Law Offices
of
Michael U. Sutterfield

ARK PUBLIC SERV. COMM.
SECRETARY OF COMM.
MAR 18 4 00 PM '11

P. O. Box 933
Conway, AR 72033
Musutterfield@aol.com

FILED

Conway Physical Address:
515 Oak Street, Suite A
Conway, AR 72032
Phone: (501) 329-0992
Fax: (501) 329-7389

Little Rock Physical Address:
300 Spring Building #804
Little Rock, AR 72201
Phone: (501) 372-2565
Fax: (501) 324-4899

March 18, 2011

09-056-C

Laura Landreaux
Attorney for Entergy Services, Inc.
P.O. Box 551
Little Rock, AR 72203

Jan Sanders, Secretary
AR Public Service Commission
P.O. Box 400
Little Rock, AR 72203

Paul Ward, Attorney
AR Public Service Commission
P.O. Box 400
Little Rock, AR 72203

Colette D. Honorable, Commissioner
AR Public Service Commission
P.O. Box 400
Little Rock, AR 72203

Burl C. Rottenberry
Administrative Law Judge
P.O. Box 400
Little Rock, AR 72203

Olan W. Reeves, Commissioner
AR Public Service Commission
P.O. Box 400
Little Rock, AR 72203

Tucker Raney
Attorney for Entergy Services, Inc.
P.O. Box 551
Little Rock, AR 72203

Paul Suskie, Chairman
AR Public Service Commission
P.O. Box 400
Little Rock, AR 72203

RE: **Christopher H. & Tiffany J. Pressler vs. AR Public Service Commission**

Dear Ladies and Gentlemen:

Please find enclosed a copy of the Brief that I have caused to be filed today regarding the above case.

Thank you for your attention in this regard.

Sincerely,

Michael U. Sutterfield

MUS/ras
Enclosure

CA10-996

ARK PUBLIC SERV. COMM.
SECRETARY OF COMM.
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FILED

IN THE

ARKANSAS COURT OF APPEALS

CHRISTOPHER PRESSLER AND
TIFFANY PRESSLER — APPELLANTS

V. No. CA 10 - 996

ENTERGY ARKANSAS, INC. — APPELLEE

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ON APPEAL FROM THE
ARKANSAS PUBLIC SERVICE COMMISSION

THE HONORABLE BURL C. ROTENBERRY, ADMINISTRATIVE LAW JUDGE

CHRISTOPHER AND TIFFANY PRESSLER'S ABSTRACT, APPELLANT'S BRIEF AND ADDENDUM

Michael U. Sutterfield (#86161)
Attorney at Law
P.O. Box 933
Conway, AR 72032
(501) 329-0992
musutterfield@aol.com

CA10-996

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Michael U. Sutterfield (#86161)
Attorney at Law
P.O. Box 933
Conway, AR 72032
(501) 329-0992
musutterfield@aol.com

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INFORMATIONAL STATEMENT

I. ANY RELATED OR PRIOR APPEAL? None

II. BASIS OF SUPREME COURT JURISDICTION?

(_x_) Check here if no basis for Supreme Court Jurisdiction is being asserted, or check below all applicable grounds on which Supreme Court Jurisdiction is asserted.

(1) __ Construction of Constitution of Arkansas
(2) __ Death penalty, life imprisonment
(3) __ Extraordinary writs
(4) __ Elections and election procedures
(5) __ Discipline of attorneys
(6) __ Discipline and disability of judges
(7) __ Previous appeal in Supreme Court
(8) __ Appeal to Supreme Court by law

III. NATURE OF APPEAL?

(1) **X** Administration or regulatory action
(2) __ Rule 37
(3) __ Rule on Clerk
(4) __ Interlocutory appeal
(5) __ Usury
(6) __ Products liability
(7) __ Oil, gas, or mineral rights
(8) __Torts
(9) __ Construction of deed or will
(10)__Contract
(11)__Criminal

Chris and Tiffany Pressler built a home with the electrical services supplied by Entergy. A temporary meter was installed for use during construction and a permanent meter was installed in the home for residential use.

The Presslers were charged for service through the permanent meter during a time they felt it should have been inactive. The charges were for more electrical use than they believed was correct. The Arkansas Public Service Commission ruled that the charges were appropriate.

IV. IS THE ONLY ISSUE ON APPEAL WHETHER THE EVIDENCE IS SUFFICIENT TO SUPPORT THE JUDGMENT? No.

V. EXTRAORDINARY ISSUES? None.

(__) appeal presents issue of first impression,
(__) appeal involves issue upon which there is a perceived inconsistency in the decisions of the Court of Appeals or Supreme Court,
(__) appeal involves federal constitutional interpretation,
(__) appeal is of substantial public interest,
(__) appeal involves significant issue needing clarification or development of the law, or overruling of precedent,
(__) appeal involves significant issue concerning construction of statute, ordinance, rule, or regulation.

VI. CONFIDENTIAL INFORMATION

(1) Does this appeal involve confidential information as defined by Section III (A)(11) and VII (A) of Administrative Order 19?

__Yes x No

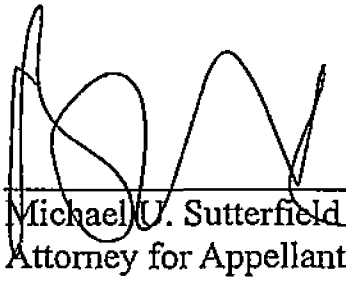
(2) If the answer is "yes", then does this brief comply with Rule 4-1(d)?

__Yes __No

II.

JURISDICTIONAL STATEMENT

1. Arkansas law provides the Arkansas Public Service Commission must make specific findings of facts and rulings issues before it. Did the Commission err by failing to rule on certain issues contained the Appellants' Complaint and Amended Complaint?
2. Parties before an administrative body acting in a quasi-judicial manner are entitled to due process as guaranteed by the Arkansas Constitution and United States Constitution. Did the Commission deny the Appellants' due process rights by denying their ability to subpoena witnesses?
3. Was the Commission incorrect in ruling that the Appellants' had not met their burden of proof?
4. I express a belief, based on a reasoned and studied professional judgment, that this appeal raises no question of legal significance for jurisdictional purposes.

By 

Michael U. Sutterfield (#86161)
Attorney for Appellants,
Christopher and Tiffany Pressler
P. O. Box 933, Conway, AR 72032
(501) 329-0992
musutterfield@aol.com

III.

POINTS ON APPEAL AND PRINCIPAL AUTHORITIES

A. Did the Public Service Commission improperly fail to rule on issues contained in the Appellants' Complaint and Amended Complaint?

Bryant v. Arkansas Pub. Serv. Comm'n, 62 Ark. App. 154, 969 S.W.2d 203 (1998).

Consumers Utilities v. Ark. Public Serv., 258 S.W.3d 758, 99 Ark.App. 228 (Ark. App., 2007).

B. Did the Public Service Commission improperly deny the Appellants' right to subpoena witnesses in violation of their due process right?

Priest v. United Parcel Service, (Ark. App., 1997).

C. Did the Public Service Commission improperly find that the Appellants had not met their burden of proof?

Smith v. United States, 557 F. Supp. 42 (W.D. Ark. 1982), aff'd , 726 F.2d 428 (1984).

IV.

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A. Cases

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V. ABSTRACT

Tiffany Pressler: We are Chris and Tiffany Pressler. We are here to represent ourselves. (T 5)

ALJ Rotenberry : All of the parties received my order denying the Pressler's motion for continuance,(T 6) but granting your request to call one of your witnesses, Jason Brantley, at a later date.

Mrs. Pressler: We reserve the right to call him at a later date. I would also like to call witnesses from Entergy, but I don't know if they are here today. (T 7)

Laura Landreaux: (T 9) The Presslers filed a witness list on October 2 that did not list Mr. & Mrs. Pressler, nor Mr. Mackey as witnesses. I object to the direct testimony of those witnesses. The Presslers also filed an amended complaint on October 2nd that EAI objects to as untimely. The request failed to request leave from the Commission to allow a timely response and any relevant discovery. This was filed after the deadline for the witness list contained in Order 2, which would prevent the parties from identifying or calling any witnesses to rebut the claims in the amended complaint. Also it was amended after Staff filed its testimony, prohibiting Staff from conducting an independent investigation and providing any testimony.

EAI's answer is not due until after the hearing today, pursuant to Rule 10.04(a), which would require EAI to file in less than 20 days, prejudicing its ability to fully answer the amended complaint. (T 10) That being said, we are ready to file an answer today.

ALJ Rotenberry: With respect to the objection of Mr. & Mrs. Pressler's names not appearing on the witness list, that is overruled. Witness lists are only for my benefit, so that I can see how long I expect a trial to take. (T 11) Discovery should allow for the knowledge of all witnesses, so I'm overruling your objection to that. What is the date your response would be due?

Ms. Landreaux: October 22.

ALJ Rotenberry: The amended complaint was filed after certain discovery was completed and based on the discovery of different or additional information. (T 12) If you're claiming surprise, and haven't had adequate time to investigate the claims, or craft a defense or responsive pleading, I'll give you a continuance. Otherwise, I'm going to overrule your objection and suggest you file your answer today.

Ms. Landreaux: We are prepared to file an answer to the amended complaint today. We don't have any witnesses here to address the allegations in the

amended complaint.(T 13) I need to consult with stuff to know if I want a continuance.

ALJ Rotenberry: If you need more time to adequately prepare to defend the allegations in the amended complaint, I will give you whatever reasonable time you need to do that. If you decide not to continue the hearing, I will allow you call witnesses who were not on your witness list, but who you think may be needed to rebut the allegations of the amended complaint.

Ms. Landreaux: Given their work schedules, I don't know if the employees can come. I think a continuance might (T 14) be best.

ALJ Rotenberry: You've got a lot of folks here, and some of them have probably come from outside Pulaski County. I have already ruled that if the Pressler's renew their request to call Jason Brantley at a later date, I will keep this record open. I'll do the same thing for you, and you can call witnesses you don't have here this morning.

Mr. Ward: (T 15) The amended complaint was filed just 15 days before this hearing, so there's no time for discovery to be issued and get responses back. (T 16) It's unfair to force a party to address claims in the amended complaint on such short notice. And then you put them in the difficult position of addressing the claims or getting a continuance.

There should be some finality to the procedural schedule, and new claims have to be barred at some point. We understand the contrary ruling, so if you want to continue it for the allegations in the amended complaint at the same time you hear Mr. Brantley's testimony, we understand.

But we do think that there needs to finality and that all parties need to follow the same rules. Earlier, Entergy mention a witness list the complainant's filed. It was after the explicit deadline. (T 17) Your Honor set a deadline and they didn't follow it. Two out of three parties followed your deadline, and they did not. General Staff has not been prejudiced by that delay. (T 18) They were one day late. We considered the witness list discovery, and relied on that and to know what witnesses to expect. And there are 3 witnesses here today that weren't on the list. (T 19) So discovery might work in theory, but we used that as a means of knowing who would testify.

Ms. Landreaux: My first option would be to deny the amended complaint and have it refiled in a new docket. The allegations can stand on their own. They don't necessarily relate to what we're here for today. If they want to pursue those allegations, they can do so in a separate complaint, rather than delaying this complaint. Mr. Ward and I are saying we are prejudiced by the late filing of this amended complaint, raising new allegations of (T 20) violations of commission rules and regulations.

ALJ Rotenberry: I will give you further time to investigate these new issues, but I'm not going to strike the amended complaint.

Ms. Landreaux: Then we will take the continuance.

Mr. Ward: That is also how I feel about it.

ALJ Rotenberry: The Pressler's asked for a continuance yesterday. I denied their request, but did allow them to present the testimony of Mr. Brantley later. I limited the subsequent hearing to only that purpose. Now, Entergy and General Staff have requested a continuance. That changes the issue of the Pressler's not ensuring the appearance of employee witnesses by subpoena. That will give them another shot at that. (T 21)

Ms. Landreaux: In our response to their motion, we specifically asked that they not be granted the delay because they failed to procure witnesses in a timely manner. I don't think that their amended complaint and a continuance for our party to address those allegations should have anything to do with their failure to subpoena witnesses.

Mr. Ward: We believe that the next hearing should be fore two purposes, to receive testimony of Mr. Brantley and to receive testimony on the amended complaint. And Your Honor should hear testimony today regarding the original complaint comprehensively with the exception of Mr. Brantley.

ALJ Rotenberry: If Entergy and Staff want a continuance to further investigate, plead, and defend the allegation in the amended complaint, which was filed two weeks before this hearing… I have no record of Ms. Landreaux or Mr. Ward raising any objection to the (T 22) amended complaint or asking that it be stricken until this morning. The witnesses who are employees of Entergy were listed on the one day late filed witness list. I'm going to overrule both your objections. Notwithstanding that those employee witnesses work for your client, you have no obligation to ensure any of her witnesses are here at this hearing. I've seen experience trial lawyers make the same mistake. I've seen tort cases where the Plaintiff's main witness would be the Defendant, and assumed (T 23) they would appear in court, and the Plaintiff planned to call them as a hostile witness. Well the Defendant didn't show up, and was outside the county so he couldn't be subpoenaed. The Plaintiff's attorney had to take a voluntary nonsuit and start over again within a year. Ms. Landreaux has no responsibility to make sure those witnesses are here, but she did list them on the witness list. Since there is going to be a continuance at both Entergy and General Staff's request, I'm going to remove my limitation on the order I issued late yesterday about those witnesses. She put them on her witness list, she now has time to ensure their appearance if she thinks she needs to. (T 24). The continuance will be granted. Is 60 days ok? We'll have a recess and the parties' can discuss a new date. (T 25) Now let me

broach another issue here. Email correspondence between you and Ms. Pressler. I noticed there have been unsuccessful settlement negotiations. Is there any chance you might talk settlement again?

Ms. Landreaux: EAI is open to settlement.

ALJ Rotenberry: (T 26) I see a lot of people off work here. We are talking about a bill between $1700 and $1800. It's not unusual for a judge to lean a little on the parties to see if they can't explore settlement. Let's look at mid-December, that gives an additional 60 days to reconsider where we are in regards to settlement. Both parties feel strongly about their positions, and I will try (T 27)resolve those. I will have a full hearing at some time in the future.

Mr. Ward: (T 27) Mrs. Pressler had expressed some concerns about being able to respond to Entergy's witnesses are responding to Pressler's allegations in the amended complaint. Entergy is going to be rebutting the Pressler's evidence, and they want to be in a position to counter the rebuttal. The Pressler's can engage in discovery to determine who Entergy might call and what they might say. If it comes to a point where the Pressler's need some additional relief beyond normal discovery they can request it, but I don't see any need for allowing a rebuttal witness list now.

Ms. Pressler: (T 28) I'm concerned that there may be additional witnesses discovered, like employees in customer service or billing, or even metering, that would be able to provide rebuttal testimony to anything their witnesses provide.

ALJ Rotenberry: I'm going to defer ruling on your motion. If after discovery, you think other witnesses besides yourselves are necessary, then file a motion prior to the date and renew that request. (T 29) But for now I'm not going to rule on your request for permission to call new witnesses.

Opening Statements Not Abstracted (T30-T40)

Direct Examination of Tiffany Pressler by Tiffany Pressler

Ms. Pressler: (T 41) The first time we called Entergy was to set up a temporary meter, and at that time we had it activated. All of our contractors and ourselves assumed that was the meter we would be using until we turned on the permanent power. In January of 2008 we realized the permanent had been installed even though we had not requested that. We immediately called Entergy and asked that it be shut off. I thought it was maybe a miscommunication, that they assumed that was what we wanted it, even though it was not. (T 42) They came out and shut off the permanent in January of 2008.

We had asked Entergy to cover up the trench through which the underground service drop came from the pole. We had installed an underground

conduit, which is required for the installation of the service drop from the pole to the permanent meter. Entergy's requirements meant they had to come inspect that conduit. We believe this was when the permanent meter was activated. (T 43) We just wanted Entergy to pull the wire so we could cover the trench. It was about a 3-foot trench. We have horses and children, so we didn't want anyone to get hurt. Entergy did not cover the trench. They did pull the wire and installed the meter. Our objection is that they turned the meter on. (T 44) It was activated in November of 2007 until January of 2008. In April we had an electrician come and put in the interior service panel, and I believe the electricity was off at that time. He came back in the fall when we were ready to put in the heat pump and light fixtures. (T 45) He did that from November through February.

We were concerned about the cold causing a water leak in the house. We asked him if we could set the upstairs heat pump to run at 50 degrees, to keep the pipes from freezing. At that time the house was insulated. We used hybrid foam insulation which is 1 inch foam, I believe, with 3 inches of cellulose in the walls. It's meant to seal drafts. It's meant to seal any cracks or crevices, anything like that. We tried to make our home very energy efficient. We had double pane low-E windows, Energy Star appliances, fluorescent lighting. The whole point was to make the house extremely energy efficient.

As the winter went through, things started to come on here and there. We did notice power in the house obviously because the heat pump was on and the lights came on as they were being installed. However, we had no reason to believe that it wasn't still activated (T 46) through the temporary meter. At that time I had no clue, nor did I suspect, that the permanent meter was active, because we did not call and request that Entergy turn it on. This was November of 08 through February of 09.

We moved into the house of February 6th, and my husband called to turn off the temporary meter and activate the permanent meter. We lived there and finished up some minor things. We were paying our electric bills. Our bill on the temporary meter was very scattered. We had requested Entergy to set that account on draw draft three or four times. We would assume it had been set up, then we would get a disconnect notice, and find out that it had not been set up. We would call (T 47) Entergy, pay the bill, and again request to set up a draw draft. Us not realizing the account wasn't being paid happened frequently.

We carried two other Entergy accounts, one on a rent house, and one on my grandmother's house that we were paying the electricity on. All of these were coming through our account, and you can't tell which account it's on. So we didn't have any reason to suspect that the bills weren't being paid on the temporary. When would find out they weren't being paid, it was usually two or

three months past due. They were for a large amount of money, we would call and pay and request a draw draft.

So when we moved in in February, we had no reason to suspect there was a problem. Then the 3rd of April I got a bill, which I would like to introduce as Complainant's Exhibit 1. (T 48) This is the first bill we received on the permanent meter.

(T 50) Complainant's Exhibit 1 admitted without objection.

This bill or correspondence is the first information we had about the permanent account. We had been living there since February 3rd . My husband had called around February 3rd. We had been living there since February 6th. I thought two months to receive the first bill was a little strange, but until I actually looked at the bill I didn't think too much about it. I just thought it was kind of strange that it was two months after we requested service. Looking at the first bill, which is invoice # 2008608981, the bill is prorated for approximately 15,729 kilowatt hours back through January 11th, 2008. That bill is $1,735.55. (T 51) The kilowatt hours are prorated over pages 1, 2, and 3, and the total is 15,279 kilowatt hours.

We wondered why there were so many meter readings on the second and third pages of the bill. That led to our original letter, because we assumed these

were for charges that occurred from January '08 when we had asked for the meter to be shut off through February 16th, 2009. The amount to pay is $1,735.55.

This bill did not make any sense to me, since there was no electricity in the house at that time until at least November, and nothing was hooked up until then. (T 52) We did have the breaker box installed in April, but there was nothing coming into it. I felt a lot of confusion about how I could get a bill for the majority of the time when I didn't even have electricity in my house. The house was still under construction and didn't even have wiring.

My temporary account was active this whole time. It is listed as a transfer on the firs bill under account detail. It shows the amount that was transferred. It's on the first page. (T 51) There was $30.89 left to be paid. The balance of the bill, a little over $1700, appears attributable to the permanent meter. It is electricity coming through the conductor, through wiring, and measured by the permanent meter. This was during a time I didn't think it was active. The second bill states that this is a corrected invoice. Invoice #2008608982. The amount is $1,866.42. It says under important messages that it is a corrected invoice, and has a detailed explanation letter. It carries the previous balance of $1,735.55 under the account detail of that bill. It shows a meter reading from February 16th to March 17th of 1,135 kilowatt hour and the current charge being $130.87.

It provided a detail letter of explanation, which is the cover sheet provided with the bills. It states that (T 55) you may have notice your Entergy account has not billed for at least two months. The problem that caused this has been resolved. The enclosed invoice brings your account up to date. We apologize for the inconvenience, and understand that receiving two bills at once may cause a hardship, and offers to set up payment arrangements.

My husband called Entergy immediately and filed a complaint about this bill. We said we did not understand the bill, did not agree with the bill, because we understood that we were being billed on the temporary meter until February of 2009. We didn't understand how we were being billed for 16,000 kilowatt hours at the same time as being billed for the temporary meter. I followed up with a certified letter explaining that this didn't make sense, that it was impossible, that we didn't have electricity in the house for most of 2008, and that we (T 56) didn't understand how they calculated usage on something that didn't exist. We were provided service under the temporary meter that we had paid for.

We didn't hear anything else during April. They didn't call. They didn't send a corrected bill or invoice or any explanation about what they found about our complaint. On April 22nd they sent us a disconnect notice. It was sent in April of 2009 with regards to the permanent account.

(T 57) Complainant's Exhibit 2 is admitted without objection.

Exhibit 2 is in the amount of $1903.43 The corrected bill that is part of Exhibit 1 is $1,866.42 Even with the $35 reconnection fee there is a discrepancy in the amounts. And the $35 reconnection fee is not (T 58) included in the $1,903 figure. With the $35 it comes to $1.938.43. We were not given any explanation as to how the amount changed.

I called Entergy myself to speak to customer service, and asked to speak to a manager. (T 59) We have recordings of the calls. I was very upset. I repeatedly explained that we had filed a letter asking that the charges be investigated, that we disputed the charges. I explained that it was paid through the temporary meter, and that the permanent meter wasn't even on. I went through the whole explanation that I had mailed to Entergy in April of 2008. There was a lot of confusion. (T 60) I was transferred through several people in customer service. I don't know if they were Entergy employees or not. There seemed to be a lot of confusion. They said they would get back to us, try to determine what had happened, they agreed not to shut off service immediately, until they figured out what had happened. I threatened that if they did shut it off I would get an attorney, because I felt we were being treated unfairly, that they had investigated the charges, and were just trying to take money from us.

(T 61) They reversed $200 in charges after we filed the complaint, back down to $1,704.66.

ALJ Rotenberry: Ms. Landreaux, is $1,704,66, the amount in dispute, is that what your client would like the Pressler's to pay?

Ms. Landreaux: Yes Your Honor.

Ms. Pressler: We learned later that Entergy tried to draft our account, but they entered the information wrong. That is the notation on the disconnect notice that says our check was returned and they have added a fee. They tried to draft our account and it didn't work. I think that is treated as a returned check, (T 62) but no information on a returned check fee was provided. I assume the difference between $1903 and $1866 was a return check fee, but I have nothing to base that on.

I was really concerned that Entergy had ignored our calls, our letters, and they were going to shut off our power, so I contacted the Public Service Commission (PSC) and asked to file an informal complaint. I felt that was my only option to get this resolved, and to prevent our service from being disconnected. We were not told that we could call the PSC. Customer Service did not tell us that. I knew I had that right because of my job in network regulatory

compliance with Verizon, I manage their ETC program for the wireless sided, the network side. (T 63) I am familiar with what the PSC does.

I felt that if I was the average consumer I would have never known I had that right. I felt grateful for my experience and knowledge with the Commission. I knew I had the right to file an informal complaint, which I did immediately. We provided this information to Staff in Consumer Services to explain our complaint. I gave her a copy of our letters, the disconnect notice, all of that. I understand that Staff reviewed (T 64) it, provided it to Entergy, and received a response back. Entergy did not agree with me. They did agree to reverse the returned check fee. They reversed a couple of things that brought the total down to $1704. Staff indicated that we had 3 days to pay close to $400 that they felt was past due, or Entergy would shut off our power with their blessing.

I felt that was underhanded because we hadn't been given any explanation of the charges that appeared on a meter that should not have been operational before our request. And yet now I was being told I had three days to pay $400 or they were going to shut off my power with PSC's agreement. We paid the amount that was T 65) requested within the timeframe, and I told staff that we would file a formal complaint because we didn't feel our arguments met with the things we were being told.

Staff told us that whatever Entergy said the meter read was what we had to go by, and that anything we said was irrelevant. We filed the formal complaint, and kept receiving shut off notices from Entergy. I called, I sent certified letters stating that we filed a formal complaint. I sent them in with my bills when I paid the current charges, but not the disputed amount. I called Staff at the Commission, and they said they would talk to Entergy about it. I was told that Entergy said they didn't send you that, (T 66) they didn't say you were going to be disconnected. So I faxed in copies of the disconnect notices. Then they said you're going to continue to receive the notices, but you won't be disconnected because we protected your account. I haven't received another disconnect notice since then, which makes me think they weren't being truthful. I found out later from Staff that they put a CAR2 code on our account. I don't know what it stands for.

(T 67) Complainaint's Exhibit 3 entered without objection.

This is a code that Entergy places on a customer account when there is a dispute to prevent it from being disconnected. This is relevant because general service rules say (T 68) a customer cannot be disconnected during a dispute. We were provided with discovery that shows Entergy added and removed the CAR2 code on our account a couple of times during the dispute. We were never

disconnected, but I think that's because we had Staff intervene on our behalf. I think we would have been disconnected had they not done so.

(T 69) Complainant moves for entry of Exhibit 4.

This shows different contacts, maintenance, and other things done on our account. It shows that CAR2 code was placed on our account on 5-5, removed on 5-20, and placed on again on 6-23. The CAR2 code is an internal code used to prevent a customer from being disconnected during a dispute. We were in jeopardy of being disconnected when we should not have been. (T 70) We were never disconnected, and the dispute continues to this day.

We found out that the meter had been turned on without our permission sometime in October or November of 2008. I started looking more closely to see what was going on. First they said they couldn't tell when the usage occurred, which is why it was prorated over a 13 month period, going back to January of 2008. Then they came back and said it was turned on in the fall. We were getting inconsistent statements. (T 71) We weren't trying to avoid anything we may have done, we just wanted consistent answers. I started looking to see what happened between January of 2008 and February of 2009, as well as at the bill itself, because I was worried that some things didn't add up.

I went to the service commission and pulled historical rate changes for every rate listed under the approved rate schedule. I went back to 1992 to find a history so I could compare them to my bill, and I noticed a discrepancy in the bill itself. Things just didn't add up. I did a sampling of customers across central Arkansas and noticed that the discrepancies were happening across all the (T 72) customers, not just me. So I started digging to see if there was something I was missing, and I noticed that the rates didn't add up the way that they should. It was consistent that the charges were not what had been approved by the commission. I also found inconsistent statements coming from Entergy about the meter. That knew that service was on by doing meter readings, but they never contacted us.

The bills were being paid on the temporary meter the whole time. (T 73) They should have contacted me because there was usage on the permanent meter, and they were not billing us on the permanent meter, nor were they contacting us saying there was usage on the permanent meter that was not supposed to be active. The temporary meter was paid by sending them a check. Not bank draft. I could have checked to see which meter was being billed because the permanent meter and the temporary meter (T 74) have different numbers. We didn't suspect we were being billed for the permanent meter because we had explicitly turned it off. Also, we had service on the temporary meter, and were being billed for it, so we had no reason to suspect the permanent meter. We never received a bill for the

permanent account. We never noticed if it was being drafted. (T 75) They took readings for four months without ever contacting us to say you have usage on a meter that's not supposed to be on. We could have taken action to fix it. We think our bill would have been different if measured through the temporary meter, rather than the permanent one. We have witnesses (T 76) that are here today that can state that the meter readings do not reconcile with the other data. We understand that the readings that were taken were two or three times higher during a period when nobody was living in the house. When we've had six people living in the house full time, both heat pumps running, all the appliances running, everything running, and yet they are getting readings that are two to three times than what we are actually using.

We've lived there since February 6th, 2009 through September 14th. We've only used 13,000 kilowatt hours, 13,844 kilowatt hours during the time we've actually lived there. They are trying to say that when nobody was living there, not everything was even hooked up to the house, we used 15,000, almost 16,000 kilowatt hours. It doesn't make sense. And my background is engineering.

(T 78) Entergy provided a meter reading of 791 kilowatt hours on December 15th, and a reading of 17,749 kilowatt hours on March 24th. That is roughly 17,000 kilowatt hours in a 100 day period. In the 211 days we've lived there, we've barely used 13,000 kilowatt hours. That's during a time we had the

thermostat set at 73-75 degrees. Average temperature is above 90 degrees in the summer in Arkansas. I had children living at home all summer long playing games, running in and out. We feel that the load usage over the summer exceeds that during the winter, when the heat pump was set on 50 degrees, and the average daily temperature was in the 50s. The load of lows of 40 or even 30 with the heat pump at 50 doesn't compare to the load between 90 and 100 down to 73 to 75 degrees.

(T 79) I feel that the permanent meter was miswired or flawed somehow to calculate a usage that was outside what was possibly being used at the house simply by looking at what the usage has been since March forward. I also understand that an Entergy employee was out at the house 13 times, not including meter readings. Field services or construction services were at my house 13 times during that time period to do thing other than read the meter. My feeling is that one of the employees either corrected or reported the problem sometime before March, which is why we see a normalized usage starting in March.

(T 83) Complainant's Exhibit 4 admitted without objection.

(T 84) Complainant moves for admission of Complainant's Exhibit 5.

Ms. Pressler: It is a two-page document. It's a document I created. I took my bill readings and showed the kilowatt (T 85) hours metered on those readings, and

applied them to the rates and tariffs that have been approved by the Commission. I understand that my rate is a residential general service rate without an approved water heater. I have color coded the different tariffs and shown their effective dates and how they are to be calculated according to the dockets that were assigned these rates, so you can see that each color is specific to a tariff. My source material was copying all the rate schedules and riders from the PSC, Office of the Secretary. It identifies the tariff from which it was created. (T 86) For example, the 1.4.1 comes from the general rate schedules that were applied under Rate Schedule 17. Along the top are the different riders that apply, like Grand Gulf Rider (GGR), Capacity Acquisition (CA), storm something (SDR).

This is a listing of all the mandatory riders that apply to the general service rate, so this comes from the rate schedules that set up the general service rates and the riders that were attached to them. With each section of rate schedules for an individual, such as residential service or commercial service, there are a certain number of riders that require mandatory application to those rate services, to those general tariffs, that comes from Rate Schedule 17.

(T 88) I contend that this shows that by applying the Commission approved rate for Entergy to use on their customers, they are charging a rate that does not compute with an actual calculation of the rate times metered usage. They are getting unjust enrichment by inflating the bill anywhere from one cent to a couple

of dollars per customer. It does not comply with the rates they are allowed to charge. I've compared what I was actually charged with an amount that is calculated by multiplying the approved rate times the metered usage. (T 91) This appearance of charging more than allowed appears on multiple people's bills, not just mine. In some instances it may just be a rounding issue. (T 92) Entergy may round up from 144.9782206 to 144.98. I think that is fine. But other times it would round off to 1.87 instead of 1.88. (T 93)We may be talking about penny difference here, but I found other customers where it was larger. Entergy has 3 million customers in Arkansas, 1 cent times 3 million customers every month is pretty steep. I am suggesting that in my case, the cumulative effect of these discrepancies over a number months could generate excessive billing.

(T 94) Complainant's Exhibit 5 admitted over objection.

(T 95) Cross Examination of Ms. Pressler was postponed until after the testimony of other witnesses by agreement of the parties.

Direct Examination of Jeff Peterson by Tiffany Pressler

Mr. Peterson: My name is Jeff Peterson. (T 96) I live in Conway, Arkansas. I am the owner of Russaw Heating and Air. I met Ms. Pressler through one of my salesmen, Mike Hinckley, when he gave you a quote and worked with you on the installation of a heating and cooling system in your home. (T 97) My company

did the design work for the heating and cooling system. We put in an American Standard, variable speed, 14 and 15 SEER heat pump system in the home. They are known to be energy efficient. They are Energy Star qualified. They were hooked up to power on December 22, 2008, and put to use on January 14, 2009. I understood you wanted us to turn at least one heat pump on to keep the house from freezing. (T 98) We activated the system at that time. They were running fine, except the downstairs one didn't operate at all until January 14th because there was no power to zone control board.

I have worked in HVAC for 14 years. I have installed several thousand systems. It's routine to put systems of that size and nature in a home like yours. (T 99) We usually see peak demand in the summer time. I can't say what the load for those systems to operate in the winter would be. Unless there is a monitor put on the system, there's no way to tell how long it ran or how much energy it used. The weather, run time, amperage it pulls, all factor into how much energy it uses.(T 100) There are too many variables to just know. I can't see any construction variables that would affect it. That would be more a problem for cooling if there weren't window shades that would allow solar gain.

Cross Examination of Mr. Peterson by Ms. Landreaux

Mr. Peterson: (T 101) Russaw Heating and Air is an independent American Standard heating and air dealer. A salesman of mine originally consulted with the Pressler's regarding their heating and cooling options. We conducted an assessment of their heating and cooling needs before advising them of their options. There was a Manual J load calculation done to determine the size and model needed. I explained how the heat pump would operate in the summer and winter. A heat pump works in the winter by taking heat from the outside air and moving it inside. When it's cold outside (T 102) there isn't as much heat in the outside air to move into the house. When temperatures drop below about 40, a heat pump requires a strip heat to heat the home. It's kind of like the coils in a toaster. For homes that powered solely by electricity, a heat pump is not the most efficient method for heating when it's below 40 degrees.

The heat pumps installed at the Pressler's were electric, American Standard Model 2A6H5042, 3.5 ton system. (T 103) I would say it is 4 on a scale of 1 to 5 in terms of efficiency. I can't how much wattage a unit uses without putting a meter on it. It had a 15 kW heat strip. There is no set temperature at which the auxiliary heat kicks in, it's a run time issue. (T 104) It would be below 40 degrees. My company installed the heat pumps outside on December 22, 2008. The upstairs was tested that day. The downstairs couldn't be tested because there was no power to the zone board. The upstairs worked properly that day.

(T 105) Downstairs had an American Standard model 2A6H4036, 3 ton system, that is a Heritage 14. I don't know the wattage for that model. The heat strip is fifteen. I don't know if anyone else was there when they were installed, I don't know if the lights were on. I would rate that model a 3.5 to 4 regarding efficiency on a scale of 1-5. (T 106) I wouldn't know if American Standard specifications say that it rates a 2 because the 14 SEER is just a step above the 13, but not when this house was built. I will agree that the paperwork says it is a 2 on efficiency.

I didn't discuss what temperature setting they should keep their thermostat on because that is a personal preference. I don't know if it was on 50 degrees. The system would operate if it was set on 50 degrees and it was 50 degrees outside. It would not run constantly.(T 107) Below 40 it would need the heat strip to heat the home. Compared to gas, an electric model is not the most efficient when it is below 40 degrees.

Cross Examination of Mr. Peterson by Mr. Ward

Mr. Peterson: (T 108) My employees installed the heat pumps. I was basing the dates on my records, not my personal experience. I do not believe it was installed November of 2008. There is nothing in my records to indicate usage before December 22, 2008.

Examination of Mr. Peterson by ALJ Rotenberry

Mr. Peterson: This is an all electric home. There is no gas to it. Natural gas is not available, it would have to be LP gas.

Redirect Examination of Mr. Peterson by Ms. Pressler

Mr. Peterson: (T 109) The system would run periodically if the temperature was set at 50 degrees and in the internal temperature thermostat was also set at 50 degrees. The heat strip would be used if the system fell below 40 degrees or the outside temperature fell below 40 degrees. (T 110) The heat strips would probably have more pull on it than an air conditioner would if the temperatures were seasonally reversed. I think you get more energy usage in Arkansas during the summer than the winter. The units need more run time to cool the house. During the summer time the unit is running more than in the winter, even though in the winter it may have to use the heat strip. (T 111)

Recross Examination of Mr. Peterson by Ms. Landreaux

Mr. Peterson: If the heat strips were operating, they would use more energy for the days it was below 40 degrees than in comparable summer temperatures.

Recross Examintion of Mr. Peterson by Mr. Ward

Mr. Peterson: I installed two units in the house. It is a large house. (T 112) The square footage is broken down by zones. The three zones are 2936, 651, and 658. Those are the interior heated zones of the house. (T 113) One of the heat pumps served two of the zones. The heat pump that was operating was heating the smaller zone. The three figures are square footage for (T 114)different sections of the house. Totalling those three gives us the total square footage of the house. The heat pump that was running for the 658 square foot zone.

Examanition of Mr. Peterson by ALJ Rotenberry

Mr. Peterson: The heat pump that was running was the upstairs unit. It was to heat 658 square feet. The other heat pump, that was not operational, was to run the main living floor and the full basement. The remaining 3,587 feet of home were not being served by the heat pump because it was not connected to a power source.

Mr. Ward: The second heat pump wasn't connected, and it was supposed to serve that area. According to Mr. Pressler's testimony, one of the units was set on 50 degrees to keep the pipes from freezing. That one unit would have been heating the whole house.

Cross Examination of Ms. Pressler by Ms. Landreaux

Ms. Pressler: (T 119) I know what prorated means with respect to the bill marked as Complainant's Exhibit 1. (T 120) I don't understand that the bill shows usage for a four month period spread out over twelve months. I understand prorated to mean that it is prorated over the timeframe reported on the bill. In my job, if we are prorating it over a four month period, we say that, we don't say it's over a 13 month period. I can't agree with your definition of prorating.

When we requested that the temporary service be shut off, we had power in the house. (T 121) I didn't speak with customer service. The call was placed on February 3rd, 2009 to shut off temporary service and establish permanent service. (T 122) We had service inside the house at the time. I have no idea what the meter number is. I don't know if they came and installed a new meter. The meter number on Complainant's Exhibit 1 on (T 123) page Pressler 1-1 TH33 is 7611673. I can't say what I would do in a hypothetical situation where the power used inside the house was recorded on the temporary meter instead of the permanent meter. I would like have disputed the usage amounts the minute I saw them. I understand the difference between summer loads and winter loads in Conway. I understand that the factors that go into the load are different, (T 124) but the load itself is a mathematical calculation that would be done the same. I haven't lived in the house during November, December, January, and the first

week of February yet. I don't have any comparable bills from the same timeframe.

Cross Examination of Ms. Pressler by Mr. Ward

Ms. Pressler: (T 125) I understand the concept of prorating. If a cell phone was purchased in January, but not used until May, and then large bills were rung up over May through August, one way to prorate it would be to spread the bill all the way back to January. Wireless carriers aren't covered by the general service rules which require that a bill be provided any meter that is read within 30 days. Entergy shows that they read the meter every month, but they didn't give us a bill or even let us know there was usage on the meter. When they gave us a bill, the bill didn't match the data that came with the bill. (T 126) I understand that Entergy allowed usage to continue on a meter that was not authorized, requested, or approved, and then billed us for it five months later when we had not chance to contest that the usage was accurate. There could have been a problem with the meter that we could have identified immediately if they had billed us. We didn't get the chance to say no, we don't want power through this meter. I don't think any wireless carrier could go activate an account for a customer and then bill

them for it. (T 127) isn't fair to anyone. They tried to spread it over 13 months without giving us the chance to dispute that we wanted it to begin with.

My claim that I didn't want the power is separate from the issue with prorating it. I understand that Entergy was trying to prorate it so that our monthly average would be lower and we could pay a lower deposit. My understanding of the general service rules is that the proration can only be spread over the time that the actual usage was. If the usage was over 4 months, it has to be prorated over 4 months, not 13 months. (T 128) I see the third line of Complainant's Exhibit 4 where it says 5-5-2009. That's when the CAR2 was placed on the account. That's when I started my informal complaint. It was removed on 5-20-2009. That was about when the informal complaint was closed, and we notified them that we were going ahead with the formal complaint. 6-23-2009 is when the CAR2 was placed on the account. That is about the same time we filed the formal complaint.

(T 129) I can sum up how the alleged violations of the general service rules are connected to the excessive bill. We noticed something we did not request, but our rights were not protected to keep it from happening. We started just trying to work it out with Entergy, and they wouldn't talk to us. We felt like they retaliated against us with the disconnect notices. I started looking at the rules then, and that was when I noticed all the ways they were violating the service rules. (T 130) I am saying that Entergy billed me excessively and also other customers.

ALJ Rotenberry: Those are additional allegations that are contained in the amended complaint, so I'm not going to take that up today. I would like for you and your husband to demonstrate those things to me at the later hearing. You have the burden of proving beyond a preponderance of the evidence that the allegations in your complaint and your amended complaint are true. I need to know why these alleged violations resulted in excessive billing on your part. (T 131) Your husband can address it today, or you can both address it at the later hearing.

Examination of Chris Pressler by ALJ Rotenberry

Mr. Pressler: I am Chris Pressler. I live at 33 Steven Road in Conway. This is the house that my wife and I built over the past two or three years. We moved in February of 2009, (T 132) and we've been living there for seven or eight months. I am a mortician in Conway and Greenbrier. My wife and I acted as the general contractor on the home. We contracted some of the work and did some of it ourselves.

Direct Examination of Chris Pressler by Ms. Pressler

Mr. Pressler: (T 133) The problem started when I called to find out about burying the underground cable. It was in 2007. They were going to charge $1500 to excavate, lay the conduit, and pull the wire. We did a conduit, excavating the

ground, and we had a man with a backhoe there when Entergy came to pull the wire because it had to be at least 3 feet deep. (T 134) A lot of houses the wire runs to the house through the air, and then drops into the box. Ours goes down the pole, underground across the field, and then up to the box. They pulled the wire through the conduit. It was supposed to be left hanging but they hooked it up. I don't know which end they started with, but it went up the utility pole on Entergy's distribution right-of-way. (T 135) There was about a 50 foot trench that we had dug.

We just wanted the actual electrical cable that goes from the pole into the control panel box on the side of our house. (T 136) The electrician would take over from there. We just wanted the wire ran, we didn't want it hooked up. We needed to get that trench filled in because of the grade of the yard. We needed to do some other things, and we couldn't with the trench there. I called in November of 2007 to get that done. That's when the trouble started. That is when the billing got really strange.

I had an account at 13 Sarah Court in Greenbrier, at 25D Stevens Road in Conway, which is right across the pasture from 33 Stevens Road where the temporary cable was. I had direct deposit the 25 Stevens Road and the 13 Sarah Court accounts. They put the construction fee on the 13 Sarah Court bill, which is 15 miles from my house. That's when we started having trouble with the meter,

because they were out there several times. We have a gate that we have to open and close because we have horses. There was an Entergy truck sitting at the gate, and when I drove in he was coming from behind the house. I asked him what was going on, and he said "I don't know. This account's all screwed up." I didn't think anything about it then.

How can you use that much power in that amount of time. Earlier they said the one unit was heating both floors, but that isn't true. It was just for the upstairs. The basement was closed off because it will stay at a level temperature due to being insulated by the ground. (T 139) There was no tile going in, and the walls were up and insulated. There was no chance of anything cracking there. It was heating the top level and middle level. I don't know what the meter said. They may have fixed it while they were there one of the 13 times they came.

We had two water leaks in the butler's pantry on the second floor. We turned the heat pump on to keep the pipes from freezing upstairs, and because the grout and tile hadn't sealed properly. It only got really cold overnight. (T 140) The house is nothing but windows, so in the wintertime the sun helps heat the house. I don't know how many days were overcast. It doesn't make sense how many times they were out there. They sent a couple of crews, and you could see them just milling around. I figured they were just checking on stuff, until I found out the power was on. I told them they were going to kill somebody, because

there wasn't supposed to be power to the house. They sent the first bill after they put the line in. I paid $900 to have them pull the cable, and I had paid that. They told me I had a bill because there was power on. There was a box, but there weren't any breakers in it.

I couldn't tell that the distribution line was hooked up because I never looked inside the box. You would have to lift it up to get inside. And you have to cut it to get inside. You could probably tell without cutting it open, you could see if the little wheel was spinning, but I didn't check it that closely because I assumed the meter was not active (T 142) because I had not requested it. When I called to have the temporary shut off and the permanent turned on I knew we had lights in the house. I don't know what was going on. If I had been notified by Entergy that it was on, I would have had them turn it off, because I didn't want anybody to get hurt. There were exposed wires and I have kids.

Examination of Chris Pressler by ALJ Rotenberry

Mr. Pressler: The temporary meter was about 10 feet from the utility pole. It's on something like a 4x8, almost a railroad tile. I put it up. It's a big piece of lumber stuck in the ground. It's to Entergy specifications. I set it in the ground, and they came and hooked it up. It is full electrical service. It has a 220 plug in it. There were extension cords that ran into the house. I knew the power was somehow on

in the house, but I thought it was being measured through the temporary meter. This was in December or January. They are wired together, and I don't know a lot about electricity. The temporary meter is on the piece of lumber about 10 feet from the utility pole. We ran extension cords into the house from the temporary meter. I don't know how I thought everything in the house was being run. I just didn't know it was on through the permanent meter.

Direct Examination of Chris Pressler by Ms. Pressler

I'm not very knowledgeable about wiring. I can drill a hole and pull a wire. The only active account to the property was temporary. And the electricity came from the weatherhead to both the temporary meter and the house. I thought it was the same account, but we were only being billed for the power. (T 148) If there was a problem, they took it out of the account that wasn't even connected to the house that we were building. They were taking it out of accounts that didn't have any attachment to the house. So I didn't think there was a problem.

Cross Examination of Chris Pressler by Ms. Landreaux

Mr. Pressler: The upstairs heat pump was installed in November or December. (T 149) Our responses to the data request show that it was installed on November 27, 2008. But the Russaw paperwork says it wasn't until December, so I'm not sure.

(T 150) If Russaw is right, then no power would have been used until December, and it shows power usage in November. There was 7 kilowatts of power used in November. (T 151) There was probably a heat pump in the house in the month December working to keep the pipes from freezing. I don't remember exactly when the heat pump started running.

We did not have any lights in the house at that time. We had a man cutting tile who was running an extension cord from the temporary pole to cut tile. (T 152) There were men doing work in the house, using power tools in November of 2008, from the temporary pole. There weren't any receptacles in the house at that time. The receptacles and the lights were spliced sometime between December 1st, 2008, and February 6th, 2009. They were doing electrical work sometime in there. (T 153) They would have been putting in switch boxes and stuff. Nothing's really hooked up, it's more like they are checking for continuity.

The grout and tile were installed the exact same time the heat was turned on. It had to be above 45 for the grout, so that was one of the main reasons other than the pipes freezing. The drywall was in before that. I wasn't there when the underground service drop was installed. My friend Jimmy was. (T 154) I came out for about 10 minutes. I didn't talk to the Entergy people, I talked to a guy from Lock-Wood. I don't remember exactly what was said, but I know it involved that we needed to dig the hole deeper.

I thought that all the power from inside the house and the temporary account were the same. I wanted the permanent service off because I didn't want anyone to get hurt. That was back in January of 2008. And we don't know how it got back on. One set of interrogatories say one of us or a contractor turned it on, but the second set says (T 156) Entergy decided to leave it on. I don't know if that turned it on or not. They were out there 13 times, I don't know if they did or not. I knew were using power in December, January, and February. I thought it was coming from the temporary meter. If I had known it wasn't I would have found out what was going on. (T 156) I wouldn't have stopped the heat pumps from running. I wouldn't have stopped the electrical work and gone back to the temporary meter. The breakers for the wires were in by then. I am willing to pay for whatever was actually used. The proration matches exactly what our usage is now, but it's prorated back for like a year. My concern is where did all that power come from. Did somebody come out and do something, and then somebody else come fix it? I don't know.

Cross Examination of Mr. Pressler by Mr. Ward

Mr. Pressler: (T158) I turned to view Interrogatory No. 4 and after some clarification, (T159) I agreed with Mr. Ward that a sump pump was spliced for the septic system in April 2008. Examination by ALJ Rotenberry: The sump pump is not located in the house and it is for the proper orientation of the (T160)

septic system. The sump pump is located outside behind the house and I put the conduit for it in the Entergy trench we had dug. The conduit was not coming from the permanent meter; it was coming from the box inside the house. There is also an alarm that goes off when it rains really hard. (T161) The sump pump gets electricity from the circuit panel inside the house. It goes out of the breaker on the service panel and out through the wall to this thing that sticks out of the ground about 70 to 75 feet from the house. (T162) The sump pump gets its power from a wire that comes straight out of the house to the pump.

The electricity gets into the house from the pole through a permanent meter. The meter was spliced in April of 2008 but it was not operating. By spliced I mean "it was cut in which means it was—actually, if you took the screw out, the two screws out, and turned the wires in and screwed them back tight, because if you splice—I don't know because I haven't ever done it, but I think it would be extremely (T163) dangerous to wire up a box that was–but these are—a lot this stuff was spliced. It doesn't mean that it was on."

It is my wife and mine's position that the permanent meter should not have been activated in April of 2008. It would nice if Jason was here to see if it was on when he did that. The sump pump was wired together but it did not have power in April '08. It was not operative; (T164) it was only spliced in.

The wiring was completed and the interior was ready to work once electricity was provided. Around November 3 of '08 one standard duplex receptacle was spliced in the basement. The heat pump was spliced around November and a standard duplex receptacle was spliced on the first floor around November 18 to November 22. On the last page, (T165) interrogatory number 11, I read that the house that is the subject of this complaint is 4700 square feet and is powered solely by electricity. I actually thought it was like 5500, but I'm not sure. My wife and I had the first heat pump powered to maintain a temperature of 0 degrees for the second and third floor, not the basement. We have a two-story house with a (T166) basement. We have pipes running throughout the house that we wanted to keep from freezing. The one heat pump was basically warming the top two floors because the basement pretty much stays at a constant temperature.

We now have two heat pumps and the second heat pump generally just cools the first floor, the one above the basement. There is a thermostat in the basement and on the first and second floors. (T167) The heat pump that was installed first takes care of the top floor but when it was first put in I wanted it to take care of the second and third floors. It had to work a little harder doing two floors when it was originally designed to do one floor in the evenings, or at the times it would be coldest like 2 and 3 o'clock in the morning; but during the day the temperatures were at least 50 or above most of the time.

I understand that heating units are sized based upon the amount of space they need to heat and they have larger units for larger areas. (T 168) A unit that that is too big for the area will run more than a properly sized unit. I understand that a unit that is not properly sized would not run as efficiently as a properly sized unit, but I don't see how it would use that much energy in a month. I also agree that a unit that was too small for the area would not be as efficient as one that was properly sized. (T 169) You wouldn't think you would use as much energy with a larger unit and more energy with a smaller unit, but depending on whose date of installation you believe, we are only talking about a couple of months.

We were charged 15,279 kilowatt hours between December 21st and January 15th, according to Russaw. That's excessive. If you go by what Russaw said, there would have been less than two months when both heat pumps weren't operative. (T 170) So from December 22nd, the high temperatures during the day were 28, 52, 61, 50, 73, 71, 61, 61, 63, 50, 51, 74, 64, 39, 37, 54, 55, 61, 64, 51, and 59. I wouldn't have thought it would need to run that excessively to keep it warm.

In our interrogatory answers, it says that the first heat pump was installed in November, and the second wasn't until after the first of the year. Whatever the

time difference between the first being installed and the second being installed, one heat pump was doing the work of two.

Redirect Examination of Chris Pressler by Ms. Pressler

Mr. Pressler: Ms. Pressler put together the interrogatory information. She consulted with me about some of it. Some of the answers would be based on conversations Ms. Pressler had with other people to remember dates I might not have remembered. Some of the answers might be incorrect because I might not have been involved in those conversations. I think Russaw's dates are correct because the installed the heat pumps.

I saw several Entergy men on the property. I don't remember when that was. The Entergy records of when they had men out there would have been around when I saw them. I saw Entergy personnel there five times between November of 2008 and March of 2009. On 11-13, 12-15, 1-15, 2-16, and 3-17 I saw them there. From 2008 to 2009. This paperwork shows that they read the meter all the way from November of 2007 until July 15, 2009. Construction was out there twice, on January 10th and December 22nd. Also on 1-9, 1-16, 2-13, 2-11, 3-2, and 3-27. That is eight visits. Entergy visited the property 12 times in four months. I thought it was excessive. I couldn't figure out what they were doing. I believe that something was wrong with the account, especially with the

way they prorated it. They were there from November 13, 2007, until July 15, 2009, and never noticed the meter was on and never contacted us about it.

Complainant's Exhibit 6 entered without objection.

Recross Examination of Chris Pressler by Ms. Landreaux

Mr. Pressler: I wouldn't find it odd that they were reading the temporary meter every month, but if they were doing that why would they look at the house as well. (T 177) I don't know what inactive consumption is. (T 178) It would surprise if me Entergy found consumption at a house with an inactive account, they wouldn't notify the consumer within 30 days as required by the PSC. I don't know why the meter services would be there on February 11th 2009 and February 13th 2009 due to the ice storm. The timeframe would match up on February 13th, 2009 for the beginning of permanent service. (T 179) It is reasonable that March 2nd could have been a visit to determine why the account hadn't billed in two months, and to determine why such a large usage was taking place.

No further witnesses to be called by the Complainants.

Direct Examination of Paula White McElroy by Ms. Landreaux

Ms. McElroy: My name is Paula White McElroy. I am employed by Entergy Services. I am the Meter Reading Supervisor for Entergy Support System. My team is responsible for the support operations of all metering activities, including the iCon System, which provides the upload and download of the routes that are to be read every day by the meter readers. I am familiar with the Pressler matter because I was contacted by the Entergy lawyer to look at the account.

Meter readings are taken on a cycle. It preps the night before. It loads into our customer service system, which loads into the iCon System, and then the meter readers can pick them up the next day. It is loaded into a handheld each day that the reader takes out to read the assigned routes each day. They come back and upload it into our system for billing. We take readings on all meters, not just active ones. Inactive consumption is use registered by a meter that is supposed to be inactive.

(T 184) I am familiar with Respondent's Exhibit 1. The first page gives the meter number, the date and time it was read, the equipment number, and the actual reading and consumption for that date and time. It is a printout from the customer care system. The meter number is 7611673. The date is November 13, 2008; the time is 10:53. (T 185) The meter reading is seven and the consumption is seven. The meter number on the next document is 7611673, the date is December 15, 2008. The meter reading for that is 798, and consumption during

the billing period is 791. The next page shows a meter number of 7611673, with a date of January 15, 2009. The reading is 6,141 with a consumption of 5,343. The next page is meter number 7611763, meter reading of 11,998, with a consumption for that month of (T 186) 5,857. The last page is meter number 7611673, date March 17, 2009. The meter reading is 16,864, with consumption of 4,866.

I would consider the consumption from February 12th to March 17th to be reasonable. I have no reason to think the meter is inaccurate.

Respondent's Exhibit 1 was admitted without objection.

Cross Examination of Paula White McElroy by Ms. Pressler

Ms. McElroy: (T 187) The meter readers are given a handheld that has the information from our customer care system loaded into it each day by cycle and route. Then they go out and read the meters in a sequential order. (T 188) The address and meter number is on the handheld to confirm the reading and meter number. There are quality assurance procedures to make sure a meter reader doesn't type in the wrong number called handheld validations. There is a high-low usage, and if there is a misreading the reader gets an alarm and has to confirm the meter and the reading. The uploads would indicate if an alarm went off. It isn't on the screen shot, but we have that data. There is no way tell from looking at Respondent's Exhibit 1 if an alarm went off. (T 189) The dates that are

listed are when the meter was read. That's the date the meter reader was physically on the property. I am looking at Complainant's Exhibit 6, I see November 13, 2008. I can't say why it shows that the meter reading was taken on February 16th, rather than February 9th or February 12th (T 190) because I am not familiar with this document.

ALJ Rotenberry: (T 191)You are asking if the witness can explain the discrepancy between the meter reading of February 12, as shown on Respondent's Exhibit 1, and the Complainant's Exhibit 6, which shows a reading date of February 16?

Ms. Pressler: Yes.

Ms. McElroy: (T 193) I cannot explain the difference.

Ms. Pressler: (T 194) I am trying to show that what Energy claims in their responses don't match what their system shows. There is a pattern of inconsistent information being provided. (T 196) I feel that this means they can't be believed when they say that the meter read a certain amount of usage when they can't show that their data is consistent. It seems to be a pretty frequent occurrence that the date in their responses doesn't match the actual data in their system. Too frequently to be an honest mistake.

Ms. McElroy: (T 201) I see the meter reading section on Complainant's Exhibit 8. (T 208) The first invoice says $15.29. It shows a zero reading for January 10, 2008, February 13, 2007, December 13, 2007, and November 16, 2007. It would say estimated if it had been estimated. I see on Complainant's Exhibit 7 where the response to the PSC says that the reading on meter 761187 was 157 on January 10, 2008. The readings in Exhibit 7 probably come from meter services, (T 202) because they are the ones who read it when there is a discrepancy. The meter reader read zero on January 10, 2008. It was also turned off that day. There could have been some usage between when the meter reader was there and when it was shut off to cause it show a usage of 157. Complainant's Exhibit 8 shows that the meter red zero on January 10, 2008. Complainant's Exhibit 6 says that meter reader read the meter on January 15, 2008. Actually, I'm not sure what it's saying. (T 204) It does not say on Complainant's Exhibit 6 that the meter was read on January 10.

(T 205) Meter services do not have handhelds. I don't know what they do because I don't work there. I can't explain why they would have commented on a different amount of usage. I can't explain how usage would run through a meter if nothing was wired to it. My job is to have the meter readers input the number from the meter in the handheld. We don't know anything about usage. (T 206)

The reader just reads the number he sees. I can't speak to whether the meter reader could read the correct number but that usage might be correct.

(T 207) I am familiar the PSC rules regarding meter reading. I am familiar with Rule 5.03(b) that says utilities shall bill customers within 30 days of a meter reading. We take a reading every month and either record inactive usage or usage. (T 208) The meter readings that were taken on the permanent meter from November to March were uploaded through the handheld into the CCS, (T 209) but if it is not active it isn't going to load for billing. It records inactive usage that is investigated through a different group. I cannot quote a policy that would notify a customer of inactive usage. I know billing is responsible for investigating inactive consumption, but I don't know who would notify the customer. After I upload the totals that were read from the meter, I don't know what happens on that account. (T 210) If a reader suspects a damaged meter or tampering, he will report that. But from the reading, he just reports the reading and usage. He wouldn't know if there was something wrong that wasn't directly visible. He would report whatever is showing, regardless of anything else.

Redirect Examination of Ms. McElroy by Ms. Landreaux

Ms. McElroy: (T 213) Meter readers use a handheld device and upload those readings into the customer care system. Meter services does not. (T 214) I see

where it says Todd Welter in Complainant's Exhibit 6 as being at 33 Stevens Road on February 11, 2009 with meter services. He is not a meter reader to my knowledge. His reading would not have been uploaded to CCS. If he was there to take a reading for turn on, then it would have gone through the system, but not via handheld. It could have been entered the next day. If a meter reading is in the system, it will be used for billing purposes.

Mark White could have gone out on February 6, 2009, then back on February 12, 2009 for a reread. For billing purposes it would have been the first date. February 16th could have been a reread, but the bill would use the first reading date.(T 216) Complainant's Exhibit 7 is a copy of a service notification, not a meter reading. It isn't an official screen shot from CCS. It appears to be an Entergy employee's notes on an investigation. The meter reading on number 7611837 was 157 on January 10, 2008. That is not what would be used for billing. It was not uploaded in CCS. It could have been taken by someone other than a meter reader.

Recross Examination of Ms. McElroy by Ms. Pressler

Ms. McElroy: (T 217) I can't explain what relevance Todd Welter being on the property on February 11, 2009 would have to do with a meter reading on January 10, 2008.

Ms. Landreaux: That was to explain the 2-12 meter reading and the customer care service date.

Ms. McElroy: (T 218) The meter reading date on Respondent's Exhibit 1 is provided by the meter reading. Mark White would provide those readings. (T 219) The meter reading says he was there on February 12, and he could have gone back on February 16 for a reread. I can't explain why it doesn't show that Mark White was on the property on February 12. Respondent's Exhibit 1 shows that he was there on February 12th, but that is not reflected in Complainant's Exhibit 6.

(T 220)Todd Welter was there on February 11th from meter services, but they don't do meter readings for billing. He could have provided a reading if it is based on a discrepancy and they are trying to figure out what was a good reading and what was a bad reading. The reading that was uploaded for billing was the reading taken on February 12th. Meter services can provide readings, but not periodic readings. The meter readers are going out and doing readings for billing. (T 221) Meter services are not.

Complainants Exhibits 7 & 8 are entered without objection.

Hearing adjourned until January 20, 2010.

Direct Examination of Jason Brantly by Tiffany Pressler

Mr. Brantley: (T 235) I am Jason Brantley. My address is 20 Garren Lane, Enola, Arkansas, 72047. My company name is JJ Electric. I started working for Mr. & Mrs. Pressler in April, 2008. I was hired to install the breakers in the internal panels, and hook up the septic system. (T 236) Service appeared to be active to the home at that time. I didn't have a meter to put on it to make sure, but the numbers were running on the digital meter. I shut the main breaker off so I could work on the panel. I didn't have to get into the meter box, I just had to shut the switch off on the outside of the house. The wires were hanging out of the wall. Service was on with wires hanging out of the walls. That is a very serious safety hazard, so I shut the main breaker off on the permanent meter to protect my crew and me. (T 237)

It took about half a day to install the service panel on the inside. I put all the breakers in, and then taped them in the off position so nobody would turn them on, because nothing was installed in the house yet. I was trying to protect anyone in the house from active service. (T 238) I came back in early November to hook up the upstairs heater and the outside heat pumps. Between the 18th and 22nd of November we hooked up the upstairs heater and a receptacle in the basement, so contractors could use installed lights. The house was still also using temporary service at that time. There were extension cords running in through the

windows. It seemed like it was still operating off temporary power. Nobody said anything about permanent service being on.

(T 239) We came back first of January to start hooking up appliances like the dishwasher and cooktop. Around the middle of January we hooked up the downstairs heater. By the end of January we started hooking up the water heaters and finishing appliances like the oven and garbage disposal. The whole time between December 1st and February 26th we were installing receptacle switches and light fixtures. We were still doing some minor installation after the Pressler's moved into the house. (T 240) I'm talking about late 2008 and early 2009. I don't think there is anything inconsistent with Russaw Heating and Air saying that the first heater wasn't hooked up until middle to late December. We hooked up the actual wiring and let their guys know what breaker it was. (T 241) I marked the breaker on the panel, so when they came to hook up their part, they would know which breaker it was. I knew they were coming back after I did my work. I don't know exactly when it was turned on, but it could have been after November to late December.

When I was there in April I turned off the main breaker. In November, I only turned on the breakers for the receptacles that I installed. (T 242) I left everything else taped up. I can't remember if the outside panel was on or off when I got back in November.

Cross Examination of Mr. Brantley by Ms. Landreaux

Mr. Brantley: I have been an electrician since 1995. Including when I was working for another contractor, (T 243) I have probably wired up about 30 houses the size of the Pressler's. I did the finishing work there, it was prewired when I got there. I believe the Pressler's did the prewiring with an electrician friend who helped them. I did not install the main breaker. I made sure electricity was flowing through the wires I had installed. (T 244) I know the difference between temporary and permanent power. I am aware that when the power is on inside a home, you are drawing on the permanent meter.

I am not familiar with the Pressler's responses to Entergy's first set of interrogatories. I see part A of interrogatory number 4, that the response says the internal service panel was installed around April 2008, and that the breakers were installed then. I did not do that work.(T 245) I put the breakers down, but the panels were already mounted. Wires were just hanging loose from them. The service wire from the main breaker and the meter outside was installed, but the wires to feed the home were not installed. Their response to interrogatory number 4 says that sump pump was spliced in 2008. The wiring was already there, I just did the connection. When I connected the sump pump to the internal service panel, it was drawing power from the permanent service. I made sure the pump had power, (T 246) but I didn't test it because I didn't know if there was any

water. We left it taped off. I flipped the breaker to make sure there was power, and then I turned it off. Response to interrogatory number 4 says that a standard receptacle was spliced in the basement around November 3rd, 2008. I did that, I tested it, and it was drawing from the permanent service. None of the internal breakers were on, but I can't remember if the outside breaker was on or not. (T 247) I assumed the Pressler's knew permanent power was on, because you have to call and activate that. Pressler's response to interrogatory number 4 says that a standard duplex receptacle was installed on the first floor around November 18th, 2009 to November 22nd, 2009. I did that, and I tested it to make sure it was working. (T 248) The power to test those would have come from the internal service panel that was hooked up to the permanent meter. Their response also shows that receptacles and light fixtures were spliced in between December 1st, 2008 to February 6th, 2009. I tested all of them to make sure they were working. I observed contractors using the receptacles for battery charges and maybe a tile saw or something. We didn't start turning on the lights until we were about 95% done with the job.(T 249). The contractors working before that had lights that they were plugging into the receptacles. Some were plugged into the temporary. I didn't really pay attention because I didn't think it was important.

Pressler's response to interrogatory number 4 says that the upstairs heat pump was spliced around November 18th, 2009 o November 22nd, 2009. That

breaker was turned on November 27th, 2009. I did perform that work, but I was not present when it was installed. (T 250) I knew when I did the electrical for the heat pump that the power would be coming from the permanent service. I did the electrical work for the downstairs heat pump too. I wasn't present when it was installed. We just had everything prepared, made sure the voltage and amperage were right, and then the heat and air guys actually hook up the wires to the units when they install them. (T 251) I don't recall discussing where the power would come from for the downstairs unit with the Pressler's. I was the electrician that performed the electrical work for the water heaters, which according to the Pressler's response to interrogatory number 4 were spliced between January 26th, 2009, and February 6th, 2009. We tested the wires to the water heater, but waited until there was water to test them. I knew the power would come from the permanent service.

Examination of Mr. Brantley by ALJ Rotenberry

Mr. Brantley: (T 252) When I was working at the Pressler house in late 2008 and early 2009 it was close to 90% complete. The Pressler's were living in the house the last couple of weeks we were finishing up. The house is around 4,500 to 5,000 square feet. It is three levels counting the basement. (T 253) It was late fall to winter when I was finishing up. The house needed heat. The upstairs heat was heating the upstairs a little. It wasn't warm, it was just to keep the pipes from

freezing. It's like central heating. We usually call it a heating furnace. (T 254) It was heating the upstairs from the attic, through the venting in the ceiling. Whatever warmth the middle floor was getting was from the upstairs, but it wasn't much. It was pretty cold. I assume the upstairs was being heated to keep the pipes in the attic warm, but I'm not sure. (T 255) The downstairs heater was designed to heat the basement and middle floor. It's located in the basement. Heat was going the second floor from the attic through vents, and to the first floor from a furnace in the basement.

Direct Examination of Bernard Neumeier by Ms. Landreaux

Mr. Neumeier: (T 256) I am Bernard Neumeier. I am employed by Entergy Arkansas, and have been for 26 and a half years. I am a design manager. I am responsible for managing the design of new services to homes and businesses, as well as the design the expanding and relocating our facilities. I have been in this position for (T 257) 10 and a half years. I started as distribution planning engineer for about 5 years, transmission project engineer for a couple of years, total quality management for about 5 years, oversaw process training and skill training for about 2 years. I have an undergraduate degree in engineering from Christian Brothers. I am a registered professional engineer.

I am familiar with the Pressler matter. I was here for the hearing on October 15th. I have reviewed the Presslers' response to Entergy's first set of interrogatories. (T 258) According to the response to interrogatory number 4, part C, the following items were fully spliced into the permanent service panel:

- Sump Pump – April 2008
- 1 standard duplex receptacle in basement – November 3, 2008
- Upstairs heat pump model #2A6H5042 – November 18, 2009 to November 22, 2009, breaker not turned on until November 27, 2009
- One standard duplex receptacle on first floor – November 18, 2009 to November 22, 2009
- Heat pump model # 2A6H4036 – January 14, 2009
- Water heaters – January 26, 2009 to February 6, 2009
- Dishwasher – January 6, 2009 to January 23, 2009
- Cooktop – January 6, 2009 to January 23, 2009
- Wall oven and garbage disposal – January 26, 2009 to February 10, 2009
- Receptacles and light fixtures – December 1, 2008 to February 6, 2009

(T 259)The Presslers' clarified that the upstairs heat pump and first floor receptacle should have been 2008, rather than 2009.

According to response number 5, the electric heat pump, American Standard, model # 2A6H5042, 15 SEER, 3.5 ton, further investigation shows it was installed on November 27, 2008. Response number 6 says electric heat pump, American Standard, model # 2A6H4036, 14 SEER, 3 ton, installed January 14, 2009. Response number 6 for the water heaters says 2 electric units, (T 260) Smith Promax, model # ECT-55, installed between January 26, 2009 and February 6, 2009.

I am familiar with the consumption recorded on the Presslers' permanent meter from November 2008 to February 2009, as contained in Respondent's Exhibit 1. I believe this consumption is reasonable based on the facilities installed. I have performed an analysis to support my opinion. I took the load the heat pumps were capable of drawing, the temperature data from that same time, and the testimony about when they would have been running based on their specifications and did some calculations to figure out the kilowatt hours. (T 260) Respondent's Exhibit 3 is my analysis. I can explain Respondent's Exhibit 4. It is the specifications for the two heat pumps that were installed at the residence, which is where I got my information for the analysis. (T 262) They are same model #s and installed in the home. Respondent's Exhibit 5 is the specifications for the water heaters in the Presslers' house, which is how I determined the water heater load. It's the same water heater as used in the Presslers' house.

Respondent's Exhibit 6 shows the temperatures for the billing cycles at issue. It was prepared by Ms. Bobbie Ficklin, and is what I used for my temperature assumptions. (T 263) I heard Mr. Peterson's testimony. He said both heat pumps had 15 kW heat strips, which is what I used for my analysis. He said that the heat strips would kick in when it was below 40 degrees. I used 32 degrees for my calculations, which is a more conservative estimate. (T 264) The Pressler's response to interrogatories said the heat pump was installed on November 22, 2008. Mr. Peterson testified that the first heat pump was installed on December 22, 2008. I used both dates for my analysis.

The first line is the number of hours that the heat strips would have been operating, when it was below 32 degrees. From November 27th to December 15th, there were 78 hours below 32. The compressor and fan for the heat pump would draw 4.63 kilowatts. (T 265) The heat strips would draw 15 kW. I have 6 different calculations, ranging from a 40% run time to a 90% run time, since I didn't know what it would be. As an example, for a 40% run time, with 78 hours below 32 degrees, times 4.63 kW for the fan and compressor, added to 78 hours with 40% run time on the heat pumps at 15 kW, it comes out to about 612 kW hours. I then did the same thing assuming 50% run time, 60% run time, all the way 90%. When the temp was between 32 and 50 degrees, I assumed less run time because there is ambient heat. I assumed a 20% run time for the fan and

compressor,(T 266) and a 10% run time for the heat strips. That worked out to 706 kW hours. Added together, it calculated at 1,318 kW hours assuming a 40% run time. It goes up from there if you assume more run time.

At the bottom half of this exhibit shows if the heat pumps weren't installed, only the receptacles and light fixtures. I assumed there could have been some portable space heaters, air compressors, (T 267) circular saws, tile saws, sump pump, and some lights. I assumed how many of those things there might have been, and how often they might have been used, and came up with 492 kW based on what I thought was typical for later construction of a house.

I also did the calculations for the billing cycle from December 15, 2008 to January 15, 2009. It assumes the heat pump was installed on December 22nd. The calculations are all the same, except the hours below 32 degrees was 236, (T 268) and the hours between 32 and 50 degrees was 206. It ranged from 2353 kW hours up to 5680kW hours. It's in the range of the meter reading from January 16, 2009 of 5343 kW hours. It depends on how much the heat pump ran. And the bottom of the page would add when the second heat pump was installed. It could have ranged from 2619 kW hours at a 40% run time up to 6300 kW hours at a 90% run time. The meter reading falls somewhere around 70 or 80 percent run time. (T 269) That assumes nothing else was running in the house. It's reasonable to

believe the upstairs heat pump would have been running 70-80% of the time, because it isn't designed to heat that size of a house.

I used the same methodology for the January 15th to February 12th bill too, but you have both heat pumps installed for the whole period. 252 hours at 32 or below, and 229 between 32 and 50 degrees. The heat pump alone could have pulled anywhere from 5,003 kW hours to 6,802 kW hours. (T 270) Assuming water heater 1 ran about 4 hours a day, it could have drawn 432 kW hours. Water heater 2 could have pulled about 168 kW hours. Assuming a mixture of incandescent and fluorescent lights, and that the Presslers' were living in the home for 6 days, we have other uses like dryers, dishwashers, heaters, cooktops... I assumed 400 kW hours for various usage. The actual usage of 5857 for this period is actually less than what I calculated. Based on my analysis, with the facilities that were installed, the Presslers' could have used the amount of energy measured by the meter. (T 271) It could be less than the analysis shows b/c the heat pumps would have run less when both were installed, because they were working as designed.

I heard Ms. Pressler say that it doesn't make sense that the load usage over summer is comparable or exceeds the load usage during the winter with the thermostat set at 50. I disagree with her because our circuits typically peak during winter usage in areas where there is no gas service available and the home relies

exclusively on electricity for heating. Where you have gas heat, those would peak during the summer. (T 272) I would expect usage to be higher during winter in an all electric home.

(T 273) Respondent's Exhibits 2 through 6 admitted without objection.

Cross Examination of Mr. Neumeier by Ms. Pressler

Mr. Neumeier: The column on Exhibit 6 that shows the amount of hours below 50 degrees is inclusive of hours below 32 degrees. (T 274) So for November 16th, where it shows 8 below 32, and 17 below 50, the 17 includes the 8. So any hours not included was above 50 degrees for that period. For November 13th, it shows 6 hours below 50, so 18 hours were above 50. I am not familiar with home construction, I am an electrical engineer. I would think a home would retain heat if it is insulated well. (T 275) I heard the testimony that the house used a hybrid insulation, which is 1.5 inch foam insulation combined with 3.5 inches of cellulose, double pane low E insulated windows, and insulated doors to create a tight home without drafts or air leaks. My calculation in Exhibit 3 is based on theory, what might have happened. If it was 45 degrees outside, it might be warmer in the house based on when it was above 50 earlier. But it might not, depending on doors opening and closing. I can't say because I don't know what

was happening in the house. I don't know what the temperature inside the house would have been at any point during the day.

A heat pump is turned on by a temperature sensor on a gauge at the thermostat. Even though the temperature outside might have fluctuated, that doesn't mean the temperature gauge would have told the heat pump to turn on. I took that into account by using a range, rather than one number. Looking at the ranges I used, I was able to come up with the number that was actually metered. During the first billing period, 791 kW hours were measure, but the range provided was 1300-3512, which is double what was metered, but that is based on the first heat pump being installed on November 27th, which I don't think is right because there would have been more usage. I think the testimony that it wasn't activated until December is accurate.

(T 278) For the period from December 16th to January 15th, there were 236 hours below 32 degrees and 206 hours between 32 and 50. However many hours are left it would have been above 50 degrees. I don't know exactly how many hours that would be. The usage rate for heat pump one was 2353 to 5608. There were other things wired in at this time. I feel that 5343 is a reasonable and accurate number for that period, because the second heat pump was only used for two days during this period. Heat pump one was heating the whole house for most of that time. (T 279) The third billing period is when everything was wired, but

there were only people living there for six days. Most of the household items wouldn't have been used during that time, which is what I assumed. If you look at the third billing period with 252 hours below 32 degrees, it may not have been running all 252 hours, which is why I used different percentage run times.

Ms. Pressler: (T 280) I would like you to look at Complainants' Exhibit 9. It is a meter reading from December 15, 2009 to January 15, 2010. There are 2 pictures to verify it's our meter and what the readings are. The second page is our bill for December 15, 2008 to January 15, 2009, which is 31 days. The meter reading started at 798, and went to 6141. During that time the upstairs heat pump was set at 50 degrees, and it only ran at night. It was just meant to keep the pipes from freezing at night, (T 281) rather than warming the house all day. Mr. Brantley said the house was not warm during the day. We also had two receptacles and two or three light fixtures, that we will assume were running as a worst case. The temperature date from last year shows a range of 12 degrees to 74 degrees, with an average of 30 to 53. Are you aware of heating degree days?

Mr. Neumeier: I've heard the term.

Ms. Pressler: A heating degree day basically tries to say what energy might be needed to heat your home. It calculates the amount of energy needed to warm your home back up to 65 degrees. During this time, the National Weather Service

showed that maximum heating degree day was 46, the minimum was 0, and the sum was 725. (T 282)There were 725 heating degree days during this period. At this time there was no one living in the house.

From December 15th, 2009 until January 15th, 2010, with six people living there full time, the meter reading went from 35,585 to 40,228, for a usage of 4643. That is with both heat pumps set on 70 degrees, two 50 gallon hot water heaters, all the appliances, deep freezers, receptacles, garage doors, and all the electronics my children use. (T 283)The temperature range was from 9 to 56 degrees. The heating degree days show a maximum of 46 and a minimum of 12, with a heat sum of 973. That shows it was about 30% colder this year than last year. Can you explain how, with all this stuff running in the home, we used almost a thousand less kW hours less this year than last year?

Mr. Neumeier: You only had one heat pump running last year, and it was going to run fairly continuously with the heat strips kicked in whenever it was below 32 degrees. It could have been day or night, it just depends on when the thermostat says to kick on. The heat strips pull 15 kW, they are electric hogs. And that heat pump wasn't designed to run as much as it was. Now you have both heat pumps running, keeping the house warm, other appliances giving off ambient heat, which keeps the house warm. I still think it's possible.

I don't recall hearing that heat pump one was turned on in the evenings between 7:00 and 8:00, then turned off by 6:30 each morning. I heard that they were to keep the pipes from freezing at night. (T 285) I don't recall hearing that it was turned on and off. Even knowing that, I would still think my assumptions could be right. You can assume that most of the coldest hours would be at night, so it could have run 40, 50, 60 percent of the time. The heat pump could have run 60 to 70 percent of the time you had it turned on, which puts in the 4800 to 5500 kW hours that I've calculated.

Ms. Pressler: (T 286) Looking at billing period two, with 50% run time, it's 3018 kW hours, and if we assume it only ran half the time you thought, that would 1500 kW hours. That doesn't come close to 5,343 kW hours.

Mr. Neumeier: You have to add in the second heat pump, and there were probably other electrical devices running too. I didn't include any of that. It's possible that with it only running at night, only one heat pump, heat rising, the house retaining heat from the day, that it might not have run at the numbers projected in my theory, but not being there I can't know that. I just know it's capable of pulling that load. I can explain why with 30% colder weather, two heat pumps set 20% higher than before, and two sets of 15kW heat strips, you are using less power. The heat pumps will be more efficient, so the strips won't kick in nearly as frequently.

The heat strips kick in if the outside temperature is cold and it needs to heat up the air it's pulling, but they are running less frequently. (T 288) Even with colder temperatures, them being set at 70 instead of 50, hot water heaters, extra large electric dryer, 6 people, seven televisions, two computers, four video game systems, and a deep freezer, you could use 1000 kW hours less, because all those devices create heat, which keeps the heaters from running as often. (T 289) I think my calculations reflect what is capable of happening. Since the meter read it, I think it is very likely. My knowledge of meters says they don't read inaccurately very often. If they aren't attached to anything, they shouldn't read usage.

Redirect Examination of Mr. Neumeier by Ms. Landreaux

Mr. Neumeier: (T 290) I believe that from December 15, 2009 to January 15, 2010 both heat pumps were sized properly and running more efficiently that when only one was heating the whole house. (T 291)All the appliances generate heat which helps keep the house at a constant temperature. People also give off heat. I don't know if the hourly temperatures I used are more accurate than the maximum, minimum, and averages that Ms. Pressler used. I would generally say the actual data is more accurate, but I'm not familiar with heating days and how that factors into calculations. It's reasonable to expect colder temperatures at than during the day. A heat pump isn't going to be as efficient if you turn it off and on

because it has to play catch up, (T 292) it will run more continuously. My goal was provide a range of usage based on actual temperatures and kW hours that the facilities were capable of using. These facilities were capable of generating the load that registered on the meter.

Direct Examination of Mark Talley by Ms. Landreaux

Mr. Talley: (T 293) My name is Mark Talley. I am employed by Entergy Arkansas. (T 294) I have been there for 31.5 years. I am supervisor of metering for Arkansas. I oversee metering operations. I worked in training and power plant, I've been supervisor of various functions within metering, I worked as a trainer , in safety, PowerPoint, and power plant training as well. I am familiar with the Pressler matter, I attended October 15th, 2009 hearing, and heard the testimony.

(T 295) An electronic meter was installed at the Presslers' home. I brought an example for demonstrative purposes. There is a cover and a base, and as you break it open there is an electronic register which registers the reading. It takes all the signals from a current transformer within the meter itself. There is very little working parts. There is no tweaking or adjustment of any kind. There is no variance in tolerance within this meter. It's plug and play or throw away. There is no way to tweak the reading on it, (T 296) you can only reset it to zero.

ALJ Rotenberry: Excuse me. Ms. Pressler, did you intend to offer Complainants' Exhibit 9 into evidence?

Ms. Pressler: (T 297)Yes I did.

Mr. Ward: I object. No foundation was laid, no witness testified about creating it or verifying it. It was merely used on cross-examination, so without an adequate foundation it should be received into evidence.

Ms. Landreaux: I echo Mr. Ward's objection.

ALJ Rotenberry: Objections overruled. I heard enough testimony from Ms. Pressler as distinguished from cross-examination that I believe Complainants' Exhibit 9 (T 298) was put together by you or someone under your supervision.

Complainants' Exhibit 9 entered into evidence.

Mr. Talley: This is a model C1S, the same as installed at the Presslers'. Entergy tested the Presslers' permanent meter for accuracy. (T 299) Respondents' Exhibit 7 is a routine test for when a customer calls in with a concern about their meter and its accuracy. It requires our department to test the meter. Their meter tested 99.9 full load, 99.8 light load. This document shows the results of that accuracy

test performed on May 7th, 2009, performed on meter 7611673. This meter test was done by Clay Gilbert, an employee under my supervision.

(T 300) A meter is tested by comparing a known load and an known voltage with a standard. A standard is about the same as a meter, but it is held to much higher tolerances. When you compare the usage through the meter and through the standard, and the difference is the result of accuracy. (T 301) In this case the result was 99.9, 99.8. We remove the permanent meter from the socket and install the standard. Then we put the meter into the standard. Then we increase the amperage to the test amperage on the meter, 30 amps for full load and 3 amps for light load in this case. We put a known load through them, and the accuracy is determined by a handheld device. It compares the measurement of the standard to the meter, and gives you a result. The Presslers' permanent meter registerd 99.9 full load and 99.8 light load, which is within the accurate range under Rule 7.05(B)(1) of the Commission's Special Rules Electric. The range is between 98% and 102%, so there is a 2% tolerance allowed for accuracy. This shows that the Pressler's meter was operating accurately and within the standards. I have no reason to believe these results aren't accurate. This is the same meter that has been measuring the Pressler's usage from November 2008 to February 2009, and still is today.

(T 302) I heard Ms. Pressler testify that she thought the meter was miswired or flawed to read a usage that was impossible, but I don't agree with her. There is no adjustment, it either works or it doesn't, there's no way to program a variant to the readings. It's either accurate or it's thrown away. It is not reasonable to think that the meter was inaccurate for 6 months, and then tested positively during the test. It records based on current flow through the meter itself, it records and give a description of the kW usage through the handheld display, and it's either within tolerance or not. (T 303)

Respondents' Exhibit 7 admitted without objection.

Cross Examination of Mr. Talley by Ms. Pressler

Mr. Talley: (T 304) I first became aware there might have been a problem with the permanent meter sometime after the test. Probably after May. Anytime we get a test, I'm notified there is a potential concern with a meter. I am the supervisor who would send someone out to check the meters in the field. I don't remember sending anyone out to the property before May. (T 305) I can't say if it is unusual for metering services to send nine visits to the property between December 2008 and March 2009 because I don't handle those employees. There are various functions within the meter department. (T 306) I have been with Entergy for 31.5 years, not all under net metering. I've worked in training, power plant, various

aspects of metering, I taught testing off-site for 3 years. I have quite a bit of experience. I can't say if it is unusual for net metering to send out 9 employees in a three month period because I don't deal with those departments. I can't answer why they would do that. (T 307) I know there are various people involved in construction. I just respond to test, complaints, or install.

I can't say if something was miswired in the drop from the transformer or from behind the meter because I don't do wiring or anything.

Ms. Pressler: I think my husband testified that net metering Entergy employee told him that there was a wiring problem and that was why they were out there. Could they order a meter test then? (T 308)If an employee thinks there is a problem, can they request the test?

Mr. Talley: I don't really know what those employees do or who they were. I had one employee that responded, and our response is to test a meter. All I do is measure voltage. To do the test, we have to cut a seal, remove a face plate, (T 309) remove the meter, install a standard, install the meter, and run the test. It's all done electronically with a hand held device. The voltage variance would be different. The voltage variance uses the voltage from the service going through the meter. Volts times amps gives you watts. That's how it determines the amount of usage through the meter. Other than that, we had no regards to voltage issues.

It's just to have potential on a meter which is voltage associated with the current flow or amperage and then it calculates the load. I can't explain how a meter can read usage against wires that are hanging out of a wall and not hooked up to anything. (T 310) The wires you are talking about are not out of the meter, so I'm not worried about them.

Redirect Examination of Mr. Talley by Ms. Landreaux

Mr. Talley: (T 311)I see page 2 of Complainants' Exhibit 6. There is only one employee with field metering listed. It's the last one on May 7th. Entergy is only responsible for wiring on the line side, not the load side of the breaker. The customer is responsible for the load side.

Examination of Mr. Talley by ALJ Rotenberry

Mr. Talley: (T 312) You can't see the numbers on the meter. It's an electronic display, and it would show your LED electronically. The only moving part on the meter is the power strip. It puts voltage on the display itself, and that's the way it calculates. There is a processor, a current coil, a potential coil, but it's all electronic. The processor within the meter does all the calculations. (T 313) A meter costs about $19, so it isn't worth trying to fix. There's no adjustment on it, no probe.

Recross Examination of Mr. Talley by Ms. Pressler

Mr. Talley: There is a contact between the plate up to the LED. The contact doesn't tell the LCD to register a number through a microchip. It just provides voltage, without there wouldn't be voltage and therefore no power. The LED knows what reading to give from the processor. (T 314) We don't do any adjustments on the meters. If a meter is faulty we just replace it.

Examination of Mr. Talley by ALJ Rotenberry

ALJ Rotenberry: A temporary meter was installed at the Presslers' in August 2006 so that construction workers could have power. (T 315) Sometime later, around November 2007, a permanent meter was installed at the property, which the Presslers' contend that the activation was done without their request or authorization. Would both meters be hot at that point?

Mr. Talley: I can't answer that. I don't know the dates they were installed. It's possible that both meters could be hot at the same time.

Direct Examination of Harvey Piazza by Ms. Landreaux

Mr. Piazza: I am Harvey Piazza. I am employed by Entergy as a regulatory affairs coordinator. I have worked there 46 years. My job is to ensure that proper rater is applied to customers and that is applied appropriately. I have been there for 13, 15 years. I started in engineering for 3 years, and since then I've been either an

analyst, supervisor, or manager in some regulatory area. (T 318) I am familiar with the Pressler matter and was here at the October 15th, 2009 hearing.

I am aware of the allegation in section 5, paragraph 5 of their Complaint where they say that they are being charged an inaccurate rate based on the approved rates posted on the Arkansas Public Service Commission's website for general purpose residential service. They are not being charged an inaccurate rate. They are being charged the current residential rate RS, which are on file at the commission. It's the same rate applied to all similarly situated customers. (T 319)They are not eligible for the rate for customers with approved electric hot water heaters because in Order 10 of Docket 06-101-U the Commission ordered that it be closed for new applicants. It was implemented on June 16, 2007, which was before the Presslers' activated permanent service, so they are not eligible.

I am also aware of the allegation in paragraph 2(b)(1) of the Amended Complaint where the Presslers' say that Entergy is potentially overcharging their billing within the energy charge. I see in the Presslers' response to Entergy's third set of interrogatories, number 4, that the Presslers' claim Entergy overcharged them a penny in June, July, August, September, and November of 2007, December of 2008, April and September of 2009.(T 320) I have seen Complainants' Exhibit 5, heard how she prepared, and have had a chance to review it. Based on my review of it, I don't agree that Entergy is overcharging

their billing within the energy charge portion of the bill. I reviewed their calculations, and determined that in June, July, and August of 2007 that the Presslers' applied an inappropriate rate. In October 2007 they didn't reflect the reduced customer charge, which is a credit to the customer charge and a lower energy rate in that one month. In January 2009 they didn't reflect the essential services credit provision of the residential rate schedule. (T 321) I did separate calculations to support my conclusion.

Respondents' Exhibit 8 is my document, with my corrections applied. The Presslers' applied the September 2007 rate to June, July, and August 2007, which was a different rate. In October 2007, (T 322) the Presslers' showed a rate of $1.39713, but the invoice showed a rate of $1.34. That is different because there was a 30 cent credit applied to the customer charge, and the energy charge was reduced for that one month. When I applied the correct energy charge, it came to $1.3419, and the invoice showed $1.34. In January of 2009, they didn't apply the low level use provision. (T 323) It's called the essential service credit. When it was applied, it brought the energy charge down to 1.3419. It applies to any customer who for the12 months ending with the current month has not more than 6,000 kW hours of use and how in the current month has consumption that is not greater than 120% of the highest winter month. When I applied this to the

Pressler's bill for October, it brought the total down to 1.3419 or the energy charge.

The other differences are that they didn't employ the company's rounding procedure. The company rounds after each calculation. If there is a half center or greater, it's rounded up to the next one. (T 324) Less than that it is rounded down. The rounding is applied after each calculation. If you had an energy rate of 2.5 cents per kW hour and you had 9 kW hours, that's 22.5 cents. It would be rounded to 23 cents. The company doesn't gain anything by doing this. Sometimes it helps the customer.

Respondents' Exhibit 8 admitted without objection.

Cross Examination of Mr. Piazza by Ms. Pressler

Mr. Piazza: (T 326) If the essential services credit applies it would be listed on a bill. The essential services credit applied on the January 2009 bill. It should show on the other months if it applies. It may be where there's low consumption it won't show because it doesn't apply. On my Exhibit 8, in the column titled essential services credit, it shows red amount with a negative number for June 20, 2008 through January 22, 2009, the essential service credit applied for each of those months. (T 327) It should have shown on those bills, but it is not a requirement that it show as an itemization to my knowledge. Section 5 of Rule

5.01(I) of the General Service Rules says a list of all charges or credits including deposit installments, deposit refunds, and automatic adjustments. I guess it should be listed under this rule.

(T 330) I am familiar with the calculation sheet in Complainants' Exhibit 10. I have looked at this calculation sheet in comparison to Respondents' Exhibit 5. This is December 2008. The usage calculated is 26 kW hours, and the energy charge was $1.87 and change. (T 331) You were charged $1.88 on the energy charge for that month. According to your calculations it should have been $1.87. Respondents' Exhibit 8 shows an essential services credit was applied for a minus 0.17498. It isn't on the bill. This spreadsheet is designed to calculate normal bills, and the essential services credit is not a normal calculation, so it is done externally to this. (T 332)It could have been an oversight that it wasn't included when you requested a verification of the accuracy of your bill. The essential services credit is listed on the December 19, 2008 bill. I didn't prepare the verification so I don't know the essential services credit wasn't included on there.

The spreadsheet I'm talking about is a bill calculation sheet. It is an internal document, (T 335) that calculates the bill quickly. Most residential bills are not essential services credit bills, so it wasn't included on the spreadsheet. If a customer wanted a verification of their bill, I guess the essential services credit would have to be added on there. In this case it appears to be an oversight that

they didn't. I think the penny difference is based on the essential services credit and rounding. Entergy rounds each individual calculation for each rate and rider. I don't know of any commission rule that gives them right to do that, but I don't know of one that prohibits it either.

The rates on Respondents' Exhibit 8 are the correct rates, (T 337) but you can see in October where I modified the energy charge to reflect the energy charge actually billed, which was a reduced energy charge for one month. I also modified the energy charge in the first column all kW hours at .05944 because those three months the energy charge was inappropriate. All the rates for January 2009 to September 2009 are appropriate. They go to five decimal places.

In April 2009, there was a metered usage of 2,567 kW hours. If you add each of the rates as they are calculated it shows 131.8538592, and 131.86 was actually billed. 131.8538 does not round to 131.86, but the heading shows that these calculations were done before rounding. It is rounded to two decimal places because we can't bill tenths of cents and the customer can't pay tenths of cents. (T 340) If the energy charge shows two decimals, I would expect that it's rounded to two places. You can get different figures rounding each calculation than you would rounding at the end of all calculations. I see where Entergy charged a penny more rounding after each calculation than by rounding after it was all summed together. On Complainants' Exhibit 5 it shows where you got .93142

cents, and the energy on the invoice was 94 cents. (T 341) There is also an error in the rate, so that's a bad month to choose. .53432, rounding that would be .53, but the energy charge on the bill was .54. The difference is that the individual pieces, the calculations were rounded as they were made. That doesn't mean you were charged an extra cent, it just means your rounded your calculations differently. I admit that addition is addition, and when you add numbers they shouldn't equal different things. (T 342) Entergy can charge 5.33 when the approved rate is 5.3224 because the result is rounded after each calculation. It isn't an interpretation, it's a common practice throughout the business world since you can't bill a tenth of a cent and the customer can't pay it. You could do all the calculations then round at the end, but that isn't how the company does it, and it doesn't do it to extract extra pennies from customers.(T 343) In the final document where I have rounded the numbers, it is to the customer's benefit 17 times, and to the companies benefit 11 times. It is going to break both ways. It won't always favor the company. I don't think it's possible that the company is getting an extra cent or more from this, because the law of averages say it will go both ways, sometimes for the customer and sometimes for company.

Complainants' Exhibit 10 admitted without objection.

Direct Examination of Bobbie Ficklin by Ms. Landreaux

Ms. Ficklin: (T 346) My name is Bobbie Ficklin. I am employed by Entergy Arkansas, and have been for 25 years in April. I am a staff customer service specialist, which entails working with the Public Service Commission (PSC) to make sure we are in compliance. I also work with our internal departments related to compliance and logistics. I have been there for one year. Before that I have been an analyst, a customer service supervisor, customer accounting supervisor, credit and collections, customer service specialist. I have a Bachelor's Degree in organizational management, a Master's degree in human resource management, and a Master's Degree in management. (T 347). I became aware of this case in June 2009, and I was here for the October 15, 2009, hearing. The first complaint from the Presslers' was the first week of April. The Jackson Call Center took that call. When they get a complaint, they typically look at the complaint, read any notes on the account, and see if there is something in the system that can help them solve it. If not, they pass it on to customer relations, which is my department. We look at all the notes that are on the account, look at the billing, find out from billing how they came up with it. (T 348) We contacted Jeremy Chaplain and Bobby Standridge, they have been involved with the account. We contacted a customer service manager, Ron Harris, to go look at the location, see if the usage was possible.

Investigating the claims involves several different departments, which takes a little time. Respondent's Exhibit 9 is a letter from Chris Pressler to Entergy billing manager, dated April 7, 2009. (T 349). It is addressed attention billing manager, Entergy, P.O. Box 8101, Baton Rouge, Louisiana. There is not a billing manager at that address, it's where customers send their payments. It's the same address on the bill in Complainants' Exhibit 1. They should have contacted customer service. Complainants' Exhibit 1, page 1, is a letter from Entergy to Chris Pressler about his bill. (T 350) It has a department and phone number for them to talk to, Customer Service Center at 1-800-Entergy. Them sending it to payment information delayed our department from getting their letter.

We found out they had filed an informal complaint with the PSC on May 4, 2009. We had not completed our investigation. We hadn't sent for the meter to be tested yet for accuracy, which is what Mr. Talley testified about. (T 351) The test was done on May 7, 2009. I am familiar with the Commission's General Service Rules. When a customer initiates an informal complaint to the Commission, we are required to stop communication, and anything must be relayed through the Commission. From then on, we only directed communication through the Commission. I am familiar with Section 2 of the General Service Rules regarding customer relations. It's part of my job to ensure compliance with the rules. (T 352)

General Service Rule 2.01(A) says that each utility shall provide the information required in Rule 2.01(B) in the form of one or more brochures. Entergy produces a brochure, and it has been marked as Respondent's Exhibit 10. We use an outside vendor to distribute the brochure to new customers. When a new account is set up, the information is put in a database. It is sent electronically to our vendor once a week, and they send out the brochures. (T 353) Entergy sent the brochure to the Presslers'. Respondents' Exhibit 11 is an email from Sandy Costello at Custom Printing showing that a brochure was mailed to Chris Pressler. They were sent the brochure on March 25th, 2009. The letter is to me, and it says per our conversation Monday, January 18, 2010, I made copies of the mailing receipt from post office dated March 25, 2009, from the list we received from Entergy for February 2009. Chris Pressler, 33 Stevens Road, Conway, Arkansas, was on the list. I also emailed copies to you. Let me know if you need more information regarding this mailing. A copy of the brochure is also given the PSC. (T 354)

The brochure does not cover an itemized bill description as contained in Rule 2.01(B), but the company includes an itemized bill description on its bills. It includes the customer charge, fuel charge, FERC imposed payment charge, if a customer has a delayed payment agreement, sales tax, county tax, state tax, and city tax. Those are the same type of descriptions as shown on Complainants'

Exhibit 1, page 4. The customer can request more of a breakdown than provided on the bill. Entergy gives a copy of the billing form to the Commission's consumer services office pursuant to the General Service Rules. (T 355)

The first paragraph of page 7, How to Read Your Meter, Rule 2.01 says "Although Entergy reads your meter, reading your own meter can be helpful to you in determining your electric usage and confirming the accuracy of your bill. It takes only a few minutes to familiarize yourself with our meter, so you can read it yourself any time you wish. Then you can check the amount of electricity you use each day, week, or month." It goes on to explain how meters are read. (T 356) These procedures are to help customers verify their bill.

The last 3 or 4 pages of the brochure lists the rates, so customers can use that to help calculate their bill. Under the residential service rate, it lists without a water heater, summer period, and you would pick the billing month. Then it shows the energy charge recovery rider for kWh and the rate, the rider, and lists different rider names that apply under that residential service rate.

Page 9 of the brochure explains the process for filing a complaint. (T 357) It shows how to complaint to Entergy and the Commission.(T 358) Respondents' Exhibit 12 is a billing insert that goes to any customer who gets a shut-off notice.

It goes with the shut-off notice. It talks about how to file complaints with the Commission.

Pages 5 and 6 of Complainants Exhibit 1 is the detailed, broken down billing showing we prorated and back-billed the Presslers. Back-billing and prorating is done to equalize the billing, (T 359) which will help if billing is used to calculate a deposit. Your deposit is twice your highest bill, so you don't want one big lump sum to set your billing. It is a common practice to held the customer. On the first page of the bill it says the bill is prorated. (T 360) Complainants' Exhibit 2 is the shut-off notice, mailed April 28, 2009.

Complainant's Exhibit 4 shows contacts and notes that were put on the account. There is a CAR2 code on there, which is a code used on disputed accounts or billing issues to prevent a disconnect. The CAR 2 was placed on the account on May 5, 2009, the day after the Pressler's filed an informal complaint with the Commission. (T 361) It was removed on May 20, 2009, which was when we completed our informal investigation of their complaint. (T 363) It was added back on June 23, 2009 because we were notified that they had filed a formal complaint. The Presslers' indicated that they received shut off notices on May 4, 2009; June 20, 2009; and July 24, 2009. Respondents' Exhibit 13 are the three disconnect notices for April 28, 2009; June 18, 2009; and July 20, 2009. The April 28 notice says that they must pay $1,903.43 before 5:00 p.m. on May 6,

2009 or service may be disconnected on May 7, 2009. (T 364)The CAR2 code was added to the Presslers' account on May 5, before the disconnect date. The June 18 notice said the last day to pay was June 26, or service may be disconnected on June 29. A CAR2 code was added before the disconnect notice. The July 20 notice said the last day to pay was July 28, with a disconnect date of July 29. The CAR2 code was on the account at that time. (T 365) The Pressler's account was never disconnected, and was never in threat of being disconnected. The actions taken would prevent a physical disconnect. The disconnect notice is to make the customer aware they owe us money. We still had a regular bill going out, and if that bill isn't paid, we can't disconnect unless we send the notice first.

Complainants' Exhibit 6, page 2 is a list of employees who may have gone to 33 Stevens Road. (T 366) I see the meter reading on February 12, 2009 on Respondents' Exhibit 1. It isn't on Complainants's Exhibit 6 because on February 11 and February 12 we had separate orders. (T 367) February 11 was to turn off the temporary, and Feb 12 was to turn on the permanent. The temporary order was canceled, and when I prepared this spreadsheet, I deleted it and didn't change the date to the 11th.

The top half of this exhibit shows normal meter readings. The bottom half shows special trips. On November 16, 2007, construction went out to install the underground service and meter. (T 368) That's the permanent meter and wire

from the pole to their home. It was for overhead service, but they had it underground. We tie it in to our meter. If it wasn't tied in to the meter, then the wires would be exposed coming out of the ground. (T 369) Respondents' Exhibit 14 is the work order for our man to install the meter service underground at 33 Stevens Road. Entergy records show that the Presslers' account for November 2007 was request for permanent service and to install the meter.

On Complainant's Exhibit 6, November 20, 2007, shows a contractor reflect, which is that we use contractors to lay the conduit, so we had a contractor out dealing with the underground. One serviceman installed the underground service, and another installed the meter. (T 370) Todd Welter was at the residence on January 10, 2008, to turn the permanent meter off. December 22, 2008, Don King was there to check on an inactive consumption ticket. When the meter reader goes out, they key in the reading. If it shows usage, a ticket is generated to show we have usage on a meter with no active account. Don King was going out there to see what's going on and turn off service, because we don't have a customer there. Don wasn't able to work on it because they had a locked gate. Joey Wallace was there on January 9th to check on the inactive consumption ticket and turn the service off. (T 371) Same thing on January 16, 2009. It was being redated to try again. February 11 is Todd Welter, but it should actually be February 12 because that was when we had a request for permanent service. On

February 3, Chris Pressler called to turn on permanent service, but he told us it was already on. We needed a reading to turn it on, but we were in the middle of working an ice storm, so the ticket was dated out because of the storm. He went out to get a reading on February 12. William Ealey was there on February 13 to remove they temporary service because they no longer needed it. He removed the temporary meter that was probably on a pole. (T 372) Don King went back on March 7, 2009, because the inactive consumption ticket was still showing up. When he got there he realized it was an old ticket and no longer needed. Todd Welter was there on March 27, 2009, to make sure we had the correct meter, the reading was right, and all the data was right because it was a large amount of usage. We wanted to make sure it was right before we sent the bill. Jake Gilbert was there on May 7, 2009 to test the meter.

There is a meter reading entry on February 16, 2009, for Mark White. (T 373) On Respondents' Exhibit 1 it shows the meter reading for February 12, 2009. The February 12 reading is what Todd Welter did for the turn on, the February 16 reading is the meter readers' normal cycle. The February 12 reading was used for billing purposes.

Complainants' Exhibit 7 was created by Sherry Smitth, (T 374) who was working on the complaint investigation and typing notes about the investigation. Complainants' Exhibit 8 is the final bill for the temporary meter, sent on January