in the area. We increased our rates; I don't know if they're gonna increase theirs, but I will be contacting everyone. I think I have a legal right to; I don't have any control over their property, but I'll be contacting everyone in a 60-mile radius, not the managers 'cause the managers deliver their bill to the owner who's supposed to pay the bill. Well, I'm talkin' to the owner and we're gonna be **discussin'** this. Alton is a relatively modest-sized town of forty-some thousand. It's in a region with other communities as you're probably aware of, but for some reason people still ask why, before I even gotten this increase, they are still wanting to know why they have to pay ninety-five to a hundred and five dollars (\$95 to \$105) in little **ol'** Alton, Illinois. Well, we're not immune to the rest of the state, minimum wage and other taxes, they... their schools are well-funded and we contribute our fair share to that as well, but now, it's gonna be real hard to explain to them why I have to pay another twenty (20) bucks a night to stay in little **ol'** Alton, Illinois. I think that

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the property tax deal is probably the biggest thing that I see as a citizen of the state, by the way, I was born in Springfield. I didn't mention that earlier, but I went away to school in Chicago and spent 5 wonderful years there. I love the town. But I think that I'd like to see the best for the state as you all do and I just hope you hang in there and get this thing straightened out because it's a train wreck just down the street. That's my opinion. I agree with the gentleman to my left with regard to the net metering laws. I've looked into other options such as wind generation and those types of things. I was pretty surprised and wondering why in the heck we don't have net metering laws to entice people. I thought about putting a couple... a couple dozen or half a dozen wind mills on the hotel. There's gotta be some wind up there and see what we can generate. They're about fifteen hundred to twenty-five hundred bucks (\$1500 to \$2500) a piece and I don't know why they don't want to buy electricity back from me 'cause I'm gonna be generating it for 'em. But there's probably some more other people here in the room that are... someone could figure that out. I'm just not sure why that is."

Chairman Scully: "Sir, could you bring your remarks to a close?"

Dennis Albanese: "I'm... I'm about... I'm pretty much finished here.

We are taking part in a civil energy program. It's compact lights, energy conservation measures, et cetera, but ya know, that's no way that's gonna make up a 300 percent increase. We're all depending on you and I appreciate the

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opportunity to speak here and sorry it's so late, but thanks... thanks for hearing me."

Chairman Scully: "Thank you, gentlemen. Thank you very much for your patience and for your testimony here this evening... this morning. I have two announcements. First of all, I have confirmed with the parliamentarian that I am not procedurally required to read these witness slips into the record, so we'll bypass that normal procedure. We have testimony from two final witnesses. There are approximately six other witnesses who have agreed to postpone their testimony until Thursday's regular committee hearing. We have two witnesses that have asked to speak now: Mr. Guy Morgan of **BlueStar** Energy and **Alecia** Ward the president of Midwest Energy Efficiency Alliance. Mr. Morgan, please proceed."

Guy Morgan: "Thank you, Mr. Chairman and Members of the committee. I'll be very brief. My name is Guy Morgan. I'm chairman and chief executive officer of **BlueStar** Energy Services. We're the elusive competitive supplier you've been hearing so much about. **BlueStar** Energy Services is the only Illinois-based retail electric supplier licensed to serve residential customers. We are independent. We are not owned by nor affiliated with any utility. Everything that I wanted to say has been articulated over the last many hours with one exception and that is really what goes on in the mind of a supplier and why we haven't come to the market. And the simple answer to that and I'll just give

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you a very short example of why we haven't come. In January, once the rates became unfrozen, internally, and my company management discussed the idea of going into AmerenCIPS territory and making an offer to residential customers. The market had dipped in January. We were able to beat the auction price. We could have made a profit and saved customers... residential customers in AmerenCIPS territory approximately 11 percent off the current rates. I made the painful decision not to go into that market and the reason can really be summed up in one word and that's uncertainty. What I couldn't do is go in, in good conscience, sell contracts to residential customers at a price, to wake up on some random morning and find that a rate freeze had been enacted. If that were to happen, that would have obvious catastrophic consequences to my business. So, ya know, we are looking to the Legislature. I rep... I'm one supplier. In other states, of course, there are many. I think there are a lot of them that want to come here and the thing that's really keeping us from going is the uncertainty around the rate freeze. Thank you."

Chairman Scully: "Thank you. Ms. Ward."

Alecia Ward: "Thank you, Mr. Chairman and thank you so much for those of you who have held out for this evening and have done due diligence to spend your 2:16 a.m. morning with me. I have to say I have presented a lot of places, but this is a first for me. I've stood in the way of lunch and I've stood in the way of happy hour, but I've never stood in the

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way of people's sleep. I don't envy the job that you have at hand and I wish that I could say that the issues that I am concerned about have been covered so far today, but there's been a noticeable absence of conversation on the issues that I am concerned with. So, I hope that you'll find the last set of comments valuable, if nothing else. My organization is a regional nonprofit that promotes energy efficiency for the purpose of sustainable economic development and environmental preservation and we see the two things as linked and compatible and perfectly working together with each other. We have a cross section of members. Those members are lots of people who've testified before you today and a lot of people who sue the others who have testified before you today. We have investor-owned utilities, municipality utilities, rural electric cooperatives. We have the Environmental Law & Policy Center. We have the University of Illinois and Nature Resource Center. Anybody who's involved in transforming a marketplace towards more efficient technologies comes to our organization to get work done in the Midwest region. We do this because we care about rates in Illinois and all of the states that we're active in and we think that there are some solutions to the challenges and so, while I commend the Speaker and the chairman for holding this pres... this conversation today to talk about what is largely the challenges and the... the difficulties that are currently happening as a result of the transition for restructuring, I

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challenge this Body to come to the table to talk about solutions to this problem. And one of the single most cost-effective solutions available to you is the thorough promulgation of energy efficient building technologies, practices and innovative efforts throughout the State of Illinois. And I want to quickly tell you that this is a national problem and the experiences that you're having in Illinois you're not alone in them. They restructured in Ohio and they restructured in Michigan and you heard a little bit about the challenges they have. Those challenges involve not having security and certainty in the rate recovery for the generation and the **siting** of new power plants. They involve not being able to sustain the market-based rates that have been procured on an open market and they involve not being able to have additional cost recovery for transmission lines and so, you have this stranded tower problem across the region as well. So, all of the things are regional and national in nature and they are affecting what happens in the State of Illinois, but your situation is specific and it is worse. You spend approximately twenty-two billion dollars (\$22,000,000,000) and you send it to other states in order to procure additional energy, including natural gas, coal and petroleum and 70 percent of the electricity in this country that is generated goes to feed the existing building stock. So, residential homes and commercial buildings and small businesses and commercial businesses and industries, 70 percent of that electricity is

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to feed an infrastructure that is not energy efficient. And that's unsustainable, both for an economic burden to the state and also because it's an unreasonable cost for your ratepayers and consumers to pay without a **sustaina...** a substantial investment to mitigate that impact on them. The state has a responsibility to provide a balanced portfolio. Both of the supply options that are available to provide the least cost resource to consumers and also on the demand side to provide the least cost resource to consumers. And everyone in this room, throughout the day, not just now, those of us... the stalwarts who are holding on here, but throughout the day everyone has been concerned about delivering value and energy to their consumers, but it's absolutely essential that in Illinois you also responsibly encourage investments in energy efficiency to mitigate the projected load growth of roughly 2 percent across Illinois and across the country that continues to grow, because regardless of what supply solutions or what rate mitigation solutions you arrive at through other legislative vehicles, if... if the consumption of consumers continues to grow at 2 percent a year, rates will continue to go up because it will be more and more difficult to procure that energy on the open market. It will be more and more difficult to build those power plants and to make them cost-effective and the only thing that makes sense in that example is to use energy efficiency. You can procure energy efficiency cheaper than you can build energy, cheaper than you can buy it, transmit

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it, or other... in any other way procure it to get it to consumers to support a 2 percent increase on an annual basis of energy consumption. So, the whole question here is ratepayers, when they fund a generating capacity, a generating asset, they get the opportunity to incorporate that into the rate base and to pay more and then they get the privilege of paying more for every kilowatt hour that they consume. When you procure on the open market, they get the opportunity to pay more and then, as described earlier, next year they get the opportunity potentially to pay more, if that's what the market will command. With no mitigation or tools or resources to help consumers mitigate that bill impact, we're talking rates today, but in reality consumers don't really know what their rate is. They know what their aggregate bill is. And what we need to do is to provide them with the tools and the resources and the tool kit available to mitigate that bill impact by reducing their energy consumption and when an **ener...** when a ratepayer pays for energy efficiency, they contribute to a fund to help pay for energy efficiency happening throughout the state. And then they get the privilege to pay nothing for every kilowatt hour that they don't consume because they have managed to curtail their 2 percent increase in their consumption. And energy efficiency is cheap. It's roughly two billion dollars (\$2,000,000,000) to build a power plant, a million dollars (\$1,000,000) per mile to build a transmission line and less than three cents (\$.03) per

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kilowatt hour to procure energy efficiency which gives you a margin, which gives you cushion. It gives you the ability to be thoughtful about the decisions that you want to make on the supply side and how to procure energy on the open marketplace. Energy efficiency is real. I passed out two handouts to you. One is a color handout that is being displayed on the front row here and the first thing that you'll find is a 20-year graph. It describes the Northwest Power Planning Council and what's happened in the Northwest. Over 20 years, they have effectively been able to avoid the need for three thousand (3,000) average megawatts of power. That is a lot of energy; it's a lot of money; and it's a lot of power plants. And you can find more information about that either by talking with me offline, I won't go into the details of that. The second slide on the handout that I've given to you guys is the Minnesota. The Minnesota Department of Commerce and the Public Service Commission have required utilities in Minnesota to be investing in energy efficiency for the last 15 years. In doing so, the vice president of regulatory affairs from Xcel Energy has shared this chart with me and I've blatantly plagiarized it and it effectively says they've avoided building seven power plants in Minnesota. So, I will skip the rest of this and just close with the return on investment for energy efficiency, more than any other supply side resource or demand side resource is roughly three to one, just direct. If you are also then able to include the societal benefits,

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the system benefits, the ability to reduce maintenance for the need to maximize capacity of the transmission grid to absorb all that energy that needs to be moved from one place to another, you get a six to one return on investment. It comes from the Energy Center of Wisconsin who's been studying these sorts of things for many years now. So, I want to thank you all very much for the time. I will conclude on that and hope that I've energized you so that you can drive home safely without falling asleep. And if you have more questions, I'd like to offer my organization, myself, all of our networks and our connections and our relationships across the country to help you resolve the current challenge that you face and challenge you to come up with positive solutions that work for all the stakeholders in Illinois."

Chairman Scully: "Representative Meyer, do you have a question for the witness?"

Meyer: "Thank you, Mr. Chairman. And thank you very much, both of you, for being here. I find it absolutely amazing that we're waiting until 2:15 in the morning to finally hear from somebody that's got some possible solutions. I do have a question... **BlueStar** Energy, 'cause it sounds like it's right out of Wall Street..."

Guy Morgan: "Well, no..."

Meyer: "...every time I hear it."

Chairman Scully: "Do you have a question for the witness?"

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Meyer: "Do you know... You stated as part of your testimony that you had production sources that would have provided you with cheaper energy to sell to customers... residential customers in the state than what Ameren was able to bid and receive. Do you know if those sources took part in the bidding... the reverse auction process?"

Guy Morgan: "We buy from a number of sources, Representative, and I believe that at least a couple of those had bid in the auction, yes."

Meyer: "Well, that's very troubling if, in fact, you found that you can turn up the same source that bid with Ameren to provide a lower amount and they couldn't. Is there a reason why that could take place?"

Guy Morgan: "Yes, Representative, there is. As you know, over time markets move up and down and so, when the auction price is set on a certain day, ya know, the market will move up and down around that point. And so, when we looked at the market and we saw it was down, we went out for quotes and saw that, ya know, the prices that we were able to obtain were cheaper than the auction prices."

Meyer: "What could this state do to assure or reassure competitors such as yourself that we were not going to do a rate freeze but in fact we're going to make the climate to the point where we invite you in to actually compete, we stimulate that competition. What could we do?"

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Guy Morgan: "I think stipulate that somehow and through some message out of the Legislature, most likely. I don't know the exact mechanism by which you could."

Meyer: "Well, I won't belabor anymore the close of the testimony here, but I, for one, would be interested in having conversations with both of you so that we could start working on an agenda for the future because, quite frankly, I do believe that competition is the way to go but it has to be meaningful competition and something that's very transparent and we'd like to work with you."

Guy Morgan: "Yes. Well, we would too. Thank you."

Chairman Scully: "Thank you. There being no other questions from Members of the committee, I'd like to thank the witnesses for their participation in this hearing tonight. There being no other witnesses to appear before this committee, I want to thank everyone for their patience, diligence and tenacity in tackling this very difficult topic. With that said, I will call this meeting of the Committee of the Whole adjourned."