

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the	:	
Complaint of Cameron	:	
Creek Apartments,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case No. 08-1091-GA-CSS
	:	
Columbia Gas of Ohio,	:	
Inc.,	:	
	:	
Respondent.	:	

- - -

PROCEEDINGS

before Ms. Christine Pirik, Hearing Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-F, Columbus, Ohio, called at 9:00
a.m. on Friday, July 17, 2009.

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VOLUME III

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1 Friday Morning Session,
2 July 17, 2009.

3 - - -

4 HEARING EXAMINER: Go on the record.
5 (Witness sworn.)

6 HEARING EXAMINER: I didn't even allow
7 the complainants to call the witness, but I already
8 swore him in.

9 MR. ZETS: That's fine. I anticipated
10 calling him next anyway.

11 HEARING EXAMINER: I thought you did.

12 MR. ZETS: I thought that was our
13 agreement. And that's fine.

14 - - -

15 JEFFREY PRACHAR
16 being first duly sworn, as prescribed by law, was
17 examined and testified as follows:

18 DIRECT EXAMINATION AS ON CROSS

19 By Mr. Zets:

20 Q. Good morning.

21 A. Good morning.

22 Q. Can you please state your name for the
23 record.

24 A. Jeffrey Prachar.

25 Q. And, Mr. Prachar, you work at Columbia

1 Gas, correct?

2 A. Yes, sir.

3 Q. And I think you started working at
4 Columbia Gas in July of 1986; isn't that right?

5 A. Yes, sir.

6 Q. And when you started with Columbia Gas,
7 you were an inserting operator, right?

8 A. Correct.

9 Q. That's the machine that puts the bills in
10 the envelopes, correct?

11 A. Yes, sir.

12 Q. And after you worked as an inserting
13 operator I think you spent, what was it, 10 or 14
14 years in the maintenance department, right, at
15 Columbia Gas?

16 A. Somewhere between there, yes.

17 Q. Sometime between 10 and 14 years?

18 A. Yes.

19 Q. I assume you held various jobs in the
20 maintenance department.

21 A. I did various jobs.

22 Q. Okay. You did various jobs, such as
23 backhoe operator, right?

24 A. No, sir.

25 Q. You were not a backhoe operator?

1 A. Not in Maintenance.

2 Q. Okay, not in Maintenance. Well, did you
3 serve as a backhoe operator with Columbia Gas?

4 A. Yes. That was after Maintenance.

5 Q. That was after Maintenance. Forgive me,
6 I lumped backhoe operator into Maintenance. I
7 apologize. It seemed fitting, but I don't work for
8 Columbia Gas.

9 You served as a fitter at some point with
10 Columbia Gas, correct?

11 A. That was after Maintenance also.

12 Q. What did you do as a fitter?

13 A. Pretty much everything everybody told me
14 to do. We dug ditches, repaired gas lines. That's
15 our, what we call our main line crews. I was in a
16 crew.

17 Q. Now, was that with -- but that was not
18 with the maintenance department.

19 A. That is correct.

20 Q. Okay. What are some of the other
21 positions you held at Columbia Gas?

22 A. From the fitter job I went to be a hoe
23 operator and then a senior fitter, and that's the
24 plant side of Columbia Gas.

25 Q. Okay.

1 A. And then I went to the service side of
2 Columbia Gas after all that.

3 Q. The service side. I think you -- that
4 was, when, about four or five years ago you went to
5 the service side?

6 A. To the best of my knowledge it was
7 somewhere around there, yes.

8 Q. And that's where you currently work?

9 A. Yes, sir.

10 Q. What's your current position?

11 A. Service technician.

12 Q. Is that the same position you've held
13 since you came over to the service side?

14 A. No. You don't -- it takes a year to
15 become a service technician A, and numerous tests. I
16 was a service technician B, which is your training
17 stage, and then you're out in the field for -- that
18 takes about a year to 18 months to become a service
19 technician A, which is my current title. I'm a
20 service technician A now.

21 Q. As a service technician A, what are some
22 of the things you do? What are your job duties?

23 A. We turn gas on, turn gas off, run PR
24 orders.

25 Q. What's a PR order?

1 A. A priority order where if somebody might
2 smell gas or something like that. Something's wrong
3 and they call us up to check it out. Somebody hits
4 our gas main, that could be a PR. We call them a
5 code 4.

6 Q. That would probably be a priority if
7 someone hit the gas main.

8 A. Yes. And we run those immediately for
9 that reason, those are -- those kind of things.

10 Q. And you worked in a specific area within
11 Columbia Gas's service area, correct?

12 A. Well, as of tomorrow, no. They're going
13 to take that away. We used to have -- I was telling
14 you earlier about the SADCs.

15 Q. What's an SADC?

16 A. It's just like an area, like you
17 mentioned yesterday the H2 area.

18 Q. All right. Well, let's focus on before
19 today so we're capturing the time including, you
20 know --

21 A. Yes, I work in -- most of my work's done
22 in what they call an H2.

23 Q. And H2 defines your area, if you will,
24 correct?

25 A. Kind of. I've been trying to keep that

1 area for a long time because that's where -- and that
2 was where I was giving you, well, I guess you wasn't
3 there that day, the boundaries on like an SADC, and I
4 don't know what that stands for.

5 Q. Explain to us what roughly were the
6 boundaries of your H2.

7 A. It went from Wilson Road south of Broad
8 out to kind of like out towards West Jeff, and at
9 Wilson Road and Broad Street it goes to the railroad
10 tracks. And when you get down to Georgesville Road,
11 it goes on out to, kind of goes like across 270 and
12 then I pick up a little section down to Alkire Road.
13 And then I stay on the north side of Alkire Road and
14 go out to pretty much way out that way.

15 I mean, we run out of gas once we get out
16 there in the country a little bit. But it kind of
17 just goes out toward West Jefferson and kind of dies
18 off in like the Galloway area out there.

19 Q. Okay. For those of us who are somewhat
20 GIS challenged, does that include the Cameron Creek
21 apartment complex?

22 A. Yes, it does.

23 Q. I was trying to follow you street by
24 street there, but --

25 A. Well, yeah, you had asked this in the

1 deposition.

2 Q. Now, outside of the -- strike that.

3 Are you certified by Columbia Gas in any
4 way? What I mean, hold certificates or licenses
5 through Columbia Gas.

6 A. I would say yes.

7 Q. Is that your DOT qualification?

8 A. Yes. Yeah, because you have to be DOT
9 qualified to work on it, and we do that.

10 Q. And what's your DOT qualification? What
11 is that?

12 A. It's the Ohio Department of
13 Transportation, they stepped in a few years back
14 and --

15 Q. What does that allow you to do, in your
16 opinion, the DOT qualification?

17 A. Well, there's different qualifications.
18 When I was in Plant, I was allowed to work on -- and
19 I passed all my testing in plant, I was allowed to
20 work on the gas mains, repair the gas mains and stuff
21 underground. Then I went in Service, it allowed me
22 to work on the lines basically aboveground.

23 Q. Outside of the DOT qualification you hold
24 through Columbia Gas you do not hold any other
25 professional licenses, correct?

1 A. No, sir.

2 Q. Outside of your DOT qualifications you do
3 not hold any other certificates, for example you're
4 not HVAC qualified, are you?

5 A. Correct.

6 Q. Let's talk a little bit about job sites
7 and the work you do. I mean, you have a truck given
8 to you, you know, issued to you by Columbia Gas that
9 you go to your different job sites in, correct?

10 A. Correct.

11 Q. And inside that truck you have a
12 computer, correct?

13 A. Correct.

14 Q. And all the information that you do at a
15 job site, you load that information into your
16 computer, correct?

17 A. No, sir.

18 Q. Let me ask you this, when you get on the
19 job, when you arrive somewhere, you can record the
20 time you get there; true?

21 A. Well, that's all done itself.

22 Q. Well, you have to press the F8 key to
23 record the time you get to a location, correct?

24 A. Correct. And that's all done
25 automatically. The F8 key, right.

1 Q. You have to hit the F8 key, it records
2 the time you get on the job site.

3 A. Correct.

4 Q. And on the computer that you have in your
5 truck there is an area where you can draft service
6 remarks with respect to the job that you were just
7 on, correct?

8 A. Depending on what type of job I'm on,
9 yes.

10 Q. Right. But I'm saying there's a spot
11 where you are able, if you want, to record a service
12 remark related to that particular job.

13 A. If there's a problem with that job, we
14 can. Well, I guess -- yeah. I guess there is a
15 place, yes, you could leave a remark in if you
16 completed the order too. I think that you could.

17 Q. Right. There's a place for you to write
18 whatever you want to write about that job.

19 A. Yes.

20 Q. And that service remark area isn't really
21 limited in any way, is it, because you can include it
22 in the service remark, where I think there's only a
23 few lines, correct?

24 A. Correct.

25 Q. But then if you need additional space,

1 you can go to -- or that information can trail to
2 another screen so you have additional space to write,
3 correct?

4 A. Yeah. You'd have to hit another one of
5 the function keys.

6 Q. Right. But after you hit the function
7 key, then you have enough space to write whatever
8 else you would like to write, correct?

9 A. It just gives you another form.

10 Q. Okay. So, in fact, it's true that, I
11 mean, the space is unlimited for the amount of things
12 that you want to write if you chose to write a lot of
13 information, correct?

14 A. I wouldn't say "unlimited," but it would
15 give you more room. I mean, it all depends on how
16 windy you are, what you want to -- I'm sure
17 eventually the computer will quit taking it. It
18 gives you -- you got your first 3 lines and then it
19 probably gives you another 10, 12 lines, and lines
20 being just like on a computer like she has a line.
21 It probably gives you another 10 or 12 lines.

22 Q. "She" being the court reporter.

23 A. Yes. Her laptop. Sorry about that.

24 Q. And the only way to log information is on
25 your computer. Well, strike that.

1 The only way you can, I mean, you really
2 have two ways to log information if you were
3 red-tagging an appliance. You could include it on
4 the red tag or you could include it on your computer,
5 correct?

6 A. No; you'd have to do both.

7 Q. Then say you're not leaving a red tag,
8 it's just not that type of service call, the only way
9 you can log information at the site is through the
10 computer, correct?

11 A. Yes.

12 Q. Thinking about the computer and the job
13 sites --

14 MR. ZETS: I'd like to ask that we mark
15 an exhibit, the exhibit that's behind tab 11 I would
16 ask be marked as CCA 11.

17 HEARING EXAMINER: The document is so
18 marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 Q. Mr. Prachar, if you can turn to that, and
21 I believe I opened the book for you, tried to make
22 the first one easy.

23 HEARING EXAMINER: Mr. Zets, are you
24 going to refer to the different pages, because this
25 is one I don't have numbered.

1 MR. ZETS: I probably will, though the
2 reference I was anticipating, because all the pages
3 were Bates stamped by Columbia Gas, I think I will
4 try and make sure the ones that I do reference I will
5 use the Columbia Gas Bates stamp numbers so it should
6 be clear. Unless we want to --

7 THE WITNESS: What's a Bates stamp
8 number?

9 HEARING EXAMINER: It's not that I have a
10 problem referencing the Bates stamps, but again, it's
11 a citing issue when you're writing an order or
12 briefs. It's just harder to cite Bates stamps. So
13 I'm going to number the pages.

14 MR. ZETS: Okay. I was going to say, I
15 can mark the official exhibit that goes with the
16 court reporter and it will have the actual page
17 numbers on them.

18 HEARING EXAMINER: That's good, but we
19 all need to have the reference so let's take a moment
20 and number the pages starting with 1 which is Bates
21 stamp 10.

22 THE WITNESS: Do I need to write that in
23 here?

24 HEARING EXAMINER: Yeah.

25 (Discussion off the record.)

1 HEARING EXAMINER: We'll go back on the
2 record.

3 Q. (By Mr. Zets) All right, Mr. Prachar, do
4 you have before you what's been marked CCA Exhibit
5 11?

6 A. Yes. With the 10 on the bottom?

7 Q. Yeah, the first page of the document has
8 been Bates stamped COH-10.

9 A. Okay.

10 Q. This is, at the top of the page, Execute
11 Order Detail, correct?

12 A. That's what this is, yes.

13 Q. I believe somebody yesterday, and I can't
14 remember who it was, but I think somebody talked
15 about a DIS order. Do you remember somebody
16 mentioning that yesterday? I think they called it a
17 DIS order, but I think Columbia Gas refers to it as a
18 D-I-S order, correct?

19 A. I would say probably somebody did mention
20 it. I don't know for sure. I mean, you guys did a
21 lot of talking yesterday. I mean, I paid attention,
22 but I was pretty nervous, too.

23 Q. Are you nervous this morning as well?

24 A. Oh, extremely.

25 Q. Well, we'll try and go slow and if you

1 need a drink or something, just let me know.

2 A. I've just never been in this situation
3 before. But I have heard the term "DIS," yes.

4 Q. And CCA Exhibit 11 with respect to page 1
5 is a DIS order, correct?

6 A. Yes. I think these are what you were
7 showing me in my deposition, and I'm not familiar
8 with this program, but this is what we were looking
9 at during my deposition. I would say, I mean, I'm
10 not positive because I don't get in the office, and
11 the DIS would be something probably in our office.

12 Q. But looking at page 1 of CCA 11, and it
13 has some information on here, most particularly this
14 one at the left side of the page says "Service
15 Person" and it says "JPRACHA," seems like it cuts
16 off, but that's your name as service technician,
17 correct?

18 A. That's my login ID, yes.

19 Q. I won't tell anybody in case it's a
20 secret.

21 A. Well, no, it's not a secret.

22 Q. And it has the arrival time on this
23 particular one, CCA 11, page 1, arrival time is
24 11:06, correct? If you look on the right-hand
25 column.

1 A. Yes.

2 Q. So when you press F8 in your truck, that
3 records the arrival time and that shows up on this
4 document, correct?

5 A. That probably would, yes.

6 Q. And a couple lines above that it says
7 "Time Comp," that would be time completed, correct?

8 A. Okay.

9 Q. And then also when you're in your truck,
10 I know you said you press the F8 key when you get
11 there, my memory is there was another function key,
12 F10, when you leave the job site?

13 A. Well, there's other function keys in
14 between the two, but F10 would be the end of a job.

15 Q. Right. So when you press F10, it records
16 the time you leave the job and then that number shows
17 up, as an example, on CCA 11, page 1, as "Time Comp."

18 A. Probably.

19 MR. GALLON: Examiner Pirik, I'd like to
20 object at this point. One of the questions he asked
21 a couple questions ago was whether Jeff was familiar
22 with this program, and he testified that he's not
23 familiar with this program, he doesn't use the DIS
24 program, and he doesn't go into the offices. And now
25 Mr. Zets is asking him questions about how the

1 computer program takes in information that he enters
2 into his computer.

3 I think he's already established he has
4 no foundation to testify regarding the way this
5 program works and, therefore, I'd object to further
6 questioning about how this program works.

7 HEARING EXAMINER: I understand your
8 concern, but I'm not viewing this as the witness
9 being a computer expert. I'm viewing it as how he
10 fills out the form. So from the perspective that the
11 computer technology isn't correct, that's not what
12 it's being asserted for, so I'm going to overrule the
13 objection.

14 And if you get to the point where you
15 don't understand the computer technology, which I
16 totally understand, just say you don't understand it
17 and just explain what you do based on the questions
18 that he asks you. You don't have to go into computer
19 technology.

20 THE WITNESS: The only thing that really
21 scares me is he'll say a term, like if I do this, it
22 does this to this paper; I don't know that.

23 HEARING EXAMINER: Yes.

24 THE WITNESS: So if he would just say
25 "from your best recollection" or, I mean, every word

1 seems to be important here.

2 HEARING EXAMINER: That's a good
3 clarification for the record. Definitely we need to
4 keep that in mind when we are asking the questions.
5 It's more important --

6 THE WITNESS: Because when I hit the key,
7 I don't know what it does to this paper.

8 HEARING EXAMINER: Yes. Excellent point.
9 Good clarification.

10 Mr. Zets.

11 Q. (By Mr. Zets) Now, we talked a little bit
12 about the service remarks, and when you're on your
13 computer, you have the ability to type in remarks
14 with the job, correct?

15 A. Correct. We don't have to, no.

16 Q. You don't have to, but if you do, there's
17 a place for them, we've established that, right?

18 A. You would if -- yes, I guess.

19 Q. Now, on CCA 11, page 1, you can see in
20 the middle of the page it has service remarks, a spot
21 for that, correct?

22 A. Correct.

23 Q. All right. And under this particular job
24 site -- and we've established you were the service
25 technician on this job, correct?

1 A. From what this paper says, yes, that's my
2 ID.

3 Q. Okay. The service remark reads "Utility
4 room door needs to seal and self closing device
5 installed need to seal open on old make up air
6 vents/bring make up air from outside - 539." Do you
7 see where I'm at?

8 A. Yes.

9 Q. Let's start with the very last thing,
10 that "dash 539," that's your Columbia Gas number, if
11 you will, correct?

12 A. No. That's my radio number.

13 Q. That's your radio number.

14 A. Yes.

15 Q. Okay. And you put that dash 539 in your
16 radio number after you include a service remark
17 there.

18 A. Yeah. The dash -- that's just the end of
19 a sentence. Instead of a dot, you don't see dots
20 very good, so we put a dash. So the 539 is, if I was
21 to get on the radio and call somebody, I would say
22 "539" to somebody else because you don't use names; I
23 think that's against some kind of radio rule.

24 Q. Okay. For the service remark, then, that
25 you recorded at this particular location, and I guess

1 we're talking about 1847 Cardinal Trail Drive, that's
2 the address listed at the top, correct?

3 A. Yes, sir.

4 Q. All right. So for this service remark
5 that you made, what were you referencing when you
6 made that service remark, or why did you write
7 "Utility room door needs to seal" and the remainder
8 of that remark?

9 A. I mean, it would kind of be a speculation
10 because I just saw the date on this and this is back
11 in '06, and I would probably say, especially after
12 sitting in here yesterday, this is part of -- this
13 unit here probably has the furnace and the water
14 heater in utility room and is off the bathroom.

15 Q. So what you are referencing is what you
16 believe to be a violation of the National Fuel Gas
17 Code, correct?

18 A. Well, yes, if this is the one off the
19 bathroom, it would be.

20 Q. Okay. And given that this date of
21 execution was January 25th, 2006, it's fair to say
22 you were referencing the NFGC that was in effect on
23 January 25th, 2006, correct?

24 A. That is correct. And I can tell you
25 right now I'm not familiar with the addresses, the

1 date and the times. I go with the remark.

2 Q. Right. Well, that's why we have
3 documents, because you record it all and then three
4 years later you can go back and review what you did,
5 correct?

6 A. Well, if you're asking me to remember
7 this, no. I could read it off this paper, but -- I
8 mean, I wouldn't know if that's the address. The
9 date and the times and the address would be --

10 Q. Right. But you don't have any reason to
11 believe if you typed a service remark on this date,
12 that it would somehow change between January of
13 '06 and today, do you, or whenever this document was
14 produced to us?

15 A. Right. If this is what the company keeps
16 record of us on.

17 Q. Then that's what it is, right?

18 A. I'm assuming.

19 Q. Okay. When you were out there at this
20 location in January of 2006, did you take into
21 account the Ohio Mechanical Code when you drafted
22 this service remark?

23 A. No, sir.

24 Q. Just the National Fuel Gas Code in
25 existence on that day, correct?

1 A. Yes, sir.

2 Q. I'd like you to turn to page 3 of that
3 exhibit which is Bates stamped COH-30. Do you have
4 that in front of you?

5 A. Yes, sir.

6 Q. Okay. It's another execute order detail
7 with the execution date of March 29th, 2006. In
8 the middle it has operator ID, has your login,
9 J-P-R-A-C-H-A, correct?

10 A. No, it doesn't.

11 Q. Middle column says "Operator ID,
12 JPRACHA."

13 A. No. This says "Service Person Jeffrey L.
14 Prachar." This one over here says my user ID.

15 Q. Well, just continue reading where it says
16 "Jeffrey L. Prachar," where it says "Operator ID,"
17 what's the letters after the words "Operator ID"?

18 A. Oh, okay, I see the operator -- it's in a
19 different place on this paper. Okay.

20 Q. All right. So this order shows you
21 arrived at 10:07 and left at 10:32 on that particular
22 day, correct?

23 A. And I left at 10:32.

24 Q. Correct. Right?

25 A. Correct.

1 Q. The address was 5591 Red Carnation Drive,
2 correct?

3 A. What was that address again?

4 Q. 5591.

5 A. Yes, sir.

6 Q. And the service remark -- your service
7 remark begins with the words "No odor found,"
8 correct?

9 A. I would probably -- probably, yes.

10 Q. Okay. Could you read that for us,
11 please. And when I say "read it," if there's any
12 words that are shortened or something, read what they
13 really mean, please.

14 A. Okay. Now, this is an assumption that
15 this is mine, but "No odor found" --

16 Q. First of all, it wouldn't be anyone
17 else's if you were the operator who was out there at
18 the site, correct? You left the service remark after
19 you were there.

20 A. Well, there's a few reasons I don't think
21 this is mine, but "No odor found tiffed house
22 lines/gas came in window from turning gas on for unit
23 below."

24 Q. Why don't you believe that's yours
25 despite the fact that you logged in as operator ID on

1 this job?

2 A. And it's very possible this is mine. I'm
3 not saying that it's not mine, but I'm not saying I'm
4 positive it's mine.

5 Q. Okay.

6 A. There's no 539 behind it, and not that
7 that means anything either, but -- and I think I
8 might remember this if this is the back road in
9 Cameron Creek. If it's the back road and the far
10 left building, the lady above, if this would be the
11 top unit, I was turning gas on and her kitchen
12 windows was open. This could possibly be that.

13 Q. Okay. Do you believe -- do you remember
14 if you looked at the actual furnace when you were
15 there at this location?

16 A. I would have had to. Let me see. Didn't
17 you say there was an order type on this?

18 Q. I believe --

19 A. Yes. I would have looked at this one,
20 yes.

21 Q. Let's make sure. The order type on
22 CCA 11, page 3, is order type PR. That's priority
23 order, correct?

24 A. That is correct.

25 Q. So if it's a priority order, you would

1 have looked at the equipment at this location,
2 correct?

3 A. That is correct.

4 Q. Well, why didn't you note a violation of
5 the National Fuel Gas Code at this location as you
6 did with the previous one we looked at which was
7 CCA 11, page 1?

8 A. There would have been no reason for a
9 remark in this one. And I don't know -- I'm sure
10 there's something on this paper that tells somebody
11 if the gas was on or off when I left, and if the gas
12 was on here, I wouldn't have recorded any violations.

13 Q. I'm sorry. If the gas was on, you would
14 not have recorded a violation of the National Fuel
15 Gas Code?

16 A. Correct.

17 Q. Well, why is that? I mean, gas would be
18 flowing to the appliance, wouldn't it?

19 A. It wouldn't have -- our remarks are
20 mostly used to let another service tech know what's
21 going on when he comes back.

22 Q. Well, let's go back -- let's continue.
23 I'll go back to CCA 11, page 1. You left a remark
24 there that basically said this unit doesn't comply
25 with the National Fuel Gas Code, correct?

1 A. Yeah, and I'm sure there's something on
2 this paper that tells somebody that the gas is on or
3 off here. If there was a number -- this is where I
4 was telling you during the deposition, if I called
5 somebody, somebody could probably help me out.

6 Q. My question for you is why did you not
7 include a violation of the National Fuel Gas Code at
8 this location even though you just told us you went
9 in, it was a priority order, and you looked at the
10 equipment?

11 A. If the gas was left on here, there would
12 be no reason for me to leave a remark like that. We
13 use our remark page to let the next service tech
14 coming know what's going on, and our remark page
15 would be if we leave the gas off, another service
16 tech has to come to turn the gas on. So a lot of our
17 remarks are due to the gas is off, the public's not
18 allowed to turn their gas on themselves, so it's a
19 Columbia Gas person has to come and turn it on. And
20 then when he would show up on this CCA 11 No. 1, this
21 gas here was probably left off.

22 With these remarks, that would tell the
23 next service tech coming out that this was my
24 findings and before you turn the gas on, you need to
25 check to see if these repairs are made. That's kind

1 of what we use our remarks for is just to let the
2 next guy know what's going on.

3 Q. All right. So if you have to leave it so
4 the next guy knows what's going on, you should
5 include all the pertinent information, correct?

6 A. That would mean something to us, yes.
7 Like on CCA 11 No. 1, utility room door needs to be
8 sealed, self-closing device, all that information,
9 that would be what another service tech would want to
10 see when he come out.

11 On this one here, if this gas was left
12 on, which by reading these remarks, no odor found,
13 tiffed house lines, gas came in from window from
14 turning unit on below, this would mean that there's
15 no problem here as far as a gas leak. The gas was
16 probably on and I -- since my deposition I should
17 have went in the office and asked somebody how to
18 read this form, but I'm sure there's a number on here
19 or something that tells them if the gas is on or off.

20 Q. Okay. So if you leave the gas on at a
21 location, whether it complies with the National Fuel
22 Gas Code isn't a remark you would even put on the
23 sheet.

24 A. No, I wouldn't say that either. It
25 depends on the situation.

1 Q. We're going with gas on or gas off. You
2 just said "If I leave the gas on" -- correct me if
3 I'm wrong, but I think when you said you leave the
4 gas on, you don't put in your remark that it violates
5 the National Fuel Gas Code.

6 A. Well, during our deposition I told you we
7 can turn it on, and we do leave remarks if stuff is
8 unusual.

9 Q. All right. So a violation of the
10 National Fuel Gas Code on March 29th, 2006, would
11 not have been unusual, then, correct?

12 A. If you remember back, this is where we
13 used that term that somebody made a mess on the
14 floor. Remember that in my deposition?

15 Q. I'm not asking you about that, sir. I'm
16 just saying you said, "If it's unusual, I leave a
17 remark." So my question was for you, then, on March
18 29th, 2006, it was not unusual for you as to
19 whether or not this unit violated the National Fuel
20 Gas Code.

21 A. No. Those remarks wouldn't be on this
22 page.

23 Q. I'd like to turn your attention ahead a
24 few to page 9 of CCA 11, it's Bates stamped marked
25 COH-25. Do you have that there?

1 A. Yes, sir.

2 Q. That service address is 5587 Red
3 Carnation Drive. Client name Joy Heston. Correct?

4 A. That's what this paper says, yes.

5 Q. Again, this says the operator ID is
6 yourself, correct?

7 A. Yes, sir.

8 Q. Arrival time of 13:00 hours, right?

9 A. Yes, sir.

10 Q. Shows that you -- at least this indicates
11 that you left at 14:20, correct?

12 A. Yes, sir.

13 Q. Now, I believe -- well, let's take a
14 look. This service remark, I guess the first three
15 sentences are not your service remark, correct? That
16 came from someone at Columbia Gas who might have
17 been, you know, dispatching the job or putting
18 information in there; is that true?

19 A. Yeah, I would say that my remarks would
20 start above that "F1=HELP."

21 Q. Okay.

22 A. I can read it to you if you want.

23 Q. Would you, please, and I guess there are
24 a couple of -- can you explain to us any
25 abbreviations as you read through so we can

1 understand it.

2 A. Red tagged. "AWH" stands for automatic
3 water heater. The "and" symbol stands for "and."
4 The "GDF" is gas design furnace, for being installed
5 off a bathroom need to bring air in from the
6 outside -- now I'm on page 10 of this No. 11 -- bring
7 air in from the outside/self closing device on
8 door/weather tight seal around door/tenant's daughter
9 has CO in system per hospital/advise tenant and
10 maintenance -- advised tenant and maintenance/539. I
11 remember this lady.

12 Q. So your service remark there that you
13 just read, again, that's a reference to the National
14 Fuel Gas Code existing or in effect September 21st,
15 2007, correct?

16 A. That is correct.

17 Q. Did you check for CO at this location
18 when you were there that day?

19 A. Yes. This lady here's a school teacher.
20 She was a really nice lady.

21 Q. Did you check for CO that day?

22 A. Yes.

23 Q. What was the reading?

24 A. If this is the lady I'm thinking of,
25 which if she was the school teacher, I want to say it

1 was about 42 parts per million.

2 Q. Forty-two parts per million?

3 A. Forty-two parts per million.

4 Q. Where does that range in the level of --
5 I can sit inside and watch TV or I should get out
6 soon?

7 A. I really don't know, to be honest, off
8 the top of my head. There's a book. We got a book
9 that tells us those readings.

10 Q. Well, you're out there testing for CO,
11 right?

12 A. This lady here, her daughter had been
13 sick.

14 Q. No. No. My question is you were out
15 there testing for CO, correct?

16 A. Correct.

17 Q. So you get a reading. Do you have to go
18 reference the book and tell someone if it's safe or
19 not?

20 A. No. There's a number that I go with.

21 Q. What's your number?

22 A. I think anything over a hundred, I would
23 check my books and see what my books say.

24 Q. So if it's under a hundred, it's not a
25 concern to you?

1 A. I was in a building --

2 Q. No. My question for you is if it's under
3 a hundred, is that not a concern for you?

4 A. Oh, no. Any CO's a concern for me.

5 Q. Well, looking at the service order how do
6 you know that it really was 42 parts per million at
7 this location on this day?

8 A. Because I remember this lady. She was a
9 very nice lady.

10 Q. But my question is looking at the
11 remark -- well, let me ask you this, you didn't
12 record that in your service remark, did you?

13 A. No. A lot of times we don't put in a
14 number. It's the matter of fact that the equipment
15 puts it off or not. I don't know how young this
16 lady's daughter was, but I remember the one that went
17 to the hospital. The younger you are, the more CO
18 affects you.

19 Q. Did you know that Joy Heston was in a
20 rent dispute with Cameron Creek Apartments at this
21 time that this service remark was made?

22 MR. GALLON: Objection; foundation.

23 MR. ZETS: I just asked him if he knew
24 it. That is the foundation.

25 HEARING EXAMINER: Objection sustained.

1 A. At this particular --

2 HEARING EXAMINER: Objection sustained.

3 That means you don't have to answer it.

4 THE WITNESS: Oh, okay. That means I
5 don't answer it?

6 HEARING EXAMINER: You don't answer it.

7 Q. I'd like to pull you back, and I
8 apologize, actually back a couple of pages to page 7
9 which is Bates stamped COH-23. Do you have that
10 page?

11 A. Yes, sir.

12 Q. This is actually another service remark,
13 or another -- I'm sorry. Strike that.

14 Page 7 of CCA 11 is an execute order
15 detail, again, for the same address, 5587 Red
16 Carnation Drive, correct?

17 A. Yes.

18 Q. Again, Joy Heston's address.

19 A. Okay. Yes.

20 Q. The execution date on this one is one day
21 earlier than the one we just looked at as September
22 20th, 2007, correct?

23 A. The other one was page 9, wasn't it?

24 Q. Correct.

25 A. Yes, this would be the day before.

1 Q. All right. Now, this is not your
2 operator ID, correct? It's a Michael Hall.

3 A. Correct.

4 Q. All right. His service remark reads "No
5 CO reading at time of visit/AWH-GDF red tagged does
6 not meet code/equipment check okay." Is that what it
7 says?

8 A. I lost where you were at after "meet." I
9 don't have anything after "meet." Oh, on the next --
10 code. What was the last part of your sentence after
11 "meet"?

12 Q. Let me try it again. The service remark
13 left by Mr. Hall, which starts on page 7 which trails
14 to page 8 of Exhibit CCA 11, reads, "No CO reading at
15 time of visit/AWH-GDF red tagged does not meet
16 code/equipment check okay." Correct?

17 A. Yes, sir.

18 Q. Okay. Now, you were saying you put
19 information that's important so the next service tech
20 can go out, when he goes out, they can see that. So
21 you saw this service remark that Mr. Hall put down
22 when you were out there the very next day, correct?

23 MR. GALLON: Object.

24 A. No, I would not --

25 MR. GALLON: I'm sorry. I'd object to

1 the foundation to the extent that he's being asked to
2 testify to the authenticity of a DIS entry that
3 relates to an order that he didn't service, or to the
4 extent he's being asked to testify regarding what was
5 done by somebody else at Columbia without any
6 foundation he has any personal knowledge of
7 Mr. Hall's service call.

8 HEARING EXAMINER: I don't think that's
9 the question he's asking. I'm going to overrule the
10 objection.

11 I believe what he's asking is if you --

12 THE WITNESS: If I would see this.

13 Q. That's exactly --

14 A. And I wouldn't see it.

15 Q. You wouldn't see it.

16 A. No.

17 Q. All right. So is there any way for you
18 to see this service remark the day before?

19 A. You could probably call the office or
20 e-mail the office or something. No, this wouldn't
21 just appear.

22 Q. Would you normally, in the normal course
23 of your duties, would you do that if you were going
24 out to a location, call the office or e-mail the
25 office to determine what the last service remark was,

1 if any?

2 A. No, sir.

3 Q. So when you go back to Joy Heston's
4 address -- strike that. That was poorly worded.

5 When you go to Joy Heston's address on
6 the 21st of September 2007, you have no idea that
7 Mr. Hall was there the day before.

8 A. Well, I would just say the 5587 because I
9 don't really know Joy Heston, but I would not see the
10 remarks on page 7 from what I see on page 9. I would
11 not have those remarks.

12 The order -- I don't know if I should
13 talk or not.

14 HEARING EXAMINER: I would just wait for
15 a question.

16 Q. The attorneys would probably tell you no,
17 but I won't give you that advice.

18 Okay. Going back to page 10 which is the
19 second page of the service remark for September
20 21st, 2007, you have on there "Advise tenant."
21 What did you advise the tenant in this particular
22 situation?

23 A. I would have advised her that the --
24 red-tagged, the AWH & GDF are being installed off of
25 a bathroom needs to bring air in from the outside,

1 self-closing device on door, and weather-tight seal
2 around the door. And I don't know if I would advise,
3 I mean, it says there tenant's daughter has CO in her
4 system per hospital. I probably would have just
5 wrote that on there. I doubt -- she would have
6 already known that. But that's what I would have
7 advised her, that the equipment was installed not per
8 the National Fuel Gas Code.

9 Q. Okay. When you say "tenant's daughter
10 has CO in system," you didn't know that at the time,
11 did you?

12 A. I would have -- well, no, I wouldn't have
13 wrote it down if I wouldn't have known it.

14 Q. Okay. Because --

15 A. This would have been what she probably
16 would have told me. I'm not a doctor. I wouldn't
17 have tested her.

18 Q. I guess that's my question. You didn't
19 see any evidence, other than her telling you that, to
20 write that statement.

21 A. No. This unit had CO in it upon my
22 arrival, and this is going back to the page 9 that I
23 was called there for.

24 Q. But looking at the order today, almost
25 two years later, there's no way to tell what that

1 actual CO reading number was, correct?

2 A. Other than my memory, and it would have
3 been around 42 I do believe.

4 Q. All right. So what we have to go from
5 with respect to this DIS order is just whatever's in
6 your memory with respect to the CO level.

7 A. Yeah. I've had three high CO levels, and
8 I remember what all of them were.

9 Q. All right. Let's go forward to the next
10 page, page 11 of CCA 11 Bates stamped COH-5. Do you
11 have that one there in front of you?

12 A. I think so. Yes. I mean, I have that,
13 yes.

14 Q. The service address is 1900 Cardinal
15 Trail Drive, correct?

16 A. Correct.

17 Q. And again, you are the operator for this
18 particular service call, correct?

19 A. Correct.

20 Q. This has an SC order type. What's that?
21 Service call?

22 A. I would probably say service consult.

23 Q. Okay.

24 A. I'm not positive on that, but it says
25 under Service Remarks to meet with Jim Stainer -- Jim

1 Starner.

2 Q. Yeah, why don't you read for us the
3 service remark that you made on this particular day.
4 Well, let me break this up into two. Let me ask you
5 this, the first three sentences where it says "Please
6 meet with Jim Starner," that's not your service
7 remark, is it?

8 A. No, sir.

9 Q. That came from headquarters, if you will.
10 That came from Columbia Gas's main office. They
11 typed that into this system, correct?

12 A. Probably. This is what I would see on my
13 order.

14 Q. Right. When you get into your truck, you
15 would see the words "Please meet with Jim Starner,
16 JR/wants to know what needs done here and wants this
17 EXP to him and how to fix/CL and for ACC," and there
18 was apparently a telephone number there. You would
19 see that when you get into your truck.

20 A. Correct. All the way to "PA."

21 Q. And then your service remark begins with
22 The word "Meet with contractor"?

23 A. Mine says met, m-e-t.

24 Q. Actually, mine does too, I just misread
25 that. Thank you.

1 A. Okay. "Met with contractor to . . .
2 venting and ventilation repairs due to AWH and GDF
3 off of bathroom/539."

4 Q. So your service remark, at least with
5 respect to these documents, continues on to page 12
6 of CCA 11, correct?

7 A. Yes; I flipped the page.

8 Q. All right. So that's a fair
9 representation, you actually met with a contractor
10 out at Cameron Creek Apartments?

11 A. Well, yeah, we did meet with a
12 contractor. I don't know if that was the guy's name
13 off the top of my head, but --

14 Q. Okay. When you say "we," who met? You
15 and who else?

16 A. I had a trainee with me that day.

17 Q. And again, just when you're talking about
18 repairs due to AWH and GDF off of bathroom, you're
19 referring -- that's a reference to the National Fuel
20 Gas Code, correct?

21 A. I don't understand your question.

22 Q. I'm sorry, let me try that again. Your
23 service remark that indicates "to do venting and
24 ventilation repairs due to AWH and GDF off of
25 bathroom," that AWH and GDF off of bathroom is a

1 reference to the National Fuel Gas Code, correct?

2 A. Yeah. I think this is the guy I was
3 telling you about that was rude that wouldn't let me
4 take my National Fuel Gas Code book in when we were
5 doing that deposition.

6 Q. Do you keep a copy of the National Fuel
7 Gas Code with you in the truck?

8 A. Yes, sir.

9 Q. I assume you keep the most current copy
10 with you?

11 A. Yes, sir.

12 Q. Do you keep a copy of the Ohio Mechanical
13 Code in your truck?

14 A. No, I do not.

15 Q. Do you keep a copy of the Ohio Building
16 Code in your truck?

17 A. No, I do not.

18 Q. At the time this service call was made in
19 and around December 13th, 2007, you had come to the
20 conclusion that the Cameron Creek Apartments was a
21 sticky situation, didn't you?

22 A. I don't know the particular date. I know
23 we talked about that in my deposition, but I don't
24 have that with me.

25 Q. I'm saying -- I'm not saying you came to

1 that conclusion specifically on December 13th or
2 December 14th --

3 A. Oh, okay.

4 Q. -- I'm saying in and around December of
5 2007 you came to the conclusion that Cameron Creek
6 was a sticky situation, didn't you?

7 A. I would say that at a certain time I came
8 to a conclusion that things were getting sticky at
9 Cameron Creeks. I don't particularly know the date
10 or the year.

11 Q. In fact, the Cameron Creek maintenance
12 guys told you that it was getting out of hand, didn't
13 he?

14 A. And I do know in my deposition I changed
15 that and I sent the paperwork in. Did you get that?

16 Q. Well, I'm just asking you the question.
17 Did the --

18 A. I don't want to be -- I'm not going to
19 say what somebody said because I would be telling
20 what he said.

21 Q. If you could just -- I'm just asking you
22 did the Cameron Creek maintenance guy tell you that
23 this was getting out of hand?

24 A. I don't think we would use that term.
25 It's getting way above us is probably -- and that's

1 why I didn't want to quote somebody because I'm
2 saying what that person said. And I sent the papers
3 in that Eric had gave me to change that on my
4 deposition because I don't want to quote somebody if
5 I'm not positive what time it was and what he
6 actually said.

7 Q. Okay. Did the Cameron Creek maintenance
8 guy tell you something generally to the effect that
9 this was getting out of hand?

10 A. It was getting way above us, something
11 like that. There was something that had changed
12 there, we quit talking about it because it was above
13 us. It was going way above somebody that's just out
14 in the field working.

15 Q. Because you were being told from people
16 above to red tag these appliances because they didn't
17 comply with the current code?

18 A. No. It was just getting above us. There
19 was no argument between, Don is I think their head
20 maintenance guy over there, and me and him talk a lot
21 and we were like, you know, we just come to a
22 conclusion that if we want to stay friends, we're
23 just going to keep talking about fishing and stuff
24 like that.

25 Q. Right. I understand you were talking

1 about --

2 A. We just kind of got away from talking
3 about what's going on at his place and what Columbia
4 Gas is doing. I was doing my job. He was doing his
5 job. They were told they couldn't light the
6 equipment because it was -- I think it's a government
7 funded outfit and they couldn't prove that -- well, I
8 don't know.

9 This is where I'm going to get lost here,
10 but I don't know if they couldn't prove -- if we
11 red-tag something, they weren't going to light the
12 equipment because that would kind of put Don going
13 against something. So they called in a company to
14 light stuff. It was around that time. But we were
15 just like, okay, this is way above us, we'll go back
16 to talking about fishing and stuff like that.

17 Q. Right. You knew you had to red-tag it
18 because it violated the National Fuel Gas Code,
19 correct?

20 A. That's what I follow, yes.

21 Q. And you knew that Cameron Creek was
22 saying that doesn't really apply to us, this isn't a
23 violation, anything to do with our equipment,
24 correct?

25 A. They called in some company. They would

1 not light their own equipment. They called a company
2 in to light their equipment is what Don had told me.

3 Q. Let's forward to page 13 of CCA 11 which
4 has been stamped COH-29, I believe. It's an execute
5 order detail with an execution date of January 3rd,
6 2008. Do you see that?

7 A. January 3rd, 2008, yes, sir.

8 Q. Okay. The order type is CN. That stands
9 for connection, correct?

10 A. Connect order, yes.

11 Q. Connect order. So that means you're --
12 it means what it means, you're connecting the
13 appliances back up for service, correct?

14 A. That means that we're going to turn the
15 gas on if everything's okay.

16 Q. I didn't mean to insinuate the appliance
17 wasn't actually connected to the equipment, but a
18 connection means you're going to turn the gas on and
19 service it with gas.

20 A. After we do a lot of testing, yes.

21 Q. Okay.

22 A. The CN order means we're going to go out
23 there because a customer wants gas.

24 Q. All right. This particular service was
25 done by you, correct?

1 A. That's what this paper says. That's my
2 ID on it.

3 Q. And the arrival time is 10:57, correct?

4 A. Yes.

5 Q. Completion time a little under an hour,
6 11:38, right?

7 A. Yes, sir.

8 Q. The service remark that's yours, could
9 you read that for us?

10 A. It would probably start after the PA,
11 that middle line, and then it goes to the "Turned on
12 gas." "Turned on gas/red tagged equipment per Shawn
13 Boughner/539."

14 Q. All right. So at this particular
15 location you turned gas on, meaning you supplied gas
16 to the equipment, correct?

17 A. No.

18 Q. What's "turn gas on" mean?

19 A. It means we turned it on at the meter
20 valve.

21 Q. Okay.

22 A. Remember I was telling you about them
23 appliance valves.

24 Q. But you did not turn it on or supply gas
25 to the appliance.

1 A. If we red-tagged the equipment, then we
2 would not have supplied gas to it. We would not have
3 supplied gas to that if we red-tagged the equipment.
4 We would have supplied gas to that appliance valve.

5 Q. Where it says "Red tagged equipment per
6 Shawn Boughner," B-o-u-g-h-n-e-r, who was Shawn
7 Boughner?

8 A. He was my FOL at the time.

9 Q. What's "FOL" stand for? I'm sorry.

10 A. That's field operations leader.

11 Q. Okay. What did -- explain to us the
12 conversation you had between yourself and Shawn
13 Boughner with respect to this order and this site.

14 A. I really don't know for sure because this
15 is in '08, but something would have been going on
16 here at this time.

17 Q. Something like what?

18 A. Well, we never put red tag remarks that
19 often in remarks unless something's unusual. Cameron
20 Creeks went through like a court hearing or something
21 to where we kind of quit red-tagging and they got a
22 court thing to tell them that you're going to turn
23 the gas on, you're going to do this.

24 Q. Well, do you remember when that was?

25 A. Not really.

1 Q. That wasn't in January 2008, was it?

2 A. I really don't know what that date was.

3 I just know it's been going back and forth.

4 Q. Well, were you questioning whether or not
5 you should red-tag the equipment, is that why you
6 talked to Mr. Boughner?

7 A. No.

8 Q. But he told you to red-tag this piece of
9 equipment.

10 A. Not the piece of equipment. It's kind of
11 like the complex. Like I said, they kept going back
12 and forth and I don't know dates and times.

13 Q. Just correct me if I'm wrong, it says
14 "Red tagged equipment." That would lead one to
15 believe you red-tagged the equipment, correct?

16 A. Right. That's where I told you we turned
17 the gas on to the appliance valve.

18 Q. Right. And my question for you was
19 Mr. Boughner told you to red-tag the equipment on
20 this day at this location.

21 A. We would have been into the red-tagging
22 of the equipment at this particular time.

23 Q. My question --

24 A. We actually red-tagged and then we didn't
25 red-tag and then we red-tagged again.

1 Q. My question for you is Mr. Boughner told
2 you to red-tag this equipment on this day at this
3 time.

4 A. We were red-tagging Cameron Creeks at
5 this time.

6 Q. I understand. My question, if you don't
7 understand it, I'm trying to make it simple, your
8 service remark said "Red tagged equipment per Shawn
9 Boughner."

10 A. Correct.

11 Q. Which means Shawn Boughner told you to
12 red-tag this piece of equipment, correct?

13 A. Yeah. I mean, if you want to look at it
14 that way, you can. But what this is actually telling
15 me is this part of Cameron Creeks is into now --
16 we're red tagging the equipment again is what this
17 tells me.

18 Q. So you're saying Shawn Boughner told you
19 to red-tag all the equipment at Cameron Creek
20 Apartments.

21 A. Well, he's one of our bosses and, like I
22 said, we keep going back and forth with Cameron
23 Creeks. We were red-tagging, then we weren't
24 red-tagging, then it went -- they got some kind of a
25 court thing going on and we had to -- we went back

1 from not red-tagging them to red-tagging them.

2 Q. So in January of 2008 your instructions
3 were to red-tag gas appliances for violations of the
4 NFGC.

5 A. I would say this one here, yes. I don't
6 know about the dates or the times. I know that
7 Cameron Creeks was going back and forth.

8 Q. But it's fair to say, given the
9 information on this order, January 2008 Mr. Boughner
10 had told you to red-tag equipment at Cameron Creek
11 because of National Fuel Gas Code violations.

12 A. For this address this is how I would read
13 this.

14 Q. Now I'm trying to go back and forth. Is
15 it only for this address, or is it for the
16 apartment --

17 A. I really don't know because it's in '08.
18 But what I'm saying is they kept going back and forth
19 with -- when they got that court thing going on, we
20 went back a different way and we had to start like
21 we're not red-tagging the equipment, start lighting
22 it. So I don't know what all these dates and times
23 are. This has been going on for three, four, five
24 years.

25 Q. All right. Let's skip ahead to the next

1 exhibit which is page 14 of CCA 11 Bates stamped
2 COH-15.

3 A. Page 14 or 15?

4 Q. It's page 14 of the exhibit, it's Bates
5 stamped COH-15.

6 A. Okay.

7 Q. The address is 1919 Trillium Bend Drive,
8 correct?

9 A. Correct.

10 Q. All right. And the date that this was
11 executed is February 12th, 2008, correct?

12 A. Yes.

13 Q. All right. And you were the service
14 technician for this particular job, correct?

15 A. Yes, that's what this paper says.

16 Q. And according to this sheet, which I know
17 I'm not asking you how it all happens, but you press
18 F8, it times in, and you press another function key
19 and it times you out of a job, shows that you were on
20 this job for 11 minutes. Correct?

21 A. Yes.

22 Q. Could you read the service remark for us,
23 please.

24 A. Appliances in a bathroom setting need a
25 self-closing device on the door to be sealed --

1 self-closing device . . .

2 "Appliances in a bathroom setting need a
3 selfclosing" -- I'm assuming device, but it says
4 "DR" -- "and the DR to be sealed/also the room needs
5 ventilation air from outdoors/we are not ESTAB. gas
6 in this apartment complex till fixed."

7 Q. Do you think maybe when you wrote "DR" in
8 your service remark, that meant door? Self-closing
9 door and the door to be sealed.

10 A. I really don't know, to be honest. If
11 these are my remarks, I would say self-closing device
12 because a self-closing door isn't like a self-closing
13 device. And the door needs to be sealed is how I
14 would read that. I mean, that's how I would read it
15 because if I wrote this, this is what I would write.
16 The DR -- and the DR, I think this is the one you
17 showed me in the deposition, and I don't use "DR" for
18 an abbreviation of door so I don't really know for
19 sure.

20 But this would have come from a boss. If
21 it says gas in this apartment complex till fixed --
22 or we're not establishing gas in this apartment
23 complex till fixed, this would not have come from
24 somebody at my level.

25 Q. All right. Let's break them out.

1 Basically the first two lines of the service remark
2 are yours based upon the National Fuel Gas Code in
3 effect in February of 2008, correct?

4 A. Yes.

5 Q. Now, you did write in the service remark,
6 I'm just asking if you wrote it, "We are not
7 establishing gas in this apartment complex till
8 fixed." Correct?

9 A. I would assume I wrote it. Like I said,
10 I'm not familiar with this program, but I would
11 assume that I wrote that.

12 Q. Okay.

13 A. I also don't write "DR" as door or "DR"
14 as device, so that's why I don't know if this one was
15 mine. I never used -- I've never used "DR" as an
16 abbreviation, so that's where I was kind of, like
17 during the deposition I told you this, I was kind of
18 lost on this one because I didn't -- I never used
19 "DR."

20 Q. Well, who else would write a service
21 remark in after you were at a job site?

22 A. I really don't know. It could have been
23 anybody in the office or anything. I don't know who
24 prints this out.

25 Q. Well, we've already established that if

1 someone else would have wrote all this in here, you
2 wouldn't have seen it before you got to the job,
3 correct? Because you don't see them.

4 A. No; you're on two different kind of
5 remarks. We have remarks to send somebody out, and
6 we have remarks that we would put into.

7 Q. Okay. Fair enough. The remarks to send
8 somebody out, you see that because you have to know
9 information about the job you're going to. You would
10 see that.

11 A. That's where we would see, like on some
12 of these back here in the back where you have that
13 long line that says -- I forget which one it was.

14 Q. I understand what you're talking about.

15 A. In No. 2 it says "Per Vera odor of gas."
16 That wouldn't have come from me.

17 Q. Okay. Now, with respect to the "We're
18 not establishing gas in this apartment complex,"
19 you're saying that wasn't your call to make at your
20 level, correct?

21 A. Something like that would never come from
22 a service tech's level.

23 Q. Okay. Did that come from Owen Garrett?

24 A. To be honest, I wouldn't think something
25 like that would come from his level. I really don't

1 know. And that's, like I said, this is that one that
2 you showed me at the deposition with the DRs in it.
3 I'm not positive this is me, but that operator ID
4 says me.

5 Q. Did you have any conversations with Owen
6 Garrett with respect to the red-tagging of these
7 appliances with respect to the National Fuel Gas
8 Code?

9 A. I don't quite understand that question.

10 Q. Did you talk to -- let's establish this,
11 who is Owen Garrett?

12 A. He is one of my bosses.

13 Q. What position does he hold?

14 A. He's that FOL.

15 Q. Owen Garrett is your FOL.

16 A. Right now.

17 Q. Was he your FOL at the beginning of
18 January of 2008?

19 A. I really don't -- that was around the
20 time I was getting a new FOL so I don't know if Owen
21 would have been my FOL at this time or if it would
22 have been another guy.

23 Q. All right. Regardless of when Owen
24 Garrett was your FOL, did you have conversations with
25 Mr. Garrett about the red-tagging of gas appliances

1 at Cameron Creek Apartments?

2 A. Over a period of the time that Owen
3 Garrett's been my boss, yes, we have talked about
4 red-tags at Cameron Creeks. And that's to the best
5 of my knowledge because Owen was also a coworker of
6 mine at Cameron Creeks.

7 Q. And at least at some point in time Owen
8 Garrett told you that this had been going on too long
9 and that Columbia Gas needed to fix the problem.
10 Correct?

11 A. No. I don't recall him saying that.

12 Q. Owen Garrett never told you that?

13 A. The words you used, could you rephrase
14 them again, or could you say those words again?

15 Q. Owen Garrett's comment to you was that
16 this had been going on so long and that we, being
17 Columbia Gas, need to fix this problem.

18 A. Well, the way I look at what you're
19 saying is like we're going to fix the problem with
20 the utility rooms. Is that --

21 Q. I'm just asking you if Owen Garrett made
22 that comment to you.

23 A. We needed to take care of --

24 Q. My question is did Owen Garrett make that
25 comment to you?

1 A. I don't know if it's those exact words,
2 and I know that every word means something here, but
3 Owen and I had talked about this has been going on
4 for a long time because it had been going on like
5 four or five years, and we were -- we needed to come
6 up with a conclusion before Columbia Gas started
7 getting in trouble.

8 Normally Columbia Gas will only red-tag
9 equipment for a certain period of time and then we
10 feel we're negligent in our job if we keep
11 establishing gas to a piece of equipment that's never
12 been fixed per the National Fuel Gas Code.

13 Q. I'd like to turn your attention to the
14 next exhibit.

15 A. Which would be No. 15?

16 Q. No, I mean the whole next exhibit.

17 MR. ZETS: I'm sorry, it's not an exhibit
18 yet. I apologize. My bad. I'd like to ask that the
19 document behind tab 12 be marked as CCA Exhibit 12.

20 HEARING EXAMINER: The document is
21 marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 HEARING EXAMINER: We'll go off the
24 record.

25 (Discussion off the record.)

1 HEARING EXAMINER: We'll go back on the
2 record. Mr. Zets.

3 Q. Mr. Prachar, before we move forward to
4 Exhibit CCA 12 I'd like to go back just briefly to
5 the Exhibit marked CCA 11. I know we talked about
6 several of these pages in particular and in detail.
7 What I'd like to do is just walk you quickly through
8 the pages to make sure you can identify them as a
9 order or a job where you were actually the
10 serviceperson and identify that that, in fact, is an
11 address at Cameron Creek Apartments.

12 I'll submit to you that it is, but I want
13 to actually ask you page by page to make sure that
14 that is correct. So if we could just --

15 A. Could I answer one thing to that, because
16 that's where you get me lost. This paper says I was
17 the service tech there. I'm not familiar with this
18 program, and one of the papers had my name on it and
19 I don't recall ever using some of the abbreviations
20 in the remarks, so I really -- I'm nervous there.

21 Q. Okay. Where it says "DR" and you don't
22 believe you ever used the abbreviation "DR" for door.

23 A. Right. That was on one of these papers
24 in this CCA 11.

25 Q. Okay.

1 A. So I can tell you if I think that's an
2 address at this place, and I can tell you if this
3 paper has my name on it.

4 Q. Right. Okay.

5 A. But I'm not going to swear that I wrote
6 the remarks on it because I don't know for sure how
7 this program works to where -- what they're picking
8 up of mine.

9 Q. Well, if the remark is ended by "slash
10 539," that's your radio ID, correct?

11 A. 539 is my radio ID. And like I told you,
12 some guys -- 539 means nothing to this order.

13 Q. But yes it does, doesn't it? It means
14 that you wrote -- you write "539" after your service
15 remark, don't you?

16 A. And I do use it, and I have seen other
17 guys use it.

18 Q. Who else uses your radio ID number?

19 A. Some of my trainees have used it as a
20 joke.

21 Q. Why would they use your number as a joke?

22 A. So somebody will call me and ask me about
23 a job. But more than likely -- like I said during
24 the deposition, it only happened a few times and I'm
25 like, "Hey, don't do that, dude. It gets people

1 calling me and I don't want to talk to them." And
2 that's where . . .

3 Q. Do you recall that ever happening at
4 Cameron Creek Apartments?

5 A. I don't know about Cameron Creek.

6 Q. Okay.

7 A. I don't know what job we were at.

8 Q. That's what I'm focused on. You don't
9 believe one of your other people as a joke used your
10 radio number at Cameron Creek Apartments, correct?

11 A. I don't know where it was at. But I'll
12 guarantee you if I can identify the address and the
13 paper says it's my name, I'll go that route.

14 Q. Okay. That's fair.

15 A. I do know that.

16 Q. Well, we'll go in order regardless of if
17 we talked about them before. Page 1 of CCA 11, the
18 address is 1847 Cardinal Trail Drive. That's in
19 Cameron Creek, correct?

20 A. To the best of my knowledge, that would
21 be -- let me find the city on this real quick. I'm
22 assuming everything you have is from Cameron Creek,
23 but do you see where a city code is?

24 Q. It says "Galloway, Ohio."

25 A. Okay. I would say that's Cameron Creek

1 and I'm the serviceperson.

2 Q. Okay. The next page of Exhibit CCA 11,
3 page 2, the address is 1151 Trillium Bend Drive,
4 Galloway, correct?

5 A. No, sir.

6 HEARING EXAMINER: It's 1951.

7 MR. ZETS: 1951.

8 HEARING EXAMINER: You said "1151."

9 Q. I'll be honest with you, actually I do
10 have difficulty with numbers, so I do apologize for
11 that. 1951 Trillium Bend Drive, Galloway, Ohio,
12 correct?

13 A. Yes.

14 Q. Okay. It has the serviceperson as
15 yourself, correct?

16 A. Correct.

17 Q. Page 3 of Exhibit CCA 11, address is 5591
18 Red Carnation Drive, Galloway, Ohio, correct?

19 A. Yes.

20 Q. And, again, the serviceperson operator ID
21 is yourself, correct?

22 A. Correct.

23 Q. Page 4, address 1845 Trillium Bend Drive,
24 Galloway, Ohio. That's in the Cameron Creek
25 apartment complex, correct?

1 A. Correct.

2 Q. Serviceperson and operator ID are
3 yourself, correct?

4 A. Correct.

5 Q. Page 5 of Exhibit CCA 11, the address is
6 1179 Cardinal Trail Drive, Galloway, Ohio. That is
7 in Cameron Creek Apartments, correct?

8 A. No, sir. My 5 doesn't say 11 again. It
9 says "1979."

10 Q. Wow. I apologize. 1979 Cardinal Trail
11 Drive, Galloway, Ohio, correct?

12 A. Yes.

13 Q. And that is in Cameron Creek Apartments,
14 correct?

15 A. To the best of my knowledge it would be,
16 yes.

17 Q. And this execute order identifies you as
18 the operator, correct?

19 A. The serviceperson is me.

20 Q. Okay.

21 A. It says on this paper.

22 Q. And at the end of the service remarks it
23 says "slash 539" so that's your radio ID.

24 A. 539 is my radio ID.

25 Q. Okay.

1 A. But I didn't put it on this piece of
2 paper.

3 Q. But you put it in the computer when you
4 made the service remark.

5 A. I use that a lot, yes. Let me see what
6 this one says.

7 Q. Page 6 of the exhibit, the address is
8 1847 Cardinal Trail Drive, Galloway, Ohio, correct?

9 A. Correct.

10 Q. That is in Cameron Creek Apartments,
11 correct?

12 A. To the best of my knowledge, yes.

13 Q. The serviceperson operator ID is
14 yourself, correct?

15 A. Correct.

16 Q. The next page, page 7 of CCA Exhibit 11,
17 the address is 5587 Red Carnation Drive, Galloway,
18 Ohio. Again, inside Cameron Creek Apartments,
19 correct?

20 A. I would assume, yes.

21 Q. And this is one we actually talked about
22 because it had your -- well, you are --

23 A. I'm not the serviceperson on this one.

24 Q. Right, you are not the serviceperson on
25 this particular document. This was the Joy Heston

1 one we had talked about earlier.

2 A. Correct.

3 Q. Skipping ahead two pages to page 9 of CCA
4 Exhibit 11, we talked about this before, this is 5587
5 Red Carnation Drive, correct?

6 A. Correct.

7 Q. And we have established you were the
8 serviceperson for this particular job at this
9 particular location, correct?

10 A. This paper does say I am, yes.

11 Q. The next page, the address is 1900
12 Cardinal Trail Drive, Galloway, Ohio, correct?

13 A. Yes.

14 Q. And we talked about this one before. You
15 were the serviceperson for this particular job at
16 this particular location, correct?

17 A. Yes. It says I'm the person and I did
18 meet with somebody out there. I don't recall the
19 address or the date or anything like that.

20 Q. Turning ahead a couple of pages to page
21 13 of Exhibit CCA 11, the address is 5587 Red
22 Carnation Drive, and that is in Cameron Creek
23 Apartments, correct?

24 A. In Galloway, yes.

25 Q. In Galloway.

1 A. I think it is.

2 Q. This exhibit shows that you were the
3 operator for this particular job, correct?

4 A. Correct.

5 Q. In fact, that has your service number,
6 539, at the end of the service remark. We talked
7 about this exhibit, correct?

8 A. Correct.

9 Q. Next page, page 14 of Exhibit CCA 11,
10 address is 1919 Trillium Bend Drive, Galloway, Ohio,
11 correct?

12 A. Yes.

13 Q. That is in the Cameron Creek apartment
14 complex, correct?

15 A. Correct.

16 Q. You were the operator/service technician
17 who went out for this particular job at this
18 particular location and time, correct?

19 A. This paper says I am, yes.

20 Q. Next page is page 15, the address 1961
21 Red Forest Lane, Galloway, Ohio, correct?

22 A. Yes.

23 Q. And that is inside the Cameron Creek
24 apartment complex, correct?

25 A. Do you know if that's that middle road.

1 Is that the address -- or, that middle road in there?

2 I'm pretty sure that's the --

3 Q. Normally I ask the questions, but I'll
4 answer that one; I don't know. But to the best of
5 your knowledge, is Red Forest Lane inside Cameron
6 Creek Apartments?

7 A. I think so. I think that's the middle
8 road. I'm not positive on that one. I think --
9 there's a Red Carnation in there. Red Forest Lane
10 might be in there. I'm pretty sure it is. You
11 wouldn't have any other addresses than Cameron Creek
12 probably, so --

13 Q. Okay. And this particular DIS order
14 shows that you were the serviceperson for this
15 particular location or this job at this location,
16 correct?

17 A. It says on this paper.

18 Q. Okay. Page 16 of Exhibit CCA 11 is the
19 same address, 1961 Red Forest Lane, but the date on
20 this one is February 8th, 2008, correct?

21 A. For the date completion?

22 Q. The date -- yeah. The date executed,
23 February 8th, 2008, correct?

24 A. Correct.

25 Q. Okay. And it indicates you were the

1 operator/serviceperson who was at this particular
2 location, correct?

3 A. Yes.

4 Q. Turning ahead two pages in Exhibit CCA 11
5 to page 16, the address is 1941 Red Forest Lane.
6 Again, that's in Cameron Creek, correct?

7 A. I'm assuming it is, yeah, 'cause I think
8 I remember this order. We talked about this one in
9 the deposition. So I'm pretty sure that Red Forest
10 Lane is that middle road.

11 Q. Okay. I'm sorry, I think you said you --
12 you acknowledged you were the operator ID, you were
13 the operator/serviceperson for this particular job
14 which is on page 18 of CCA 11.

15 A. Page 18? I was saying -- that was for 16
16 when I said I think I remember this job.

17 Q. Oh.

18 A. The six-inch pipe doesn't supply.

19 Q. Okay.

20 A. You got it underlined on this one here.

21 Q. Okay. We'll fast forward two pages to
22 page 18 of CCA 11, 1941 Red Forest Lane.

23 A. Correct.

24 Q. You were the serviceperson for this
25 particular job at this particular location and time,

1 correct?

2 A. It says I'm the serviceperson, correct,
3 on this paper.

4 Q. All right. Trying to move as quick as I
5 can. The next page is 1961 Red Forest Lane, again,
6 inside Cameron Creek, correct?

7 A. Yes.

8 Q. Service order shows that you were the
9 serviceperson for this particular job at this
10 particular location, correct?

11 A. Correct.

12 Q. Next page, page 20 of CCA 11, 1913
13 Cardinal Trail Drive, correct?

14 A. Correct.

15 Q. Inside Cameron Creek, correct?

16 A. Correct.

17 Q. You were the serviceperson listed for
18 this particular job at this time and location,
19 correct?

20 A. Correct.

21 Q. Last, but certainly not least, page 21
22 which is 1855 Cardinal Trail Drive, Galloway, Ohio,
23 inside the Cameron Creek apartment complex, correct?

24 A. Correct.

25 Q. Identifies you as a serviceperson who

1 performed -- strike that.

2 The execute order on page 21 indicates
3 you were the serviceperson for this particular job,
4 correct?

5 A. Correct.

6 Q. Thank you.

7 Now turning back to the exhibit that has
8 been marked CCA 12, looking at page 1 of CCA 12, this
9 is what we've been referring to as a red tag,
10 correct?

11 A. This looks -- this is a copy of what I
12 would say we're referring to as a red tag. This is
13 the back of it at the top of the page, and this might
14 have been the front, but there's a lot of writing
15 blocked out on the front of the tag. I mean, the tag
16 shape's kind of like that.

17 Q. Right. The bottom --

18 A. But there's a bunch of writing on it.

19 Q. The bottom half of CCA 12 is a black and
20 white copy of the front of a red tag, correct?

21 A. No. Not really. There's writing on it,
22 and I don't see any writing on mine for that exam
23 number 1 -- page number 1. Our red tags aren't blank
24 like that, I don't think. I'm positive there's --

25 Q. Well, okay --

1 A. Yeah, there is writing on the front of
2 our red tags, but maybe your copier didn't pick it
3 up.

4 Q. That's what I'm saying, maybe the copy is
5 not -- as we skip through these you'll be able to see
6 maybe better. That's probably just a function of the
7 copying. If you look on page 2 of CCA 12, you can
8 start to make out, it says "Warning." That's what
9 you were referring to, there's actual wording on the
10 front page of the red tag?

11 A. Can I see yours? I don't see anything on
12 mine.

13 THE WITNESS: Do you?

14 HEARING EXAMINER: You can just barely
15 make something out.

16 THE WITNESS: Here's mine. You said page
17 2?

18 MR. ZETS: Permission to approach.

19 HEARING EXAMINER: We'll go off the
20 record.

21 (Discussion off the record.)

22 HEARING EXAMINER: Go back on the record.

23 Mr. Zets, do you want to explain exactly
24 what we're doing here.

25 MR. ZETS: Yes. Before we took the brief

1 moment off the record we were looking at what had
2 been marked CCA Exhibit 12. The copies that I
3 distributed to everyone, the actual red portion of
4 the red tag is not legible on many of the copies, so
5 what I'd like to do is to refer the witness to, we'll
6 start with what has been previously marked and
7 admitted into evidence as Exhibit 3C to Mr. Schutz's
8 testimony.

9 I promise I will try not to hover,
10 Mr. Prachar. If you can take a look at that Exhibit
11 3C.

12 HEARING EXAMINER: So it's CCA Exhibit
13 39, Exhibit RJS-3C.

14 MR. STEMM: B, as in boy.

15 HEARING EXAMINER: 3B, page 3C. I just
16 need that noted for the record.

17 THE WITNESS: If he hands this to me,
18 that's good.

19 HEARING EXAMINER: That's fine.

20 (Discussion off the record.)

21 HEARING EXAMINER: We'll go back on the
22 record.

23 Q. (By Mr. Zets) I've handed you the Exhibit
24 page marked 3C. Could you identify that for me,
25 please?

1 A. It looks to be one of Columbia Gas's red
2 tags.

3 Q. Okay. Again, could you explain to us
4 when -- well, are you familiar with the red tags?

5 A. Yes.

6 Q. You're familiar with the red-tag policy,
7 I assume.

8 A. Yes.

9 Q. Because you have to implement the policy
10 in order to hang the red tags, correct?

11 A. Yes.

12 Q. Okay. Can you explain to us when you
13 would leave -- when I say a "red tag," the top of
14 page 3C is in black and white, but if it's an
15 original one, or if it's one before you filled it
16 out, that actual top portion is red, correct?

17 A. Right. If I could see that number right
18 there, it would tell me if it's a Columbia Gas red
19 tag. We got forms for all our red tags, but --

20 Q. Well, what's been shown to you as Exhibit
21 3C --

22 A. Yeah. I would say this is a red tag from
23 Columbia Gas, correct. If that's what --

24 Q. That's what I'm asking.

25 A. Yes, this is a red tag, and I would say

1 from Columbia Gas.

2 Q. And they refer to it as red tag because
3 the actual tag, front of the tag is red.

4 A. Right. But I'm not going to swear to it
5 because of that number. I know all these numbers
6 mean something to you guys, but there is a form
7 number that we put on a red tag. I would say this is
8 a Columbia Gas red tag, though, if that . . .

9 Q. When do you -- let's see. Let's take a
10 look at the bottom of page 3C.

11 A. It says "Columbia Gas of Ohio."

12 Q. Okay. In the bottom portion there
13 there's boxes I assume you can check off depending on
14 what the situation warrants, correct?

15 A. One through 11, yes. Is that the boxes?

16 Q. Correct, 1 through 11.

17 A. Yes.

18 Q. And then there's a space for the address,
19 correct?

20 A. Yes.

21 Q. There's a space for remarks, correct?

22 A. Correct.

23 Q. And that space for remarks is where you
24 could handwrite something on the red tag; is that
25 true?

1 A. That is correct.

2 Q. So if you had any type of remarks with
3 respect to the appliance, you could leave those
4 there, correct?

5 A. Correct.

6 Q. Now, are those the same remarks you leave
7 in the service remark area when you're typing it into
8 your computer?

9 A. No, sir.

10 Q. Which remarks are left on the red tag?

11 A. The remarks dealing with that piece of
12 equipment.

13 Q. Would you indicate whether you believe
14 the appliance violated the National Fuel Gas Code;
15 would you leave that remark on the red tag?

16 A. Not in those terms, but we would --
17 anything that it takes to repair that piece of
18 equipment or what's wrong with it we leave on the red
19 tag.

20 Q. Okay. So you may leave something to the
21 effect of: Need to have a weather-tight seal around
22 door and a self-closing door device on it, bring
23 makeup air in from outside, check National Fuel Gas
24 Code book for installation.

25 Let me show you what's been marked --

1 A. Proper installation, something like that
2 you would leave on a red tag, that's correct.

3 Q. Let me show you what's been marked 7C
4 from that same exhibit. Can you identify -- let me
5 ask you that, does that look like your handwriting at
6 the bottom of that exhibit on the red tag?

7 A. Not the 7C, though, right? Just the red
8 tag itself.

9 Q. Right. The "7C" is not your writing.
10 The information contained in the Remarks section --

11 A. I would say that looks like my
12 handwriting, yes.

13 Q. Okay. And could you just read for us
14 what that service remark says? I'm sorry, that
15 remark.

16 A. "Need to have weather tight seal around
17 door and a self closing device on it. Bring make up
18 air in from outside. Check National Fuel Gas Code
19 book for installation."

20 Q. Okay. What's the date on that red tag?

21 A. 9/24/07.

22 Q. So you indicated actually what needed to
23 be fixed, in your opinion on that particular
24 situation, 7C, and you also then reference the
25 National Fuel Gas Code, correct?

1 A. This would have been our findings out of
2 the National Fuel Gas Code.

3 Q. I'd like to hand you what's been
4 previously marked, identified, and entered into
5 evidence as page 23C from that exhibit, it's another
6 red tag, correct?

7 A. Yes.

8 Q. And that's your handwriting in the
9 Remarks section of that red tag?

10 A. I would say yes.

11 Q. Could you read us the remark you left
12 at -- well, what's the date on that red tag?

13 A. 10/30 of '07.

14 Q. Could you read us the remark, please?

15 A. "Check National Fuel Gas Code book for
16 proper installation of equipment off of a bath room."

17 Q. Do you ever leave -- well, strike that.

18 If you were at a location and you
19 performed a CO test on a unit, would you leave that
20 information in the Remarks section on the red tag?

21 A. That we did a CO test?

22 Q. Yes.

23 A. No.

24 Q. Would you leave the results of a CO test
25 on the Remarks section of a red tag?

1 A. Yes.

2 Q. So if we were to look through all the red
3 tags that had been produced as part of this case, if
4 there are no readings, whatever it is, 2 PPM, 42 PPM,
5 if there's no reading it's fair to say, then, you did
6 not do a CO test at that particular location when you
7 hung a red tag.

8 A. I don't know quite what you're asking
9 there.

10 Q. Okay.

11 A. If there's --

12 Q. Say you're at a location and you do a CO
13 test, okay?

14 A. Yes.

15 Q. Do you note on the Remarks section of a
16 red tag that you performed the test? Like "Took CO
17 reading at apartment"?

18 A. If we found no CO, we wouldn't leave a
19 red tag in the senses of a CO test. Is that what
20 you're saying?

21 Q. If you did a reading and you found CO,
22 would you put that on a red tag?

23 A. We would list that this unit's putting
24 off CO, yes.

25 Q. But not necessarily the amount.

1 A. Well, sometimes you can throw the amount
2 in there.

3 Q. Sometimes you throw the amount in,
4 sometimes you don't?

5 A. Yeah. You showed me them tags when we
6 did our deposition.

7 MR. ZETS: Could I have one second,
8 please?

9 HEARING EXAMINER: Yes.

10 MR. ZETS: No further questions at this
11 time.

12 HEARING EXAMINER: Mr. Gallon.

13 MR. GALLON: Thank you, Examiner Pirik.

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Gallon:

17 Q. Mr. Prachar, how are you doing this
18 morning?

19 A. Okay.

20 Q. I just have a few follow-up questions I
21 wanted to ask you to clarify some of the testimony
22 that was provided this morning under questioning of
23 Mr. Zets.

24 Would you turn back to the exhibit that
25 has been marked as CCA 11. Do you have it in front

1 of you?

2 A. Yes, sir.

3 Q. Mr. Zets described this as a compilation
4 of DIS orders or DIS entries, correct?

5 A. Yes.

6 Q. Do you use a DIS program in your job?

7 A. I don't think so, no.

8 Q. Have you ever used the DIS program in
9 your time at Columbia Gas?

10 A. Not that I ever recall, no.

11 Q. Putting aside the name that we gave it,
12 if you look at the first page of CCA 11, is this a
13 form that you fill out when you do service calls?

14 A. No, sir.

15 Q. This is not a form that you fill out when
16 you do service calls.

17 A. No, sir.

18 Q. And I think under questioning from
19 Mr. Zets you said that you have a computer in your
20 truck or your van, correct?

21 A. Correct.

22 Q. And do you input information into that
23 computer?

24 A. Yes.

25 Q. You input information regarding your

1 service calls, correct?

2 A. The orders that I get, yes.

3 Q. Do you know whether the information you
4 input in your computer goes into the DIS forms that
5 are -- examples of which were put before you as CCA
6 Exhibit 11?

7 A. No; I'm not positive where it goes.

8 Q. So do you know whether any of the
9 information in CCA 11 is information that you input
10 into your computer in your truck?

11 A. Well, I'm not familiar with this. I'm
12 not familiar with this paper as far as that goes, but
13 it has my name on it. Is that what you're asking?

14 Q. Yes. Thank you.

15 To get back to the computer that you keep
16 in your truck, what happens -- has that computer ever
17 gone down by which I mean has it ever crashed or been
18 unworkable?

19 A. Oh, yeah.

20 Q. What do you do when the computer in your
21 truck isn't working? How do you log service call
22 information?

23 A. It kind of varies. Sometimes we go to
24 hard copies and sometimes, if they have a loaner
25 computer, we can get a loaner computer.

1 Q. While we're on this exhibit, if you would
2 please turn to the page that Mr. Zets and the rest of
3 us have numbered as page 14.

4 A. Okay.

5 Q. Do you recall being asked some questions
6 about the service remarks on this DIS entry?

7 A. I don't know if this was the particular
8 form he asked about 'cause I'm kind of nervous, but I
9 remember him asking about remarks about stuff like
10 this, yes.

11 Q. Well, looking at the DIS entry that's on
12 page 14, if you would look at the bottom of the form
13 under Service Remarks, you see the words "till fixed"
14 under those remarks?

15 A. Oh, yes.

16 Q. Now, is your radio code anywhere in the
17 service remarks on this sheet?

18 A. I do not see it. No.

19 Q. Was it your practice in February of 2008
20 to include your radio code in service remarks?

21 A. I would assume, yes.

22 Q. If we could turn to Exhibit 12 now.
23 You've identified the portions of Exhibit -- I
24 apologize, we didn't use Exhibit 12, we used an
25 exhibit from Mr. Schutz's testimony. Do you still

1 have that in front of you?

2 A. No, I don't.

3 Q. Do you recall that we were looking at red
4 tags? Do you remember that?

5 A. Yes.

6 Q. And you identified these as -- what did
7 you say a red tag was? I won't put words in your
8 mouth.

9 A. It's a thing that Columbia Gas used if we
10 leave an appliance valve off, we put the information
11 on that of what's wrong with it.

12 Q. How many red tags would you say you put
13 on appliances in an average day?

14 A. Quite a few. Fifteen to 30 maybe. It
15 all depends on what area of my -- what area I'm
16 working. You get some older areas and you end up
17 with using a lot more red tags.

18 Q. Could you say in an average month how
19 many red tags you put on appliances?

20 A. I mean, I don't know about a number. A
21 couple of packs I'd say. I don't know how many's in
22 a pack though; they're about that thick.

23 Q. You recall that you were asked some
24 questions by Mr. Zets regarding CO tests?

25 A. Yes.

1 Q. And you were asked whether you leave the
2 results of the CO test on a red tag --

3 A. Correct.

4 Q. -- is that correct? And what was your
5 answer to that question, if you recall?

6 A. Well, I recall seeing his red tags from
7 the deposition and on one of my red tags, I'm
8 assuming it was mine, was I put a number on that, but
9 normally all we do is put "Equipment is putting off
10 CO." And I think the way he was going, I had a
11 number on one of them, he kept asking me about that.

12 Q. If you are performing a service call at a
13 residence and you find a violation of the National
14 Fuel Gas Code, is that the kind of thing you would
15 red-tag for?

16 A. Would CO be or --

17 Q. No. No. Let me be more specific. If
18 you're at a residence and you find a violation of the
19 National Fuel Gas Code, is that violation of the
20 National Fuel Gas Code something you would typically
21 red-tag for?

22 A. Oh, yes.

23 Q. Now, let's say you were at a residence --
24 I'll back up a step.

25 Would you note the violation of the

1 National Fuel Gas Code on the red tag that you left?

2 A. We put what's wrong with it on the red
3 tag.

4 Q. But you wouldn't necessarily use the
5 words "National Fuel Gas Code"; is that what you're
6 saying?

7 A. No. Not all the time.

8 Q. Let's say you're at a residence
9 performing a service call and you find both a
10 violation of the National Fuel Gas Code and a CO
11 reading. In that instance would you note both the
12 violation of the National Fuel Gas Code and the CO
13 reading on the red tag?

14 A. We would list -- if it was putting off
15 CO, we would list that, but not necessarily, I mean
16 once a piece of equipment is putting off CO, that
17 equipment's been condemned as far as we're concerned;
18 it's red tagged. So as far as like a whole bunch of
19 violations, I don't know about that.

20 I mean, I found CO on a water heater
21 before and I've just put, you know, red-tagged or,
22 yeah, the thing is a red tag. We would put on there:
23 Water heater putting off CO. Needs to be checked by
24 a proper, you know, trained person or whatever,
25 'cause there's numerous things why it could be

1 putting off CO, so we don't list, you know --
2 everything for us is a guess as why it's putting it
3 off kind of I guess. We don't always -- I don't
4 always put that it's in violation of the National
5 Fuel Gas Code on all my red tags.

6 Q. I believe you testified earlier today,
7 and please correct me if I'm wrong, that you had on
8 at least one visit to Cameron Creek obtained a CO
9 reading of approximately 42 parts per million.

10 A. That is correct.

11 Q. You've done carbon -- have you done other
12 carbon monoxide tests at Cameron Creek?

13 A. Yes.

14 Q. Have you ever found carbon monoxide at
15 Cameron Creek other than that one occasion?

16 A. Yes.

17 Q. And have you determined that carbon
18 monoxide can be attributed to the gas appliances at
19 Cameron Creek?

20 A. Yes.

21 MR. GALLON: I have no further questions
22 for you, Mr. Prachar. Thank you.

23 HEARING EXAMINER: Mr. Zets.

24 MR. ZETS: No further questions. Thank
25 you.

1 HEARING EXAMINER: Now you can.

2 THE WITNESS: I'm done?

3 HEARING EXAMINER: Now you are done.

4 THE WITNESS: I can leave.

5 HEARING EXAMINER: Well, I'd wait until
6 the exhibits, and then after that.

7 THE WITNESS: So I still need to stay in
8 the room.

9 (Witness excused.)

10 HEARING EXAMINER: Mr. Zets, with regard
11 to the exhibits that were marked.

12 MR. ZETS: Your Honor, I think really
13 what we're only talking about is "exhibit," if memory
14 serves me, and that was the exhibit marked CCA 11.
15 At this time I would move Cameron Creek Apartments
16 Exhibit CCA 11 be admitted into evidence in this
17 hearing.

18 HEARING EXAMINER: Mr. Gallon, any
19 objection?

20 MR. GALLON: I wouldn't object, Examiner,
21 to the admission of these as business records of
22 Columbia Gas. I would object to the admission of
23 these for truth of the matter asserted therein since
24 Mr. Prachar said he couldn't verify that any of the
25 comments in these documents are actually his and, on

1 many of the entries, specifically said that he
2 couldn't recall the service call date they
3 referenced.

4 HEARING EXAMINER: With that notation,
5 your objection is noted on the record. I'm going to
6 admit that into the record; however, I think the
7 testimony will speak for itself, and with that we
8 will admit that into the record.

9 (EXHIBIT ADMITTED INTO EVIDENCE.)

10 HEARING EXAMINER: And I'm going to note
11 that CCA Exhibit 12 is not admitted. It wasn't
12 moved.

13 We'll go off the record.

14 (Discussion off the record.)

15 HEARING EXAMINER: Back on the record.

16 Mr. McCreery, you are our next witness, I
17 haven't allowed that to be called yet, but I'm going
18 to swear you anyway.

19 (Witness sworn.)

20 HEARING EXAMINER: Please be seated.

21 Mr. Zets.

22 - - -

23 CHARLES MCCREERY

24 being first duly sworn, as prescribed by law, was
25 examined and testified as follows:

1 DIRECT EXAMINATION AS ON CROSS

2 By Mr. Zets:

3 Q. Good morning, Mr. McCreery.

4 A. Mr. Zets.

5 Q. The formality of your name for the
6 record, please.

7 A. Charles McCreery. Chuck.

8 Q. And where do you work?

9 A. NiSource Corporate Services is actually
10 my employer.11 Q. And that's a company affiliated with
12 Columbia Gas in some sense?13 A. Yes. It's part of the NiSource Energy
14 Group family.

15 Q. Okay. And what's your position?

16 A. In-house counsel. Senior attorney.

17 Q. And you actually started with NiSource in
18 2002 as in-house counsel, correct?

19 A. Correct.

20 Q. I'd like to turn your attention to --

21 MR. ZETS: I can't remember if CCA 1 has
22 been marked. Now I'm losing track. Okay, I'm
23 getting a firm nod from the court reporter so I'd
24 like to ask that the exhibit behind tab No. 1 be
25 marked as CCA Exhibit No. 1.

1 HEARING EXAMINER: The document is so
2 marked.

3 (EXHIBIT MARKED FOR IDENTIFICATION.)

4 Q. Mr. McCreery, could you take a look at
5 the document that's now been marked CCA 1.

6 A. Yes.

7 Q. It's a letter actually signed by Owen
8 Garrett to the property owner/manager at Cameron
9 Creek Apartments dated January 14th, 2007, correct?

10 A. Correct.

11 Q. At the time this letter was sent in
12 January of 2007 -- strike that.

13 Were you aware that this letter was sent
14 to Cameron Creek in January of 2007?

15 A. I think I entered this matter after this
16 letter had been sent.

17 Q. Okay.

18 A. I'm not a hundred percent certain, but
19 I'm fairly certain.

20 Q. Given the fact that you may have really
21 become involved with the Cameron Creek apartment
22 matter after January of 2007, after you became
23 involved in the matter did you at least have a chance
24 to review this letter that's been marked CCA 1?

25 A. I believe I did. I believe I did.

1 Q. Do you remember when you became involved
2 with the Cameron Creek apartment matter? To the best
3 of your memory.

4 A. I'm going to say February '08. It could
5 have been January, late-January.

6 Q. Okay. If you would, please turn to the
7 next exhibit which I believe has been marked as CCA
8 2, it's a letter from Cheryl Roahrig dated January
9 22nd, 2008. Do you see that exhibit?

10 A. I do.

11 Q. Now, given you may not have been involved
12 in the Cameron Creek apartment matter when this
13 letter was dated, is it fair to say that once you
14 became involved in the Cameron Creek matter, you were
15 aware of Cheryl Roahrig's letter?

16 A. Yes, after I became involved in the
17 Cameron Creek matter I became aware of Cheryl
18 Roahrig's letter.

19 MR. ZETS: I'd like to ask that an
20 exhibit be marked that's not in the binder. I think
21 it will become CCA 40?

22 HEARING EXAMINER: It will be so marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 Q. Mr. McCreery, I've handed you what's been
25 marked as Exhibit CCA 40. Do you have that in front

1 of you?

2 A. Yes.

3 Q. It's an e-mail from Rob Smith to you
4 dated February 4th, 2008.

5 A. Yes. Well, I'm one of several.

6 Q. One of several, correct. It's to you,
7 Frank Davis, Ken Christman, Michael Ramsey, and Owen
8 Garrett, correct?

9 A. Correct.

10 Q. Referencing a Cameron Creek apartments
11 call, correct?

12 A. Correct.

13 Q. The subject of the e-mail is "Cameron
14 Creek apartments Call."

15 A. Correct.

16 Q. Okay. Can you read the first and second
17 paragraph, please.

18 A. "Will the letter as written have any
19 influence on our decision, since the City is the
20 authority having jurisdiction?"

21 Q. Was it your understanding from this
22 e-mail that Mr. Smith meant -- what was your
23 understanding -- strike that.

24 What was your understanding of Mr. Smith
25 when he referenced the letter? Is that the Cheryl

1 Roahrig letter of January 22nd, 2008?

2 MR. STEMM: I would object to the extent
3 that the question calls for information divulged to
4 Mr. McCreery by Mr. Smith outside this e-mail that
5 may have been in a privileged attorney-client
6 communication.

7 So, Brian, could you just clarify, are
8 you asking him simply about his interpretation of the
9 e-mail alone?

10 MR. ZETS: Yes. Nothing more.

11 HEARING EXAMINER: With that I will
12 overrule the objection.

13 A. Truthfully, I don't know what letter he
14 was referring to in this.

15 Q. Is it possible he was referring to the
16 letter with Cheryl Roahrig dated January 22nd given
17 that it was a week or so before this e-mail that's
18 been marked CCA Exhibit 40?

19 MR. STEMM: Objection; asked and
20 answered. He said he didn't know.

21 HEARING EXAMINER: I'll overrule the
22 objection. You can answer the question.

23 A. Your question was "Is it possible"?

24 Q. Yes.

25 A. Yes, it's possible.

1 MR. ZETS: At this time I'd like to ask
2 that the Exhibit behind tab No. 3 be marked as CCA
3 Exhibit 3.

4 HEARING EXAMINER: The document is so
5 marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 Q. Exhibit CCA 3 appears to be an e-mail
8 from you, Mr. McCreery, to Mr. Dillon, correct?

9 A. Correct.

10 Q. Dated February 20th, 2008, correct?

11 A. Correct.

12 Q. Taking a look at this exhibit, which is
13 three pages, do you believe it to be a true and
14 accurate copy that you sent Mr. Dillon on February
15 20th?

16 A. You just said three pages?

17 Q. Well, the e-mail and the other attachment
18 for a total of three.

19 A. Yes.

20 Q. Could you remind us again who Mr. Dillon
21 is?

22 A. Mr. Dillon was counsel for Cameron Creek.

23 Q. Okay.

24 A. I don't know if he was in-house or
25 external.

1 Q. All right. In the paragraph actually
2 that's numbered 1 on Exhibit CCA 3, I believe the
3 second sentence reads "Specifically it violates
4 section 7.6.4 and 6.30.1 (1996 version) in effect at
5 the time of installation." Do you see where I'm at?

6 A. Yes.

7 Q. So with respect to this e-mail on
8 February 20th, 2008, you were informing Mr. Dillon
9 that it was your opinion that the Cameron Creek
10 apartment complex violated those two sections of the
11 National Fuel Gas Code, correct?

12 A. It was my opinion obtained after
13 consulting, of course, with internal individuals.

14 Q. Okay. I'm not going to go into how you
15 consulted with the people at Columbia Gas, but with
16 respect to this e-mail it was your opinion that you
17 gave to Mr. Dillon that Cameron Creek violated the
18 1996 version of the NFGC, correct?

19 A. Correct.

20 Q. Paragraph No. 2 on the same exhibit says,
21 "The current interior air system violates section
22 303.3 (copy attached) of the International Fuel Gas
23 Code standards in effect in 1997, the year I am
24 advised that the city of Columbus adopted the IFGC as
25 its standard." Do you see where I'm at?

1 A. I do.

2 Q. Okay. So in paragraph 2 here you're
3 assuming that the city of Columbus adopted the IFGC,
4 correct?

5 A. Somewhere along the way that's what I had
6 been advised, correct.

7 Q. But you didn't know that to actually be
8 true at the time you wrote this e-mail, did you?

9 A. Well, that was what I was advised. If
10 you're asking if I was a hundred percent certain
11 based on personal knowledge, no.

12 Q. Okay. You did not know that to be a
13 fact, correct?

14 A. That's correct.

15 Q. And you did not yourself do any research
16 to determine if that was true, did you?

17 A. No, I did not.

18 Q. Okay. Let's fast forward a month or so.

19 MR. ZETS: I'd ask that the document
20 behind tab 4 be marked as Exhibit CCA 4.

21 HEARING EXAMINER: The document is so
22 marked.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 Q. If you could turn to that document,
25 Mr. McCreery.

1 A. I'm there.

2 Q. All right. This looks to be another
3 e-mail from you to Mr. Dillon dated March 21st,
4 2008, correct?

5 A. Correct.

6 Q. Take a look, it's a single page, does
7 that appear to be a true and accurate copy of the
8 e-mail that you sent on that particular time --

9 A. Correct.

10 Q. -- and date? Okay.

11 Could you start to read the e-mail for us
12 where it begins "Thanks"?

13 A. "Thanks--sorry to bother you on vacation.
14 I believe the entire issue may" --

15 Q. Read slowly, please. Could you read
16 where this begins "Thanks"?

17 A. "Thanks--sorry to bother you on vacation.
18 I believe the entire issue may become moot based on a
19 meeting we had with the city yesterday. The city
20 states it was following an entirely different code
21 than what we were initially led to believe and that
22 it allowed this type of installation. We are
23 following up on the matter. Hopefully this has the
24 potential to resolve the matter."

25 Q. So did the city tell you what code it was

1 following when it approved the Cameron Creek
2 Apartments complex?

3 A. I don't recall. I wasn't at this
4 meeting.

5 Q. That information was just passed on to
6 you from someone else.

7 A. That's correct.

8 Q. Okay. But as far as you understood on
9 March 21st, 2008, you understood that the city was
10 following a different code than Columbia Gas
11 initially thought or was led to believe.

12 A. Yes.

13 Q. And on March 21st, 2008, you understood
14 that the code that the city was following allowed the
15 installation of the gas appliances, correct?

16 A. Correct.

17 MR. ZETS: I'd like to ask now that the
18 document behind tab 5 be marked as Exhibit CCA 5.

19 HEARING EXAMINER: The document is so
20 marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 Q. The document that's been marked CCA 5
23 appears to be an e-mail I think ten days later from
24 yourself, Mr. McCreery, to Mr. Dillon, correct?

25 A. Correct.

1 Q. A one-page document. Does it seem to be
2 a true and accurate copy of the e-mail that you sent
3 Mr. Dillon on March 31st?

4 A. Correct.

5 Q. Actually, at the bottom of the e-mail --
6 or the bottom of document CCA 5 is an e-mail from
7 Mr. Dillon to you, correct?

8 A. Just a second.

9 Q. Okay. Sorry.

10 A. Yes.

11 Q. Mr. Dillon starts out "I will attempt to
12 find out. In the meantime, we were waiting to hear
13 from you with respect to the clarification of codes.
14 When we last corresponded, it sounded as if the City
15 may (and likely did) permit the construction in the
16 manner it was performed, such that there was no code
17 violation at the time. Could you please let us know
18 the status of your investigation into those matters?
19 Jim Dillon." Correct?

20 A. Correct.

21 Q. And your response to his e-mail is
22 contained at the top of CCA 5, correct?

23 A. No. The e-mail at the top of CCA 5 came
24 first. His came second. Look at the time.

25 Q. I'm sorry. You are right.

1 A. 1:59 and --

2 Q. Okay. I apologize. You're right. The
3 top e-mail came first, 1:59, and the bottom e-mail on
4 CCA 5 was at 2:34.

5 Okay. So could you read for us what you
6 wrote with -- strike that.

7 Could you read for us what you wrote to
8 Mr. Dillon starting with "As nearly as we can tell."

9 A. "As nearly as we can tell, and our
10 investigation is not entirely finished, the complex
11 was properly permitted in 1996 pursuant to the code
12 stated to be in force at that time."

13 Q. Okay. So that, if I can stop you there,
14 that part of the sentence, "the complex was properly
15 permitted in 1996 pursuant to the code stated to be
16 in effect at the time," that was a definitive
17 statement from you to Mr. Dillon, correct?

18 A. Yes, with regard to the code the city of
19 Columbus was following at the time.

20 Q. And this was the information that you had
21 learned from the city of Columbus through
22 Miss Roahrig's letter and possibly other ways,
23 correct?

24 A. Correct.

25 Q. You had no reason to not believe

1 Miss Roahrig or the city of Columbus when they told
2 Columbia Gas, and yourself possibly, that the
3 apartment complex was properly permitted, correct?

4 A. Properly permitted under the code the
5 city of Columbus was following at the time; I had no
6 reason to doubt that? Is that the question?

7 Q. Yes, it is.

8 A. That's correct.

9 Q. Could you go on and read the next
10 sentence where it starts "My concern was"?

11 A. Sure. "My concern was in the event of a
12 CO incident, whether the fact the city had properly
13 permitted the complex provide any sort of liability
14 protection to Columbia under Ohio law, given that the
15 installations do not currently meet the National Fuel
16 Gas Code."

17 Q. Continue.

18 A. "Accordingly I asked our outside counsel
19 to research the matter and get back to me which he
20 did just this past Thursday."

21 Q. All right. I don't want to know what
22 your outside counsel told you with respect to that
23 issue, but let me ask you this, Mr. McCreery, is --
24 well, let's take it piece by piece. When you say
25 "the installations do not currently meet the National

1 Fuel Gas Code," you're referring to the NFGC in
2 effect in March of 2008, correct?

3 A. This particular letter, I think it was
4 the NFGC in effect in '96 and '06.

5 Q. Okay. Well, correct me if I'm wrong, you
6 say "given that the installations do not currently
7 meet the NFGC." The word "currently" would lead one
8 to believe, wouldn't it, that you meant current being
9 March 2008?

10 A. No, not necessarily. We didn't have any
11 reason to believe the installations had been
12 installed since the time they were constructed.

13 Q. Well, is this what it's --

14 A. Or, I'm sorry, changed since the time
15 they were installed I should say.

16 Q. You had no reason to believe that the gas
17 appliance installation had been changed since they
18 were installed?

19 A. That's right, since the time of
20 construction.

21 Q. So is this what the issue was all about
22 in that second sentence there that starts "My concern
23 was," Columbia Gas is worried the city of Columbus
24 permitted these, they potentially are not liable and
25 Columbia Gas could be liable because they didn't

1 comply with the current NFGC?

2 MR. STEMM: We would object to the extent
3 the question calls for privileged communications that
4 he had with his client, Columbia Gas corporation, as
5 to what the company's position was. Mr. McCreery can
6 answer to the extent he's giving his personal
7 explanation, his own words chosen in an e-mail, so
8 long as they do not divulge privileged communications
9 he may have had with his client.

10 HEARING EXAMINER: With that in mind, you
11 may answer the question.

12 A. What was the question again?

13 Q. The second sentence that begins with "My
14 concern was," is this what the issue is all about,
15 that you were worried that the city of Columbus,
16 because they permitted these, would be not liable if
17 something were to go wrong and Columbia Gas would be
18 liable because it believes it doesn't comport with
19 the 19- -- I'm sorry, comport with the NFGC in effect
20 at the time?

21 A. I personally think the issue that
22 permeated my communications with Mr. Dillon was
23 safety. The overarching issue was safety. And I
24 think I said that; you showed me the e-mail at my
25 deposition.

1 A secondary concern was liability. As
2 in-house counsel you're required to be concerned
3 about everything.

4 MR. ZETS: I'd like to ask that the
5 exhibit behind tab number 6 be marked as CCA No. 6.

6 HEARING EXAMINER: The document is so
7 marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. Mr. McCreery, it's starts with an e-mail
10 from you to Columbus City Attorney Richard Pfeiffer,
11 that actually is a seven-page document in total, I
12 will mark the official exhibit book with those seven
13 pages when we're done. If you could take a look at
14 that exhibit for me, please.

15 A. Do you want me to check all seven pages
16 now or just the first page?

17 MR. STEMM: Go ahead and number them.

18 THE WITNESS: Number them, Judge Pirik?

19 HEARING EXAMINER: Yes, I would number
20 them, and then you can have some time to look at it,
21 and when you're prepared, Mr. Zets can continue.

22 A. Brian, I would only note that starting at
23 the top of page 6 it looks like the e-mail begins to
24 repeat itself. I don't know if --

25 Q. I would agree with you. I think I

1 included the entire seven pages, but I believe that's
2 how it was produced because it was consecutively
3 numbered Bates stamped by Columbia Gas's counsel; so
4 it very well may.

5 I think I could probably rectify
6 without -- my first question -- well, let me first
7 ask you, do you believe what's been marked as CCA 6
8 is a true and accurate copy of the e-mail chain that
9 you last sent on April 1st, 2008?

10 A. Yes.

11 Q. Okay. Skipping to page 5 of Exhibit
12 CCA 6, the Bates stamped page COH-2710 --

13 A. Yes. 2710.

14 Q. Yes, page 5 of Exhibit CCA 6.

15 A. I'm there.

16 Q. So this is an e-mail from you to
17 Mr. Pfeiffer dated April 15th, 2008, where you were
18 talking about Miss Roahrig, correct?

19 A. Correct.

20 Q. So you're basically saying "Did
21 Miss Roahrig respond to you yet? Thanks. Chuck."
22 Correct?

23 A. Correct.

24 Q. And this was in response to -- why were
25 you waiting for something from Miss Roahrig at this

1 time, if you can tell or you can remember?

2 A. Turn to page 1.

3 Q. Okay.

4 A. Down at the bottom from Rick Pfeiffer to
5 me, second paragraph, "I emailed the Director of
6 Ms. Roahrig's department . . . and Ms. Roahrig to let
7 them know you had called me. I am still puzzled how
8 something can be approved as safe when it was
9 constructed and put in use, and now is viewed as not
10 being so."

11 I believe we also had a conversation, a
12 phone call somewhere in this mix, and that he was
13 waiting for a response from Cheryl Roahrig as to
14 whatever question he asked her, which I don't know.

15 Q. Okay. So really, this is the same thing,
16 this e-mail chain, I guess if you look at the time
17 and date, starts April 1st on the first page and
18 then continues through to April 15th back on page
19 5.

20 MR. STEMM: Objection to the
21 characterization of the exhibit.

22 Q. I'll ask you --

23 HEARING EXAMINER: Can you rephrase it,
24 please.

25 MR. ZETS: I will.

1 Q. Let's start at page 1, Mr. McCreery. I
2 apologize if I got confusing. The first e-mail on
3 page 1 of CCA 6 is an e-mail from you to Mr. Pfeiffer
4 dated April 1st, 2001 [sic], correct?

5 A. Correct.

6 Q. At that time you say to Mr. Pfeiffer
7 "Thanks. Again my understanding is that today the
8 city follows the International Fuel Gas Code
9 standards which prohibit this type of installation
10 unless it falls within some very narrow exceptions,
11 none of which appear to apply to Cameron Creek."
12 Correct?

13 A. Correct.

14 Q. And then the e-mail that follows on page
15 1 of CCA 6 is Mr. Pfeiffer's response to you,
16 correct?

17 A. Yes.

18 Q. All right. And that's where Mr. Pfeiffer
19 says in paragraph 3 "I'm still puzzled how something
20 could be approved as safe when it was constructed and
21 put in use, and now is viewed as not being so."
22 Correct?

23 MR. STEMM: Just objection to the form.
24 Again, Brian, I don't mean to interrupt, but the one
25 below is dated 3/31, the one above is dated April

1 1st on page 1 of CCA Exhibit 6. I just want to
2 make sure we have the chronology right.

3 MR. ZETS: I apologize. These are --

4 Q. Well, let's go with the fact that on the
5 first page of CCA 1 it is an e-mail and the date is
6 March 31st, 2008. That's what Mr. Pfeiffer wrote
7 to you, correct?

8 A. Where are we at, Brian?

9 Q. I'm sorry. Bottom of page 1, Exhibit
10 CCA 6.

11 A. And the question was is that an e-mail
12 Pfeiffer wrote to me.

13 Q. Yes.

14 A. Yes.

15 Q. And he's indicating that he's puzzled how
16 something could be approved safe when it was
17 constructed and put into use and now is being viewed
18 as not so, correct?

19 A. Yes.

20 Q. Seems to be he's -- Mr. Pfeiffer is
21 making some sort of retroactivity statement there,
22 isn't he?

23 A. That, I can't tell you. I don't know.

24 Q. All right. I think if you turn to page 2
25 of Exhibit CCA 6, toward the top of the page I

1 believe is an e-mail sent from you to Mr. Pfeiffer
2 dated March 31st, 2008, time of 5:25 p.m.

3 A. I see it.

4 Q. Could you read for us what you wrote in
5 that e-mail?

6 A. "Just got it--see if this resolves the
7 matter. By the way--are you related to Judge
8 Pfeiffer on the appellate bench? Thanks."

9 Q. What did you mean when you say "Just got
10 it"? What's "it"?

11 A. Unless it's something contained somewhere
12 in this e-mail string, I don't know.

13 Q. Do you remember why you wrote "See if
14 this resolves the matter"?

15 A. No.

16 Q. Figure it had anything to do with a call
17 or some information you got from Cheryl Roahrig at
18 the city of Columbus?

19 A. I don't recall ever talking to Cheryl
20 Roahrig.

21 Q. Okay.

22 A. Ever. Or receiving anything from her,
23 directly, other than the letter that I saw indirectly
24 that went to someone else.

25 Q. That's that January 22nd letter.

1 A. That's right.

2 Q. Okay. I'm trying to keep the timing
3 order of this correct, and I believe if you turn to
4 page 5 of Exhibit CCA 6 and you look at that e-mail,
5 that is from you to Mr. Pfeiffer of April 15th,
6 2008, at 10:20 a.m., that's where you say "Rick,
7 Following up on this. Did Ms. Roahrig respond to you
8 yet? Thanks." That's what you e-mailed
9 Mr. Pfeiffer, correct?

10 A. Correct.

11 Q. All right. Then I think if you back up
12 to page 4, it's an e-mail from Mr. Pfeiffer to you
13 dated April 15th, 2008, at 1:13 p.m., correct?

14 A. Correct.

15 Q. All right. And Rick says "Chuck, she
16 did."

17 A. Correct.

18 Q. Concise, isn't he?

19 A. Yes. Have to drag stuff out of him.

20 Q. He's a man of few words.

21 Then if you back up another page to page

22 3 --

23 A. Wait.

24 Q. -- at the very bottom, that's an e-mail
25 from you to Mr. Pfeiffer dated April 15th, 2008, at

1 2:08 p.m. which you, in not so many words, say "Can
2 you share her response?"

3 A. That's correct.

4 Q. Okay. Back to page 3, an e-mail from
5 Mr. Pfeiffer to you at 3 o'clock the same day says,
6 "I think it was that the City sees no problem."
7 Correct?

8 A. Correct.

9 Q. And he meant that the city had no problem
10 with the installation of the gas appliances at
11 Cameron Creek Apartments.

12 MR. STEMM: Objection; lack of
13 foundation, speculation.

14 HEARING EXAMINER: I'm going to overrule
15 the objection, and if you know what is being referred
16 to here, you can respond.

17 A. I was kind of puzzled by Rick's response
18 as to what he meant here, but generally that -- I
19 interpreted it as the city saw no problem with the
20 installation.

21 I also abandoned e-mail communicating
22 with Rick from there on out.

23 Q. There's more information at the top of
24 page 3 that's been redacted, we won't go into that.

25 MR. ZETS: I'd like to ask that the

1 document behind tab 7 be marked as CCA Exhibit 7.

2 HEARING EXAMINER: The document is
3 marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION.)

5 Q. Do you have that exhibit in front of you,
6 Mr. McCreery?

7 A. Yes.

8 Q. All right. It's an e-mail from you to
9 Mr. Dillon dated May 13th, 2008, correct?

10 A. Correct.

11 Q. A one-page document. Do you believe it's
12 a true and accurate copy of the e-mail that you sent
13 him?

14 A. Correct.

15 Q. If I could turn your attention to the
16 numbered paragraph 1 on the exhibit. There's a first
17 paragraph but they begin to be numbered with No. 1.
18 Halfway through that paragraph it begins "Once
19 Columbia was referred."

20 A. Yes.

21 Q. Could you read that for us, please?

22 A. "Once Columbia was referred to the proper
23 code it also determined the units were in compliance
24 with that code at the time they were permitted." And
25 that's referring to the city of Columbus's code.

1 Q. Could you just continue reading the next
2 sentence, please.

3 A. "As you know the city, in a recent letter
4 stated it could not require a modification of an
5 installation that had been properly permitted unless
6 it found there was a serious safety issue."

7 Continue?

8 Q. Continue.

9 A. "Given the fact that all prevailing
10 building codes now prohibit such an installation on
11 the basis of risk of CO exposure, this is also
12 puzzling."

13 Q. Skip down to the third numbered paragraph
14 where it says "Columbia respectfully takes issue."

15 A. Yes.

16 Q. Could you read that first sentence for
17 me, please.

18 A. "Columbia respectfully takes issue with
19 your statement that there is no credible evidence of
20 any code violation."

21 Q. And that was based upon Columbia Gas's
22 belief that Cameron Creek violated the National Fuel
23 Gas Code.

24 A. Correct.

25 Q. Well, read the next sentence.

1 A. You want me to read the next sentence?

2 Q. Yeah, "The units." Could you, please.

3 A. "The units currently do not comply with
4 either the IFGC or NFGC."

5 Q. Read the next sentence for me, please.

6 A. "If there were an incident the city would
7 probably be immune to any repercussions as it is a
8 political subdivision under Ohio law."

9 Q. Next sentence, please.

10 A. "COH might not enjoy the same protection
11 although its tariff states that it must defer to the
12 local authority pursuant to building and construction
13 inspections and permitting."

14 Q. So in that sentence you acknowledge that
15 the city of Columbus, right, is the local authority?
16 Well, let me ask you to strike that.

17 You understand that the city of Columbus
18 is the local authority that you're referencing in
19 that sentence, correct?

20 A. Yes, pursuant to building and
21 construction inspections and permitting.

22 Q. Right. The city of Columbus is the local
23 authority pursuant to building and construction
24 inspections and permitting, correct?

25 A. Correct.

1 Q. The sentence before that again, you're
2 talking about this liability issue, your concern is
3 that the city of Columbus is going to be immune and
4 Columbia Gas would not in the event something
5 happened. Correct?

6 A. Again, in addition to the overarching
7 issue of safety, yes, that's another concern.

8 Q. So in order to try to rectify that
9 potential liability, you're trying to apply the
10 National Fuel Gas Code to these apartments.

11 A. I wouldn't agree with that. I would say
12 we're trying to apply the National Fuel Gas Code to
13 make them safer.

14 Q. But you're applying it to the apartments.

15 A. Cameron Creek.

16 Q. Right.

17 A. Yes.

18 Q. Okay. And by doing that you believe
19 you'll resolve that potential liability because it
20 would be up to what is a current code as opposed to
21 what it was installed under.

22 A. I believe it would both make them safer
23 and rectify that situation.

24 Q. But it's not a real -- I should strike
25 that.

1 It's not a current-day problem, is it?

2 It's just a potential of harm, correct?

3 MR. STEMM: Objection; no foundation laid
4 that this expert is qualified to offer expert
5 opinions on the risk of CO problems developing.

6 HEARING EXAMINER: Objection sustained.

7 Q. Read paragraph No. 4 for me, please.

8 A. "I have provided you with both IFGC and
9 NFGC sections in the past which specifically address
10 this issue." Go on?

11 Q. Continue, please.

12 A. "If you would like me to resend them I
13 can do so. As I think you know, our technical people
14 have advised me that the safety concern is an
15 increased risk of CO exposure."

16 Q. All right. So as of the date of this
17 e-mail your technical folks were telling you it was
18 an increased risk of CO, correct?

19 A. Correct.

20 Q. They're not telling you that there's a
21 problem, actual problem with CO exposure at Cameron
22 Creek Apartments, correct?

23 A. No. I'm reminded of the analogy: Don't
24 shut the barn door after the cow's gotten out, and
25 this was a potential risk and that was the concern.

1 Q. Right. The potential risk. Because
2 there's no actual CO problem at the complex at this
3 time, correct?

4 A. When I wrote this?

5 Q. Yes.

6 A. An active CO problem?

7 Q. Yes.

8 A. To my knowledge, no, Brian, but this is a
9 prevention code.

10 MR. ZETS: I'd like to ask that another
11 exhibit be marked. This would be CCA 41.

12 HEARING EXAMINER: The document is so
13 marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 Q. Mr. McCreery, I've handed you what's been
16 marked as CCA Exhibit 41. Do you recognize that
17 document?

18 A. I don't specifically recall this one, but
19 it looks like an e-mail from me to Mr. Dillon.

20 Q. Okay. It looks to be, I would assume, a
21 true and accurate copy of that e-mail that was
22 produced to us by your counsel in discovery.

23 A. Yes.

24 Q. It's an e-mail from you, again, to
25 Mr. Dillon dated July 2nd, 2008. The second

1 paragraph reads "The National Fuel Gas Code provides
2 that where special engineering, approved by the
3 authority having jurisdiction, provides an adequate
4 supply of air for combustion, then the requirement of
5 a separate source of combustion/dilution air can be
6 waived." Do you see where you wrote that?

7 A. Yes.

8 Q. Is this the same type of special
9 engineering solution that -- well, let me ask you
10 this, did you ever take a look at the original plans
11 and permits for the Cameron Creek Apartments?

12 A. No.

13 Q. Do you remember there was testimony
14 yesterday from Miss Roahrig about the original plan
15 and then an addendum to those plans with respect to
16 the mechanicals?

17 A. Do I recall that?

18 Q. Yes.

19 A. I remember the plans. I don't remember
20 the reference to the addendum.

21 Q. Okay.

22 A. I remember the reference to the plan.

23 Q. You say you've never actually seen those
24 plans or the addendum.

25 A. No.

1 Q. Have you been told that there was at some
2 point in time -- strike that.

3 Have you been told that there was an
4 addendum to the original plans where there was a
5 specific engineering solution for the gas-fired
6 appliances at Cameron Creek Apartments?

7 A. An addendum to the plans for the
8 gas-fired appliances at Cameron Creek.

9 Q. Correct.

10 A. That would do what? Just their initial
11 design?

12 Q. Do you know that there was -- let me ask
13 you this, do you know there was an original plan for
14 the Cameron Creek apartment complex? Do you know
15 that? Have you been made aware of that?

16 A. Through the drawings that were produced
17 yesterday.

18 Q. Okay. And then do you remember Cheryl
19 Roahrig's testimony was that the city of Columbus had
20 found some issues with that original drawing and they
21 had to -- the engineers had to come back and do an
22 addendum for the gas-fired appliances? Do you
23 remember that?

24 A. That's what I'm struggling with. I'm not
25 sure I remember her testimony on that issue.

1 Q. Okay.

2 MR. ZETS: I'd ask that the document
3 behind tab 8 be marked as CCA Exhibit No. 8.

4 HEARING EXAMINER: The document is
5 marked.

6 (EXHIBIT MARKED FOR IDENTIFICATION.)

7 Q. We've gone forward a little in time,
8 Mr. McCreery. Now it's Wednesday, August 13th,
9 2008. CCA 8 is an e-mail from you, again, to
10 Mr. Dillon; is it not?

11 A. Yes.

12 Q. One-page document. Is it a true and
13 accurate copy of the e-mail that you sent?

14 A. Correct.

15 Q. In paragraph 2 of this e-mail, CCA
16 Exhibit 8, you write "In the past 12 months there
17 were also 2 carbon monoxide events at the complex.
18 While the first might arguably be attributable to a
19 faulty water heater, the second, more recent event,
20 represents the risk associated with this type of
21 installation." Do you see that?

22 A. Yes.

23 Q. So as late as August 13th, 2008, you
24 realized the first CO incident was likely just a bad
25 water heater, correct?

1 A. Well, we didn't know.

2 Q. Well, at least in August of '08 you
3 thought arguably that it was because of a faulty
4 water heater.

5 A. There were indications that it could be
6 that. There were indications that it could be
7 attributed to the installation itself, as I recall.

8 Q. Okay. But at least in the e-mail that
9 you sent to Mr. Dillon you expressed to him that it
10 arguably may be attributable to a water heater,
11 faulty water heater.

12 A. Correct.

13 MR. STEMM: Objection to the form of the
14 question. The e-mail says "While the first might
15 arguably be." He's obviously responding to something
16 we don't have in the record, which is Mr. Dillon
17 probably making the argument that it is a water
18 heater. So I would ask at least the record be clear
19 that "While the first might arguably be" is the
20 correct terminology as the responsive sentence.

21 HEARING EXAMINER: Thank you for that
22 clarification.

23 With that clarification, I will allow it
24 to stand.

25 Q. The second incident that you've

1 identified in that sentence, is that the shower
2 incident that we all speak of?

3 A. Yes, I believe it was.

4 Q. There was moisture content in the
5 bathroom and that caused a CO detector to go off. Is
6 that what you were referring to?

7 A. Well, this was after what I was advised,
8 this was a potential issue.

9 Q. I understand you believe it was a
10 potential. I'm just trying to identify what you're
11 referring to there is that specific incident.

12 A. Yes.

13 Q. All right. The last, well, I guess it's
14 really what is the third paragraph though there's no
15 space between the paragraphs, it starts
16 "Additionally, all 262 units." Do you see where I'm
17 at?

18 A. Yes.

19 Q. Can you read that for me, please.

20 A. "Additionally, all 262 units must be
21 brought into compliance with the code, pursuant to
22 the approved plan, no later than October 13th, 2008
23 or Columbia will thereafter begin termination of
24 service to all apartments with water heater/furnace
25 installations that remain non-compliant."

1 Q. So as of this date, August 13th, 2008,
2 you know that there were only two carbon monoxide
3 events at the Cameron Creek Apartments, correct?

4 A. In the past 12 months.

5 Q. In the past 12 months. You have two
6 incidents in 12 months. And you say while arguably
7 one may be a faulty water heater, correct?

8 A. Correct.

9 Q. The other one was the other incident.
10 You are threatening to shut off gas to all the units
11 in Cameron Creek Apartments.

12 A. That's your question?

13 Q. Yes.

14 A. Correct. For noncompliance with the
15 National Fuel Gas Code.

16 Q. Were you aware of any other CO readings
17 at that apartment complex in the past 12 months?

18 A. No.

19 Q. So you have no CO readings, two
20 incidents, and you're going to shut gas off to all
21 262 units.

22 A. Based on several violations of the code
23 designed to prevent carbon monoxide exposure, it's a
24 prevention code, yes.

25 Q. Right. A little more than several NFGC

1 violations. We walked through one of those this
2 morning. There were a lot of red tags for NFGC
3 violations, right?

4 A. In various apartments?

5 Q. Yes.

6 A. It's the same two or three violations
7 that repeat themselves throughout the apartments, I
8 believe.

9 Q. Right. Multiple red-tagging for the same
10 violation, multiple apartments, correct?

11 A. Correct.

12 Q. And all this is still with the
13 undercurrent that the city of Columbus has now told
14 you at least twice that the units were properly
15 permitted and approved under the code that they
16 enforced at the time the units were built, correct?

17 A. Yes.

18 Q. That's a pretty strong stance, isn't it,
19 Mr. McCreery?

20 A. I think it's a stance for safety.

21 MR. ZETS: I'd like to ask that the
22 document behind tab No. 10 be marked as CCA 10.

23 HEARING EXAMINER: The document is so
24 marked.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 Q. If you could turn to that, Mr. McCreery.

2 A. We're skipping 9?

3 Q. We're skipping 9.

4 Do you have that exhibit?

5 A. Yes. CCA 10?

6 Q. CCA 10.

7 A. I'm there.

8 Q. Okay. This appears to be an e-mail from
9 Dave Monte to Jack Partridge to which you were CC'd
10 on, correct?

11 A. Yes.

12 Q. And it's dated August 31st, 2008,
13 correct?

14 A. Correct.

15 Q. One-page document. Appears to be a true
16 and accurate copy of the e-mail that you were CC'd
17 on?

18 A. Correct.

19 Q. Okay. And Jack Partridge, President of
20 Columbia Gas?

21 A. Yes.

22 Q. I learned something after three days, or
23 I at least remembered it.

24 All right. This is an e-mail -- well,
25 let's make sure this is straight because the top of

1 the e-mail shows it's Dave Monte to Jack Partridge,
2 then it's addressed, it says, "Sam, My thoughts," and
3 is signed Jack Partridge. So does Dave Monte go by
4 "Sam"? Or did he forward it? I'm confused where
5 "Sam" comes from.

6 A. I don't know, that is --

7 Q. Do you know who the Columbia Gas of Ohio
8 lobbyist is?

9 A. It's an outside firm, I think.

10 Q. Could the reference to "Sam" on that be
11 Sam Gerhardstein, the in-house lobbyist for Columbia
12 Gas?

13 A. That's possible.

14 Q. Okay. All right. But it is an e-mail at
15 least from Jack Partridge. The contents of the
16 e-mail is from Jack Partridge, correct?

17 A. No. Not from. To.

18 Q. To. All right. What's the subject of
19 that e-mail?

20 A. Do you want me to read the Re: line?

21 Q. Yes.

22 A. "NEED SOME HELP: Cameron Creek
23 Apartments."

24 Q. The second bullet point reads "While the
25 installation" -- strike it. The second bullet point

1 reads "While the initial installation was up to code,
2 the code has changed.....for good reason." That's
3 what it says?

4 A. That's what it says.

5 Q. So again, that bullet point seems to
6 indicate that Columbia Gas is trying to enforce the
7 most updated version of a code on Cameron Creek
8 Apartments; does it not?

9 MR. STEMM: Objection; no foundation that
10 this witness has personal knowledge to answer that
11 question.

12 HEARING EXAMINER: Can you rephrase the
13 question?

14 MR. ZETS: I'll rephrase the question.

15 Q. We've established, Mr. McCreery, you were
16 copied on this e-mail, correct?

17 A. Correct.

18 Q. All right. So when you received it,
19 what's your understanding of what these words mean?

20 A. I don't know.

21 Q. You don't know?

22 A. No.

23 Q. Would you agree with me that it appears
24 to reference an application of a code today that
25 wasn't in existence before?

1 A. Brian, I literally don't know what
2 Dave -- if Dave wrote this, what he means by the
3 second bullet.

4 Q. The next bullet says "People can die from
5 CO poisoning, we have has two incidents at Cameron
6 Creek this year already, there would be more this
7 winter if we left the gas on into the heating
8 season." That's what it says, correct?

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

10 Q. And that wasn't my choppy reading, that
11 was just mistyping on the e-mail.

12 Okay. So the two incidents that are
13 being referred to there, do you know if those were
14 the two you referred to in the last e-mail we talked
15 about?

16 A. Do I know? No, I don't know.

17 Q. Likely they are because there were only
18 two incidents, correct?

19 A. It's possible they are.

20 Q. Okay. And Cameron Creek Apartments went
21 through the heating season without incident, didn't
22 it?

23 A. Let's see.

24 MR. STEMM: We just object to the form of
25 the question. Do you mean incidents known to

1 Columbia Gas? Otherwise, lack of foundation.

2 MR. ZETS: Yes, incidents known to
3 Columbia Gas.

4 HEARING EXAMINER: Thank you.

5 A. Carbon monoxide incidents.

6 Q. Correct.

7 A. I don't recall any incidents in this
8 heating season carbon monoxide related.

9 Q. When you say "incidents," you mean high
10 readings or anything related to carbon monoxide at
11 Cameron Creek.

12 A. Right. Production of carbon monoxide, I
13 don't recall any for this heating season.

14 MR. ZETS: Can I have a minute, please?

15 HEARING EXAMINER: Yes.

16 MR. ZETS: One more exhibit,
17 Mr. McCreery.

18 I'd like to ask the document behind tab
19 35 be marked as CCA 35.

20 HEARING EXAMINER: The document will be
21 marked.

22 (EXHIBIT MARKED FOR IDENTIFICATION.)

23 Q. I'd submit to you, Mr. McCreery, it's a
24 letter dated September 15th, 2008. This particular
25 one is to a fellow by the name of Chris Gibson signed

1 "Sincerely, Columbia Gas of Ohio." Do you recognize
2 this exhibit, CCA 35?

3 A. Yes.

4 Q. And what is it?

5 A. It's a letter to Cameron Creek -- appears
6 to be the letter to Cameron Creek residents.

7 Q. This was the letter that you believe is a
8 true and accurate copy, at least in the body of the
9 letter, understanding that the addressees were
10 different for each tenant?

11 A. Can I take a minute just to read it?

12 Q. Absolutely.

13 A. Okay.

14 The question was is this a true and
15 accurate copy of the letter.

16 Q. Yes, that was the question.

17 A. I believe it is.

18 Q. Okay. The first line of the letter says
19 "This is to inform you of a serious safety issue at
20 Cameron Creek Apartments." Correct?

21 A. Correct.

22 Q. The letter doesn't say this is to inform
23 you that there's a potential increase of CO exposure
24 at Cameron Creek Apartments, does it?

25 A. In those exact words?

1 Q. Yes.

2 A. No, it doesn't say those exact words.

3 Q. Well, wouldn't it be fair to say that if
4 you receive a letter saying there's a serious safety
5 issue, it's much different than there's a potential
6 increase of CO exposure? Completely two different
7 phrases, correct?

8 A. If you read down in the letter, it is
9 very apparent that the risk is increased risk of CO
10 exposure.

11 Q. Okay. But, all right, because we're
12 going back to what you -- in one of the previous
13 e-mails you recall you were talking about it was
14 increased risk of CO exposure, correct?

15 A. Based on the configuration at Cameron
16 Creek.

17 Q. Correct.

18 A. I think that was in one of the e-mails we
19 looked at today.

20 Q. Right. I think that was something you
21 wrote. I mean, I'll try and find it again, but you
22 wrote there was a potential increase of CO exposure
23 at Cameron Creek Apartments based upon the
24 configuration, correct?

25 A. Correct.

1 Q. All right. The bottom of the second
2 paragraph says "Improper combustion can result in
3 carbon monoxide poisoning, which can cause serious
4 illness or death." Do you see that?

5 A. Yes.

6 Q. Serious illness or death is 180 degrees
7 in the spectrum from increased risk of CO, isn't it?

8 A. Serious illness or death is unrelated to
9 CO exposure? Is that --

10 Q. No. I'm saying in the previous e-mail,
11 which I think was around the end of August, you're
12 talking about increased risk of exposure.

13 A. Right.

14 Q. Now you fast forward to September 15th
15 and you're warning the people at Cameron Creek
16 they're going to die. How do you go from one to the
17 other?

18 MR. STEMM: Objection to the
19 characterization of the question.

20 HEARING EXAMINER: Objection sustained.
21 You need to rephrase the question.

22 Q. In, I think it was the end of August or
23 near the end of August you were talking about a
24 potential increase of CO exposure, correct?

25 A. Represented by the configuration at

1 Cameron Creek, correct.

2 Q. Then September 15th, 2008, you're
3 warning people of death, correct?

4 A. You mean Columbia Gas.

5 Q. Columbia Gas. I'm sorry, I mean Columbia
6 Gas is warning people of death.

7 A. You have to read the letter as a whole.
8 If you look at the sentence that you're seizing upon,
9 it explains what the code is, why we adopted it, what
10 it's designed to try to prevent, and then concludes
11 that if that prevention doesn't occur, you could be
12 exposed to carbon monoxide which can cause serious
13 illness or death.

14 Q. Right. So again, you're warning people
15 that they could die in paragraph 2, correct?

16 A. Which can cause serious illness or death.
17 They could possibly, if exposed to carbon monoxide --
18 yes.

19 Q. They can die.

20 A. Yes.

21 Q. Then you warn them again, in paragraph 4,
22 that they could die as a result of CO poisoning.

23 A. We're warning them that the action we're
24 taking is to prevent serious illness or death as a
25 result of CO poisoning, to quote the last piece of

1 that sentence.

2 Q. So it would be fair to say, if you read
3 that, you'd be worried that you could die.

4 A. I'd be worried that I could get sick or
5 if the exposure was great enough, yes, it could cause
6 me to pass away, to die.

7 Q. And this was all based on two CO
8 incidents in 12 months, one of which arguably could
9 be a faulty water heater.

10 A. Absolutely not. No. This is based on
11 240 units that have two violations per unit of the
12 National Fuel Gas Code which is designed to prevent
13 carbon monoxide exposure.

14 Q. Even though the city of Columbus told you
15 repeatedly that they don't follow the National Fuel
16 Gas Code and those apartments were permitted under
17 the code that was applicable at the time they were
18 built, correct?

19 A. That was the city's position. But that's
20 the essence of, as I've said in my deposition, of
21 what the Commission probably has to reconcile or
22 decide.

23 Q. Well, the essence of it, then, really
24 turns on whether Columbia Gas is liable for anything
25 because you believe that the city is not liable

1 because they permitted these buildings.

2 A. No. The essence of this is whether we
3 can pursue our -- whether we can apply the National
4 Fuel Gas Code that we've adopted.

5 MR. ZETS: Thank you, Mr. McCreery. I
6 have no further questions at this time.

7 HEARING EXAMINER: Thank you.

8 Mr. Stemm.

9 MR. STEMM: No questions.

10 HEARING EXAMINER: That will be all,
11 Mr. McCreery. Thank you very much for your patience.

12 (Witness excused.)

13 HEARING EXAMINER: Turning now to the
14 exhibits, Mr. Zets.

15 MR. ZETS: I will try and take these in
16 the order that I presented them.

17 HEARING EXAMINER: Let me ask this first,
18 before we go through one by one, because maybe we can
19 shorten this. Just in general, Mr. Stemm, do you
20 anticipate having objections to some of these
21 exhibits other than what you've already noted on the
22 record?

23 MR. STEMM: Right. May I just review my
24 list very quickly here? I was keeping a running
25 list, and I think the answer is probably we're going

1 to have very few, if any. And that's what you're
2 soliciting, right?

3 HEARING EXAMINER: Go off the record.

4 (Discussion off the record.)

5 HEARING EXAMINER: Go back on the record.

6 Mr. Zets.

7 MR. ZETS: Hearing Examiner, at this time
8 I'd like to move several exhibits into evidence, into
9 the record in this hearing. I'd like to list them.
10 CCA 1, CCA 2, CCA 40, CCA 3 --

11 HEARING EXAMINER: You need to go a
12 little slower because they're not in this order. Let
13 me read -- how about if I read the numbers, because 2
14 has already been admitted into the record.

15 MR. ZETS: Okay.

16 HEARING EXAMINER: I'll read the ones
17 that have not been admitted into the record.

18 1, 40, 3, 4, 5, 6, 7, 41, 8, 10, and 35.

19 MR. ZETS: That is correct. I would move
20 that those exhibits that you just listed be admitted
21 into the record.

22 HEARING EXAMINER: Mr. Stemm.

23 MR. STEMM: No objection on behalf of
24 Columbia Gas of Ohio.

25 HEARING EXAMINER: Those exhibits shall

1 be admitted into the record.

2 (EXHIBITS ADMITTED INTO EVIDENCE.)

3 HEARING EXAMINER: At this time I think
4 we will take a lunch break until 1:45.

5 (Discussion off the record.)

6 (Recess taken.)

7 HEARING EXAMINER: We'll go back on the
8 record. Mr. Stemm.

9 MR. STEMM: Yes, Hearing Examiner Pirik.
10 At this time we would ask to have marked as Columbia
11 Gas Exhibit 6 the direct testimony of Stephen E.
12 Erlenbach.

13 HEARING EXAMINER: The document will be
14 so marked.

15 (EXHIBIT MARKED FOR IDENTIFICATION.)

16 HEARING EXAMINER: Thank you. Please be
17 seated.

18 - - -

19 STEPHEN E. ERLENBACH
20 being first duly sworn, as prescribed by law, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 By Mr. Stemm:

24 Q. Mr. Erlenbach, if you would please state
25 your full name for the record.

1 A. Stephen, with a p-h, E. Erlenbach.

2 Q. And who is your employer?

3 A. SEA Limited.

4 Q. And what is your business address?

5 A. 7349 Worthington-Galena Road, Columbus,
6 Ohio 43085.

7 Q. And do you have before you what we marked
8 as Columbia Gas Exhibit 6 titled the Direct Testimony
9 of Stephen E. Erlenbach?

10 A. Yes, I do.

11 Q. Is this a true and accurate copy of
12 direct testimony that was prepared by you or under
13 your direct supervision for this proceeding?

14 A. Yes, it is.

15 Q. At this time have you discovered a need
16 to make any corrections to your prefiled testimony?

17 A. No, I did not. I do not need to.

18 MR. STEMM: So at this time, your Honor,
19 we would move for the introduction of Columbia Gas
20 Exhibit 6 as prefiled and identified by this witness
21 subject to any cross-examination.

22 HEARING EXAMINER: Mr. Zets, do you have
23 cross-examination?

24 MR. ZETS: No, I have no questions.

25 HEARING EXAMINER: You have no questions.

1 MR. ZETS: I have no questions for this
2 witness.

3 HEARING EXAMINER: That being said.

4 MR. STEMM: We would move for the
5 admission of Columbia Gas Exhibit 6.

6 HEARING EXAMINER: Do you have any
7 objections to Columbia Gas Exhibit 6?

8 MR. ZETS: No objections.

9 HEARING EXAMINER: Columbia Gas Exhibit 6
10 shall be admitted into the record.

11 (EXHIBIT ADMITTED INTO EVIDENCE.)

12 HEARING EXAMINER: So the record's clear,
13 Mr. Zets, does Cameron Creek have any further
14 witnesses to call, or does that complete your direct
15 case?

16 MR. ZETS: We have no additional
17 witnesses to call. It completes our case.

18 HEARING EXAMINER: Mr. Stemmm?

19 MR. STEMM: Columbia Gas rests with
20 Mr. Erlenbach, so its case is also completed.

21 HEARING EXAMINER: We'll go off the
22 record.

23 (Discussion off the record.)

24 HEARING EXAMINER: We'll go back on the
25 record. We were off the record talking about the

1 procedural process going forward, and I believe
2 Columbia Gas has a motion.

3 MR. STEMM: Yes, your Honor. Columbia
4 Gas would move for leave to present one rebuttal
5 witness at this point; Mr. Erlenbach, who is Columbia
6 Gas's outside expert that presented prefiled
7 testimony. It will be a very narrow issue of
8 rebuttal testimony.

9 Yesterday we heard Mr. Schutz raise an
10 issue of a certain code section that was nowhere
11 mentioned in prefiled testimony, so it was new
12 information not in his direct. It came up as he was
13 providing lengthier answers than requested during
14 cross-examination, specifically section 1.2 of the
15 National Fuel Gas Code handbook -- of the National
16 Fuel Gas Code he referenced, and it was not
17 referenced in his prefiled testimony.

18 We would ask for an opportunity to let
19 Mr. Erlenbach simply respond to Mr. Schutz's view of
20 the impact of that section and the definitional
21 section that went with that in terms of authority
22 having jurisdiction to make sure the record's clear
23 on what these experts' view of this model code
24 provision is.

25 It's not entirely a legal issue because

1 it's a model code as opposed to an Ohio
2 Administrative Code. And we believe it's important,
3 since Mr. Schutz has now interjected this issue into
4 the hearing, if Mr. Erlenbach, who has patiently sat
5 here for three days, have a chance -- I don't
6 anticipate it will take more than five or ten
7 minutes, and I won't lead him, it will just be a
8 couple of questions and then we'll rest our rebuttal
9 case.

10 HEARING EXAMINER: Does the complainant
11 have any, at this point in time, any wish to go
12 forward on any rebuttal testimony or --

13 MR. ZETS: Well, that's the slippery
14 slope we now are about to walk down because I'm not
15 sure what they're --

16 HEARING EXAMINER: No. I'm asking a
17 totally different question. At this point on the
18 record --

19 MR. ZETS: At this very moment, no.

20 HEARING EXAMINER: At this point in the
21 record --

22 MR. ZETS: I'm standing on the edge of
23 that slippery slope though, so my answer may change.

24 HEARING EXAMINER: Well, I'll ask you
25 again at the conclusion of Mr. Erlenbach's testimony,

1 but I'm saying at this point in the record do you
2 have any desire to request an opportunity --

3 MR. ZETS: No, we do not.

4 HEARING EXAMINER: Okay. Do you have an
5 objection to the company's request for a rebuttal
6 witness?

7 MR. ZETS: Yes, I do, Hearing Examiner.
8 I think that their expert witness has sat here
9 through the entire hearing, has I'm sure offered them
10 some advice, I don't care to know what it really is,
11 and counsel also had the opportunity to cross-examine
12 Mr. Schutz. He did a very fine job of it, it took
13 three hours yesterday to cross-examine Mr. Schutz.

14 They had ample opportunity to ask him any
15 questions they want. To pick apart or lend question
16 to his answers or his testimony that was prefiled or
17 any questions that he -- or any of his answers that
18 he responded to their questions, they had ample
19 opportunity. There's no reason -- they have not
20 provided good cause as to why their expert witness
21 now should be able to get back up onto the stand
22 after he filed his prefiled testimony and give
23 opinions as to anything. Those opportunities came
24 and went when they were able to cross-examine him.

25 If they needed to take a break during

1 that cross-examination, they could have consulted
2 with their expert witness and asked questions based
3 upon the section of the code they now wish to
4 reintroduce evidence on. And I do worry that this
5 will start us down a slippery slope because when he
6 testifies, I now may need rebuttal. Mr. Schutz may
7 have to retestify to respond to that rebuttal.

8 I do oppose the motion to introduce new
9 evidence in rebuttal testimony by their expert
10 witness.

11 HEARING EXAMINER: As I said off the
12 record, I'm not a big fan of rebuttal testimony, but
13 I think what Mr. Stemm has posed is an appropriate
14 basis to request rebuttal testimony. It was
15 information that they were not aware of in the
16 prefiled testimony, something that was provided on
17 the stand by a direct witness, and it is appropriate
18 to allow -- and I was the one as the examiner who
19 opened it up and questioned off the record whether or
20 not parties were interested in rebuttal testimony for
21 scheduling purposes.

22 So while I'm open to rebuttal testimony,
23 I'm only open to it if it's an appropriate request,
24 and in this situation I find that it is an
25 appropriate request for the very limited purpose of

1 what Mr. Stemm has posed.

2 If we find while the witness is on the
3 stand that it seems to be going broader than what was
4 proposed by the company, at that point in time you
5 can make an appropriate motion.

6 So given that, I will allow the company
7 to put the rebuttal witness on the stand and we will
8 move forward with his rebuttal at this time.

9 MR. STEMM: Thank you, your Honor.

10 Mr. Erlenbach, please take the stand. I
11 believe you're still under oath.

12 HEARING EXAMINER: Yes, you are.

13 - - -

14 STEPHEN E. ERLENBACH

15 being previously duly sworn, as prescribed by law,
16 was examined and testified as follows:

17 REBUTTAL DIRECT EXAMINATION

18 By Mr. Stemm:

19 Q. Good afternoon, Mr. Erlenbach.

20 A. Good afternoon.

21 Q. I believe you attended the hearing
22 yesterday in which Mr. Schutz testified on behalf of
23 Cameron Creek; is that correct?

24 A. Yes, I did.

25 Q. Were you able to listen to his entire

1 testimony?

2 A. Yes.

3 Q. At one point in his testimony he
4 referenced section 1.2 of the 1996 edition of the
5 National Fuel Gas Code. Are you also familiar with
6 section 1.2?

7 A. Yes, I am.

8 Q. He also referenced the Definition section
9 of the same code, specifically the definition
10 "authority having jurisdiction." Are you also
11 familiar with that definition?

12 A. Yes.

13 MR. ZETS: Which section is that in,
14 please?

15 MR. STEMM: This is part 1 of the 1996
16 National Fuel Gas Code.

17 MR. ZETS: Is it in section 1.2? Because
18 I'm going to object to any question that's not
19 directed at section 1.2 because that was the scope of
20 this testimony.

21 MR. STEMM: Actually, when I made my
22 motion, I said and authority having jurisdiction, the
23 definition that goes with that, because that's cited
24 in section 1.2. I think I made my motion pretty
25 clear.

1 HEARING EXAMINER: That would be
2 appropriate. You may go forward.

3 MR. STEMM: Thank you.

4 Q. (By Mr. Stemm) Specifically the
5 definition is -- the definitional section I believe
6 is 1.7 of the 1996 National Fuel Gas Code; is that
7 correct, Mr. Erlenbach?

8 HEARING EXAMINER: Can I ask, before we
9 go further -- and you can find that section -- I know
10 at least from the Bench's perspective I don't have
11 anything that I can refer to, and yesterday I did not
12 ask for this document in the record because I know --
13 but at this point I either need to know where we can
14 reference it, perhaps Mr. Schutz can help us, or I
15 need a copy of something to look at.

16 MR. ZETS: I think you can reference it
17 in the code. I don't think the code's been offered
18 as an exhibit, so that's the handicap we have.

19 HEARING EXAMINER: Pieces of the code
20 have been offered as exhibits, so that's my question,
21 is is there a piece of the code where this is
22 somewhere in the record already.

23 MR. ZETS: I believe no.

24 MR. STEMM: I believe that's correct,
25 your Honor. We will -- this is a very short section.

1 I didn't have this copied for you today. I can have
2 it copied immediately after hearing and give it to
3 you, and I can let you hold this code while we're
4 doing the testimony if you like.

5 HEARING EXAMINER: I don't need to hold
6 it, I just need to be sure I can follow the
7 questioning. I'm fine with that, but I need to be
8 sure that the record is clear and that I have the
9 exact document that you all are referencing with the
10 witness.

11 I didn't feel it was necessary yesterday
12 so I did not ask for it, but at this point I do think
13 it's necessary.

14 MR. STEMM: Could I propose that since
15 the section 1.2 as well as the definition are so
16 short, that I can ask the witness to read the
17 definition into the record -- or the code section
18 into the record? In addition to providing copies
19 afterwards. Just to get us through the next ten
20 minutes.

21 HEARING EXAMINER: I think that would be
22 fine since they're short.

23 Q. (By Mr. Stemm) Mr. Erlenbach, do you have
24 before you a true and accurate copy of the 1996
25 edition of the National Fuel Gas Code?

1 A. I have a copy of the 1996 National Fuel
2 Gas Code Handbook which contains the entire 1996
3 National Fuel Gas Code along with commentary from the
4 committee that put together the code.

5 Q. Okay. Does your book contain a true and
6 accurate copy of section 1.2 of the code itself?

7 A. Yes, it does.

8 Q. And could you please read that into the
9 record for us, title first and then paragraph.

10 A. Section 1 2 of the 1996 National Fuel Gas
11 Code is titled Alternate Materials, Equipment, and
12 Procedures. "The provisions of this code are not
13 intended to prevent the use of any material, method
14 of construction, or installation procedure not
15 specifically prescribed by this code provided any
16 such alternate is acceptable to the authority having
17 jurisdiction." And then in parentheses, "(See
18 section 1.7, Definitions).

19 "The authority having jurisdiction shall
20 require that sufficient evidence be submitted to
21 substantiate any claims made regarding the safety of
22 such alternatives."

23 Q. Thank you. Is that section 1.2 read in
24 its entirety?

25 A. Yes. Minus -- I did not include any of

1 the commentary; that would be what was in the code
2 itself.

3 Q. By the committee, right. And could you
4 also read into the record the definition at 1.7,
5 Authority Having Jurisdiction?

6 A. Section 1.7 under Definitions, Authority
7 Having Jurisdiction. "The organization, office, or
8 individual responsible for approving equipment, an
9 installation or procedure. NOTE: The phrase
10 'authority having jurisdiction' is used in this Code
11 in a broad manner since jurisdictions and approval
12 agencies vary as do their responsibilities. Where
13 public safety is primary, the authority having
14 jurisdiction may be a federal, state, local, or other
15 regional department or individual, such as a fire
16 chief, fire marshal, chief of a fire prevention
17 bureau, labor department, health department, building
18 official, electrical inspector, or others having
19 statutory authority.

20 "For insurance purposes, an insurance
21 inspection department, rating bureau, or other
22 insurance company representative may be the authority
23 having jurisdiction. In many circumstances, the
24 property owner or his delegated agent assumes the
25 role of the authority having jurisdiction. At

1 government hearings the commanding officer or
2 department official may be the authority having
3 jurisdiction."

4 Q. Did you say "at government hearings" or
5 "at government installations"?

6 A. I meant to say -- the code reads
7 "government installations."

8 Q. Okay. Now, my question to you,
9 Mr. Erlenbach, is having heard the testimony of
10 Mr. Schutz and having provided your direct testimony
11 by means of the prefiled testimony, in your prefiled
12 testimony I believe you found certain violations at
13 Cameron Creek based on the National Fuel Gas Code of
14 both 1996 and the current codes, correct?

15 A. That is correct.

16 Q. Please explain for the record whether
17 section 1.2 as you've read it into the record, along
18 with the appropriate definition, persuades you that
19 Cameron Creek actually is in compliance with the
20 National Fuel Gas Code or would be able to show
21 compliance with the National Fuel Gas Code using
22 section 1.2.

23 A. It is not in compliance with the National
24 Fuel Gas Code through this procedure or otherwise.

25 Q. Could you give us some explanation for

1 what 1.2, in your view, allows for and how that does
2 or does not apply to our situation here with the
3 violations that you found specific to Cameron Creek?

4 A. This section of the code, and I think it
5 would be appropriate to read the expert commentary
6 that was included in this handbook as a primary
7 definition anyway of --

8 MR. ZETS: I'm going to object to that.
9 That's not part of the code. We went through that
10 all yesterday. That's not actually part of the
11 expert -- the expert commentary is not part of the
12 code.

13 HEARING EXAMINER: Mr. Stemm.

14 MR. STEMM: Your Honor, we're not
15 presenting it as part of the code. I simply asked
16 the witness a very broad direct question. He is
17 about to make his explanation, and he is free to
18 reference whatever he thinks is helpful to his
19 explanation, which I think is certainly logical for
20 him also to want to point out for the hearing some
21 notes from the committee that drafted the code that
22 he finds relevant in coming to his conclusions about
23 what the code section itself actually means.

24 HEARING EXAMINER: Objection overruled.
25 You may answer the question.

1 A. And so the expert commentary in the
2 handbook reads "The intent of the National Fuel Gas
3 Code committee is not to prohibit safe practices in
4 the installation of gas piping and equipment that
5 have not been developed yet, nor to prohibit new
6 technology. This paragraph allows the authority
7 having jurisdiction to require evidence to
8 substantiate any claims and, with that evidence, to
9 permit an installation using an alternate or new
10 method or procedure. See note following Definition
11 of Authority Having Jurisdiction, section 1.7."

12 Q. So what does that tell you?

13 A. It tells me that any new, I mean, any new
14 technology or any things that the code doesn't really
15 clearly cover, that the authority having jurisdiction
16 can rule on a certain solution being provided for
17 that technology.

18 Q. Now, in this section 1.2 you read it
19 talks about procedures not specifically prescribed by
20 the code. In this code, in your view, are there
21 specifically prescribed standards by which venting of
22 multiunits and bathroom closets are to be regulated
23 by, as you testified in your testimony?

24 MR. ZETS: Objection. That's exactly my
25 objection. He's already testified to this in his

1 prefiled testimony. There's no need to go into this
2 on redirect -- or, I'm sorry, rebuttal.

3 HEARING EXAMINER: Objection overruled.

4 THE WITNESS: Could I have the question
5 read back? I'm sorry.

6 (Record read.)

7 A. These code provisions in the National
8 Fuel Gas Code, 1996 edition, are very clearly
9 defined; they are black and white; there is no gray
10 area with those provisions as stated in the question.

11 Q. In your view, does section 1.2 provide
12 any avenue by which one could argue they need not
13 comply with the sections you cited in your prefiled
14 testimony as to bathroom closets and multiunit,
15 multistory venting?

16 A. No, it does not.

17 MR. STEMM: One moment, please, I can
18 determine whether we're finished.

19 Q. Just one final question, Mr. Erlenbach.
20 Based on what you heard Mr. Schutz testify as to the
21 meaning of section 1.2 of this 1996 edition of the
22 National Fuel Gas Code, did it cause you to want to
23 change any of the opinions or conclusions expressed
24 in your direct testimony marked as Columbia Gas
25 Exhibit 6 as to the violations of the National Fuel

1 Gas Code you found at Cameron Creek?

2 A. No, it did not.

3 MR. STEMM: Thank you. No further
4 questions.

5 HEARING EXAMINER: Cross?

6 MR. ZETS: None.

7 HEARING EXAMINER: Thank you,
8 Mr. Erlenbach.

9 THE WITNESS: Thank you.

10 (Witness excused.)

11 HEARING EXAMINER: At this time I had
12 requested that, off the record, that Cameron Creek
13 provide a late-filed exhibit, 42, which would set
14 forth the exact number of units in the apartment
15 complex and types of units, be it a one-bedroom, a
16 two-bedroom, or a three-bedroom unit, and provide
17 that as a late filed Exhibit 42. A copy would go to
18 the court reporter, a copy to the company, and then
19 appropriate copies filed at the Commission.

20 MR. HART: Yes, Examiner.

21 HEARING EXAMINER: We also discussed a
22 briefing schedule. Well, let me say before I go
23 there, is there any objection to the late-filed
24 Exhibit 42 from Cameron Creek?

25 MR. GALLON: No objections.

1 HEARING EXAMINER: Then late-filed
2 Exhibit 42 will be admitted into the record upon its
3 receipt, and I don't want any other commentary in it,
4 I just need the numbers.

5 (EXHIBIT ADMITTED UPON RECEIPT.)

6 MR. HART: I understand.

7 HEARING EXAMINER: Okay. We discussed a
8 briefing schedule. Briefs will be due on August
9 31st with reply briefs due on September 14th. I
10 would ask the parties to be very specific in their
11 briefs with cites to the record. If you have any
12 questions whatsoever about what I specifically mean
13 by that, it is very important that we have a
14 discussion, a conference call, as to how that needs
15 to happen. But citing in your briefs is going to be
16 a paramount request on my part, that everyone clearly
17 cite what they're referring to.

18 We have a lot of exhibits in this case
19 and they all seem to be very similar, and I would
20 really hate to be looking for something and citing
21 something that isn't what you all were actually
22 referring to.

23 Is there anything else before I close the
24 record in this case?

25 MR. GALLON: Nothing for Columbia Gas,

1 Examiner.

2 HEARING EXAMINER: Mr. Zets?

3 MR. ZETS: Nothing on behalf of Cameron
4 Creek.

5 HEARING EXAMINER: Hearing none, this
6 record in this case will be closed and this record
7 will be submitted to the Commission for their
8 consideration.

9 MR. STEMM: Thank you for all your time.

10 MR. ZETS: Thank you.

11 MR. HART: Thank you.

12 (The hearing concluded at 1:18 p.m.)

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1 CERTIFICATE

2 I do hereby certify that the foregoing is a
3 true and correct transcript of the proceedings taken
4 by me in this matter on Friday, July 17, 2009, and
5 carefully compared with my original stenographic
6 notes.

7 _s/Maria DiPaolo Jones_____
8 Maria DiPaolo Jones, Registered
9 Diplomate Reporter and CRR and
Notary Public in and for the
State of Ohio.

10 My commission expires June 19, 2011.

11 (MDJ-3418)

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Case No(s). 08-1091-GA-CSS

Summary: Transcript Cameron Creek Apartments/Columbia Gas Vol-III 7/17/09 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Jones, Maria DiPaolo Mrs.