

CCR
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Meet.
340

TRANSCRIPT OF PROCEEDINGS

UNITED STATES
CIVIL RIGHTS COMMISSION

In the Matter of:

NORTH DAKOTA ADVISORY)
COMMITTEE TO THE UNITED)
STATES COMMISSION ON)
CIVIL RIGHTS)

Pages: 1 through 255

Place: Bismarck, North Dakota

Date: June 9, 1989

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BUREAU OF INDIAN AFFAIRS

In the Matter of:)
)
NORTH DAKOTA ADVISORY)
COMMITTEE TO THE UNITED)
STATES COMMISSION ON)
CIVIL RIGHTS)

Friday,
June 9, 1989

Sheraton
6th & Broadway
Bismarck, North Dakota

The above-entitled matter came on for hearing,
pursuant to notice, at 9:00 a.m.

BEFORE: MR. BRUCE STREIBEL
Chairperson, North Dakota Advisory
Committee

APPEARANCES:

On behalf of the Commission:

THOMAS V. PILLA
Research Specialist
3660 Wilshire Boulevard, Suite 810
Los Angeles, CA 90010

I N D E XPANEL MEMBERS:

Mr. Schneider
Mr. Laducer
Ms. Mills
Mr. Streibel
Mr. Olson
Ms. Miller
Mr. Winkjer
Mr. Lembke
Mr. Pilla

WITNESSES:

Ms. Broadshaug
Ms. Helphrey
Ms. Hoganson
Mr. McCloud
Ms. Youngman
Mr. Boyd
Mr. Mossett
Ms. Baker
Mr. Hill
Mr. Bear
Mr. Jacobson
Mr. Dipple
Mr. Carlson
Mr. Simms
Ms. Dykeshoorn
Mr. Hillesland
Mr. Sandstrom
Ms. Bennett
Mr. Johnson
Mr. Lafloe
Mr. Brien
Mr. Larock
Mr. Brewer
Mr. Fox
Mr. Rescliff

1 MR. STREIBEL: The Commission of Civil Rights
2 will now come to order. I'm Bruce Streibel, Chairperson
3 of the Advisory Committee.

4 In addition to the members of the Committee we
5 have here before us today, we also have Tom Pilla of the
6 Commission's Western Regional Division with us.

7 The North Dakota Advisory Committee receives
8 information, makes recommendations to the Commission in
9 areas of which the Committee or any of its subcommittees
10 is authorized to study.

11 The Commission of Civil Rights is an
12 independent agency of the United States Government
13 established by Congress in 1957 and reauthorized in 1983
14 under Public Law 898-183.

15 I'd like to emphasize that this a factfinding
16 meeting and not an adversarial proceeding. Individuals
17 have been invited to come and share information with the
18 Committee. Each person who will participate has
19 voluntarily agreed to meet with the Committee.

20 Since this is a public meeting the press,
21 radio and television stations, as well as individuals
22 are welcome.

23 Persons meeting with this Committee may,
24 however, specifically request that they not be
25 televised. In the is case, we will comply with their

1 wishes.

2 We have concern that none of the -- material
3 be presented at this meeting. In the unlikely event
4 that this situation should develop, it will be necessary
5 for me to call this to the attention of the persons
6 making these statements and request that they desist in
7 their action and such information will be stricken from
8 the record, if necessary.

9 This public forum is being held to conduct
10 information on housing concerns and utility rate issues
11 on reservations in North Dakota.

12 We may now proceed and I will ask each
13 participant to please identify yourself and the
14 organization affiliation for the record.

15 Will the representative of the Governor's
16 Office please step forward and I believe the Governor's
17 Office is going to be represented today by Jackie
18 Broadshaug. Jackie.

19 MS. BROADSHAUG: Thank you. It's always hard
20 to be first. You don't know what microphone to talk
21 into.

22 MR. STREIBEL: We have three of them there.

23 MS. BROADSHAUG: Thank you. It's my pleasure
24 to bring you greetings from Governor Brinner and to
25 express his gratitude for your willingness to volunteer

1 your services in performing this most valuable function
2 for North Dakota.

3 The Governor is in Denver today -- impossible
4 for him to be here personally.

5 Information provided to the Governor indicates
6 -- gather data on housing concerns and utility rate
7 issues on reservations in this state.

8 When Chief Joseph made a trip to Washington,
9 D.C. in 1879 to testify to the U.S. Congress, he made
10 the following remarks.

11 There need be no trouble. Treat all men
12 alike. Give them all the same law. Give them all an
13 even chance to live and grow. All men were made by the
14 Great Spirit Chief, they are all brothers. The earth is
15 the mother of all people and all people shall have equal
16 rights upon it.

17 But since 1879 we have learned that the same
18 laws do not affect all people in the same way. A law
19 that is fair for many, may be quite unfair for the few.
20 Historians and philosophers sometimes refer to this as a
21 tyranny of the majority.

22 There's a very fine line between providing
23 protection for groups and for individuals through law
24 and allowing communities to have local control and self
25 determination.

1 We are creatures of habit and resist change so
2 it becomes far too easy for society to accept existing
3 conditions and not perceive the inequities and the
4 unfairness that exists around us.

5 In recent weeks we have taken renewed pride in
6 our country and in our system of government. As we
7 witness the peaceful shift of power in our own House of
8 Representatives and contrast it with what is happening
9 elsewhere.

10 We have watched Soviet leader Gorbachev call
11 for Glasnost to --, new words in our language, to
12 increase openness, reduce human rights violations and to
13 improve the Soviet economy.

14 We watched previously outlawed trade union
15 solidarity when major election victories in Poland. We
16 continue to watch and pray for the courageous efforts of
17 students in China to achieve a voice in their
18 government.

19 -- Porter coined the phrase democracy is
20 breaking out all over the world. Former U.S. Attorney
21 General Ramsey Clark said behind the phrase law and
22 order many conceal their opposition to civil rights
23 enforcement and to dissent. Then he added, on second
24 thought, civil liberties are always safe as their
25 exercise doesn't bother anyone.

1 We are far less bothered watching people of
2 other nations strive to attain a semblance of democracy
3 than we are to audit our own system, as you will be
4 doing today.

5 Governor Brinner has great concern that the
6 rights and beliefs of those North Dakotans who are also
7 native Americans are respected. He has shown this in
8 many of his actions, particularly in supporting efforts
9 to have historical remains reinterred and in support of
10 the returning to their original owner the lands taken
11 during the building of the Garrison Dam.

12 The Governor is pleased with the many
13 cooperative efforts between native American communities
14 and state and local governments, including but not
15 limited to economic development, children and family
16 services including the families first project and the
17 celebration of 100 years of statehood.

18 He also continues to express concern with some
19 devastating problems like high unemployment, substandard
20 housing and social problems on some of our Indian
21 reservations. We know these problems result from a
22 combination of social, political and economic factors.

23 You are here today to identify and to isolate
24 the -- factors. Federal regulations may be needed in
25 some states while causing great problems in others, such

1 as our own.

2 State and local governments also have laws and
3 regulations that can be harmful to some residents. You
4 will find that the realities as laws and policies are
5 implemented are not always the same as the intent of the
6 lawmakers and the policymakers in making these rules.

7 Members of the North Dakota Advisory
8 Committee, the U.S. Commission on Civil Rights, you have
9 a very important assignment here today. We wish you
10 well.

11 Robert Kennedy said social progress and social
12 justice are not something apart from freedom. They are
13 the fulfillment of freedom. The obligation of free men
14 is to use their opportunities to improve the welfare of
15 their fellow human beings.

16 You are about to use your opportunity. The
17 Governor is looking forward to receiving a summary of
18 these proceedings. Thank you very much.

19 MR. STREIBEL: Thank you, Jackie. Are there
20 any questions on the part of the Panel for Jackie?

21 MR. WINKJER: Mr. Chairman, do you think that
22 further inquiry ought to be made?

23 The Governor, as the Chief Executive Officer
24 of the State of North Dakota, has the prime
25 responsibility for the enforcement of civil rights in

1 North Dakota, does he not?

2 MS. BROADSHAUG: I believe so.

3 MR. WINKJER: Has the Governor made any
4 finding or had he come to any decision as to whether
5 there is a civil rights problem in North Dakota as it
6 relates to the native American?

7 MS. BROADSHAUG: I'm not aware of any
8 particularly conclusive findings at this time, it's
9 ongoing.

10 MR. WINKJER: Who is in charge of that
11 particular department in the Governor's Office, if you
12 know?

13 MS. BROADSHAUG: I do not know.

14 MR. WINKJER: The Governor indicated, through
15 your speech, that he was concerned about the remains and
16 I think we all are, and the return of land.

17 I guess some of the matters that have been
18 brought to our attention by the North Dakota Indian
19 Affairs Commission relate to present day problems here
20 in North Dakota, you know, not over in Gorbachev's
21 regime or Congress of those. We're concerned about
22 North Dakota.

23 What is being done, if anything, about the
24 problems expressed by the North Dakota Indian Affairs
25 Commission by the Governor's Office, the Chief Executive

1 Officer of North Dakota?

2 MS. BROADSHAUG: At this point, we are waiting
3 to hear the results of this particular hearing. The
4 Governor and the Lieutenant Governor have been
5 personally involved in meeting with representatives from
6 the Indian tribes and there are many ongoing efforts.

7 There is no particular study that I am aware
8 of that has any kind of conclusion. It's an ongoing
9 effort.

10 MR. WINKJER: Thank you very much. Thank you,
11 Mr. Chairman.

12 MR. STREIBEL: Any other questions? Yes.

13 MR. LADUCER: The State of North Dakota
14 receives several million dollars in federal funds and
15 part of the effort in receiving these federal funds is
16 to develop affirmative action plans as to where
17 employment is created and that native Americans would be
18 given a right to be employed or an opportunity, at
19 least.

20 Is there any monitoring effort by the state to
21 ensure that this is done?

22 MS. BROADSHAUG: I am not familiar with that
23 area, I'm sorry.

24 MR. STREIBEL: Any other questions on the part
25 of the Committee members?

1 There being none, thank you, Jackie. Do you
2 have a copy that you can leave with the Committee, of
3 your presentation?

4 MS. BROADSHAUG: Yes.

5 MR. STREIBEL: You might as well just leave it
6 with Tom there, Tom Pilla, right behind you. I'll be
7 giving it to him anyway.

8 Juanita, good morning.

9 MS. HELPHREY: Good morning.

10 MR. STREIBEL: It's been a long time.

11 Our next presenter will be Juanita Helphrey
12 and those of us that have served in the North Dakota
13 legislature have been the benefactors of Juanita's
14 testimony on many occasions and we're very pleased to
15 have you with us today.

16 So at this time we'll call on Juanita Helphrey
17 -- Commission for a presentation and I stated for the
18 record earlier, Juanita, if you could state your name
19 and the organization you represent for the record.

20 MS. HELPHREY: Okay, I'm Juanita Helphrey and
21 I'm the Executive Director of the North Dakota Indian
22 Affairs Commission and that position I've held for about
23 15 years.

24 Before I present my formal testimony of which
25 I've made copies available, I'd like to just make a

1 comment about mainly why this Committee might be looking
2 into some of the utilities and housing problems.

3 Last fall when you met here, I had received a
4 deposition through my membership on the Vernon County
5 Authority Board and the Director, Mike Zenofski, has
6 received an application from a young couple from Fort
7 Totten who were having a hard time with their housing
8 and utilities problem at the Fort Totten Reservation.

9 Having done some research with that couple,
10 Mike decided to do a formal deposition and he made the
11 deposition available to some of the Vernon County
12 Commissioners, of which I said I was a member, and
13 having read that deposition was quite appalled at the
14 cost of living of this young couple who were on welfare
15 were experiencing.

16 Further, the deposition did include copies of
17 bills and so forth that have created a big impact on
18 their budget from the utilities that were serving that
19 housing unit that they were living in.

20 About that time Art Raymond, who is a member
21 of my Commission as well, asked if there was anything
22 that I could look to as a project for this Advisory
23 Board and that was one of the utmost things on my mind
24 at the time because it raised questions in my mind and
25 aroused curiosity as to how many other young couples

1 were experiencing that kind of hardship. It does become
2 a hardship when the bills become more than your income.

3 So I suggested that in a letter to you of
4 which I asked my staff assistant to bring a copy of in
5 case -- or at least a copy from the office in case none
6 of you had it with you today, but in my memory of that
7 deposition the costs of their utilities were 300 to \$500
8 a month, the highest amount being during the coldest
9 winter months.

10 And admittedly some of the reason for the bill
11 were -- some of the reasons for the bills were problems
12 in the house itself; the way it was not kept up and the
13 air that came through windows and doors and so on.

14 I still felt like having since that time
15 talked with other -- talking with other reservation
16 members, felt like the costs were exorbitant in many
17 areas and felt that there should be something done in
18 terms of those people who are low income and disability.

19 So based on that, I did have, when I was a
20 recipient of this invitation to come before you, I asked
21 our staff assistant to review some of the costs and the
22 rules and regulations around North Dakota. What she's
23 come up with is probably a brief overview, but a feeling
24 that this Commission is not done with it's job.

25 I think it's enough to arouse your curiosity

1 as well and hopefully that some of the research will
2 continue from this Commission.

3 So, I'll go into the testimony which you --
4 did you make copies -- okay, we can probably give this
5 to them and I'll just read from the one I have.

6 This is Shelly Hoganson and she's a graduate
7 of the University of South Dakota.

8 MR. STREIBEL: Good morning, Shelly.

9 MS. HOGANSON: Good morning.

10 MS. HELPHREY: Okay. It has been brought to
11 the attention of the Indian Affairs Commission that
12 there has been a problem among native people regarding
13 high utility rates on reservation housing.

14 Our office is greatly concerned with this
15 problem since many families are paying up to two and a
16 half times more for utilities than they are for rent.

17 We have briefly looked into this problem and
18 found that it is faceted. Reservation housing
19 authorities have stated that much of the problem lies
20 with inadequate insulation, caulking the windows and
21 doors and poor construction of older housing units.

22 Twenty years ago these homes had met federal
23 weatherization standards but today they no longer are
24 sufficient. Many of these homes have electric heating
25 and along with poor weatherization they are less than

1 efficient to heat economically.

2 Trenton Housing Authority has converted
3 several older electric homes into gas units which has
4 actually cut their utility bills by two-thirds.

5 Secondly, there are two types of electric
6 companies in which both types have their own regulations
7 for setting rates. For companies like NSP the Public
8 Affairs Commission sets the rates for revenue
9 requirements. Individual companies then decide on their
10 own rates to cover these costs.

11 Rural coops, on the other hand, govern
12 themselves in which their rates are generally based on
13 wholesale cost overhead.

14 All four reservations in North Dakota along
15 with Trenton community, receive their utilities from
16 rural coops. These rates, which are supplied to the
17 Indian people, varies from five cents per kilowatt hour
18 to seventeen cents per kilowatt hour for the first 100
19 kilowatts.

20 Odd peak hours at Fort Totten run 27 cents per
21 kilowatt hour, however, furnaces have to be converted
22 and able to use off peak rates.

23 Odd peak use of electricity is quite high
24 being 96 cents per kilowatt hour for the first 500
25 kilowatts. Monthly base charges, facility charges range

1 from no charge to \$17 per month.

2 Deposits are another added cost which is
3 required from new consumers. These can be as high as
4 400 but generally range from 100 to \$150. However,
5 there are some utility companies who waive their deposit
6 if the consumer has good credit or references from a
7 previous utilities company.

8 Deposits are refundable after two years and
9 includes the simple interest accrued. If a customer has
10 a delinquent bill, the deposit usually is applied
11 towards it.

12 A problem which arises from rural coop rates
13 are that the rates vary even within reservation
14 boundaries. -- Mountain Reservation alone is serviced
15 by three utilities companies. Depending on where a
16 person lives, they could pay anywhere from seven cents
17 to fourteen cents per kilowatt hour for the first 100
18 kilowatts used.

19 Base charges also vary along with deposits
20 ranging from no deposit to \$400.

21 It is our understanding that many utility
22 companies are currently trying to work with Indian
23 peoples. Unfortunately, there has been problems in the
24 past and some are still occurring.

25 One such problem has been brought to our

1 attention concerning fuel assistance. Apparently there
2 has been several utility bills labeled as fuel
3 assistance families. However, many of these people have
4 never been on this program in their lives; so one
5 wonders what this is all about.

6 It is the recommendation of the North Dakota
7 Indian Affairs Commission that an investigation be
8 conducted into the problem of reservation housing and
9 high utility rates. Perhaps as a result of this
10 recommended investigation deposits could be lowered,
11 rates become more consistent, due dates of bills be
12 arranged so assistance checks arrive prior to the final
13 due day of bills, lower base charges and any other
14 consumer concerns.

15 The Indian Affairs Commission also would like
16 to recommend that housing units be updated referring to
17 insulation, caulking of windows and doors and perhaps
18 replacing thin metal windows with more energy efficient
19 windows.

20 That is the conclusion of the formal portion.
21 I have requested through my -- our agency present --
22 four tribal areas and in my visit yesterday, for
23 example, to -- I discovered that Ed Lofite will be here.
24 I don't know if he is yet, but I believe they had
25 indicated that Titus Hall would be here but he's going

1 to be here to present their testimony.

2 So I know there are other people that are
3 interested in what's going on. One problem that did
4 surface, too, and I think it was mentioned, what I heard
5 more recently is that there are no Indian people on
6 decision making board and that's a problem we've
7 experienced for a number of years in all kinds of
8 boards, so that might be helpful in some of the decision
9 areas.

10 If this Commission requires, I could obtain
11 formal statements from consumers. I have discovered and
12 uncovered a number of consumers who have personal
13 insight and reflection and implication by utilities and
14 they could put forth a handwritten complaint, or
15 whatever, but at this point I haven't been able to
16 accumulate all that. Most of them are able to travel to
17 Bismarck, so, thank you very much.

18 MR. STREIBEL: Thank you, Juanita. Are there
19 any questions by the members of the Committee of
20 Juanita?

21 MR. LADUCER: Mr. Chairman?

22 MR. STREIBEL: Yes?

23 MR. LADUCER: I have a question. Ms.
24 Helphrey, on Page 2 of your testimony you spoke and --
25 several utilities -- families, however many of these

1 people have never been on this program in their lives so
2 one wonders what this is all about.

3 I don't understand, what do you mean by that?

4 MS. HELPHREY: I believe that will be in Ed
5 Lofite's testimony so that it will give you a clearer
6 understanding.

7 My understanding is that on the billing
8 statement it refers to a code that tells that utilities
9 company whether or not that family is receiving fuel
10 assistance and fuel assistance, as you know, is a
11 federal program that can help defray the costs of the
12 bill and if it's an implication -- maybe I shouldn't say
13 implication -- if it's the understanding of that
14 utilities company that the family is on fuel assistance
15 there might be implication there that they might raise
16 their costs.

17 So at some areas, at least what -- I believe,
18 they assume that all families are on fuel assistance.
19 It's like assuming the whole reservation is on welfare
20 and that's just simply what that statement overview
21 meant, a general statement.

22 But I believe -- testimony will give some more
23 reflection on that.

24 MR. STREIBEL: Would you have any idea,
25 Juanita, what percent of the residents are on fuel

1 assistance? Do you have any idea what percent might be?

2 MS. HELPHREY: I would venture a guess --
3 well, I would say, for example, that all of the welfare
4 recipients are recipients of fuel assistance, food
5 stamps and so forth. That's a portion of their budget.

6 We have a high incidence of non-employment or
7 unemployed on the reservations so we have high welfare.
8 I can't say exactly what percent of it.

9 MR. STREIBEL: Uh-huh, thank you. Any other
10 questions? Yes, Jim.

11 MR. LADUCER: You stated that the rates
12 changed from seven to fourteen percent in some of the
13 coops and develop their own rates and some are governed
14 by the Public Service Commission?

15 MS. HELPHREY: Yes.

16 MR. LADUCER: Is there any reason for that,
17 would you know?

18 MS. HELPHREY: Shelly will have to answer that
19 for you because she had direct conversation with the
20 Public Service Commission.

21 MR. LADUCER: The rates are at different
22 scales. Some of the firms on reservations, and she used
23 Turtle Mountain as an example here, some of the
24 companies are governed and -- seven cents and some of
25 the companies are not governed and set their own rate at

1 fourteen cents a kilowatt hour.

2 Why are some companies regulated and others
3 not?

4 MS. HOGANSON: Well, my understanding is
5 that --

6 MR. STREIBEL: Pardon me, would you come up so
7 that you're on the record.

8 MS. HOGANSON: My name is Shelly Hoganson and
9 I work for the North Dakota Indian Affairs Commission
10 and I did do some of the research for this and you're
11 wondering about why the rates vary.

12 Well, from my understanding, the only thing I
13 can say is that you have got a company like NSP, you do
14 have a Public Affairs Commission which does set their
15 rates.

16 Rural coops, to my understanding, I talked to
17 a person at the Public Affairs Commission, and he just
18 said that they are a company that's owned or run by
19 members, not where you've got -- so it's a non-profit
20 organization so they're virtually self-governed and they
21 know what their costs are.

22 MR. LADUCER: If their bills go up, the public
23 coops, if their bills go up then the consumer is going
24 to end up paying for it then.

25 MR. STREIBEL: Jim, pardon me, Shelly's

1 correct. The coops are not under the jurisdiction of
2 the Public Service Commission. Just private electrical
3 utilities are.

4 Again, later on this afternoon when a member
5 of the Public Service Commission appears before us, but
6 they're not under their governing, like you said and
7 you're correct.

8 MS. MILLS: Juanita, when you talk about fuel
9 assistance, is that a percentage of the bills or is it a
10 flat amount that's paid? Do you know how they do that?
11 Do they have a pool and then divide it up according to
12 the number of people that are taking the money out, do
13 you know?

14 MS. HELPHREY: I'm sorry, I don't have the
15 answer to that. Jim might know.

16 MS. HOGANSON: Well, one of the things that I
17 found out if somebody had say like a \$300 fuel bill,
18 that fuel assistance would pay up to \$200.

19 MS. MILLS: But you don't know on what basis
20 they decide how much they're going to pay.

21 MS. HOGANSON: I would think it's on -- excuse
22 me, on --

23 MS. HELPHREY: I know the answer to that, I
24 guess, is that fuel assistance, it's just like any other
25 federal program where a tribe anticipates their need,

1 applies for the grant, the grant is produced -- is
2 submitted to the tribe, then they have to distribute it
3 in a pro-rated share amongst those that are eligible.
4 So it can fluctuate from grant to grant from year to
5 year.

6 MR. STREIBEL: Just an observation, when you
7 cited in your testimony and you also have it in the
8 paper that you presented to us some months ago, you have
9 utility bills that range from the high two hundreds up
10 to six hundred and averaging about five hundred a month,
11 it's almost -- it's hard to comprehend how they cope
12 with that.

13 I know in our home we get a utility bill of
14 \$300 during the cold months, I have concerns, you know,
15 and it would appear it would be a high priority to do
16 something about those homes to weatherize them, to get
17 them into some condition to where they're livable. With
18 a heating bill that high, those homes couldn't be too
19 comfortable, I wouldn't think.

20 MR. LADUCER: You have to consider the prices
21 up there on some of the utilities, too.

22 MR. STREIBEL: Yeah, that's true. That's
23 probably why you have those --

24 Yes, John?

25 MR. OLSON: Thank you, Mr. Chairman.

1 Juanita, reading your testimony you indicate
2 really that there's two main problems and that's the
3 utility rates and the condition of the homes.

4 MS. HELPHREY: Right.

5 MR. OLSON: Are you prepared to say that
6 you're convinced that the setting of those rates is a
7 very substantial problem with the bills that are
8 incurred by these people and that that is very
9 substantial in relationship to the condition of homes
10 that, apparently, some of them are in need of very
11 significant work to update them and weatherize them and
12 so forth?

13 MS. HELPHREY: I don't know whether I'm
14 prepared to admit. My remark might reflect some of my
15 thoughts, and that is in reflecting over this last night
16 on my long drive back from New Town, I was trying to
17 think of how a low income family copes and what a
18 utilities company could do to assist in their hardships
19 and maybe one of the answers to that could be so much
20 percent of their income be -- only go towards utilities
21 but how does one get a private utilities company to do
22 that?

23 I have no answer to that. One answer again,
24 too, though is the updating of the housing. So I can't
25 say that I'm agreeing to admitting anything. It's a --

1 problem to me and maybe some answers will come with the
2 more understanding I get and the more understanding of
3 things you, as a Commission, get.

4 MR. OLSON: My next question is if there is,
5 in fact, some problem with those rates and you believe
6 there is, do you believe that the utility company has a
7 responsibility not only to do something with those
8 rates, but do they also have a responsibility to
9 assist -- are you asking that they also have a
10 responsibility to assist these homeowners in -- with
11 programs or some kind of outreach mechanism to upgrade
12 and to weatherize and to make them more energy
13 efficient?

14 Do you believe that the utility companies,
15 themselves, have that responsibility and should move in
16 that direction?

17 MS. HELPHREY: For people who are
18 disadvantaged and low income, I believe that we all
19 should have responsibility to bring them to more equal
20 standards and that includes as consumers of utilities.

21 Utility companies should, I believe
22 personally, try to understand the situation better and
23 maybe work with the officials on the reservation who are
24 in charge and see if there is a way to compromise some
25 kind of a -- come to an answer or a solution.

1 MR. OLSON: My last question is on the
2 deposits which range from zero to \$400, is there
3 evidence that those deposits are, in fact, arbitrary and
4 discriminatory or just simply arbitrary? What kind of
5 evidence do you have on the level of deposits?

6 MS. HELPHREY: The evidence is one, of my
7 knowledge, of urban Indian people who come to the cities
8 and communities of Bismarck and -- and so on, and try to
9 achieve a higher standard of living here and get better
10 living for their young children.

11 When they come, having experienced problems
12 with their utilities bill, maybe being behind in
13 payments and so on, that's when the deposits and the
14 problems come in.

15 They are unable to say place a \$500, 4, \$500
16 deposit based on their highest bill at home so that that
17 would protect the local utility company in the community
18 and that's already one big hardship before they even get
19 relocated, situated and get employment or get started in
20 a new life in an urban community.

21 And that's the hardship that I also have
22 concern on because of my location here in the community
23 as well as our responsibility to work with urban Indian
24 people and 50 percent of the Indian population ends up,
25 at one time or another, in an urban area to try it out,

1 maybe even to settle and so we can't help them get their
2 lives in order or they can't get themselves together if
3 they've got all that problem as soon as they move. It's
4 just another hardship.

5 That's the only angle I see that as being -- I
6 assume, and from Kelly's research she probably found the
7 same problem on the reservation, if they get behind in
8 their bills then relocate and then they move back,
9 again, they have the deposit there that's going to hit
10 them as soon as they get back.

11 MR. OLSON: I guess my question on these
12 deposits relates to whether or not the utility companies
13 are actually looking at credit risks with these families
14 or are they arbitrarily singling out Indian people as
15 credit risks without checking and demanding a higher
16 deposit because you're Indian people.

17 MS. HELPHREY: That would have to take more
18 investigation and we'd be happy to pursue that. It
19 would be the question in my mind, as well.

20 MS. HOGANSON: I did have several people tell
21 me that they felt that that was one of the problems that
22 they encountered. They felt because they were Indian
23 they were getting socked with this large bill because --

24 MR. OLSON: Without any review of their credit
25 background or credit history?

1 MS. HOGANSON: They felt that way.

2 MR. STREIBEL: Any other questions? Yes,
3 Dean.

4 MR. WINKJER: Yes, Chairman, thank you.

5 Juanita, I guess I'm going to start out, if I
6 may, Mr. Chairman, ask several questions but the first
7 question I'm going to ask, calling for a conclusion and
8 I think you maybe touched on this in the questions that
9 Senator Olson submitted.

10 But my question is of you as a native
11 American, a person who holds a high position with the
12 native American political programs of North Dakota, the
13 question is, is there discrimination in North Dakota on
14 utility rates and housing for the native Americans?

15 MS. HELPHREY: I'd have to answer -- it's
16 easier for me to say yes than no.

17 MR. WINKJER: It's easier for you to say yes
18 than no, all right. But I think we all see a bit of
19 ambivalence there.

20 MR. HELPHREY: But I guess the reason I state
21 it in that manner is my position in this community for
22 20 years is one that allows me to see discrimination in
23 all areas.

24 I have investigated areas in housing,
25 employment, mistreatment in stores as consumers, higher

1 prices tabulated to used cars, a variety of areas that
2 lead me to believe that if you look into all areas of
3 the life of an Indian person, you will find evidence of
4 some discrimination.

5 And I can't say that all people in North
6 Dakota are of that caliber. I'm only saying some of
7 these isolated incidents that I've handled give me
8 reason to believe that we still have a long ways to go
9 in resolving issues of misunderstanding and stereotypes
10 and so forth.

11 So I have to say yes in that manner, that if I
12 began to look I would probably find something. Maybe
13 it's an isolated incident, but I'd probably find
14 something.

15 MR. WINKJER: As it relates to the area of
16 housing and utility rates, let's look at existing
17 agencies that have responsibility to the native
18 Americans in these areas.

19 I would ask, does the North Dakota Department
20 of Human Services have a responsibility in this area?

21 MS. HELPHREY: Of utilities?

22 MR. WINKJER: Of utilities and housing for
23 native Americans?

24 MS. HELPHREY: The D.H.S., only if a person is
25 coming off the reservation and looking for unemployment,

1 has problems finding unemployment, has to end up on
2 welfare in that manner, then they become a so to speak
3 ward of the social service.

4 MR. WINKJER: Are they a responsibility of the
5 Regional Resource Center in the area of housing and
6 utility rates?

7 MS. HELPHREY: No, there's very few people
8 that take responsibility for the native American --
9 reservation area.

10 MR. WINKJER: Are there responsibilities with
11 the Bureau of Indian Affairs?

12 MS. HELPHREY: No.

13 MR. WINKJER: Are there responsibilities with
14 the Tribal Council?

15 MS. HELPHREY: No, not off reservation. The
16 answers -- my no answers are concerning people who move
17 off the reservation.

18 MR. WINKJER: All right. As it relates to
19 those people, are there responsibilities with the
20 housing authorities?

21 MS. HELPHREY: No, no Indian Health Service,
22 no, no nobody.

23 MR. WINKJER: Are there responsibilities with
24 the Public Service Commission?

25 MS. HELPHREY: No.

1 MR. WINKJER: Are there responsibilities with
2 the City Building Inspectors and State Building
3 Inspectors?

4 MS. HELPHREY: No. An Indian person moving
5 off the reservation is totally experiencing a whole new
6 environment and new lifestyle and practically no
7 support.

8 MR. WINKJER: But do you have any opinion as
9 to whether or not the city or county or state building
10 inspectors as it relates to health and safety have any
11 responsibility towards the native Americans and
12 substandard housing?

13 MS. HELPHREY: On reservation?

14 MR. WINKJER: On or off reservations.

15 MS. HELPHREY: On reservation they have
16 federal regulations and so on that make divisions
17 responsible, but the health and welfare of --

18 MR. WINKJER: Off and on reservation Indians,
19 is there any responsibility for the public housing
20 authorities?

21 MS. HELPHREY: No, oh, excuse me, yes. Some
22 of the low income homes that are federally subsidized in
23 communities like Bismarck and other areas of North
24 Dakota, do have responsibility to quote assist
25 disadvantaged and low income people of which our people

1 are quite a large category.

2 MR. WINKJER: Would you agree, then, there are
3 several agencies within the State of North Dakota,
4 either federal or state or county or city, who have
5 responsibility to these areas now?

6 MS. HELPHREY: Only the one I mentioned.

7 MR. WINKJER: And there are but there are some
8 that have responsibilities?

9 MS. HELPHREY: I don't know if you call it a
10 responsibility. Again, I've experienced in my career
11 and my citizenry in Bismarck even in the area of low
12 income housing discrimination.

13 MR. WINKJER: If little children are living in
14 a substandard home that isn't heated satisfactorily, is
15 there a responsibility with the Department of Human
16 Services --

17 MS. HELPHREY: Yes, if they're on the welfare
18 program of the --

19 MR. WINKJER: Thank you.

20 You talked about these electrical rates on the
21 cooperatives being set by the board of directors and I
22 think that that is a fact and will probably come up a
23 little later as to why.

24 Are there any native Americans on the board of
25 directors of these electric cooperatives?

1 MS. HELPHREY: My knowledge is that the only
2 native American I knew that served some years on a board
3 on the Mor Gran Sou is Robert --.

4 MR. WINKJER: And on the basis of your
5 knowledge, there are no others?

6 MS. HELPHREY: No.

7 MR. WINKJER: My last question, as it relates
8 to the electric cooperatives now or let's say the
9 electric suppliers, whether they be cooperative or the
10 others, do you know -- do you have any evidence as to
11 whether there are rates that are different for the
12 native Americans as against the non native Americans?

13 MS. HELPHREY: I would refer again to Shelly
14 but before I do, I would have to say that when I
15 instructed Shelly to do research I asked her purely to
16 look into the county areas and areas that service the
17 tribes.

18 So we have not done a comparable survey, for
19 example, with counties that have no Indian residents.
20 That would help answer that question and maybe she has
21 some more remarks about that.

22 MS. HOGANSON: I was told there was no
23 differentiation.

24 MR. WINKJER: That there is no discrimination
25 between native Americans and --

1 MS. HOGANSON: But I have not gone to a non-
2 union family and asked what the rates are and then gone
3 to an Indian family and asked.

4 MR. WINKJER: Isn't that rather pertinent to
5 the issue?

6 MS. HELPHREY: To as families? Well, I
7 wouldn't say so because my experience, again, over many
8 years of working with counties and tribal areas, tribal
9 reservations, tribal land, is evidence accumulated
10 suggests that those county areas have a higher
11 discrimination possibility than those that are far
12 removed and remote from those areas.

13 Evidence, evidence not only in our keeping but
14 in keeping nationwide so that I would have to say that,
15 again, if I went further and investigated any other
16 counties other than that might perhaps help but I would
17 support Shelly's statement that I would guess that any
18 coop or rural area would not change and vary rates.

19 MR. WINKJER: Thank you, Mr. Chairman.

20 MR. STREIBEL: Thank you. Yeah, John.

21 MR. OLSON: Yes, Juanita, I guess maybe you
22 answered that question. To completely understand your
23 testimony here with the variance of rates on Page 1
24 you're saying those rates vary from five cents to
25 seventeen cents per kilowatt hour.

1 On Page 2 you look at seven cents to fourteen
2 cents on Turtle Mountain Reservation where there's three
3 utility companies. Are these variance of rates
4 primarily between utility companies when they're
5 servicing this area or that area?

6 MS. HELPHREY: I noticed in our records that
7 Shelly has a chart and maybe she could respond to that.

8 MS. HOGANSON: It varies with the company
9 itself.

10 MR. OLSON: Inside the company territory
11 itself, depending on where they serve, there's a
12 variance --

13 MS. HOGANSON: What I understand from talking
14 to the -- is that the area they served all had the same
15 rates. There was no variation in that, no.

16 MR. OLSON: So the variation is between the
17 coops, right?

18 MS. HOGANSON: Right.

19 MS. HELPHREY: And -- testimony that I was
20 discussing yesterday would indicate that the area they
21 live in has one of the lowest rates per kilowatt and
22 that will be brought out in testimony later.

23 MR. OLSON: Thank you.

24 MR. STREIBEL: Any other questions? Yes?

25 MR. SCHNEIDER: Thank you, Mr. Chairman.

1 Ms. Helphrey, in your memorandum to our
2 Committee dated November 9th, 1988 you mention in the
3 second to last paragraph the history of under accounting
4 of reservation Indian people.

5 Do you have an accurate account of the number
6 of Indians in North Dakota living on the reservation,
7 and if so, what is your methodology, how do you arrive
8 at that figure?

9 MS. HELPHREY: My accurate count is updated
10 yearly by the Bureau of Indian Affairs through their
11 recordkeeping on each reservation and I have an accurate
12 count.

13 I utilize and trust that accounting because a
14 lot of the people, the reasons they need accountings for
15 purposes of social service programs and unemployment and
16 so on, so I do have a yearly accurate account of on
17 reservation Indian citizens.

18 MR. SCHNEIDER: What is the count now?

19 MS. HELPHREY: About 20,000 on reservation. I
20 could get you that chart.

21 MR. SCHNEIDER: That's accurate as of when?

22 MS. HELPHREY: We just received their 1988
23 report. They're always a year behind.

24 MR. SCHNEIDER: Thank you.

25 You also mentioned in that same memorandum the

1 North Dakota Human Rights Act which the legislature
2 passed in 1981, I believe, and you say that that act is
3 without teeth.

4 It would seem to me that if there were
5 discrimination ongoing with regard to utility rates on
6 Indian reservations that the Human Rights Act would
7 cover that as being discriminatory and unlawful.

8 As I understand the Human Rights Act, there is
9 also a provision whereby the North Dakota Department of
10 Labor may investigate complaints of discrimination
11 whether they be in employment, utility rates or
12 whatever.

13 It's also my understanding there's no funding
14 for that. Is that your understanding as well?

15 MS. HELPHREY: No funding.

16 MR. SCHNEIDER: And before we had a Human
17 Rights Act in North Dakota, all complaints of
18 discrimination had to go to the Equal Opportunity
19 Employment Commission, is that your understanding?

20 MS. HELPHREY: Uh-huh.

21 MR. SCHNEIDER: And that was --

22 MS. HELPHREY: Three years backlog.

23 MR. SCHNEIDER: Right and that was through
24 Denver, Colorado.

25 As I understand, the passage of the Human

1 Rights Act was to -- one rationale was to get the Feds
2 off our back and let the State of North Dakota take care
3 of its own.

4 MS. HELPHREY: That was one.

5 MR. SCHNEIDER: And do you see that happening
6 in your position as Executive Director of the Indian
7 Affairs Commission?

8 Do you think that the passage of the North
9 Dakota Human Rights Act as currently funded has helped
10 to address the discrimination against native Americans
11 in this state?

12 MS. HELPHREY: No.

13 MR. SCHNEIDER: Any why is that, Ms. Helphrey?

14 MS. HELPHREY: Any organization or unit of
15 government that's not receiving appropriation will not
16 have funding to do mainly advertising of a program of
17 what's available, public relations work, and get people
18 knowledgeable about the Act and how it can be done.

19 That would be the first step in showing North
20 Dakota's innovative purpose for drafting an Act and so
21 without that kind of knowledge of having that Agency
22 available for protection, it doesn't go any further than
23 that. It's got to be made known to the public.

24 There are still a lot of people that do not
25 know that North Dakota has a Human Rights Act nor do

1 they know that what its purpose is, what its purpose is,
2 that it's not only for Indian people and discrimination,
3 but all areas; women, housing, unemployment, et cetera.

4 But we need to get people informed. Advertise
5 on radio, television, brochures, they don't have a
6 printing budget. That's one reason.

7 The vision that was placed under it is the
8 other reason, the Department of Labor. They're probably
9 understaffed, like most of the state agencies tend to
10 be, with a lot of work to do and a third reason with
11 Indian people is they tend to want to go to agencies
12 that they feel comfortable with and therefore the
13 complaints that we handle is because it's direct to the
14 Indian Affairs Office and they feel more comfortable.

15 That's from years of being uncomfortable in
16 white agencies.

17 MR. SCHNEIDER: Ms. Helphrey, as I understand
18 also, to make the Human Rights Act more effective in
19 North Dakota, of course, there would be a degree of
20 funding required in order to allow sufficient
21 investigative resources.

22 We would not need a separate agency to do
23 that, would we? That could be done through an existing
24 agency?

25 MS. HELPHREY: I believe it could be started

1 through an existing agency, but I believe it would be
2 like opening a can of worms. Eventually there would be
3 enough complaints where people would recognize that it
4 needs to be on its own.

5 MR. SCHNEIDER: Mr. Chairman, just an
6 observation. This Committee, I think four or five years
7 ago and maybe Tom can help us out, had as one of its
8 principle activities the investigation of the North
9 Dakota Human Rights Act and how it's being administered
10 in this state.

11 There was an open forum done, a summary report
12 was prepared but I don't believe it was ever distributed
13 for final because it ran into the politics of the
14 Commission back in those days, but I would submit that
15 what we're doing today from Ms. Helphrey demonstrates
16 that this an issue that this Committee should continue
17 to explore and I look forward to doing that.

18 MS. HELPHREY: I would support that statement.

19 MR. SCHNEIDER: Thank you, Ms. Helphrey.
20 Nothing further, Mr. Chairman.

21 MR. STREIBEL: I make an observation that
22 probably one of the reasons you are discouraged the way
23 the state has reacted and not reacting is employees are
24 told not to use the telephone as a medium of
25 communication. After a couple of months that maybe kind

1 of serves as a breakdown.

2 Any other questions?

3 MS. MILLS: In your testimony you mentioned
4 that the Trenton Housing Authority converted several
5 homes from electric into gas. I think it's unrealistic
6 to expect a rural electric cooperative to have a program
7 to get off their system necessarily but are there other
8 authorities or funds for reservation people to convert?

9 I mean, I have a house that was converted from
10 electricity to gas and it saved two-thirds of my bill
11 and my house is new and well insulated, so I understand
12 that that is one of the real possibilities, is not to
13 try to heat a house with electricity given today's
14 rates.

15 Is there some fund or some -- I mean, who
16 should I ask later on today if the people are going to
17 be here, like the Housing Authority, is that the proper
18 place?

19 MS. HELPHREY: Yes, the Housing Authority,
20 depending on who they've sent to do the testimony. A
21 couple of the reservations have Utilities Commissions.

22 I have no response to that, personally. I
23 don't know. I do have to say that tribes have plans,
24 long range plans to eventually develop all areas of need
25 for their reservation and I would assume it would

1 include utilities use or utilities commissions to
2 service their own area.

3 But that's quite a long ways down the road --
4 has sources of funding right now are nonexistent.

5 MR. STREIBEL: Jim?

6 MR. LADUCER: Just to give an overview here,
7 Juanita, unemployment; I know it's a little bit off the
8 issue here.

9 You're working up at the State Capitol and I
10 know there's a lot of issues that go through your office
11 and you're doing an excellent job in the field.

12 To give an overview of how the state works
13 with native American in employment, and I know this is a
14 difficult question and it's difficult for you to answer
15 it, other than your office staff, how many native
16 Americans do you think are working for the State of
17 North Dakota at the Capitol?

18 MS. HELPHREY: Statewide, probably, the figure
19 that I've used -- I'm trying to remember some surveys
20 that we have done in the past. For many, many years
21 we've kept it updated and haven't updated it for the
22 past couple years, but I'd say after San Haven closed
23 maybe 90 to 100 statewide.

24 MR. LADUCER: How many positions are there --

25 MS. HELPHREY: Statewide; this would be social

1 service programs in other areas and so on.

2 MR. LADUCER: How many people does the state
3 employ?

4 MS. HELPHREY: The state; that's what I'm
5 saying.

6 MR. LADUCER: I mean that's native American,
7 but the overall employment, too.

8 MS. HELPHREY: Oh, God, thousands.

9 MR. STREIBEL: In the 1989 to '91 --, we're
10 budgeted for 12,130 state employees. That does not
11 include those individuals that are employed in
12 dormitories or student unions or revenue producing, but
13 12,000, a little over 12,000.

14 MR. LADUCER: Well, I guess my point, just for
15 the record, show that 100 versus 12,000 is really a poor
16 effort on our state's behalf to develop their
17 affirmative action.

18 MS. HELPHREY: The reason I said San Haven,
19 that impacted several hundred. We used to have a survey
20 and we used to show -- by hundred but most of that was
21 San Haven.

22 MR. STREIBEL: So the formula there would be
23 100 is to 20,000 as 12,130 is to 650,000, huh? That's
24 how you rationalize that. Do you have a calculator,
25 little pocket calculator, we can figure that out

1 quickly.

2 MS. HELPHREY: Well, the other variable to
3 that, though, -- is the fact that in those that we
4 reviewed, the position always grabbed us, too. The
5 higher income position was maybe one or two and then the
6 people that they were under the six, eight, ten thousand
7 a year category.

8 So that always grabbed us, too, grabbed our
9 attention.

10 MR. STREIBEL: You've got it? Okay, this is
11 what, .825.

12 MR. LADUCER: That's your ratio of native
13 American versus non native American working in the
14 state.

15 MR. STREIBEL: I know we talked about it, and
16 this is a little not germane to the subject, but during
17 the last session we're talking about number of state
18 employees and I think -- and this is not recent. I
19 think this is as of 1986 -- but the number of state
20 employees hasn't changed that much so it should still be
21 relative today.

22 For every 10,000 people we have in North
23 Dakota, we have about 222 state employees and we ran
24 quite high in the nation, I think about fourth in the
25 nation, with regard to number of employees per capita.

1 Yes, you wanted to ask a question? Okay,
2 John?

3 MR. OLSON: Juanita, on the subject of
4 discrimination, do you know any classes of
5 discrimination within the Indian community, say based on
6 age or gender, women, Indian women?

7 And you can single out this area that we're
8 studying, too, if you think in housing and utility rates
9 or deposits or anything like that, if you think there is
10 discrimination based on classes of Indian.

11 MS. HELPHREY: Classes?

12 MR. OLSON: Well, I'm talking about gender,
13 women, older people or whatever.

14 MS. HELPHREY: My experience has always been
15 with families, heads of household, married couples. My
16 experience has always been with families so I never
17 looked at male/female or any other ratios.

18 I would have to say no; I think it's just
19 totally the color of our skin and the fact that we come
20 from reservation. Those are kind of harsh answers, but
21 those are answers that I've had to deal with for a
22 number of years.

23 I have a very serious example that's very true
24 about a young man who couldn't find housing as a student
25 at Mary College. We kept him; he was sort of a stranger

1 to us, but we kept him in our house, our personal home,
2 until he found housing and he'd come home each night
3 very, very worn out and depressed because each time he
4 got turned down and he didn't tell me that until after
5 several incidents, he spilled the beans, and that's when
6 I became concerned.

7 So it's ongoing and it seems like it depends a
8 lot on the coloring of our skin because I've met young
9 people who have gone and they're light skinned and have
10 had not as much the same problem as someone who appears
11 at your door who is dark skinned.

12 That's the harsh reality to what
13 discrimination or racism really is. It's how you look
14 or how you appear to look.

15 MR. OLSON: Mr. Chairman, I think I share that
16 observation, just a personal observation and it's not
17 scientific at all.

18 I know that Indian women do very well in North
19 Dakota. I don't know if you share that or not. I think
20 that opportunity is not unavailable to Indian women in
21 this state.

22 MS. HELPHREY: And the possibility becomes one
23 of probably looking at the disease of alcoholism, for
24 example. Those that you see a lot of are male and so
25 maybe that's one reason we have a high rate of

1 alcoholism and that might be one fear that people have
2 of Indian people.

3 MR. STREIBEL: Well, -- and it's a little bit
4 overdue for coffee break so at this time --

5 MS. HELPHREY: Thank you very much.

6 MR. STREIBEL: Thank you for appearing. We'll
7 stand at ease for five minutes for a coffee break.

8 (Short break taken.)

9 MR. STREIBEL: The next item on our agenda is
10 the 10:00 o'clock items, which it's ten minutes past,
11 and it deals with representatives of the various Housing
12 Authorities on the reservations in North Dakota and it
13 involves four representatives.

14 On our prepared agenda, and I don't know how
15 many of you are here, but Barb Baker, Roger Yanton, --
16 King and Paul McCloud. Any or all of you could come up
17 to the table there and present your testimony.

18 State your name and your --

19 MR. McCLOUD: My name is Paul McCloud and I'm
20 the Executive Director for the Turtle Mountain Housing
21 Authority in -- North Dakota.

22 And I received a notice to attend the hearing
23 and give a little background on what our Housing
24 Authority is.

25 Our Housing Authority consists of 1300 units

1 of which 700 are rental and of the 700 rental units, we
2 have 560 individually metered units where the tenants
3 are responsible for their own utility bills.

4 Our reservation is served by three electric
5 companies, Baker Electric out of Candu; North Central
6 Electric out of -- and Ottertail out of --.

7 We have not had any reason to check on what
8 type of rates are paid by non Indians or people living
9 off reservation but for any rate changes that we
10 receive, we always receive a letter from the various
11 companies.

12 People that move into our rental units are not
13 required to pay a deposit because we have an agreement
14 by which we virtually agree a certain amount of payment
15 if a person would move and not pay the bill.

16 People who live in our homeownership units,
17 again, are not required to pay a deposit except if they
18 have a delinquency or a bill that they have not paid
19 before and as I understand it, Baker Electric is now
20 asking for credit applications for any people that move
21 into a unit that's serviced by their company.

22 Various contractors have told us the problems
23 that they have is getting lines into new sites. When
24 the weather turns colder there's reluctance on behalf of
25 some of the companies and there's also a confusion

1 because some of the companies put in underground wires
2 and some put in overhead and it does affect where the
3 houses or things like that.

4 So the biggest problem, I guess, that we face
5 up in the Turtle Mountains is the cutoff dates always
6 seem to be two to four days ahead of the time the
7 assistance checks come in and I know that in North
8 Central's case they do handle their other accounts
9 before they come to those units that are occupied by
10 Indians. It gives them a chance to get the check and
11 prevent the added cost of pulling the meter and getting
12 the meter reinstalled.

13 Baker Electric is reluctant to take any of
14 that into consideration. There is one person I know of
15 that is on the board of directors for Baker Electric
16 that is an Indian and recently North Central Electric
17 had an election.

18 They redistricted and the only two people
19 running for the board of directors was -- were Indians,
20 so one of those two people should have been elected.

21 We have not received any indication from
22 representative on behalf of Baker Electric that there is
23 any rate differential between Indian and non Indian
24 households.

25 We do have apparently at the Turtle Mountains

1 we are undergoing a \$700,000 renovation program for a
2 project that is 11 years old. When the electric company
3 did the energy audit, the letter they wrote us was that
4 it would be better off if we bulldozed the houses down
5 rather than try to renovate them but we can't get that
6 type of money from H.U.D. so they have given us a fairly
7 substantial renovation program and it just began; we're
8 probably 20 percent complete. It's a two year program.

9 All of the rental units that we have that are
10 individually metered have been converted to off peak
11 heating with the installation of storage heaters. That
12 was accomplished by a grant from the State of North
13 Dakota from some money that was recaptured, some type of
14 thing that had to do with the electric companies or gas
15 companies. I don't exactly know where the money came
16 from, but so those are all done with that money.

17 The electric bills have been lowered, although
18 we do get occasionally people do come in and tell us
19 that their electric bills are still a lot higher.

20 For the people that are living in
21 homeownership houses, there are a lot of times that they
22 do go down to the Tribal Council and ask for assistance
23 in paying the bills. A lot of them are on fuel program
24 and as I understand it, the payments are based on a
25 person's family size and income and are based on the

1 formula that has been developed by the fuel program in
2 our area.

3 Again, there is quite a number of people that
4 are complaining or have concerns about high electric
5 bills and with an unemployment rate of over 40 percent
6 for our area, there is a lot of people that are on
7 assistance. Assistance doesn't travel very far when
8 you're paying three or \$400 electric bills.

9 And I guess that's about all I have to comment
10 on.

11 MR. STREIBEL: Any questions on the part of
12 the Committee members of Paul? Dean?

13 MR. WINKJER: I guess to get to the core of
14 this right away, in your opinion as the Executive
15 Director of the Turtle Mountain Housing Authority, Mr.
16 McCloud, is there discrimination in the electric bills
17 against the native Americans?

18 MR. McCLOUD: As far as a different rate being
19 charged?

20 MR. WINKJER: Yes, sir.

21 MR. McCLOUD: Again, I have talked with the
22 Indian representative that serves on the board of
23 directors for Baker Electric and I'm sure that he would
24 be aware of any rate differential between Indian or non
25 Indian and he hasn't indicated any, so --

1 MR. WINKJER: You would expect him to be
2 screaming bloody murder, wouldn't you, if there was?

3 MR. McCLOUD: I would think so.

4 MR. WINKJER: To your agency and to the tribe
5 and to anybody that would listen.

6 MR. McCLOUD: I would certainly hope so.

7 MR. WINKJER: Is it reasonable to conclude
8 that there is not any discrimination then between native
9 Americans and non native Americans?

10 MR. McCLOUD: As for our three electric
11 companies, I don't believe so. In the case of
12 Ottertail, I happen to occupy a unit off the reservation
13 and I know of people that live on reservation and our
14 rates are the same, so, you know, for our three I don't
15 think there is a rate differential.

16 MR. WINKJER: Have you had benefit of the
17 letter of Juanita Helphrey's dated November 9th, 1988?

18 MR. McCLOUD: No.

19 MR. WINKJER: In that letter she talks about -
20 - she talks about Fort Totten now, and I know that's not
21 your area, but she talks about the rural electric
22 company who serves the reservation is benefiting from
23 substandard housing at Fort Totten.

24 A very brief summary of the case would be that
25 the family lived for several months in a house that had

1 boarded up basement windows, no storm doors or storm
2 windows, a garage that had no door and a back wall that
3 was caving in.

4 If such a condition existed, whose
5 responsibility would that be within the reservation to
6 take care of those people in, let's call this,
7 substandard housing.

8 MR. McCLOUD: If it was a Housing Authority
9 house, again, there's two types of houses; one is a
10 rental and that would be the responsibility of the
11 Housing Authority to maintain the house, fix the
12 windows, that type of thing.

13 If it was a homeownership house under the
14 terms of the contracts, it's the responsibility of the
15 home buyer to maintain that unit.

16 MR. WINKJER: All right, and anybody supervise
17 that home buyer to make sure that that house is
18 maintained?

19 MR. McCLOUD: The Housing Authority has that
20 responsibility.

21 MR. WINKJER: The Housing Authority has the
22 responsibility. So what you're telling me then is there
23 is authority to prevent that type of discrimination,
24 let's call it, in housing within the reservation?

25 MR. McCLOUD: The Housing Authority is

1 responsible -- or has a responsibility to inspect units
2 once each year.

3 MR. WINKJER: Thank you very much.

4 MR. STREIBEL: Any other questions on the part
5 of the Committee members? Tom?

6 MR. LEMBKE: Mr. Chairman, Mr. McCloud, who
7 owns those housing units? Are they owned by individuals
8 or does the Housing Authority own it?

9 MR. McCLOUD: The homeownership units?

10 The homeownership units are the property of
11 the housing authority until they're paid for. Then the
12 title will be transferred to the home buyer. It's a
13 lease purchase agreement.

14 MR. LEMBKE: How many of those are owned by
15 you and how many are owned by -- reservations?

16 MR. McCLOUD: In our case, we have about 600
17 homeownership units and 50 of them have been paid off
18 and the titles have been transferred, roughly 50.

19 MR. LEMBKE: So there are still five hundred
20 and some that are -- right now?

21 MR. McCLOUD: Right.

22 MR. LEMBKE: Is the Housing Authority
23 responsible for the maintenance or how is that set up?

24 MR. McCLOUD: The home buyer is responsible
25 for maintaining the unit. They're responsible for

1 painting, repairing leaky faucets, broken windows, just
2 maintaining the unit as a person that's -- house with.

3 In addition, they're responsible for all the
4 utilities but again, the Housing Authority has a
5 responsibility to inspect that unit and notify the home
6 buyer of any repairs that need to be made.

7 MR. LEMBKE: Thank you, Mr. Chairman.

8 MS. MILLER: I have a question.

9 MR. STREIBEL: Yes.

10 MS. MILLER: What is the follow up once you
11 inform the homeowner that they are in violation or
12 whatever the term you might use?

13 What if they don't follow up on your
14 recommendations?

15 MR. McCLOUD: There's a couple options, I
16 guess. One is to evict the person or use any equity
17 that they have built up to get those repairs made.

18 MS. MILLER: Well, okay, you do the yearly
19 inspection and you make the recommendations to the
20 homeowner. What if they don't follow through on your
21 recommendations?

22 MR. McCLOUD: Okay, that's, you know, the two
23 options that we do have. It's rather difficult to evict
24 a person and I think one of the causes of that is for
25 the first half or first ten years of the Housing

1 Authority was formed, there was a -- the mentality was
2 to just build the units and get people into them rather
3 than could they afford the houses.

4 Since about 1980 I think that's changed and
5 now we are accepting families that are in a higher
6 income bracket and we have found that those houses are
7 being maintained better than the ones before.

8 Again, -- selected were families that may have
9 been on assistance or part time work and it's extremely
10 difficult for them to maintain a house.

11 The people that live in these are not
12 eligible, according to what we hear from the Tribal
13 people, they're not eligible for any block grant type of
14 program or assistance.

15 MS. MILLER: How many evictions have you made
16 per year?

17 MR. McCLOUD: I can -- for the ten years that
18 I've been working for the Housing Authority, they
19 probably have -- of home buyers -- two or three.
20 We do whatever we can to keep them in the house.

21 I don't believe that any of our units are in
22 that bad of condition. There are some that need work,
23 but not enough to evict a family.

24 MS. MILLER: Thank you.

25 MR. STREIBEL: Any other questions?

1 MS. MILLS: Do the utilities cut off the
2 meters in the winter if the bills are unpaid or do you
3 tide them over for that?

4 MR. McCLOUD: Under the agreement that we have
5 with the electric companies, we don't interfere with
6 their policy and they do come out and pull the meters.

7 Again, we call the electric company and ask
8 them if they can't wait until after the checks come in.
9 In particular, Baker Electric is difficult to work with
10 because their cut off date is always the 20th or 21st or
11 22nd of the month, the 23rd of the month.

12 It always falls a little bit -- a few days
13 before the time that the assistance checks can come in
14 and most of the people that reside in our units rely on
15 that to make their payments and it's just a matter of
16 waiting a couple days, maybe even one day in a case, and
17 people pay their electric bill.

18 And they will still have had the meter pulled
19 and have to pay them an extra 20 or \$40 to get it
20 reconnected. If we know the family, we will tell the
21 electric company that the money will be in our office,
22 we'll have a person come pay in our office and we will
23 tell them that we will send the money and in those cases
24 they'll leave the meter until the payment is received.

25 MS. MILLS: I have one more question. Of that

1 \$700,000 for renovation, maybe you already answered
2 this, how much of that is being used to convert off to a
3 more efficient form of -- a less costly form of heat?

4 MR. McCLOUD: We're not changing any type of
5 heating system.

6 MS. MILLS: You're not changing it, and what
7 kind of heating do you have?

8 MR. McCLOUD: It's electric heat. It's all
9 off peak in those units that we're talking about and off
10 peak is a storage heater in the living area of the house
11 and they qualify for the off peak rate, which I think is
12 around three cents a kilowatt hour for the heating.

13 MS. MILLS: So you don't see the electric heat
14 as a problem with the heating bills in those units?

15 MR. McCLOUD: In the units, we feel that it's
16 a good system. There are -- just last month we issued
17 20 refund checks to families that were living in some of
18 those units. Those are families who have saved on their
19 electric bill and they're getting a refund from the
20 electric company.

21 MS. MILLS: Do any of the utilities that serve
22 your reservation, do any of them do -- I know that --
23 does averaging of bills so that you pay a steady rate
24 all year round rather than get those great big bills in
25 the winter.

1 Do they do any of that?

2 MR. McCLOUD: They discourage it.

3 MS. MILLS: They discourage it.

4 MR. McCLOUD: Well, for our rental, I guess.

5 For homeownership, they will, but for rentals they
6 discourage it because of people moving in and out.

7 MS. MILLS: Thank you.

8 MR. STREIBEL: Jim.

9 MR. LADUCER: They have utility companies
10 living in Bismarck here the past few years. I know I've
11 requested the utility company from Bismarck here to come
12 to do an inferred, I think they call it, on the house
13 itself, on my house, to see where the leakage would be
14 or I was not insulated enough or too much insulated, or
15 whatever.

16 Have the companies in your area ever done that
17 with your housing or is the housing with the \$700,000
18 that they receive in remodeling, are you thinking about
19 going that route?

20 MR. McCLOUD: We've had a couple houses
21 inferred inspected by that system but not -- it was just
22 very few houses.

23 MR. LADUCER: I would think, you know, you get
24 that kind of money to renovate the houses, that would
25 tell you what houses would need to be prioritized.

1 That's one of the questions.

2 Second one, do you think that all electrical
3 companies working in the area should be regulated on
4 their price? Maybe that's where the problem, when
5 people say my bill is too high because some are high and
6 some are low.

7 It's somewhat confusing in your area, I
8 suppose, when you have three electrical companies
9 servicing you.

10 MR. McCLOUD: I believe that the rural
11 electrics should come under some kind of regulation. I
12 don't know if they're -- I know they're member owned and
13 the members would certainly want to get the lowest rates
14 that they can deal with.

15 MR. LADUCER: The reservation, being a
16 sovereign nation, wouldn't the reservations, couldn't
17 the reservations regulate or develop a system on the
18 reservation to where they could say we want this power
19 company in there?

20 -- so some of these issues are could they set
21 up their own Public Service Commission?

22 MR. McCLOUD: I really don't know.

23 MR. LADUCER: One more question.

24 Baker Electric you said seems somewhat
25 difficult to work with. They disconnect a house when a

1 person's, say they're on low income and they're
2 receiving some type of assistance, and they'll
3 disconnect their house the day before or when they're
4 due date is due on their bill and then they recharge
5 them, you had stated, to rehook it up and stuff like
6 that?

7 MR. McCLOUD: There's a disconnect fee and
8 there's a reconnect fee.

9 MR. LADUCER: What happens to the deposit that
10 these people put in?

11 MR. McCLOUD: Most of the people don't have a
12 deposit that's paid to Baker Electric.

13 MR. LADUCER: I don't know, is Baker Electric
14 governed by the Public Service Commission?

15 MR. STREIBEL: No, probably not.

16 MR. LADUCER: Thank you.

17 MR. STREIBEL: Mr. Schneider?

18 MR. SCHNEIDER: Mr. Chairman, thank you.

19 Mr. McCloud, what percentage of housing units
20 are represented by your authority on --

21 MR. McCLOUD: I would think that we probably
22 have half of the houses.

23 MR. SCHNEIDER: Just the houses in your
24 authority, what percentage would you say are substandard
25 in terms of needing weatherization and things like that?

1 MR. McCLOUD: Certainly the 50 units that
2 we're working on with the renovation were substandard.
3 The older units, probably, that were built back in '67.
4 They don't have the R-valves that they have nowadays.
5 We have 140 of those units, so maybe 200, 300.

6 MR. SCHNEIDER: And the units on the
7 reservation that are not under your authority, what
8 percentage of those are substandard?

9 MR. McCLOUD: I think a high percentage of
10 those, too, because of the calls we get from people who
11 want to get into a house that we manage.

12 Also, by talking with tribal people and the
13 amount of requests we get for home improvement from the
14 Bureau or block grants. There is high percentages; how
15 high, I don't know.

16 MR. SCHNEIDER: Now, the \$700,000 that you're
17 talking about, you've had that money for how long; what
18 period of years is that?

19 MR. McCLOUD: We just began this spring and
20 it's for a two year program.

21 MR. SCHNEIDER: And that's for those 50 units?

22 MR. McCLOUD: Yes.

23 MR. SCHNEIDER: Will that 700,000, will that
24 bring those 50 units up to code in terms of
25 weatherization, R-factors and things like that?

1 MR. McCLOUD: Yes, it's all been approved by
2 H.U.D. and we're going to place styrofoam around the
3 outside and reside them and add insulation and new
4 windows. They should be quite warm.

5 MR. SCHNEIDER: With regard to the other units
6 which a large percentage of them which are not
7 weatherproof, for lack of a better word, what
8 governmental agencies and what sources of funding are
9 available, not of your agency, but also reservations in
10 general, to weatherize these homes?

11 MR. McCLOUD: I think there's a state or
12 county Lyheat Program and I think that there's the HIP
13 program from the Bureau and I think the reservation
14 itself has a Lyheat Program, itself.

15 MR. SCHNEIDER: Some of these houses have been
16 built since '67 and haven't been weatherized, am I
17 right?

18 MR. McCLOUD: You're talking about rental
19 units.

20 MR. SCHNEIDER: Right.

21 MR. McCLOUD: The houses that we haven't
22 requested or received any funding from H.U.D. to bring
23 them up to standard.

24 MR. SCHNEIDER: So you haven't requested or
25 received?

1 MR. McCLOUD: No. They're working on a
2 program or working on a proposal to submit to Denver for
3 some of these energy conservation measures.

4 MR. SCHNEIDER: Why haven't you requested
5 these funds from H.U.D. prior to now?

6 MR. McCLOUD: The competence of the
7 improvement assistance program began in -- I think four
8 years ago, something like that, five years ago. Mike
9 Boyd was here and you can probably find out from him how
10 long ago it began but for the renovations programs that
11 we have had, it began four or five years ago and at that
12 time we went through the units I'm talking about, we
13 went through those beforehand and replaced windows,
14 doors, so it has been done once, you know.

15 There were a lot of other work that we have to
16 do to bring them up to standard again, replacing some
17 counter tops. The units were pretty well used. Some of
18 the units have had 20 or 30 families go through them so
19 with that much traffic they do get more wear.

20 MR. SCHNEIDER: Do you think that's adequate
21 funding to weatherize the homes on the Turtle Mountain
22 reservation?

23 MR. McCLOUD: We have to compete with 27 other
24 Housing Authorities for the funding from them and I
25 guess we could always use more, but it's just a matter

1 of what we can get.

2 MR. SCHNEIDER: Do you think the principle
3 problem with utilities, at least in the Turtle Mountain
4 Reservation, is the fact that they have substandard
5 housing and that they're not energy efficient and if
6 that isn't a principle problem in this area, what is?

7 MR. McCLOUD: Well, the substandard housing, I
8 think that contributes to the high bills. I don't know
9 what percentage it would be but yeah, it does have an
10 affect on high electric bills.

11 MR. SCHNEIDER: Thank you, Mr. Chairman.

12 MR. STREIBEL: Well, you know, it's easy to
13 sit here and conjecture when we're not privy to the
14 history of the problem like you are, but some things
15 that flash through one's mind as you listen to this
16 testimony of yours, 50 units you said are really needing
17 addition; is that what you said?

18 MR. McCLOUD: Correct.

19 MR. STREIBEL: And \$700,000 and you divide
20 that and you come up with \$14,000 a unit so you ask
21 yourself the question maybe new units or units that are
22 excess surplus property, I don't know if that -- what
23 the federal government's program on surplus property is.
24 They used to have a pretty good one.

25 Mobile units that could be brought in. Is

1 there anything in that area that allows you to take
2 advantage of bringing in units that probably are in
3 pretty good condition and just replace those that are
4 very, very costly to weatherize, or are there none
5 available?

6 MR. McCLOUD: I don't think that there's any
7 available.

8 MR. STREIBEL: Years ago, these units were
9 available not only for programs like yours, but many
10 governmental agencies used them for various needs and
11 brought them in.

12 Any other questions on the part of the
13 Committee members?

14 Hearing none, we have another -- thank you,
15 Paul.

16 Phyllis Young is here. Where is Phyllis? And
17 Phyllis is representing the Standing Rock Sou and we --
18 I called upon the participants who are listed on the
19 agenda and I neglected to add that any there are here in
20 lieu of those are on the agenda, so we're glad to have
21 you here.

22 MS. YOUNG: Thank you. I'm Phyllis Young, I'm
23 the secretary of the board for the Standing Rock Housing
24 Authority. I've served on that board for about ten
25 years.

1 I was just informed of this hearing yesterday.
2 I don't have a prepared testimony and I'm going to
3 probably give my verbal overview because I've been
4 involved in the conflict with our utilities on Standing
5 Rock for a number of years and I --

6 MR. STREIBEL: Pardon me, Phyllis.

7 Paul, did you have prepared comments, a copy
8 of it that you could give to Tom? Thank you. Go ahead,
9 Phyllis.

10 MS. YOUNG: Okay, I would like to start out by
11 saying that we have two utility companies on Standing
12 Rock. Mor-Gran-Sou is the North Dakota portion and Mor-
13 Gran is the South Dakota portion.

14 We have approximately 1200 units on the
15 Standing Rock Reservation for the Standing Rock Housing
16 Authority.

17 Early in 1979 there was an agreement between
18 the Department of H.U.D. and the Mor-Gran and Mor-Gran-
19 Sou to build SD612, which was a project of 60 units on
20 both portions of the reservation and the Standing Rock
21 Housing Authority really didn't have any say on the
22 utility portion of that which was all electric.

23 And from the onset the Housing Authority
24 vigorously opposed all electric units and I was informed
25 yesterday that after many years of requesting conversion

1 to propane, yesterday we were informed that we would be
2 considered favorably for that conversion of these 60
3 units.

4 So something is going on that we don't know
5 about and I'm sure it's our diligence in pursuing this
6 effort.

7 We have a rather controversial relationship
8 with our North Dakota portion of our utilities, Mor-
9 Gran-Sou. In about 1980 -- no, 1978, I'm sorry, H.U.D.
10 was severely penalizing us for our tenant accounts
11 receivables and we were penalized for seven years which
12 meant that we did not receive a new home on the
13 reservation for seven years.

14 We, during that period, because we did not
15 receive our subsidies from H.U.D., we had a bill from
16 Mor-Gran-Sou for \$110,000 and it was February of 1978
17 that we had to ask the Congressional Delegation of North
18 Dakota to intervene for us because Mor-Gran-Sou had
19 given us 24 hours to submit our \$110,000 or they would
20 cut our master meter for the units on the North Dakota
21 portion of the reservation.

22 Fortunately, the congressional support that we
23 received enabled us to hold off the payment until we
24 received it from H.U.D. and we were able to make that
25 payment. That, I think, was the beginning of a bad,

1 negative relationship that we had with Mor-Gran-Sou and
2 I want to give you the history so that we understand why
3 we feel that we should have a say or at least an
4 agreement in our operations.

5 Later on we had to deal with the agreement
6 between the Department of H.U.D. and the utility company
7 that forced us to go all electric. In fact, our
8 Executive Director was threatened that she would lose
9 her job and she was threatened by the Director of the
10 utility company of Mor-Gran-Sou over the telephone and
11 by letter.

12 At that time she, the Director requested that
13 we not make an issue of this but now that she has left
14 the Housing Authority, we are making that part of the
15 record.

16 So we have let H.U.D. know over the years also
17 of the bad relationship that they have created because
18 they've had this illicit affair with our utility company
19 and that's what we refer to it as because we -- it was
20 our resources and our people that we were -- we felt
21 that we should have a say so in what was going on and
22 paying a lot of money.

23 So recently we have demanded that H.U.D.
24 include the utility companies at all times. In later
25 years we have a lawsuit against the Housing Authority

1 which was dismissed last year and during that time the
2 utility company wrote us a letter saying that they would
3 refuse to come in and hook up during the construction of
4 that project or because of the -- project.

5 And we felt that that was unfair for that kind
6 of pressure to be put upon the Housing Authority during
7 any construction because of a lawsuit that we had no
8 responsibility, we didn't have the responsibility. It
9 was a contractor that did not pay the utility company
10 himself and that's a responsibility that should be borne
11 by that contractor.

12 Only within the last year have we begun, in
13 fact, the last six months have we begun a more congenial
14 relationship with our utility company on the North
15 Dakota portion.

16 We have had some real problems in our decision
17 making, in our policy making for the Housing Authority
18 because of that relationship. For example, when the
19 Department of H.U.D. recommended that all Indian Housing
20 Authorities go tenant paid utilities, the Standing Rock
21 Housing Authority refused to go and I'm not sure, but I
22 know that the Standing Rock Housing Authority is one
23 Indian Housing Authority who has not gone tenant paid
24 utilities.

25 The Standing Rock Housing Authority is the

1 largest consumer for Mor-Gran-Sou and we were on the
2 verge of a lawsuit to ensure that the Housing Authority
3 would not be forced to go tenant paid utilities. H.U.D.
4 did a legal review and agreed that we could not be
5 forced to do that.

6 So, I think about three years ago they were
7 going to force us to go anyway so Mor-Gran-Sou came in
8 and said this is how it's going to work. I'll use
9 myself as an example because I am a tenant. I pay \$300
10 a month for my home, \$305, which is a four bedroom, all
11 electric.

12 And based on North Dakota's weather, which is
13 payment -- a pretty steady income to the utility company
14 on a six month basis, we have a utility rate that we set
15 for each house and based on that rate for two months --
16 now, I would pay about \$500 to the utility company in
17 addition to my rent.

18 So if I'm going to go and pay my own utilities
19 and convert to that system, I also must have either an
20 A-1 credit rating, which I do not have because I live on
21 an Indian reservation or I have to have a deposit for
22 two months of what it would cost me to pay my utilities
23 for that month plus the usual \$120 payment.

24 So, when I received my letter from the utility
25 company saying that this is the amount I would have to

1 deposit, my deposit came to \$1200 and I could not afford
2 to pay a \$1200 deposit fee.

3 So as a representative of the board, and there
4 was absolute panic on the reservation. People were
5 coming to my house all hours of the day and night and
6 telephone calls were being made and messages were left
7 for me to come and visit people because they were all
8 going to have to pay these exorbitant amounts of money
9 that we did not have.

10 So we went on record as well as the Tribal
11 Council that we would not go tenant paid utilities. The
12 other thing behind the tenant paid utilities is that the
13 Department of H.U.D. -- I'm sorry, the conversion, they
14 either did not want us to convert to propane and they
15 more or less tried to force agreements or loan control
16 is what they're called, but they did a lot of things
17 without consulting with the Housing Authority. It was
18 business going on between H.U.D. and the utility
19 company.

20 The thing that we didn't agree with was that
21 there were things that we didn't have knowledge of prior
22 to those projects and so we were naturally turned off
23 and maybe appeared to be negative but we didn't go into
24 loan control projects.

25 We just now went into an agreement with the

1 State of North Dakota for \$100,000 for separately
2 metered systems which was offered to us through the
3 utility company just within the last six months.

4 We live in two states. We feel that on the
5 South Dakota portion of the reservation the rate
6 structure is more positive, it's more beneficial and the
7 rates are better and that's one of the options that
8 we're looking at is when we go reservation wide we have
9 the option to decide which to go to.

10 Normally relationships with states, North
11 Dakota, I must say, fares well in terms of state Indian
12 relationships. Standing Rock has no relationship with
13 the state of South Dakota. Right now we're involved in
14 the highway issue and we are a party to the other tribe.

15 Together, with North Dakota, we seem to have a
16 good relationship. The people are better people, I must
17 say. I live 11 miles from this side of the border, but
18 all my roots are on the South Dakota side and we have a
19 real issue with that at this point in terms of the
20 utilities because we are looking at the options that we
21 have there.

22 Do we go with the utility company -- South
23 Dakota or are we going to go with Mor-Gran or are we
24 just going to stay with Mor-Gran-Sou. I think we're
25 aware of what economic -- the economic pressures that we

1 have to live under and I think that's what will
2 determine the decisions we have to make as the largest
3 consumer to Mor-Gran-Sou.

4 We did have H.U.D. do a utility review for us,
5 and I think that's about five years old, but the North
6 Dakota portion is exorbitant compared to the South
7 Dakota portion. So we are -- I feel that our
8 reservations are very poor, that we do put out
9 exorbitant money to utility companies in North Dakota.

10 It seems that it's unfair for the Public
11 Utilities Commissioners to make the statements that they
12 have made regarding Indian reservations, utility
13 companies and our right to operate. I think it's unfair
14 that there will be a landmark coming out of North Dakota
15 on the Indian reservations regarding utilities because
16 of our poverty.

17 And I think that it's unfair the way the
18 utility companies were designed to be on reservations.
19 My only hope is that under the Garrison Diversion
20 Commission there was an interim committee that was
21 created and recommendations were made, specific
22 recommendations to grant Fort Berthold Reservation ten
23 megawatts of power to operate its own and Standing Rock
24 was recommended for 15 megawatts of power to operate out
25 own.

1 I think that the reservations being the
2 federal installations, the bureau operations, the Bureau
3 of Indian Affairs and the tribes ourselves, I think we
4 are entitled to a block of power and if we can't get
5 that block of power ourselves within the reservations, I
6 think that the utility companies have a responsibility
7 to help us get that power.

8 I think that's pretty much what I have to say
9 and I thank you.

10 MR. STREIBEL: Thank you. We're running a bit
11 behind our schedule and I would suggest to the Committee
12 members to limit the questions now and maybe they could
13 be as well placed at the 1:30 p.m. item on the agenda
14 when we have Dennis Hill who -- and you can probably ask
15 him the same questions as they can probably ask you,
16 Phyllis, so thank you for attending.

17 Any questions of the --

18 MR. LADUCER: Are you saying not to ask any
19 questions?

20 MR. STREIBEL: No, let's limit them because
21 we're running behind --

22 MR. LADUCER: Okay, I've got some questions.

23 Does the same public utilities supply both
24 sides, North Dakota and South Dakota, the company?

25 MS. YOUNG: No, they're two different

1 companies.

2 MR. LADUCER: And I'm trying to find my notes
3 here. You bring up some interesting issues.

4 How -- what right does a public utility
5 company have on a reservation? How could they say that
6 we're going to hook 5,000 -- we're going to unhook 5,000
7 people on the reservation that are low income because
8 the bill isn't paid?

9 Are some people being hurt because some are
10 paying bills, some aren't?

11 MS. YOUNG: Well, we wanted to phase in to
12 tenant paid utilities rather than going all of us at one
13 time but if you have H.U.D. who provides the funding and
14 they go out and contract some person from Englewood,
15 Colorado and say they're going to put in these load
16 controllers and that agreement is between Englewood,
17 Colorado and Flasher, North Dakota.

18 MR. LADUCER: Just to clear my mind here, when
19 a project is offered to H.U.D., H.U.D. funds it, the
20 proposal comes from the Housing Authority, right? They
21 get a hold of an architect, an engineer, is that how
22 it's done?

23 MS. YOUNG: No, it didn't happen that way in
24 our case. These were probably businesses -- I mean, the
25 electricity was the thing and there was agreements

1 between outside companies and the private sector that
2 came to us and said that we have this proposal for load
3 controllers we want to put in all your units and H.U.D.
4 is agreeable to it.

5 MR. LADUCER: And as a result you didn't go
6 along with it so you guys were penalized as a result?

7 MS. YOUNG: No, we weren't penalized but --

8 MR. LADUCER: You didn't get any housing for
9 seven years.

10 MS. YOUNG: We didn't -- in the early years we
11 were penalized severely, yes; but in later years we --
12 they didn't approve of our projects either.

13 MR. STREIBEL: Any further questions on the
14 part of Committee members?

15 MR. WINKJER: If I may, just a couple of very
16 quick questions.

17 The Housing Authority, is that comprised of
18 native Americans; is its board of directors comprised of
19 native Americans?

20 MS. YOUNG: Yes, all eight of us are board
21 members.

22 MR. WINKJER: Are there any native Americans
23 on Mor-Gran-Sou board?

24 MS. YOUNG: The Chairman of the Board is an
25 enrolled member of Standing Rock.

1 MR. WINKJER: How much did Mor-Gran-Sou
2 contribute towards the construction of the 60 units that
3 were constructed in 1979?

4 Did I misunderstand you? Did you say that
5 these units that were constructed in 1979 were financed
6 through H.U.D. and the electric cooperative?

7 MS. YOUNG: No, they were -- we were forced to
8 go all electric. We didn't have the option.

9 MR. WINKJER: Where did the money come from
10 for building these units?

11 MS. YOUNG: From H.U.D.

12 MR. WINKJER: Entirely from H.U.D.?

13 MS. YOUNG: Yes.

14 MR. WINKJER: The electric coop did not
15 contribute anything?

16 MS. YOUNG: No.

17 MR. WINKJER: Thank you.

18 MR. STREIBEL: Thank you, Phyllis.

19 Our next item, we're going to dispense with
20 the 10:45 break. We've really had -- we're 12, 13
21 minutes into the 10:50 item so at this time we'll call
22 Mike Boyd who represents the Housing Management Branch
23 Office of Indian Programs from H.U.D.

24 Welcome to North Dakota. Are you Denver based
25 or --

1 MR. BOYD: Yes, my office is in Denver,
2 downtown.

3 I'm, as you said, I'm Mike Boyd. I'm Chief
4 Housing -- Branch Office for Indian Programs. I am a
5 native of South Dakota, so I'm somewhat familiar with
6 the area.

7 First of all, I'd like to say a little bit
8 about what we do. My office, the region I'm from is
9 Region 8; this is in Region 8. Region 8 consists of
10 North and South Dakota, Montana, Wyoming, Colorado and
11 Utah and for the purposes of Indian programs, Nebraska
12 is also included in Region 8 because the Kansas City
13 office has no Office of Indian Programs.

14 We manage several programs out of the Region 8
15 office. First of all, there's a low rent program which
16 is a rental program where tenants are basically charged
17 30 percent of their adjusted gross income for rent.

18 It may be -- as far as utilities are concerned
19 -- it may be tenant paid utilities or it may be Housing
20 Authority paid utilities and that's based on the
21 discretion of the Housing Authority board.

22 We also have a mutual health program --
23 actually, we have three mutual health programs that we
24 administer out of Denver. It's the new mutual health
25 program, which is the only one that we're still building

1 units in. We have the old mutual health program which
2 was years before 1976.

3 Then we have a Turn Key 3 program which lifted
4 its head and died rather quickly in the early seventies.
5 We also have what we call C.E.A.P. program. It's an
6 acronym for Comprehensive Improvement Assistance
7 Program. In this program we rehabilitate units. We
8 have different categories. You have comprehensive where
9 we go in -- actually, the Housing Authority goes in; we
10 only provide the funds.

11 The Housing Authority goes in and completely
12 rehabilitates the unit from one end to the other. We
13 have a special purpose comprehensive -- assistance
14 program where it can be energy related, can address
15 construction deficiencies or handicapped accessibility.

16 We also have home ownership which is just is
17 for home ownership type units. It can be energy
18 related. It cannot be comprehensive because if it's
19 comprehensive they we're addressing some of the Housing
20 Authority's -- the home buyer's responsibilities to
21 maintain the unit.

22 We have emergency which is a threat to tenant
23 health or safety which is funds that we can get
24 relatively quickly to the Housing Authority to mitigate
25 the problem that's causing the threat to health or

1 safety.

2 There's also a development program, which is
3 building new units. That's really slowed down the last
4 few years. Fiscal year 1989 there's only 150 units for
5 the entire region which is very few units -- There are
6 28 Housing Authorities in Region 8.

7 In North Dakota there are basically five
8 Housing Authorities; Turtle Mountain Housing Authority,
9 Trenton Housing Authority, Standing Rock, Fort Totten
10 and Forth Berthold. There are 3,433 units in these five
11 Housing Authorities.

12 Turtle Mountain is now the largest Housing
13 Authority in the region with approximately 1,265 units.

14 On the other hand, Trenton is the fourth
15 smallest with 132 units.

16 Standing Rock has 755 units.

17 Fort Totten has 436 units.

18 Fort Berthold has 721 units.

19 That's basically 24 percent of the units in
20 the region. They have 24.3 percent of the low rent
21 units, 11.9 percent of the old mutual health, 28.5 of
22 the new mutual health, 44 percent of the turn key 3
23 units.

24 As far as utilities are concerned, the units,
25 approximately 3400 units use approximately \$5.7 million

1 per year in utilities. That includes electric, gas,
2 water, sewer, garbage, et cetera, but not telephone.

3 To help the Housing Authorities run their
4 Housing Authorities, H.U.D. provides subsidy each year.
5 In fiscal year 1989 they have, or will provide the five
6 Housing Authorities in North Dakota \$4,072,985. That's
7 approximately 1.7 million for Turtle Mountain, 55,000
8 for Trenton, 983,000 for Standing Rock, 763,000 for Fort
9 Totten and 598,000 for Fort Berthold.

10 These monies, in addition to the rent
11 collected, this is only for the low rent program I'm
12 talking right now. We subsidize the mutual health very
13 little. -- for rehabilitating the unit where a tenant
14 has moved out, for training, administrative fee for a
15 period of time when the tenant has moved out and before
16 they move back in.

17 Mutual help subsidy is very limited. It's
18 probably less than a million dollars for the whole state
19 of North Dakota.

20 The letter that I got from Tom asked to
21 address the problems. I think that Phyllis addressed
22 some of the problems. There's always a lack of funds.
23 Right now I mention the subsidy. Last year H.U.D. could
24 only fund 98 percent of eligibility. This year of '89
25 we will be funding 97.3 of eligibility so the Housing

1 Authorities are not getting the entire subsidy that they
2 would normally be eligible for.

3 Another problem is the deteriorating housing
4 stock. The units that the program subsidized by H.U.D.
5 started in the early sixties. Some of those units are
6 25 years old and they're deteriorating. That's causing
7 great concern for us and as far as the -- money I
8 addressed earlier, we have 15.1 million dollars in
9 fiscal year '89 which is twice the amount that we had
10 fiscal year '88, four times -- five times the amount
11 that we had in fiscal year '87.

12 But still we don't think that's necessarily
13 enough to address the needs.

14 Another problem is tenants accounts
15 receivable. The subsidy that I mentioned earlier is
16 combined with the payments that the tenants make and
17 that money is used to run the Housing Authority. Unless
18 100 percent is collected, there's going to be --
19 something is not going to get paid for. Something has
20 to not get done.

21 Unfortunately, a lot of times, that is
22 maintenance. It's usually maintenance that doesn't get
23 taken care of which adds to the deteriorating housing
24 stock.

25 The total tenants accounts receivable for

1 units in possession, that's only the tenants that are in
2 them currently for North Dakota is \$1,026,000. Now, on
3 the good side, that's only 14.4 percent of the tenant
4 accounts receivable for the region. So you have 24
5 percent of the units but they only have 14 percent of
6 the tenant accounts receivable which is a plus for North
7 Dakota.

8 Another problem for utilities is when the
9 Housing Authority converts from Housing Authority paid
10 to tenant paid utilities, that puts a burden on either
11 the Tribal Utility Commission or the utility companies
12 themselves because previously they had to collect one
13 check from the Housing Authority for all the utilities.

14 Now, suddenly, the utility company or the
15 Tribal Utility Commission is faced with having hundreds
16 of customers.

17 For instance, I talked to Bruce Badmoccasin
18 and Terry Hoskin last week and they work for Indian
19 Health Service in Aberdeen and they have this area also.
20 They were saying at Fort Berthold they were having a
21 problem with the Tribal Utility Commission because
22 previously they had just sent a bill to the Housing
23 Authority, the Housing Authority at times possibly would
24 have trouble paying the bill but they always paid it
25 even if it was late.

1 But now they're faced with the problem of
2 going to each individual tenant and home buyer and
3 collecting the fee. They said it's been very difficult
4 and the Utility Commission cannot any longer run the way
5 it had previously. They're having severe financial
6 problems.

7 Successes; I think that this is something I
8 prefer to talk about than the problems, but I realize
9 the problems are also necessary to talk about.

10 There's 3,400 units of housing. I think
11 that's a big success. We've been able to convert some
12 units -- mentioned earlier, to more economical fuels.
13 The staff, the Housing Authority staffs in North Dakota
14 are probably the best that we have in the region. We
15 have some very experienced people in the region.

16 They're all long term Executive Directors with
17 the one exception of Standing Rock, and they had a long
18 term Executive Director who recently left.

19 Vouchers is another program. The Trenton
20 Housing Authority will be awarded 50 vouchers, which is
21 a new program for Indians.

22 I'm also proud to announce that I had the
23 pleasure of hiring three of your Indian people in my
24 office. Frank Thomas, formerly the Executive Director
25 of the Standing Rock Housing Authority; unfortunately,

1 he's left and is now my counterpart in the Phoenix
2 Region. Terry Red Fox worked for the Fort Berthold
3 Housing Authority; he's a -- in Fort Berthold. Betty
4 Grass -- also from Fort Berthold. She's currently
5 housing management specialist in my office.

6 I'll entertain any questions that you might
7 have.

8 MR. STREIBEL: Thank you. Any questions on
9 the part of the Committee members? Dean?

10 MR. WINKJER: Mr. Boyd, I have one question.

11 Does Housing and Urban Development have any
12 responsibility for native Americans living on
13 reservation in housing which represent -- which are
14 causing extreme inhumane conditions --

15 MR. BOYD: The way that it's established is we
16 have a contract with the Housing Authority. The tribe
17 establishes -- or it could have been a county or a state
18 that established the Housing Authority.

19 I think that in all cases in North Dakota
20 they're all Tribal Housing Authorities. The tribe
21 establishes a Housing Authority and H.U.D. goes into a
22 contract called the Annual Contributions Contract with
23 the Housing Authority. We have no direct relationship
24 with the tribe.

25 We provide funds to the Housing Authority to

1 build the units and then we subsidize them with their
2 operating subsidy to maintain the units or pay the
3 salaries, utilities or whatever it might be.

4 Also, we provide funds in C.E.A.P. program for
5 rehabilitating those units. We are not directly
6 associated with the units or the tenants.

7 MR. WINKJER: All right, then one follow up
8 question if I may, Mr. Chairman.

9 Does H.U.D. have any responsibility to oversee
10 the Housing Authority in providing adequate and standard
11 housing for the native Americans on reservation?

12 MR. BOYD: Yes, sir. We're charged with the
13 responsibility by Congress of monitoring the Housing
14 Authorities to make sure that there's no violation of
15 laws and regulations.

16 MR. WINKJER: In the event the Housing
17 Authority does not then provide adequate housing for the
18 native Americans on reservations, what responsibilities
19 does H.U.D. have?

20 MR. BOYD: One of our reviews is a maintenance
21 utility review. If we conduct a maintenance utility
22 review and find out that the Housing Authority is not
23 carrying out its responsibility for maintaining the
24 units then we create a finding and we have several
25 things we can do but what we prefer to do is provide the

1 Housing Authority with technical assistance to show them
2 what they are doing wrong and what can be done to fix
3 the problem.

4 We also can provide funds in the form of
5 comprehensive improvement assistance program.

6 MR. WINKJER: Would it be a fair summary then
7 to say that H.U.D. has the secondary responsibility
8 following the action of the local Housing Authority?

9 MR. BOYD: That would be correct.

10 MR. WINKJER: Thank you.

11 MR. STREIBEL: Any other questions? John --

12 MR. OLSON: Mr. Boyd, you described that one
13 program -- fast money being made available with health
14 and safety threatening conditions attached, would you
15 describe that program and whether or not that would
16 relate to some of the indications here of people being
17 cut off from utility services because of high rates or
18 unpaid bills and substandard housing is a contributing
19 factor to that?

20 MR. BOYD: Let me use an example. The Trenton
21 Housing Authority, they're having a problem with --
22 water. Williston currently has the water supply that to
23 my understanding is more than they need.

24 It was built with the idea of Williston
25 continuing to expand and --

1 We provided them with \$500,000 which we are --
2 because they don't have any agreement yet with the City
3 of Williston and whoever they're -- there may be a water
4 commission that they're dealing with.

5 We provided these funds on a fast track basis,
6 where there's no -- usually there's a preliminary
7 application and then a full application. In a case
8 where we think it's a threat to -- health, which we
9 believe water is, we dispense with the preliminary
10 application stage and went to the full application stage
11 and now we are prepared, when the money is available, to
12 be at the Housing Authority within three days if they
13 get agreement in the contract to provide these funds.

14 I think part of your question was could we
15 provide funds to pay utility bills? No, we cannot
16 provide funds. That's an ineligible expense to pay
17 utility bills for individual home buyers or renters.

18 MR. STREIBEL: Mr. Lembke.

19 MR. LEMBKE: Thank you, Mr. Chairman.

20 Mr. Boyd, Ms. Young spoke to the -- are you
21 familiar with that and if so, could you explain that?

22 MR. BOYD: I'm not sure what year she was
23 talking about.

24 MR. LEMBKE: --

25 MR. BOYD: Do you know what year it started

1 in?

2 MR. LEMBKE: Well, the testimony that I have
3 here says Mrs. Young stated for seven years they were
4 penalized by H.U.D. for delinquency. I presume that --

5 MR. BOYD: Okay, in the early '80's there was
6 what H.U.D. called a moratorium on housing and there
7 were several reasons for it.

8 MR. LEMBKE: Just at Standing Rock?

9 MR. BOYD: No, it was region wide. It
10 affected most of the Housing Authorities in the region.
11 There was basically two problems; one, H.U.D. had a pipe
12 line build up. There were several thousands of units in
13 the pipe line that had not been -- in getting to
14 construction so they wanted to empty out the pipe line.

15 Two was, we were getting some flack from
16 superiors saying that why are you funding Housing
17 Authorities when they don't have the management
18 capability to run the program, which they pointed to
19 tenant accounts receivables as one of the larger areas
20 of management capability that the Housing Authorities
21 supposedly did not have.

22 We were somewhat hard pressed to explain that.
23 Basically what happened in the early years of the
24 program the emphasis was placed on the development of
25 management and during this time when the moratorium came

1 in we switched the emphasis from development to
2 management.

3 MR. LEMBKE: Did you then, at the conclusion
4 of the seven years -- continue the normal relationships
5 at that time, is that what you're saying?

6 MR. BOYD: Management in all cases has usually
7 improved. I really can't speak from memory because part
8 of that was before my time as an employee of that office
9 and I can't specifically speak of Standing Rock because
10 I've never been representative other than --
11 representative in the early eighties for Standing Rock.

12 MR. LEMBKE: Thank you, Mr. Boyd.

13 MR. STREIBEL: Any other questions?

14 MR. SCHNEIDER: Mr. Chairman, I will be brief,
15 Mr. Chairman.

16 Mr. Boyd, as I understand it, electric heat is
17 the most expensive form of heat in North Dakota and
18 recalling Phyllis Young's testimony she said that one of
19 the major complaints that her Housing Authority had with
20 H.U.D. put these units on the reservation, which are all
21 electric heat units I understand, that there was no
22 input between H.U.D. and the utility company and the
23 Housing Authority as to that decision.

24 First of all, why was the decision made to put
25 all electric heating, choosing the most expensive form

1 of heat, and why wasn't there coordination with the
2 Housing Authority?

3 MR. BOYD: I don't know what the specific was
4 at Standing Rock, but I do know that if these units were
5 built in the early seventies, this is the time of the
6 oil embargo and I was an Executive Director in a South
7 Dakota Housing Authority previously and what I was
8 caught up in was the utility company told me that they
9 would only supply me with the same amount of propane
10 that I had received the previous year.

11 So, therefore, I couldn't put propane heat in
12 my unit so I had to go electric. It was either that or
13 send the units back to H.U.D. and neither I nor my board
14 of commissioners really wanted to send these units back
15 because people really needed the units.

16 I don't know if that was the case at Standing
17 Rock, but that could have been the case. Normally, the
18 houses -- the plans for the houses are reviewed by
19 H.U.D. but they're designed by the Housing Authority's
20 architect.

21 MR. SCHNEIDER: But as I understand it, in
22 accordance with Ms. Young's testimony, there was no
23 input from the reservation through the Housing Authority
24 --

25 MR. BOYD: If that was the case, it would be

1 very unusual.

2 MR. SCHNEIDER: Do you have a mechanism now
3 where as units go in who decides and what the heat
4 source will be and the insulation and that type of
5 thing?

6 MR. BOYD: In the development program phase,
7 there's one page that's dedicated to utility usage and
8 the Housing Authority shows what the most economical
9 form of energy is, whether it be propane, natural gas,
10 electricity, whatever it is.

11 If the Housing Authority proves that a certain
12 form of energy is better than the others, that's the
13 form that we will agree to use.

14 MR. SCHNEIDER: Have you built any other units
15 besides all electric in North Dakota?

16 MR. BOYD: I work in management rather than
17 development. I really can't say that we've built any
18 all electric but I can't say that we haven't either. I
19 don't know.

20 Another reason sometimes is baseboard electric
21 is far cheaper than forced air gas so the Housing
22 Authority Board might look and say we can build 25 units
23 using baseboard electric or we build 24 using forced air
24 gas. That may be a distinction too, I don't know.

25 We are converting a lot of them. In fact,

1 we've had discussion with the Development Division in
2 our office saying don't build any more electric because
3 in later years we come in and convert the electric to
4 propane in the C.E.A.P. program.

5 We're limited to 20 percent special purpose so
6 20 percent of the 15 million can be used to convert
7 electric to gas or whatever is the cheapest, but we
8 can't go over that.

9 MR. SCHNEIDER: Are you using that 20 percent
10 now to make that conversion?

11 MR. BOYD: Yes; I don't know what our exact
12 percentage is, but it's going to be close to 20 percent.
13 That and the other forms of special purpose such as
14 handicap accessibility or construction things.

15 MR. SCHNEIDER: Thank you, Mr. Chairman.

16 MR. STREIBEL: Any other questions?

17 MS. MILLS: Isn't it terribly expensive to
18 convert from baseboard to forced air?

19 MR. BOYD: It is expensive and sometimes it
20 architecturally difficult to do that. If you have
21 forced air electric it isn't so bad because your duct
22 work is already in, but it is expensive and sometimes
23 architecturally difficult to convert from baseboard to
24 forced air.

25 MR. STREIBEL: Jim.

1 MR. LADUCER: What influence do electrical
2 companies have in the decision on what -- heat or
3 electrical?

4 MR. BOYD: Can you state that again?

5 MR. LADUCER: What influence do electrical
6 companies have when a project is being approved on a
7 reservation what -- heat fuel -- gas or electrical?

8 MR. BOYD: Basically, it's up to the Housing
9 Authority. The only thing might be in the case the gas
10 company had a large influence because they said you're
11 only going to get what you got last year, so the Housing
12 Authority didn't have a choice.

13 MR. LADUCER: The individual Housing Authority
14 isn't homeowners. If I lived on a reservation and I
15 knew H.U.D. was going to give me a house, would I have
16 that decision to choose whether it go gas or electric?

17 MR. BOYD: They have input on the plans to the
18 Housing Authority. We and H.U.D. don't talk to the
19 tenants normally unless they have a tenant complaint.

20 MR. STREIBEL: Well, thank you, Mike, for
21 coming.

22 MR. BOYD: Thank you.

23 MR. STREIBEL: And sharing with us your
24 concerns and your -- the history of the program that
25 you've been associated with. We enjoyed having you.

1 We're now on the 11:20 a.m. agenda which is
2 allocated to three participants. I don't know if
3 they're here. Is Titus Hall here?

4 Mr. Hall, you're talking about, is not here?
5 Oh, I see, all right. Is Everett Enno or Tom Davis, are
6 they here? None of these three individuals are here,
7 then.

8 Well, if you'd like these two other
9 individuals to make some comments now they certainly can
10 because -- I hope we'll have the luxury of inserting
11 participants that were scheduled this morning into the
12 afternoon agenda. That will be determined by the number
13 of people that are absent this afternoon, I guess.

14 So, are these other two individuals that you
15 say would like to testify here?

16 MR. MOSSETT: I'm Jim Mossett. I'm with the
17 Tribal Business Council at Fort Berthold. Jim Mossett,
18 M-o-s-s-e-t-t. We had about a four page presentation, a
19 nice presentation written up, but I don't have it with
20 me.

21 MR. STREIBEL: Let me interrupt. You could
22 probably forward that to Tom if you give him your
23 address and you can forward that to Tom -- Mr. Pilla's
24 office. That would serve us greatly that way.

25 MR. MOSSETT: I guess I would answer any

1 questions, I guess.

2 MR. STREIBEL: What are some of your general
3 concerns with regard to the lack of appropriate housing
4 or costs that are associated with it? How do you
5 personally perceive what exists now and what could be
6 done to improve it?

7 MR. MOSSETT: I guess we have a big problem
8 with electrical rates. Some people have a \$500 a month
9 electric bill. We're working with McKenzie Electric in
10 Watkin City and they are very cooperative with the
11 tribe. We're making some headway there.

12 We have H.I.P. programs, C.E.A.P. programs but
13 the competition is always great for these monies and the
14 funding is always limited so it's just something you
15 have to work at constantly.

16 Some houses you know what the R factor was
17 when they were built and as they get older they're more
18 susceptible to heat loss and then the funding for
19 renovating or whatever is limited.

20 We have Barb Baker from the Housing Authority
21 here, she was on earlier. She can probably address some
22 of your questions.

23 MR. STREIBEL: It is really almost mind
24 boggling when you think of these folks with this kind of
25 utility or energy bills and if they can afford to pay

1 for them and still put food on the table, they're doing
2 pretty well and that doesn't leave much for anything
3 else, does it?

4 MR. MOSSETT: Well, there's no -- the
5 reservations are usually high unemployment base and sort
6 of impoverished in people. It is difficult to pay these
7 rates and pay your other bills and so as a council
8 member you have to try to promote some sort of economic
9 development on reservations.

10 Fort Berthold now, I guess the main push there
11 is for tourism but we have inadequate roads, poor access
12 to lakes. I'm here today to meet with the State Highway
13 Commission to try to go on a cost share venture,
14 probably meet with the Senator -- or someone in D.C. to
15 try to get more money into the Bureau of Indian Affairs
16 for road improvement -- access to the lake because
17 tourism is the only --

18 That's probably why you have so many people
19 employed for the state. It takes long range planning
20 to -- and you can't really point your finger at anyone,
21 I guess.

22 The Indian people are a minority and if you
23 have money, a lot of money, it doesn't matter what color
24 your skin is because like the Japanese people are well
25 respected in North Dakota, more respected than Indians,

1 because they have more money.

2 But we're not giving up. These electrical
3 rates are high. I suppose they should not have been put
4 in but they are in the houses now. Like I say, we're
5 working with the McKenzie Electric.

6 MR. STREIBEL: Before I call you, John, none
7 of the witnesses this morning have testified to it, and
8 we haven't asked the question, either, as to what this
9 type of usage factors into cost per kilowatt hour.

10 I know every time I get my -- our house is all
11 electric and every month I take a little pocket
12 calculator and I figure out how much it cost me per
13 kilowatt hour, you know.

14 MR. OLSON: He's double checking the accuracy
15 of the utility company, that's why he's doing that.

16 MR. STREIBEL: But do you have any idea what
17 these \$500 a month bills come to per kilowatt hour?

18 MR. MOSSETT: No.

19 MR. STREIBEL: It must be an awfully high
20 usage because the higher the usage, the less per
21 kilowatt hour and to get up to that rate, well, anyway.

22 MR. MOSSETT: Probably high usage --

23 MR. STREIBEL: They have to use it because --

24 MR. MOSSETT: I would say that.

25 MR. STREIBEL: John.

1 MR. OLSON: Well, Mr. Chairman, I just have an
2 observation; maybe somebody would want to respond to it,
3 but my personal experience with electric heat is that
4 it's expensive, extremely expensive in North Dakota
5 under normal conditions.

6 You combine that with substandard
7 weatherization in a home, I guess I am not surprised
8 there would be a three to \$500 monthly utility rate.
9 Maybe I'm off base on that, but that's expensive --
10 that's an expensive heat source meaning that the sooner
11 a lot of those units are converted plus brought up to
12 standard for North Dakota winters, I think that's really
13 going to alleviate a lot of that problem.

14 I haven't heard a lot of discussion here on
15 exorbitant rates as far as comparing those rates for
16 electrical rates from a reservation to a non reservation
17 usage. That's my observation so far and maybe you'd
18 like to respond to that.

19 MR. MOSSETT: Could you restate your question.

20 MR. OLSON: My question wasn't really a
21 question, it was an observation that I'm not surprised
22 that we have exorbitant electrical rates or utility
23 bills for those units that are heating by electricity.
24 That's not surprising to me.

25 I have friends who live in mobile homes that

1 have electric heat, forced air electric heat or
2 baseboard electric heat, but particularly the forced air
3 electric heat, I think, is a really expensive way of
4 heating a home and you combine that with a substandard
5 home that doesn't have the R factor or the caulking
6 around the windows and there's tremendous heat loss, I
7 guess I'm not surprised that there would be a \$400 or
8 \$500 monthly bill.

9 I have not had one of those, but it wouldn't
10 surprise me to see that. I guess my observation is that
11 the real issue here is that I've heard developing is
12 that we have units that are using electric heat, which
13 is by itself in North Dakota, an expensive source of
14 heat, and number two, they're substandard units.

15 The R factor and the weatherization of those
16 units is very substandard and that's contributing to a
17 very high utility, monthly utility bill in North Dakota
18 in even a normal winter much less a winter that
19 sometimes we're experienced with.

20 That's my observation with what's been
21 transpiring so far this morning, that that really seems
22 to be the two most significant problems with the utility
23 bills. I'd like to put it in that context because
24 that's where the testimony has been going.

25 MR. MOSSETT: Well, our rates in -- County

1 through McKenzie are the lowest in the state, I believe,
2 and we still have high bills.

3 MR. OLSON: Well, what is the reason for it?

4 MR. STREIBEL: -- kilowatt hours is.

5 MR. MOSSETT: Your observations probably are
6 correct. I know some are -- and they pump water to
7 their water tanks, they might have electric water
8 heaters in their water tank. High use plus substandard
9 housing adds up to \$500 a month, in some cases, not very
10 many, but...

11 And when this does happen, we call and they
12 have people from the electric company that come out and
13 look at the units and try to figure out why they're so
14 high, but you still have to pay that bill.

15 MR. OLSON: What is the utility company going
16 to do? I mean, what do you think the utility company --
17 what's the position or what's the responsibility of the
18 utility company in responding to that \$500 utility bill
19 that that family, that obviously is not in a position to
20 pay for it, I don't dispute that, but what is the
21 responsibility of that utility company?

22 MR. MOSSETT: I guess they don't really have
23 any responsibility there except for trying to alleviate
24 the problem somehow.

25 MR. OLSON: How would they alleviate the

1 problem?

2 MR. MOSSETT: I don't know.

3 MR. STREIBEL: It's relative simple to sit
4 here and listen to the testimony and then conjecture but
5 if we are as strapped for money, and I guess we are at
6 all governmental levels, if we try to get our priorities
7 in some semblance of order it would appear that the
8 money that's being spent for energy now could be offset
9 in a very sizeable fashion and you'll start getting some
10 proper housing out there.

11 Instead of spending \$500 a month for
12 electrical bills, get a proper unit out there and take
13 250 of it and advertise the cost of that unit. Do you
14 follow me? I mean, that's what goes through my mind.

15 MR. MOSSETT: The -- Housing Authority is
16 taking steps to insure that the houses --

17 MR. STREIBEL: I'm not saying that you should
18 do this. I'm saying that at some level, some
19 governmental level and it probably is the federal, it
20 appears to me that there should be some renewed emphasis
21 placed on getting adequate housing out there and if you
22 can't pay for it immediately, take half your utility
23 bill and make a house payment on it, you know, if you
24 can save half of it.

25 That's very simplistic, but I guess coming

1 from -- I'm a simplistic person and it doesn't seem too
2 complicated to me that -- bunch of money to try to heat
3 a substandard house rather than getting a good house and
4 saving on this utility bill and letting the people enjoy
5 a good accommodation for a home.

6 MS. MILLS: Well, I think the question I'd
7 really like to direct to Mr. Boyd is I haven't heard any
8 talk about passive heating units or solar system --
9 solar heating of any sort and I have friends who heat
10 their houses for peanuts.

11 I know total solar heated houses is very
12 expensive but there are units like for heating water, et
13 cetera, that are not. Is that never allowed under
14 H.U.D.

15 MR. BOYD: There's only been one project that
16 I know of and that was in Southern Colorado where they
17 had -- heating system, solar, and it lasted for about --

18 The only system that I know of that was in
19 Region 8 was a solar system on a reservation in Southern
20 Colorado and it didn't last very long. It lasted about
21 three, four years and because of the maintenance problem
22 with it and because of the cost of energy decreased,
23 they stopped using it.

24 MS. MILLS: But there are fairly not very
25 extensive systems, for example, for water heaters. You

1 seem them around Bismarck, you see a lot of this where
2 they have it in addition to a system.

3 I mean, I agree with the Chairman that
4 whatever you could do to cut that cost of utilities --
5 there's no getting around that this is no country to
6 live in if you can't have heat.

7 MR. BOYD: Another might be what they call
8 cost containment where Congress says these units are
9 costing too much money. We want to put a cap on these
10 units where a solar system is rather expensive to begin
11 with because in this country you also have to have a
12 secondary system; you have to have two systems.

13 So that would be an added expense and it would
14 not meet the cost guidelines.

15 MR. STREIBEL: Jim.

16 MR. LADUCER: The problem, as I'm thinking as
17 I'm sitting here, is that when -- and you've probably
18 answered this is that when Housing Authorities find out
19 there's a million dollars out there and you could get,
20 say, 20 homes out of a million, I don't know, as a rough
21 figure, they're going to look at Housing Authority
22 people.

23 If they could eliminate -- I think Mr. McCloud
24 had stated earlier -- if they could eliminate that
25 furnace and all that duct work, they could build one

1 extra house. Is that the -- coming on? Is that the
2 problem or --

3 MR. BOYD: That happens at times.

4 MR. LADUCER: And they say they want to -- if
5 we eliminate 15 or 20 furnaces out of houses, they could
6 actually build one or two more houses and cut edges here
7 and there, and as an end result the house is deficient
8 because it's paying high electrical bills but the
9 consumer or the individual homeowners are paying that
10 electrical.

11 They're getting a low rate house but they're
12 still getting the high bills because they've eliminated
13 the furnace. Is that -- that's what I'm thinking out of
14 it.

15 MS. MILLS: Well, they have the families on
16 their doorstep saying we don't have an adequate place to
17 live.

18 MR. LADUCER: And the Housing Authorities are
19 saying we got so many people out of homes; our first
20 priority is to get a house.

21 MR. STREIBEL: Has Barb Baker joined us?
22 Welcome. Dean.

23 MR. WINKJER: Mr. Chairman, right before I ask
24 the question I have to perhaps add the comment that we
25 best not forget the high cost of energy is in part

1 contributable to the high taxes that the state imposes
2 on energy.

3 MR. OLSON: What a cheap shot that was.

4 MR. WINKJER: But my question, sir, is in Fort
5 Berthold are you acquainted or do you know of any native
6 American families who are living under extreme inhumane
7 conditions?

8 MR. MOSSETT: Yes.

9 MR. WINKJER: You do?

10 MR. MOSSETT: Uh-huh.

11 MR. WINKJER: And is that due to housing?

12 MR. MOSSETT: Housing would be one of the
13 factors. Large family, no job.

14 MR. WINKJER: Whose primary responsibility is
15 it to correct those inhuman living conditions?

16 MR. MOSSETT: --

17 MR. WINKJER: I would agree that it is ours
18 but as -- are there any established agencies that have
19 primary responsibility for that?

20 MR. MOSSETT: We have a H.I.P. program, a
21 Housing Improvement Program with limited funding, we do
22 about seven houses a year.

23 We have certain blocks of money coming down
24 under the Homeless Assistance Act this year.

25 MR. WINKJER: But you say the tribe has the

1 responsibility?

2 MR. MOSSETT: Of course.

3 MR. WINKJER: Would you say that the state
4 human services have a responsibility?

5 MR. MOSSETT: Sure.

6 MR. WINKJER: Would you say that the Housing
7 Authorities have a responsibility?

8 MR. MOSSETT: Yes.

9 MR. WINKJER: A lot of people have
10 responsibilities there.

11 MR. MOSSETT: Right.

12 MR. WINKJER: So if there is a problem, is it
13 a civil rights problem? Is this because native
14 Americans are being discriminated?

15 MR. MOSSETT: Discrimination and prejudice is
16 alive and well on Fort Berthold. We've been invited to
17 Hollywood, Florida, Washington, D.C., expense paid trips
18 so they could -- we would send some singers and dancers
19 out and some people knowledgeable so they could gain a
20 little more insight on our culture.

21 We lost a bid to go to Germany, they took 150
22 people and sponsored a pow wow in Germany and brought
23 them back. You try to get that done through North
24 Dakota or particularly through the border towns, --.

25 We have an equality committee, they're kind of

1 like the Ku Klux Klan, but they say they're concerned
2 citizens for equality and they lobby against Indian
3 people to whoever will listen.

4 A lot of people do and luckily a tribe can
5 come to meet with state officials and --

6 MR. WINKJER: Tell me a little bit more about
7 this equality committee.

8 MR. MOSSETT: It's just a committee that
9 doesn't believe in the -- of the Indian tribal business
10 councils and they believe there should not be
11 reservations. They don't believe the tribe should have
12 any jurisdiction over hunting, fishing, police, any
13 zoning or any type of --

14 They live on the reservation but they don't
15 want to live with Indian people.

16 MR. WINKJER: Is this an organized group?

17 MR. MOSSETT: Yeah.

18 MR. WINKJER: Is it a state-wide organized
19 group?

20 MR. MOSSETT: Nationwide.

21 MR. WINKJER: Nationwide?

22 MR. MOSSETT: Right.

23 MR. WINKJER: Is it aimed at the native
24 Americans or is it aimed at the blacks, the oriental or
25 is this an organization directed to the native

1 Americans?

2 MR. MOSSETT: Primarily native Americans but
3 they have different organizations against blacks,
4 orientals.

5 MR. WINKJER: Do you know whether this
6 equality committee in North Dakota has a corporate
7 structure; is it a corporation? Is it registered here
8 in Bismarck?

9 MR. MOSSETT: I don't think so, no.

10 MR. WINKJER: This it's your judgment, because
11 they object to the tribes regulation of hunting on the
12 reservation, that they are therefore discrimination
13 against the native Americans, is that your position?

14 MR. MOSSETT: No, I guess everyone has the
15 right to their opinion, I guess.

16 MR. WINKJER: Thank you.

17 MS. MILLS: Do you know, is there a nationwide
18 organization of which this local equality committee is a
19 part, is that what you're saying?

20 MR. MOSSETT: Well, they joined together to
21 fight the -- on the some jurisdictional things.

22 MS. MILLS: Do you know what the national name
23 of it is?

24 MR. MOSSETT: No.

25 MR. STREIBEL: Before we go any further,

1 perhaps we ought to allow Barb to share some of your
2 testimony with us and then get back to general
3 questioning again.

4 MS. BAKER: I guess I just wanted to add a
5 little --

6 MR. STREIBEL: State your name for the record.

7 MS. BAKER: My name is Barb Baker. I'm the
8 Mutual Self Help Specialist with the Fort Berthold
9 Housing Authority on the Fort Berthold Reservation and
10 during their discussions of the substandard units on
11 Fort Berthold, I thought if I could lend a little bit of
12 background to that, it might help you understand the
13 situation that the Housing Authorities and H.U.D. Region
14 8 is in right now to try to correct those problems.

15 Initially those houses were built under what
16 is called the Old Mutual Self Help Program and they were
17 targeted for very low income families which we
18 considered to be a very important part of the actual
19 failure of the program in that in order to be a
20 homeowner you have to provide three very primary -- you
21 have to provide for three very primary needs.

22 That is the need to maintain the unit; the
23 need to maintain the utilities to that unit; and also
24 make the payments for that unit. Those are the three
25 primary things that these home buyers have to worry

1 about but as I said, initially these homes were targeted
2 for people of very low income nature, meaning that -- at
3 people with an income anywhere from three to ten to
4 twenty thousand dollars a year.

5 The first thing that happens is that they run
6 into trouble with the maintenance. They can't maintain
7 the unit properly. They can't caulk every year because,
8 as you mentioned, they have to put food on the table.

9 In the wintertime the units were probably not
10 properly constructed. We have found instances where
11 that is true. Come wintertime the electricity rates, of
12 course, because of the need for heating, go up and then
13 it's a matter of putting food on the table or paying the
14 electric bill or stalling off the electric company to
15 the point where they face cutoff.

16 We realize that the Housing Authority and
17 we've battled for money for years and it's not the fault
18 of the Region 8 office that we haven't received it.
19 There's only so many dollars available and because of
20 our annual inspections, we have identified problems in
21 insulation and the quality of the materials that were
22 used and we want to correct it and we have applied year
23 after year after year for either C.D.B.G. funding or for
24 the C.E.A.P. funding that Mr. Boyd mentioned.

25 However, not only are we forced to compete --

1 Region 8 is forced to compete nationally for the number
2 of dollars that they receive into Region 8, and all of
3 the Housing Authorities must also compete for the few
4 dollars that they manage to get ahold of.

5 Now, in a Housing Authority there are two
6 major components; there's a rental component and there's
7 a mutual self help component.

8 Now, remembering that these people got these
9 houses and probably did not have the income to support
10 them in the first place, H.U.D. takes the stance that
11 their first priority is rental units. When it comes to
12 C.E.A.P. money, applications for rental units come
13 first. They take priority because H.U.D. is and the
14 Housing Authority is directly responsible for
15 maintaining those units.

16 Then secondly come the mutual self help or the
17 home ownership homes. In the meantime, the mutual self
18 help owners are responsible for paying for those
19 utilities or somehow maintaining that home and very
20 often they cannot do it.

21 And we have units that are vacant that are
22 sitting abandoned sometimes for those very same reasons
23 or you do have people living in the substandard
24 conditions that they tried to escape when they got the
25 house.

1 I did want to follow up, too, on -- mention,
2 too, that a lot of the electric companies have taken it
3 on themselves to develop energy programs for which low
4 income people, in particular, are eligible. The State
5 of North Dakota, I believe, operated one through, as I'm
6 familiar with, Ottertail, in which they put in storage
7 systems, electric storage systems and actually went out
8 and knocked on doors and asked if these people would be
9 interested in participating.

10 McKinsey Electric, as Jim said, offers some of
11 the lowest electric rates in the state and they're able
12 to do that because I have found that 90 percent of their
13 income is generated from the oil and gas activity. Only
14 ten percent is residential and so they can pass that
15 savings on to the residential people in their
16 cooperative.

17 That's really all I have to say; if there are
18 any questions.

19 MR. STREIBEL: Do the Committee members have
20 any questions of Barb?

21 MS. MILLS: Well, I don't know if she knows
22 the answer to this, but if we're looking at a tremendous
23 difficulty in getting funds from H.U.D. for any project
24 because of competition nationwide, one presumes, how do
25 you think that native Americans fare in terms of a

1 percentage or share of those available funds from
2 H.U.D.?

3 MS. BAKER: In terms of actual percentages, I
4 could not tell you, but I will tell you this: Indian
5 housing is now separate from public housing and one of
6 the first cuts that was made in the Bush administration
7 was to zero out new development Indian housing.

8 Now, in defense of the Fort Berthold Board of
9 Commissioners who are embarking on the construction of
10 105 new mutual units, their motto is quality before
11 quantity and size. Now, they have taken great pains to
12 ensure that they do not repeat some of the errors that
13 were made in the past; in other words, building two
14 extra units and allowing substandard materials going to
15 all the units so that it can be done.

16 They've taken a very, very high stance in
17 terms of quality. They don't want to repeat those same
18 errors and a lot of the controls are at the local level
19 but we do have minimum specifications that are to be
20 abided by.

21 But as it is now, our Housing Authority is
22 involved in trying to get some of that development money
23 back into the budget. Indian housing was targeted; it
24 is zeroed out. I think Mike could --

25 MR. STREIBEL: Is it a sort of special line

1 item to eliminate that was --

2 MS. BAKER: It was eliminated. I might add,
3 too, that the need for housing is great. We have --
4 right now in my files, I have over 400 applications for
5 mutual self help housing on the reservation.
6 Reservation wide in our rental program and our mutual
7 program, we have about 600 units.

8 We believe that we probably work with 85
9 percent of the Indian population on the reservation and
10 more than likely we have applications from all of the
11 remainder, so the need for housing is there but as I
12 said, that line item was zeroed out.

13 MR. STREIBEL: Any other questions by the
14 Committee members?

15 Thank you, Barb. We're going to get back to
16 the general discussion, we were on -- and thank you, and
17 we're set for lunch at 12:20.

18 Have any of the presenters from the 11:20 a.m.
19 agenda item appeared? Guess not, huh?

20 So, I guess we're not adverse to having lunch
21 early, are we?

22 The Committee will stand recessed until 1:30
23 p.m.

24 (Whereupon, the Committee was adjourned for
25 lunch to reconvene at 1:30 p.m., Friday, June 9, 1989.)

1 A F T E R N O O N S E S S I O N

2 MR. STREIBEL: -- reconvened and to begin the
3 presentations this afternoon, the 1:30 time schedule, we
4 have two gentleman. One, I think, is David Caruthers,
5 was not able to be with us today but Dennis Hill who
6 represented the Association of Rural Electric
7 Cooperatives is and we'll turn it over to you now,
8 Dennis.

9 MR. HILL: Thank you, Chairman Streibel, I
10 appreciate that.

11 It is a pleasure to be here this afternoon and
12 visit with the Advisory Committee and take the
13 opportunity to be part of this forum. It's a process
14 that I've -- into and look forward to questions on some
15 of the information we're going to pass out.

16 As Chairman Streibel mentioned, my name is
17 Dennis Hill and I'm the Executive Director and General
18 Manager of the North Dakota Association of Rural
19 Electric Cooperatives.

20 We have a membership organization of 20 local
21 distribution cooperatives and six generation and
22 transmission cooperatives and the in state part of that
23 business provides electric service to about 76,000 North
24 Dakotans and as you've heard this morning, many of those
25 are members of the Indian tribes and the reservations.

1 With me today I would like to introduce -- I
2 don't know that this is needed for the record -- but
3 I'll introduce some of the people that are with me today
4 and I can provide you with a list of their names later
5 if you'd like, if you don't want to slow down to get
6 them all written down.

7 But Cedric Jacobson is the Manager of North
8 Central Electric Cooperative based on Botno. John Simms
9 is the Manager of Mor-Gran-Sou Electric Cooperative
10 based in Flasher. Bob Dipple is the Manager of McClean
11 Electric based in Garrison, North Dakota.

12 Behind him is Wayne Retsloff, the Manager of
13 McKinsey Electric based in Watkins City. Fred Ceifford
14 is the Manager of Montrail Electric based in Stanley.

15 Representing the Sheyenne Valley Electric
16 Cooperative out of Finley is David Etland, the Board
17 Chairman, Dennis Baisler who works in the office in the
18 Manager's position, as I recall, and Bruce Carlson who
19 is the Manager of the cooperative there.

20 And from Baker Electric Cooperative we have
21 two individuals, Larry Barra, the Staff Attorney, Gary
22 Allen who is Manager of Engineering, and Tim Johnson who
23 is the Energy Services Advisor.

24 So we have a number of people here today and
25 our thought was that I could start with some overall

1 philosophical statements and comments on some of the
2 things that this Commission is talking about and then if
3 you, as Commission members, have specific questions that
4 relate to each of the reservations or any of the issues
5 that were raised this morning, we can turn to this team
6 of resource people to answer some of those questions.

7 You can see from the map that I've handed out
8 that we do provide the bulk of the electric service to
9 the members of the Indian reservations. And, again, the
10 testimony that I'm going to provide today talks about
11 electric service which pertains obviously just to the
12 cooperatives.

13 There are a couple of -- utilities who provide
14 service on the reservations, but in terms of their rates
15 or any of their philosophies, I guess I encourage you to
16 get that testimony directly from them.

17 The map, as I pointed out, shows that a couple
18 of coops serve a couple of different reservations and as
19 some of the questions came up this morning about
20 jurisdiction and things like that and the philosophy on
21 that and the history on that is that back when
22 cooperatives were started, many of these areas had no
23 electric service.

24 In some instances the cooperatives came or the
25 Indian reservations, the Indian nations came to the

1 cooperatives and asked them to extend service into these
2 certain areas. It was based on the same thing we found
3 in the rest of rural North Dakota; that the investor
4 owned utilities had picked out certain loads, certain
5 areas of reservation that were higher density, had
6 bigger loads and left the rest of the areas unserved and
7 at that point the Indian nations came to the
8 cooperatives and in some instances and asked that they
9 have the service extended to them and the cooperatives
10 responded.

11 The cooperative structure is such that as
12 member owned and controlled entities, business
13 enterprises, we believe strongly that all the benefits
14 of the service we provide go directly to the members and
15 any money that we have left over at the end of the
16 year -- we call it margins in our business -- is
17 distributed directly back to the members of the
18 cooperative who take the electric service from us.

19 So there were a number of comments this
20 morning about whether or not there should be some
21 jurisdictional role for the Public Service Commission or
22 other entities. I guess our philosophy on that would be
23 that we think the membership of the organization is as
24 good or better a regulator than any elected body here in
25 the state government.

1 There is no incentive for us as an electric
2 cooperative membership to do anything other than provide
3 the most dependable, affordable electric service as we
4 can at cost and if we somehow charge a little more than
5 what we need, then we distribute that money back to each
6 member of the cooperative in the form of a capital
7 credit check at the end of each year.

8 You don't necessarily get the check each year,
9 but you get an allocation each year and over a period of
10 years that money is refunded back to the members based
11 on the amount of patronage they have deposited in that
12 given year.

13 So, again, I think it's important that we
14 point that out, that as member owned and controlled non-
15 profit forms of business enterprises, the membership --
16 and I'm talking each and every member of the cooperative
17 -- has the authority or the responsibility to control
18 the overall operation of the cooperative.

19 We do that in a couple of ways. We have a
20 Board of Directors that is elected by the membership.
21 We have an annual meeting at which each member of the
22 cooperative is entitled to and welcome to come and vote
23 on persons to represent them, they pass resolutions,
24 they adopt bylaws, they run the entire operation of the
25 cooperative from the membership level and have total

1 essentially control of the cooperative.

2 I think it's -- another thing along that line
3 of representation, a couple of comments were raised this
4 morning dealing with whether or not there was much board
5 representation or other forms of input for the members
6 of the Indian reservations.

7 As was pointed out, in some instances we do
8 have three persons who serve in board positions for
9 cooperatives. The Chairman of the Board at Mor-Gran-
10 Sou, Robert Gibb. Ray Keplan was just elected to the
11 board of North Central Electric Cooperative in Botno and
12 Mike Nelson is the representative for the Indian nation
13 in Baker Electric Cooperative.

14 In addition to that, many of the cooperatives
15 have some form of advisory committee on which the Indian
16 members of the coop, as all members of the coop, are
17 entitled and encouraged to serve on. Sheyenne Valley
18 has three persons that they've encouraged to do so.

19 Mor-Gran-Sou, the board has just authorized a
20 sounding committee to deal with problems and issues on
21 the reservation. McClean Electric has two members of
22 their advisory committee that are Indian members and
23 Baker Electric holds an annual membership meeting with
24 the Tribal Council on each reservation and tries to get
25 the type of input that they really need.

1 The other point that I would talk about just
2 briefly deals with the rates. We've heard a number of
3 comments this morning that would suggest that electric
4 service is not affordable for the members of the
5 reservations and if that is true, it isn't true just for
6 members of the tribe, necessarily.

7 Some of that is driven I think, as we've
8 pointed out, by the substandard housing but in the last
9 decade the rural electrics are no strangers to high bill
10 complaints. We think we've got that situation under
11 control with a wide array of marketing programs that are
12 driven by the economic times that are trying to be as
13 responsive as possible to the needs of the entire
14 membership and obviously each of those programs apply as
15 well to the reservations as they do to the non
16 reservation members.

17 A couple of things were brought out this
18 morning dealing with rates and I don't have the specific
19 numbers in front of me, but I recall hearing some talk
20 of the rates being anywhere from seven cents to twenty-
21 seven cents or something. I encourage the Committee to
22 check the decimal points on those.

23 Many of our off peak heating programs now are
24 2.7 cents per kilowatt hour; not 27 cents, if that's the
25 number I had written down and the 17 cents, if it's an

1 off peak heating program, some coops in this state have
2 rates as low as 1.7 cents so the range of rates is
3 different in North Dakota for each cooperative.

4 And the reason for that is each cooperative is
5 a distinct operating entity and as such, each Board of
6 Directors has a number of factors to consider; the
7 amount of debt that they have, the number of consumers
8 that they serve, the amount of commercial load that
9 they're able to blend into their system or not have into
10 their system.

11 Density is the biggest -- one of the biggest
12 criteria. We have an average of 1.6 consumers per mile
13 of line in North Dakota so it's extremely difficult to
14 bring that service out to these far between rural places
15 at levels that are as competitive as you might find in
16 the pacific northwest where densities across the country
17 are much higher.

18 So I think the philosophy of the boards in
19 setting rates is that they factor all these things into
20 their decision. They take a look at all these factors
21 and then try and put together a rate that meets the
22 needs of the entire membership of the cooperative.

23 So I think you'll find that while, indeed,
24 Baker Electric Cooperative rates are different than Mor-
25 Gran-Sou's rates, within each cooperative there are rate

1 classes that do not vary. They in no way vary from type
2 of consumer to type of consumer.

3 If it's a residential rate, it applies to an
4 Indian member as well as a non Indian member. If it's a
5 commercial rate, it applies to that commercial load. It
6 does not matter if it's Indian owned or non Indian
7 owned. We find that there's no discrimination there
8 whatsoever in terms of that kind of rate setting.

9 The difference is that each cooperative serves
10 different areas and therefore has to have different
11 kinds of rate structures to serve those loads.

12 So with those few comments, maybe we can just
13 move to questions from the Commission, Mr. Chairman.

14 MR. STREIBEL: Mr. Olson?

15 MR. OLSON: Thank you, Mr. Chairman.

16 Mr. Hill, maybe you or some of your people can
17 respond to the question dealing with the setting of
18 limits for deposits and maybe you could address that.

19 What kind of policies exist for requiring
20 deposits to be made and if there are differences, point
21 out those differences.

22 MR. HILL: Sure. Certainly, and again, I
23 think the philosophy again is that each cooperative is a
24 distinct operating entity and there are probably 21
25 different -- we have 20 members in our association but

1 there are 21 distribution cooperatives.

2 There would likely be 21 different policies on
3 deposits and the length but I guess we've talked about
4 it to some degree and I think the policies would range
5 from virtually no deposit at all to some higher numbers,
6 based on past experience that the cooperative has gone
7 through with a person.

8 MR. STREIBEL: Any other Committee member have
9 question of Mr. Hill?

10 MR. SCHNEIDER: Mr. Chairman; thank you, Mr.
11 Chairman.

12 Mr. Hill, there was testimony this morning
13 regarding cutoffs of electricity. One of the complaints
14 was that the cutoffs are occurring around the 20th to
15 the 24th of the month and that's before the government
16 checks are issued, around the first of the month.

17 Does your association address that issue and
18 what would be the problem in coordinating with your
19 members a program whereby the cutoffs did not occur
20 until at least there's the opportunity to pay them after
21 the checks have been received?

22 MR. HILL: I guess from a philosophical
23 standpoint, again, the first response would that be that
24 our association has no regulatory power over any of the
25 local distribution --

1 MR. SCHNEIDER: I understand that.

2 MR. HILL: Okay, so we couldn't come in and
3 say you have to do it this way. We have no power to do
4 that.

5 I think each board would have to meet within
6 themselves and with neighboring cooperatives to see if
7 there could be some consistency built into those
8 problems.

9 Larry Bear represents Baker Electric and we
10 have talked about this just briefly and I know he wants
11 to make a comment on the specific policy that came up
12 this morning that dealt with Baker Electric Cooperative
13 versus -- I think the other one was North Center.

14 MR. STREIBEL: Would you state your name?

15 MR. BEAR: My name is Larry Bear, I'm an
16 attorney at law and I represent Baker Electric
17 Cooperative in -- North Dakota.

18 Baker Electric serves both Fort Totten Indian
19 Reservation and the Turtle Mountain Indian Reservation
20 so we have two distinct tribal units that we work with.

21 I would first point out that billing cycles
22 are not a problem for persons paying current. We're
23 only talking about people who have chosen not to pay the
24 prior 60 days worth or almost 90 days worth of
25 electricity at the point that they're to receive turn

1 off notices.

2 So had they paid their bill in the month that
3 it was due, within the time frame, the grace time
4 granted of that commonly due bill, there isn't a problem
5 in the receiving timely payment of grant monies or other
6 -- monies.

7 But in recognition of the fact that native
8 Americans are just like all other Americans, we spend
9 more than we earn on a regular basis and we are on that
10 delinquent list from time to time and recognize that we
11 have a substantial number of native American consumers
12 that have the very type problem you're talking about.

13 One year ago our Board of Directors moved our
14 billing cycle next to five days -- four or five days --
15 so that the final day of that billing cycle is one day
16 after the grant checks are supposed to be received and
17 this is an act that was made in direct response to a
18 request by Chairman Carl McCabe of the Fort Totten
19 Indian Reservation and corresponds to the billing
20 cyclings of both the Fort Totten Indian Reservation and
21 the Turtle Mountain Indian Reservation.

22 So yes, there was a need, it was an easy thing
23 to cure. It has reduced our turn off rate substantially
24 and so it was a relatively easy adjustment and worked
25 very well in our system.

1 MR. SCHNEIDER: I understand it reduced your
2 turn off rates would no doubt there's more money
3 available to the Indian reservation family to pay their
4 utility bill in the first place, right?

5 MR. BEAR: It doesn't make any more money
6 available. It reduces the extra 10 or \$15 they have to
7 pay to have it turned on again, it saves that money.

8 It hurts the cash flow of our coop. It has an
9 interest cost to us, but we were willing to adjust for
10 that very reasonable correlation but I point out first
11 of all, that a majority of our native Americans pay
12 their bill on that first month's billing problem and
13 it's not a problem; 70 percent of them do. It's that 20
14 to 25 percent that are constantly in trouble that we
15 adjusted the plan for.

16 I also wanted to respond to Mr. Olson's
17 questions about deposits -- you're asking about the
18 deposit policies.

19 Baker Electric has been involved a year and a
20 half ago, or about 12 months, we're involved in an
21 ongoing review of our deposit policy with Nagenlander &
22 Associates, an Indian public interest law firm from
23 Denver on behalf of certain members on the Fort Totten
24 Indian Reservation.

25 As a result of that ongoing correspondence and

1 feedback with our Board of Directors, our policies were
2 changed substantially three different times in the last
3 12 months; most recently in December. We evolved from a
4 system of straight deposits, no interest, uniformly
5 applied to everybody. There wasn't a discrimination
6 problem, it was a matter of the harshness, the
7 difficulty of coming up with the money.

8 We evolved now to where the deposit can be
9 given over a period of the first two months where
10 they're not receiving any electric bills so they're
11 making a deposit as if they're paying for electricity as
12 they receive it.

13 The policy requires a deposit only in the
14 event of proof of bad credit rating. In other words, if
15 a person can't come in and show a positive credit rating
16 from their prior utility. We don't care about their
17 credit rating in general, we care about their utility
18 credit rating.

19 The amount of the deposit just in the last
20 board meeting, this last month, was substantially
21 reduced on the Fort Totten Indian Reservation as well as
22 for the -- Turtle Mountain Indian Reservation as a
23 result of substantial programs adopted by the coop to
24 deliver cheaper utility rates to the reservations.

25 These include our application for grants to

1 convert the metering system to allow us to give an all
2 electric rate, to give us an uncontrolled electric rate,
3 to give us dual fuel electric rates and those things
4 just now got -- they were implemented approximately a
5 year ago to the Turtle Mountain Indian Reservation
6 because that tribe has been much easier to work with in
7 getting programs through and getting them implemented.

8 But they have just been completed at the Fort
9 Totten Indian Reservation as well and those deposits
10 that were \$400 a month, as of the last board meeting, I
11 just have my notes from the board meeting here, were
12 reduced to -- the all electric heat was \$400 a month
13 will now be \$250 for the original deposit and if they go
14 into the dual fuel system, it's only \$200 for the
15 original deposit. A marked decrease in exposure for the
16 cooperative passed directly on to the members.

17 So we've been sensitive to these problems and
18 working on these problems and we feel we've made very
19 good progress in working with the respective tribal
20 councils. Baker has been very aggressive in dealing
21 with the reservations we represent. We've got tribal
22 members on our Board of Directors, have had for 30-40
23 years.

24 We've got a third of our workforce is native
25 American, 27 percent. I don't know any other coop that

1 comes close to that and no -- utility comes close to
2 that.

3 We've had annual meetings with the tribal
4 council on each reservation that we serve. Invite them
5 out to dinner at Devil's Lake or at Bellport.

6 It's not easy, it's not a -- relationship but
7 it's been a good relationship.

8 MR. OLSON: On these damage deposits, how --
9 issues -- you say you're constantly revising this
10 policy?

11 MR. BEAR: Updating it to respond to needs.
12 When Mr. Nagenlander wrote to us the first time, I wrote
13 back and very honestly said this is the first time we've
14 received a formal complaint of any kind from anyone
15 concerning our deposit policy.

16 Since then, pasta plant employees have been my
17 primary complainers but other than this correspondence
18 I've had with Mr. Nagenlander, it's been the only
19 complaint that I've ever received and we've been
20 responsive to those complaints.

21 I forgot to also mention we've refunded all
22 the deposits that were made prior to the new policy. We
23 refunded them at this point across the board.

24 We also gave them nine percent on the money
25 while we held it. We did that and now we made the new

1 policy, we only collect them pursuant to that new
2 policy, they get nine percent interest on the money. At
3 the end of 12 months, by the way, if they pay their bill
4 every month for 12 months, -- the blackest credit rating
5 ever, as long as they pay our bill, at the end of 12
6 months that's refunded to them with interest.

7 MR. OLSON: If there are deficiencies and
8 those deposits are then applied to the unpaid --

9 MR. BEAR: Oh, definitely. We have to make
10 sure our mortgageholder gets paid.

11 MR. OLSON: And these people can still come in
12 and affirmatively show that they're a good credit rating
13 and then the requirement for deposit is waived at that
14 point?

15 MR. BEAR: Definitely. The only way that they
16 are required to make a deposit is in the event they
17 can't show a prior good credit rating with a prior
18 utility and we even waive that requirement in instances
19 where their prior utility supplier was paid for through
20 the tribe or the Housing Authority.

21 Some of these people move from tribal or
22 Housing Authority paid utilities off of that system
23 where they don't have a history of a prior utility
24 payment onto our system and in those instances we waive
25 the damage deposit.

1 MR. OLSON: Would it be fair to say that most
2 of the deposits are required on a reservation for
3 reservation subscribers?

4 MR. BEAR: No. I've got some interesting
5 statistics as to our experiences in bad debts on and off
6 the reservation. We've, in the course of our extensive
7 correspondence with Mr. Nagenlander, kept on asking us
8 to go back and study our information and these numbers
9 would be as of 1987.

10 But percentage of the members of our system at
11 Fort Totten, 6.1 percent. That's the percentage of
12 numbers of members. Out of that 6.1 percent of our
13 system at Fort Totten, they represent 25 percent of the
14 total collection problem, people that we have to send
15 out on collections.

16 They represent, compared to system wide
17 averages, we have an average bad debt per member of
18 \$2.10; on Fort Totten it's \$74.92 per member.

19 Now, it's just a few bad apples, too. Of the
20 percent of the members on the reservation, it's only
21 16.7 percent that create this problem. Over 80 percent
22 of them we have no problem. Over 75 percent pay their
23 bills every month on time in full. There's five to ten
24 percent there that occasionally fall behind but are
25 never are on collections. It's only that 15 to 16

1 percent that's a problem but they represent a really
2 high disproportionate percentage of our bad debts; 57
3 percent of our bad debts on our system are from Fort
4 Totten.

5 Go to Bell Port, the same type of analysis was
6 done. They represent 15.5 percent of our membership,
7 they represent 21 percent of our bad debts. Compare
8 that \$2.10, they're \$12.72 per member. But once again,
9 it's -- there, it's only seven percent of those members
10 that constitute the problem. Over 90 percent of their
11 members pay their bill on time, no problem, so we're
12 talking tribal governments have unique problems but it's
13 only a small percentage of the people within those
14 tribal governments that just don't seem to be able to
15 manage cash flow for one reason or another.

16 Things change, you know, they have divorce
17 problems, they might have an alcohol problem or
18 something but it's a vast majority of them, we've got a
19 system that works real well for them. It's 16 percent
20 on Fort Totten that represents 57 percent of our bad
21 debts. It's seven percent on Bell Port that represents
22 21 percent of our bad debts.

23 MR. STREIBEL: Jim?

24 MR. SCHNEIDER: You're telling me 15 to 16
25 percent of your bad debt -- if you were to compare your

1 total accounts receivable bad debts, what range does
2 native Americans have in your total service area?

3 MR. BEAR: Well, I just looked at from the
4 standpoint of the writeoffs. This is the percentage of
5 those debts that were actually written off to be deemed
6 uncollectible.

7 MR. SCHNEIDER: I'm saying off reservation
8 versus on.

9 MR. BEAR: Off reservation it's 2.2 percent
10 system wide and out of that 2.2 percent they constitute
11 21 percent of the bad debts.

12 So the bad apples off the reservation
13 represent a disproportionately high debt load to our
14 system and that's the reason --

15 MR. SCHNEIDER: But 79 percent is non-minority
16 represented, is that what you're saying?

17 MR. BEAR: The what?

18 MR. SCHNEIDER: 79 percent represents someone
19 other than native Americans?

20 MR. BEAR: That -- we don't have a breakdown
21 of that. We have many, many native Americans off the
22 reservations.

23 MR. SCHNEIDER: Whether they're a native
24 American or not, you're saying that 21 percent of your
25 total bad debt is from native American --

1 MR. BEAR: All we can tell you is that's
2 within the exterior boundaries of the Turtle Mountain
3 Indian Reservation. We don't have it broken down as to
4 whether they're native American or not, at Turtle
5 Mountain Indian Reservation. That's just within the
6 boundaries.

7 And the same thing true for Fort Totten,
8 that's 50 percent of our bad debts -- and there are, we
9 know that for a fact and they're part of the bad apples.
10 But these policies are uniformly enforced as to
11 everyone.

12 They've become a problem for the -- income
13 people. Because of the strike situation at the pasta
14 plant right now, we have an influx of people -- I guess
15 you'd call it scalping -- going for jobs that the
16 strikers had. These people are coming from wherever
17 they are at; low income situations. They're looking for
18 a job, any job, \$4 or \$5 an hour sounds good to them and
19 they come up and they're asked to pay a \$400 deposit?
20 They have a hard time.

21 MR. SCHNEIDER: The comment was made this
22 morning through one of the testimonies that some of the
23 electrical companies are labeling native Americans that
24 may be getting fuel assistance, therefore the rates
25 could possibly be increased.

1 MR. BEAR: No, no, the rates are uniform
2 throughout the system. -- REA would close us down
3 quick. We have many contractual obligations to REA,
4 Rural Electrification Administration in Washington, D.C.,
5 that specifically require all aspects of our business
6 are nondiscriminatory and if anything like that surfaced
7 we would correct it instantly.

8 MR. LADUCER: I had done a little research on
9 the collectability of residents from a reservation,
10 native Americans, and I'm originally from the Turtle
11 Mountain area, and I know that a company by the name of
12 Ottertale that had a native American that was a service
13 rep that would go around to see clients that were
14 delinquent in some of their bills.

15 Putting that native American rep to go and
16 cover some of these bills, I guess, the recovery rate
17 just increased. Has that ever been thought of where you
18 had a native American from that reservation on the
19 company to where they go and service the meters or --

20 MR. BEAR: Mr. Nelson serves in that capacity
21 as a Director from that area. He, himself, because he's
22 a director cannot interfere with the day to day affairs
23 of the coop but he can act as a liaison between the coop
24 and the membership.

25 Cooperative personnel on a monthly basis, if

1 not bi-monthly basis, goes to the reservation to meet
2 with the Housing Authority and sits in the Housing
3 Authority office and receives comments and complaints.

4 We've never sent somebody around as a bill
5 collector in any capacity, white or Indian, other than
6 service terminations.

7 MR. LADUCER: Yeah, I think that your recover
8 rate would be a lot greater with someone from the
9 community would work with the company.

10 MR. BEAR: I think as far as Baker's
11 experience, we have such a strong native American
12 presence in the Bell Port area, especially, that is
13 hasn't been a problem. I don't think we're perceived as
14 a white organization.

15 MR. LADUCER: Well, you need to be
16 complimented on your 27 percent employment of native
17 Americans.

18 MR. BAKER: And originally, the first few were
19 hard to get, hard to recruit, because nobody wants to be
20 the odd man on the crew, but after we had a few good
21 leaders then it's been very easy to recruit good people
22 ever since, very good people.

23 MR. STREIBEL: Dennis -- I'll get to you, Dean
24 -- you mentioned that at your annual meetings -- and I'm
25 also a member of the -- and where the -- you have input,

1 the members have input and sets the policy with the
2 directors.

3 The native Americans, they attend your annual
4 meetings and participate in that?

5 MR. HILL: I think the experience that we've
6 found is that participation hasn't been that high at the
7 actual annual meeting.

8 MR. STREIBEL: Percentage-wise.

9 MR. HILL: Percentage-wise, right and they get
10 all the mailings as members of the cooperative. They're
11 sent the official notice as every member. We publish it
12 in the REC magazine. -- it's just personal choice, I
13 guess.

14 MR. STREIBEL: Dean.

15 MR. WINKJER: Are you required under the
16 regulations of the REA to file civil rights compliance
17 reports annually?

18 MR. BEAR: Yes.

19 MR. WINKJER: And you do?

20 MR. BEAR: It's attached to every loan
21 certification, which occurs on almost an annual basis in
22 some instances. We're subject to audits for that very
23 specific purpose. Baker Electric was subject to a very
24 extensive compliance audit here about two years ago. It
25 just went through every aspect of the entire utilities

1 and service.

2 MR. WINKJER: Thank you.

3 MR. STREIBEL: Any other questions on the part
4 of Committee members?

5 MR. SCHNEIDER: Mr. Chairman, thank you.

6 Mr. Hill, I'd like to follow up on this turn
7 off date for unpaid bills. Mr. -- at Baker Electric has
8 no problem in revising their payment or billing schedule
9 to coordinate with the receiving of government checks.

10 I was wondering -- in fact, I think he even
11 said it was cost effective. What is the problem, if
12 any, that you see with the rest of the members -- of
13 your members doing the same thing and do you perceive
14 your association as playing a role in coordinating that
15 effort?

16 MR. HILL: Certainly we could play a role in
17 getting any of that type of information to the member
18 boards. Again, I need to specify it would be a local
19 board decision but I think the history I have had with
20 the cooperatives is they are extremely sensitive to
21 those member requests.

22 The gentlemen and ladies who sit on those
23 Board of Directors are elected every three years and
24 those of you who serve in elected office understand that
25 if you're not responsive to your constituency, you don't

1 serve on that board any longer.

2 So I would think that properly presented and
3 with the right kind of information, your requests would
4 be handled as openly and as fairly as possible.

5 MR. SCHNEIDER: Also, does your organization
6 or do any of your members, rural cooperatives, do they
7 have an Ombudsman program or anything like that with
8 regard to complaints from the reservation and how does
9 it work, if so?

10 MR. HILL: I don't think it would be
11 characterized so specifically as an Ombudsman Program.
12 I think the philosophy of the local coops would be that
13 communicating with the membership is a daily activity of
14 the cooperative, not a once a year occurrence or
15 anything like that.

16 Each cooperative enterprise has what is called
17 an energy services or a member services or a department
18 that is charged with the responsibility of communicating
19 the programs to the membership. So when they adopt the
20 dual fuel or the off peak or any changes in the policy
21 or any changes in the bylaws, that is all done by this
22 particular department -- public relations program
23 running from a member advisory council to putting an
24 article in the REC magazine to a special letter or paid
25 advertising or whatever.

1 But we would say it's more of a daily activity
2 than it is a --

3 MR. SCHNEIDER: You don't have any type of
4 program where say an individual consumer on the
5 reservation would feel that they are getting a raw deal
6 from the electric cooperative, they have nobody they
7 could call up who will listen to their complaint?

8 MR. HILL: They could call the member service
9 Director, they could call a Manager. Most of them, to
10 get the quickest response to the memberships, call the
11 Director because again, going back to that -- of getting
12 reelected to these boards every three years, the
13 Directors want to hear that kind of input from the
14 membership.

15 Nine times out of ten, they will take to the
16 local board the next meeting and say such and such
17 member called and had this specific request, is there
18 anything we can do about this?

19 MR. SCHNEIDER: Mr. Hill, we've heard
20 testimony this morning that there are utility bills,
21 \$400 and \$500 a month.

22 Assuming that's the case, what do you believe
23 are the circumstances that lead to those larger bills
24 and what role, if any, do you see your organization
25 playing in addressing these problems?

1 MR. HILL: I think the rural electric coops,
2 in general, have been as responsive as possible to some
3 of those high bill complaints. I think you'll find at
4 each of the local levels, the member service department
5 or the energy service department that I talked about is
6 extremely responsive to responding to anyone who calls
7 and says I think my bill is unusually high this month.

8 They will typically go out and then audit that
9 residence or that business or whatever it is and say
10 this appears to be the problem. Maybe they have not
11 read their meter the last month and therefore they have
12 actually two month's billing on that particular bill.

13 Maybe they find that the insulation is
14 insufficient. We've talked a lot this morning about
15 substandard housing. I think each of these that serve
16 on a reservation will admit that there is a problem.

17 MR. SCHNEIDER: To get to the heart of my
18 question, what do you find on the reservation, what is
19 causing it? Is it substandard housing?

20 MR. HILL: Well, maybe I can talk about the
21 rate side of it first and then let some of these
22 gentlemen talk about what they see for the housing.

23 We think the rates, in general, have come down
24 extremely far, especially for the heating part of the
25 total electric bill. I know a lot of people who say my

1 bill was \$400 this month. Well, the first thing an
2 energy services advisor will go in and try to identify
3 how much of that was spent for just home heating because
4 when we start comparing bills, you know the first
5 question -- if that house was totally run by gas or just
6 the heating portion.

7 Typically most cooperatives now have off peak
8 heating programs or dual fuel heating programs and the
9 rates have become very competitive.

10 Bruce, what is the comparison for like propane
11 and gas now -- 2.7 cents for --

12 MR. CARLSON: 42 cents propane and 65 cents
13 fuel oil assuming standard efficiency on a furnace.

14 MR. HILL: And that's been in response to
15 needs that members -- all members of the cooperative
16 said we can't afford to heat our homes with electricity
17 anymore so therefore give us a better rate and we think
18 we've responded to that.

19 So that's one side of the equation we think
20 we've had some response there. In terms of the housing,
21 Cedric, do you want to give just a quick overview on
22 what you typically -- I don't know if there's such a
23 word as typically find -- but some of your experiences?

24 MR. JACOBSON: Cedric Jacobson, Manager of
25 North Central Electric in --. We serve the west half of

1 the Turtle Mountain Indian Reservation and I think the
2 housing standards at Turtle Mountain are probably better
3 than the other reservations in the state. We have a
4 pretty good Housing Authority there that does a really
5 bang up job for the money they get and I'm not going to
6 sit here and tell you that there is not some substandard
7 housing out there because there is. They need more
8 money but they do a good job with what they have.

9 We went through a period of very high electric
10 periods. We didn't have, up until a few years ago, we
11 didn't have any alternatives to our regular electric
12 rates for electric home heating and back in the early
13 seventies when the price of electricity was about two
14 cents a kilowatt hour, that was fine; but when it jumped
15 up to six, seven cents a kilowatt hour, then we were not
16 competitive.

17 We reacted. Now we got very competitively
18 priced heating rates. All electric rates, dual fuel
19 rates, whatever and were they to heat that house with
20 electricity or propane, if you've got a poor house
21 doesn't matter. If you've got a good house, a good
22 tight house, it's the same thing.

23 But overall, I think the reservation that we
24 serve has got pretty fair housing compared to the
25 others. They do a good job. Their Housing Authority

1 should be complimented. It needs some improvement; they
2 need money. But that's a sign of the times; we all
3 need money.

4 MR. STREIBEL: Any other questions on the part
5 of any of the members? Jim?

6 MR. LADUCER: You said something about
7 competitive prices, competitive rates. How do you
8 determine what is competitive when a service area is
9 designated to a specific company?

10 MR. JACOBSON: When I talk about competitive
11 rates, I talk about competition with our propane
12 dealers, fuel oil dealers. That's who we're competing
13 against for heating homes. We're not competing against
14 anybody for light bulbs but we are for heating, whether
15 it be for water heating or space heating.

16 We're in a very, very competitive marketplace
17 and our rates are -- Bruce mentioned, our rates are
18 equal to 42 cent propane and 65 cent fuel oil, which is
19 competitive against those fuels.

20 MR. LADUCER: Out of ignorance here, I don't
21 know how they establish --

22 MR. JACOBSON: We're not competing against the
23 other electric companies because we have our areas
24 assigned and that's the way it is; but we are competing
25 against the propane dealer and the fuel oil dealer.

1 MR. LADUCER: Okay, thank you.

2 MR. HILL: Would you like a rundown from each
3 of the coops in terms of substandard -- housing or
4 just --

5 MR. STREIBEL: I just -- would you? Okay.

6 MR. BEAR: I could offer some opinion about
7 Baker Electric service area. We serve the Turtle
8 Mountain reservation and I have the same comment North
9 Central has. It's a very well run organization, the
10 Turtle Mountain Housing Authority, and they were up
11 against defective engineering, defect in product design
12 on those houses that were provided to them. They've
13 worked very hard to correct those defective features.

14 They have a good education program when it
15 converted from Housing Authority paid utilities to
16 tenant paid utilities and they took the time and effort
17 to teach their people that it makes a difference whether
18 you close your windows or have insulation on the glass,
19 have an insulated door instead of just a solid wood door
20 and things like that and things really seem changed.

21 Fort Totten Reservation is probably a poor
22 funded reservation, has not had the same progress in
23 that area. We still see an education problem. We see a
24 more severe construction problem. Their housing is
25 poorly designed, very poorly designed.

1 The dollars being flown into the system right
2 now are not really being effectively utilized. When
3 they redid the housing cluster right at historic Fort
4 Totten they put baseboard heating down and a crawl space
5 underneath the house and expected it to heat the house
6 adequately.

7 It's just an unrealistic expectation and then
8 you wonder where the four and five hundred dollar
9 heating bill might come from. That's a design feature I
10 would never put in a home.

11 Cooperative personnel were not contacted as to
12 why it should be there, we objected to its being there.
13 It makes it tough and the best we can do in response to
14 that type of a problem is to come up with an
15 uncontrolled electric rate. That's only a partial staff
16 gap problem.

17 In addition, there's a real education problem
18 there. The people have to be -- when they got turned
19 loose from the Housing Authorities paying their bills to
20 the point now where it's tenant paid bills, they've got
21 to be told when it gets too hot upstairs you turn the
22 thermostat down, you don't open the window.

23 And part of that's in response to the design,
24 again, of the building. When I first looked at the
25 photographs, and we've shown photographs before of

1 defective housing to this Committee in the past, you see
2 the open window and snow on the ground and you see the
3 steam coming out of the window and you say these people
4 are crazy.

5 It's the design construction of the house, in
6 order to keep the downstairs warm they have to have the
7 thermostat up to keep the pipes from freezing because
8 the pipes run under the ground under the crawl space and
9 of course the windows upstairs that has to be open
10 because -- they couldn't sleep in that heat and it was a
11 result of not as much of education in that instance, as
12 I originally thought it was, as design features and it
13 takes money to cure those design features.

14 In addition to the new money coming in, -- it
15 takes an educated person spending that money.

16 MR. STREIBEL: Yes.

17 MR. HILL: This is Bob Dipple from the --
18 Electric Cooperative up in Garrison.

19 MR. DIPPLE: Yes, in Garrison of course we
20 serve the section of Fort Berthold Indian Reservation in
21 Queens County. We have on the reservation boundaries
22 probably about 230 services; those are both American
23 natives and of course whites on that reservation.

24 We have the same experience as far as the
25 quality of housing on the reservation. We have some

1 homes that are well kept, well insulated and so forth,
2 that have average or low energy bills.

3 We have some other housing, of course, that
4 needs repair. I can say that they have been repairing
5 the housing on that reservation lately in the past year
6 and in the spring they've been working on the housing.

7 Supposedly they're adding on the reservation
8 here this year or next year for the American natives.
9 We've also experienced, as Larry has, the high bills.
10 Whether it's two months meter usage on that bill or
11 there's the lack of insulation on the house on the
12 regular rates.

13 The average cost of electricity per kilowatt
14 is say six, seven cents per kilowatt hour, and you're
15 using say 20,000 kilowatt hours annually for your
16 heating requirements, your bill is going to be that
17 high. The average house in our service area, I believe,
18 used about 15,000 kilowatt hours annually for electric
19 heat.

20 And, of course, we offer the -- meter electric
21 heat program now that's a real competitive price of
22 under four cents per kilowatt hour and we also have the
23 dual fuel program at less than three cents a kilowatt
24 hour. So there's opportunities for all members of
25 McClean Electric to take advantage of cheaper energy

1 heating needs and so forth.

2 We have worked with the reservation. We have
3 worked with a state program as far as putting in dual
4 fuel systems for the low income people on the
5 reservation. Several dozen homes have been converted at
6 no cost to the membership through initiation and there's
7 other programs available, too; ARC homes and so forth.

8 Other than that, if you have any questions I'd
9 be glad to answer them.

10 MR. STREIBEL: Thank you.

11 MR. SCHNEIDER: Mr. Chairman, what we're
12 hearing is that the design was so lousy of these houses.
13 I assume they're all H.U.D. approved, is that correct?

14 MR. DIPPLE: That's correct and we have tried
15 working with H.U.D. as far as what they really should
16 entail in building those homes.

17 MR. SCHNEIDER: I see Mr. Boyd just left the
18 room and it would be a good question for him, but do you
19 ladies and gentlemen have any idea why H.U.D. approved
20 this substandard housing in the first place or was there
21 any input with the Association or the members of the
22 cooperatives when this was done?

23 MR. DIPPLE: Some of the older homes, I would
24 assume not.

25 MR. SCHNEIDER: We were told this morning they

1 were put up during the energy crisis and there was an
2 oil shortage and that's why they're electric in the
3 first place.

4 It seems to me if there was an energy crisis
5 and energy was at a premium, why did they put up these
6 lousy homes?

7 MR. BEAR: I'd like to comment on that. Baker
8 Electric is involved in several pieces of litigation so
9 I've had an opportunity to have the old people that were
10 around when these things were originally built.

11 Fort Totten Indian Reservation has the very
12 first all electric housing in the whole nation under
13 H.U.D. The original design put together by the local
14 people and submitted to H.U.D. made sense. Somewhere in
15 the process, the bidding process and the government, the
16 designs got changed so that some contractor from South
17 Carolina or North Carolina got the contract rather than
18 the contractor from Wisconsin and Minnesota who should
19 have gotten it.

20 And as a result we had construction standards
21 used quite sensible in the southeast and the original
22 input, the original concept was very good. Electrical
23 heat is the way to go for these facilities. If they
24 would have had some alternate systems where you have to
25 pay cash on delivery such as diesel fuel or propane, you

1 don't get a grace period.

2 If the fuel man comes to your door and you
3 don't have the cash, he just keeps right on going and
4 then you go without any heat, everything freezes up and
5 you've got tremendous problems. At least with
6 electricity we can keep things going for a few days and
7 come up with a solution.

8 But construction changes happened after the
9 original work out with the original designs meant for
10 H.U.D., they were sent back to Washington, D.C. through
11 that process of bureaucratic requisition and somehow the
12 southeastern construction process got adopted -- is
13 ridiculous and we're having a hard time correcting it
14 and I think it's the requisition process.

15 The concepts were right; the implementation is
16 wrong.

17 MR. CARLSON: Bruce Carlson, Manager of
18 Sheyenne Valley Electric Coop, Finley, North Dakota. We
19 serve the southern part of the Fort Totten Reservation
20 and the question originally was is there substandard
21 housing on a reservation and the answer is definitely
22 yes.

23 We serve 90 housing units in our service area.
24 I'd say 25 percent of those are grossly in need of --
25 and that's because that particular group is the earlier

1 construction of the poor standards.

2 If you want a comparison specific, we've
3 prepared that for you. The new housing units are using
4 3500 kilowatt hours per month in the coldest weather.
5 These old housing units are using 8,000, more than
6 double, and I contribute that primarily to construction
7 practices.

8 Of all of these housing units, however,
9 they're paying exactly the same rate as everyone else in
10 the service area and we're tickled pink that we got all
11 of them converted off peak now. We converted 68 of them
12 just last year using -- overcharge funds.

13 The rates are the same, the deposits are the
14 same. We appreciate our native American membership.
15 They're an important part of our service area. That's
16 part of the service area that's growing and at least
17 holding its own and we do all we can to help the
18 situation.

19 We know there's problems up there. We spend a
20 day a month at the blue building. We offer five percent
21 home weatherization loans. We do free home energy
22 audits. The bottom line is give us something to help
23 with the housing.

24 MR. STREIBEL: Thank you. Dean and then Jim.

25 MR. WINKJER: You indicated that there is

1 substandard housing on the reservation. Is there
2 substandard housing in the small towns off reservation?

3 MR. CARLSON: Certainly.

4 MR. WINKJER: That non Indians live in?

5 MR. CARLSON: Certainly.

6 MR. WINKJER: Thank you.

7 MR. LADUCER: You stated that you've done
8 energy audits?

9 MR. CARLSON: You bet.

10 MR. LADUCER: Are they done on all homes or
11 are they just done at random?

12 MR. CARLSON: Done free of charge by request
13 for anyone that requests it. The specific project that
14 I'm referring to was part of an application for funding
15 to help with the retrofits. That is available back in
16 our shop if you'd like to look at it.

17 MR. LADUCER: We're talking about quarter inch
18 cracks between the door frame and the door and left that
19 way by the contractor when he supposedly finished the
20 job.

21 -- when houses are built, maybe it would be
22 great to have your Sheyenne Company there and say this
23 is what's wrong with the house before you sell it back
24 to the government or to the individual.

25 MR. CARLSON: Glad to offer that help.

1 MR. STREIBEL: You mentioned off peak and do
2 you have a company policy that puts -- you violate the
3 off peak. What's your policy with regard to that?

4 MR. CARLSON: Okay, first of all, the off peak
5 program is the same for everyone in the service area.
6 The system is controlled with the ripple receiver. The
7 ripple receiver shuts the electric heat off during the
8 peak period and you're talking about fossile fuels and
9 price comparisons, all that type of thing.

10 With the off peak program, we're able to offer
11 a five year guarantee and beat the fossile fuel prices
12 and we have the option of the electric storage heater as
13 a back up rather than fossile fuel; we'll let you go
14 either way.

15 The tribe in our case chose to go with the
16 electric storage heaters. In both cases they are
17 eligible for the exact same rate and I think that's
18 quite common throughout.

19 MR. STREIBEL: Thank you.

20 MR. SCHNEIDER: Mr. Chairman?

21 MR. STREIBEL: Yes, we're looking at time
22 frame. How many more presenters do we have?

23 MR. HILL: Well, I guess the only reservation
24 I haven't covered would be Mor-Gran-Sou.

25 MR. SCHNEIDER: I just wanted to ask a

1 question of the gentleman who is leaving the table here.

2 Talking about substandard housing on
3 reservations and response to questions about substandard
4 housing off reservations. What's your projection in
5 terms of percentages; is it much larger percentage of
6 substandard housing on the reservation as opposed to
7 off?

8 MR. CARLSON: Yeah, I'd say there's a higher
9 percentage on the reservation than off and where it's
10 grossly obvious is in the housing cluster where it was
11 built by a contractor and left that way.

12 MR. SCHNEIDER: You say that's the main
13 problem is the faulty construction in the first place?

14 MR. CARLSON: Absolutely. The issue of race
15 that was talked about all here this morning is true, we
16 do have higher rates than the folks that are living in
17 town but it's because our density is much, much, much
18 lower and that's the combined service are that's serving
19 the reservation, the rural farmer, plains areas,
20 whatever you want to call them.

21 Everyone's paying exactly the same rate
22 whether they live on a reservation or whether it's a --
23 on the plain so we're non-profit, everything's going
24 back to the membership that is an overcharge.

25 It's tough to come up with a rate discussion

1 that's valid as far as claiming discrimination because
2 there just absolutely isn't any.

3 MR. SCHNEIDER: One more question, Mr.
4 Chairman.

5 With regard to -- you heard the testimony of
6 the attorney for Baker Electric with regard to revising
7 their billing schedules to coordinate with the receipt
8 of the government checks.

9 Would your rural electric cooperative have any
10 problem doing that?

11 MR. CARLSON: Absolutely -- have any problem,
12 no. We're more than willing to work with the force.

13 Our deposits, for the record, \$75 for non-
14 electric heat; \$150 for electric heat; same for
15 everybody, regardless, unless they can provide us with a
16 previous utility reference.

17 MR. STREIBEL: Thank you. Mor-Gran-Sou.

18 MR. SIMMS: Yes, sir, I'm John Simms, the
19 Manager of Mor-Gran-Sou and serve Standing Rock and I'm
20 fairly new on the job, been there about six months so I
21 can't really comment on the quality of the housing. I
22 imagine it's the same condition as the other utilities.

23 One thing I would like to comment on, though,
24 is the status of the heating units or electric furnaces
25 and the such. I think that on Standing Rock, at least,

1 we're going to find quite a few problems like burnt out
2 elements and things like that that, of course, require
3 the heater to use more energy to heat the same thing.

4 The reason I think we're going to find
5 problems there is the Standing Rock Housing Authority
6 just recently agreed to go with our separately heated
7 electric heat system. The whole housing unit is going
8 to do that.

9 For the reservation we're going to go in and
10 install meters reservation wide and I'm sure we're going
11 to find that problem because there was a few instances
12 that we have put electric heat in some of these houses
13 and we have found quite a few problems with their
14 heating units.

15 MR. STREIBEL: Thank you. Let me call
16 attention to the panel, we're two minutes late and I'm
17 going to make a determined effort this afternoon to be
18 on time.

19 MR. LADUCER: There was a comment made this
20 morning by one of the presenters that the Mor-Gran-Sou
21 had threatened to shut off the electrical heat of the
22 whole housing complex on the reservation.

23 Has your company worked with the reservation
24 as far as to try to do things like what Baker said that
25 they would do?

1 MR. SIMMS: Well, like I say, I've just
2 started working for Mor-Gran-Sou in the last six months.
3 We're developing programs, we're setting up a sounding
4 committee or we're in the process of setting up a
5 sounding committee to hear what the problems are down
6 there and start working on that.

7 We do have -- in some of our policies to work
8 with the native Americans on problems of any kind. If
9 they've got a problem and communicate with us, then
10 we'll be as flexible as we possibly can with them so
11 we're going to work on that. We've got a good start and
12 I think we're going to carry through on that.

13 MR. STREIBEL: Thank you, Dennis, and all of
14 your presenters.

15 We'll now go to the 2:20 p.m. item on our
16 agenda and we'll introduce -- I don't know if all the
17 presenters are here, but I know two of them are here, I
18 recognize two of them and we'll call on Shirley
19 Dykeshoorn first representing the Office of the
20 Intergovernmental Assistance. We've had this young lady
21 present before. Welcome, Shirley.

22 State your name and position for the record.

23 MS. DYKESHOORN: Shirley Dykeshoorn, I'm the
24 Director of the Office of Intergovernmental Assistance
25 at the capitol in Bismarck.

1 Our office administers the Department of
2 Energy Weatherization Program. We do have a Demand
3 Control Program that we're working on with the
4 reservations and we also, through the community action
5 agencies, work with the Energy Share Program.

6 We also administer the Community Development
7 Block Grant Program and have done a couple housing
8 projects on -- on the reservation.

9 The program first that I'd like to talk about
10 is the Weatherization Program. That program right now,
11 we are administering on all the reservations except the
12 Turtle Mountain Reservation.

13 We work with the regional community action
14 agencies and they in turn do weatherization work on the
15 reservations. During 1988 approximately \$260,000 out of
16 1.8 million was spent on weatherization on the
17 reservations. This is \$82,994 more than the total
18 individual tribal allocations.

19 With these funds a total of 213 tribal units
20 were weatherized and it's projected that during 1989
21 we'll spend slightly less than 1988 while weatherizing
22 approximately the same amount of homes. That will be
23 approximately \$240,000 on the reservations with the
24 Weatherization Program.

25 That program is designed to help people who

1 are least able to afford high utility costs to conserved
2 needed energy by making conservation measures in the
3 homes.

4 The Tribal Demand Control Program secondly was
5 begun in 1988 and that is -- I recall one of the members
6 from the rural electric cooperative spoke about that.
7 It's funded by money through oil overcharge settlement
8 funds. Under that program assistance is provided to
9 people who qualify for the Lyheat Program or the Low
10 Income Energy Assistance Program, clients living in
11 electrically heated dwellings.

12 And with that program, off peak rate is
13 established ordinarily one-half of the domestic
14 electrical rate and it may be extended to water heating
15 and clothes drying. So that's another program that we
16 work with.

17 The -- install demand control devices in 225
18 homes -- clients on reservations at an average cost of
19 \$650 per household or a total cost of \$165,750. It's
20 expected that in 1989 over 400 households will receive
21 assistance under that Demand Control Program at a cost
22 of \$260,000.

23 In talking to representatives from the
24 community action agencies about these programs, they
25 said that the greatest obstacle encountered in

1 implementing the demand control program has been just in
2 the communication between the various entities involved
3 at the tribal level; working with the tribal councils
4 trying to get things established; working with the rural
5 electric cooperatives and just trying to put all of the
6 pieces in place to implement the program.

7 In terms of Energy Share, that program is
8 operated through the utilities but the households served
9 last year by the program were 499 households statewide;
10 53 of those were native American for 10.6 percent of
11 those people served through Energy Share were native
12 American.

13 They spend \$90,000 on that program statewide.
14 That meant \$9,772 for native American households. Of
15 those households, 5,239 were on the reservation.

16 So that is the information I have on
17 statistics. I guess just in terms of some of the
18 general impressions that you have asked for in working
19 on native American homes on the reservations, that one
20 of the difficulties that the crews expressed was
21 households that didn't have phones and the difficulty in
22 setting up appointments to do the weatherization work
23 and if they couldn't find somebody home when they went
24 out, that would necessitate another trip out to do the
25 work on the home. That got to be a little bit difficult

1 in some areas.

2 The other thing, I guess, in terms of the
3 housing conditions that they expressed that there were a
4 number of housing conditions that were so bad that they
5 didn't really know where to start in terms of
6 weatherization work. The condition of the homes were
7 really beyond repair, in their estimate, so they were
8 going to be doing some weatherization work but it was
9 just like what should we do? It really required almost
10 new construction rather than just trying to do the
11 retrofit work or the patching, if you will.

12 The other situation that they expressed was
13 just getting information on the clients so that they
14 could do the weatherization work, pulling it all
15 together on the required applications. It took personal
16 visits by outreach workers to get the information.
17 Again, if there wasn't a phone in the household, it's
18 pretty difficult to get that information unless you do
19 make personal contact.

20 They indicated that the social service offices
21 were quite cooperative in working with them in the
22 program administration as well as the Housing Authority
23 people. So I guess I felt that there some good things
24 that were happening in terms of coordination.

25 Another thing that they indicated had been a

1 problem with, I guess just additional cost, is finding
2 individuals who wanted to bid furnace replacements on
3 the reservation. That adds to the cost of the program
4 if you don't have people who want to bid on the furnace
5 work.

6 So those are some things that I would like to
7 just mention. I'd be happy to answer any questions that
8 I can.

9 MR. STREIBEL: Any questions of Shirley on the
10 part of the Committee members?

11 One observation that I've made and that is it
12 seems to me that by comparison the programs that you're
13 involved in and the number of units that you're serving
14 is very competitive by other programs that you're
15 compared to.

16 I want to compliment you on that. I wasn't
17 aware of that until today because we didn't have much to
18 compare to. I think it appears you're doing a good job
19 with the amount of money you have available and serving
20 a goodly number of homes.

21 Okay, Shirley, thanks for being with us.

22 Now, is Steve Hillesland here? -- Steve?

23 MR. HILLESLAND: I am. My name is Steve
24 Hillesland. I work for -- Regional Council here in
25 Bismarck and we have administered housing grants,

1 housing rehabilitation, economic development, public
2 work projects down in Sioux County, North Dakota.

3 I worked on the housing rehabilitation grants
4 and first of all, I'm not here to pick on you like the
5 cooperatives. I'm just trying to tell you what I know
6 of happened in two instances when the power had been
7 turned off and I don't know how old the bills were and I
8 don't know how long they had been going.

9 First of all, the people didn't have the funds
10 to make the necessary utility deposits. It's difficult
11 to come up with a deposit when you're living on \$195 a
12 month as some of these people were at that point in
13 time.

14 Two of the homeless individuals had no income
15 sources at all. We were able to find funding sources to
16 rectify the deposit problems and to get the homeless
17 people on the records they needed a place to live and a
18 mailing address, and this was taken care of.

19 And they also had nothing with which to set up
20 housekeeping and we were able to find private, non-
21 profit social service agencies in Mandan who were
22 willing to help and these individuals are now receiving
23 assistance.

24 Another young gentleman lived in a mobile home
25 in which you couldn't walk beyond the kitchen because

1 the floor was rotted out. He'd hung blankets to heat it
2 with a two burner cast iron propane stove. There was no
3 electricity in the house. Like I said, I don't know
4 what the history was on the bill payment or anything.

5 His mother had recently died. She had been
6 moved to a hospital after the local people in the
7 community discovered that the roof was leaking and the
8 water was dripping on her bed. In this community, a
9 local individual lent the money necessary to pay the
10 overdue bill.

11 Another household we had a more difficult
12 problem to solve. The overdue electric bill was \$340.
13 I realize this is rather high. The home had been heated
14 with electric baseboard heating and he'd obviously lost
15 his only source of heat in the house.

16 When we went out to rehabilitate the house,
17 including putting in a different sort of heating system,
18 there was no power source. All of the plumbing had
19 frozen and the pipes were broken. This had happened in
20 1984. I know the bill was dated September, 1984 and we
21 came to rehabilitate the home in the fall of 1987.

22 We couldn't work on the home and so I spent
23 four days looking for funding from various charitable
24 organizations. We were able to obtain \$100 through --
25 of North Dakota. This helped, obviously, went a long

1 way in helping to pay the bill and other \$240 I kind of
2 panhandled on the streets to find the money.

3 The federal programs don't pay the overdue
4 bills; they can't pay the overdue electric bills. I
5 guess one of our biggest concerns was the lack of
6 resources available to help these people. The tribal
7 resources and housing are stretched to the breaking
8 point.

9 Some of the groups that we went to wanted the
10 individuals to come to Bismarck for a face-to-face
11 interview before they would consider giving any
12 assistance. When you have no funds, it's difficult to
13 find transportation. 50 miles is a long ways to walk.
14 There have been instances where people have done that to
15 get here.

16 I guess I'm further concerned that there were
17 no back up heat sources for these people. I believe the
18 local people in this community, this is a community
19 right on the fringe of the reservation, had done their
20 best. A warm place was provided during the day.
21 Another person had heated a garage. They would crowd
22 people into the house.

23 One woman always cooked enough for six or
24 eight people extra when she was cooking a big meal so
25 she could help feed them.

1 I guess I would like to have seen a back up
2 heating source and also a source of assistance these
3 people can go to for help in paying their electric
4 bills.

5 We are also concerned that most of the federal
6 programs are designed for the owned home. They would
7 involve the -- H.U.D. has a lot of programs designed to
8 help renters but they involve an investor who is willing
9 to come on into these areas and put up front money to
10 start the rehabilitation and when you have money and
11 there isn't a great deal of money in the community,
12 these places can't come up with the match necessary;
13 they can't take part in these programs.

14 We would like to see more flexibility in the
15 programs to deal with the serious problems for the
16 native American people. I've only worked on one
17 reservation and that's the only one I know of.

18 MR. STREIBEL: Thank you. Betty?

19 MS. MILLS: You said most federal sources are
20 designed for old homes owned by H.U.D.?

21 MR. HILLESLAND: No, owned by the household.
22 The homeowner owns the home. The tribal housing, the
23 tribe is spending money on the tribal housing because
24 their resources are stretched and these -- the homes we
25 were looking at, I heard someone mention that the

1 housing construction was inadequate. These were older
2 homes that these people had owned for quite a while.

3 Another thing I would like to see happen is
4 the -- when you're dealing with some of the back
5 payments, I heard that some of the coops are starting to
6 try to negotiate this. I think you have to -- I think
7 with some of the people you have to get to the problem
8 early. \$340 at that point in time when you're getting
9 \$195 a month looks awesome; you don't see a way out of
10 it. The hole is so deep I don't think you could see the
11 top, no light at the end of the tunnel.

12 MS. MILLS: Thank you.

13 MR. STREIBEL: Any other questions? Being
14 none, thank you, Steve.

15 The next presenter will be Dale Sandstrom,
16 Public Service Commission of the State of North Dakota
17 representing the Public Service Commission.

18 Nice to have you with us, Dale.

19 MR. SANDSTROM: Thank you. Chairman Streibel,
20 Members of the Advisory Committee, I'm Dale Sandstrom,
21 President of the North Dakota Public Service Commission
22 and my presentation today concerns primarily two topics.

23 The first relates generally to the efforts
24 made by utility companies to inform and assist native
25 Americans with conservation and reducing costs of

1 service.

2 The second relates to the issue presently
3 facing the Commission concerning regulatory jurisdiction
4 of the Public Service Commission over public utilities
5 operating on Indian reservations within the state.

6 The Public Service Commission is empowered by
7 law to regulate utilities within the state. Regulation
8 includes the power to investigate the practices of
9 utilities; safety, quality of service, and to determine
10 rates based upon a reasonable rate of return on
11 investment and to determine whether a public utility
12 under the jurisdiction of the Commission may serve a
13 particular load.

14 The first topic I'd like to address are the
15 efforts being made to inform and assist native Americans
16 in matters relating to public utilities. Utilities,
17 including electric and telecommunication services are
18 required to be provided to native Americans without
19 discrimination.

20 Companies also provide other services in
21 addition to the basic electric and telephone service
22 including instruction and assistance in weatherization,
23 energy audits, emergency repair and telecommunications
24 assistance. The Commission is a partner with the North
25 Dakota utilities and community action agencies -- North

1 Dakota which helps with utility bills.

2 For companies under its jurisdiction, the
3 company restricts deposit requirements for new or
4 reestablished service and requires the payment of
5 interest to customers on utility deposits.

6 We have secured federal certification for Link
7 Up of America in North Dakota, a program to help low
8 income persons secure telephone service. We have
9 established a consumer affairs division with a toll free
10 telephone number. The division helps work out payment
11 arrangements between customers and companies under
12 Commission jurisdiction with the goal of avoiding
13 disconnections, if possible.

14 In addition, the Commission restricts
15 companies under its jurisdiction in disconnecting
16 electric or gas services.

17 I should point out that although the North
18 Dakota Public Service Commission is charged with the
19 regulation of public utilities, that authority extends
20 to only investor owned utilities and not to rural
21 electric cooperatives.

22 Disputes sometimes occur between investor
23 owned utilities and rural electric cooperatives over the
24 rights to serve a particular load. In those instances,
25 the Public Service Commission must decide which company

1 will serve.

2 Under the territorial integrity law, the
3 Commission looks at the following items to determine
4 which utility should serve, and as you'll note there's a
5 number of them and since you have them before you, I
6 won't read them. But it includes customer preference,
7 reasonable economic development of the area and the
8 other issues set forth, economic efficiency.

9 The North Dakota Supreme Court has made clear
10 that although customer preference is to be considered,
11 it is not controlling. In 1988 the state High Court
12 said that the primary purpose of the territorial
13 integrity law is to avoid wasteful duplication of
14 capital intents of the electric facilities.

15 Presently, Ottertale Power Company and Baker
16 Electric Cooperative are disputing who is entitled to
17 serve the new facility of Dakota Travel Industries at
18 Fort Totten. I should emphasize that if these companies
19 could have agreed as to who should serve the facility,
20 there would have been no hearing before our Commission.

21 Since they could not agree, the territorial
22 integrity law says the Public Service Commission holds a
23 hearing and makes findings of fact, conclusions of law
24 and enters an order. This is not the first time a PSC
25 case involving service on a North Dakota reservation has

1 been before the court.

2 The State Supreme Court previously upheld in a
3 1983 PSE decision ruling in favor of Baker Electric and
4 against Ottertale for service to a new school at
5 Belcourt.

6 In the present case, Ottertale has questioned
7 the PSE's jurisdiction to make the decision. Baker, on
8 the other hand, argues that we do have the jurisdiction.
9 Much like a court has jurisdiction is questioned, we
10 look at the relevant facets of the issue and then our
11 best judgment in this case concluded that we had
12 jurisdiction.

13 But this decision was finally made only after
14 some interesting legal developments. The jurisdiction
15 issue surfaced when the Devils Lake Sioux Council passed
16 a resolution requesting Ottertale to serve a large
17 industrial load on the reservation asserting its
18 sovereign right to regulate electric utilities on the
19 reservation.

20 In response to the inquiry by Ottertale, our
21 Commission informed Ottertale it should apply for a
22 certificate of public convenience and necessity to serve
23 the load. Baker Electric Cooperative then filed a
24 protest to the application Ottertale filed.

25 Several days of hearings over two weeks were

1 held on the application. Ottertale -- Tribal Industries
2 facility. The day before our public agenda indicated we
3 would be deciding Ottertale's application, Ottertale
4 secured from a State District Court an alternate writ of
5 prohibition prohibiting us from deciding Ottertale's
6 application, at least until a court hearing was held.

7 Baker Electric then went to the North Dakota
8 Supreme Court and secured a supervisory writ blocking
9 the District Court's order. The Supreme Court order
10 provided for the PSE to make its findings of fact,
11 conclusions of law and order followed by an immediate
12 direct review by the Supreme Court.

13 I'd like to spend a little time discussing the
14 facts of the Ottertale and Dakota Industries Travel case
15 because the facts point out the seriousness of the
16 issue. The evidence at the hearing showed that
17 Ottertale basically serves the same customers it served
18 when it began service on the reservation in late 1920's.

19 The rural electric cooperative began serving
20 reservation companies in the early 1950's and has
21 developed a comprehensive electric distribution system
22 throughout the reservation serving most of the electric
23 customers on the reservation.

24 All electric loads in the industrial park and
25 the immediate surrounding area are served by the rural

1 electric cooperative. The Public Service Commission
2 denied Ottertale's application for authority to serve
3 Dakota Travel Industries load because the facts in the
4 case clearly showed a duplication of facilities by
5 Ottertale, interference with the facilities of the rural
6 electric cooperative and that service by the rural
7 electric cooperative best promoted the orderly economic
8 development of electric service in the area.

9 The other issue in the Ottertale Dakota Travel
10 Industries case does not relate to the ten basic issues
11 that must be determined in the dispute over right to
12 serve a customer but rather is the issue of whether or
13 not the Public Service Commission has jurisdiction over
14 investor owned utility units operation on Indian
15 reservation.

16 The Commission found that it has jurisdiction
17 due to the fact the tribe had established no
18 comprehensive for the regulation of electric utilities
19 on the reservation. There was no tribal regulation of
20 rates, service and safety standards, no method of
21 allocating territory. The tribe employed no engineers,
22 accountants or other professionals or technicians
23 trained in utility regulation.

24 Authority to determine who will provide
25 service based strictly upon price considerations or

1 other limited criteria would be undesirable. It would
2 likely result in having profitable -- served by the
3 utility that can provide service at the lowest cost per
4 kilowatt hour and other utilities charging higher rates
5 would be left to serve the marginal accounts.

6 Widespread duplication of services could
7 result with little regard to safety or best utilization
8 of existing facilities. So does the Public Service
9 Commission have regulatory jurisdiction over public
10 utilities operating on the Indian reservations in North
11 Dakota?

12 The issue related to Fort Totten is presently
13 before the North Dakota Supreme Court under the
14 supervisory writ issued by the court. The United States
15 Supreme Court and a number of state and federal courts,
16 have addressed state regulatory jurisdiction on Indian
17 reservations in several cases with different results.

18 A general rule has been established, however,
19 that requires the court to apply a balancing test where
20 the interest of the state on one hand are weighed
21 against the tribe and the government on the other. If
22 the court should ultimately determine lack of state
23 jurisdiction, then it appears both state regulation and
24 protections would end.

25 Calculation of rates in the state off the

1 reservation would exclude all reservation related
2 utility assets, revenues and expenses. State safety and
3 service rules would also end on the reservation.

4 The ramifications are substantial not only for
5 the health of the utilities involved, but also for those
6 living on the reservation. Wasteful duplication will
7 result in unnecessary higher utility rates for those
8 customers as well.

9 Thank you.

10 MR. STREIBEL: Thank you, Dale. Any questions
11 on the part of the Committee members of Dale?

12 MR. SCHNEIDER: Thank you, Mr. Chairman.

13 Mr. Sandstrom, what do you believe that the
14 jurisdiction of the Public Service Commission should be
15 with regard to -- on the reservation? What are your
16 views as to that?

17 MR. SANDSTROM: Well, I think we should follow
18 the law and if the courts determine the tribes have
19 jurisdiction, that certainly is acceptable to the Public
20 Service Commission.

21 I don't know that it's necessarily desirable
22 because basically what would happen if the tribe does
23 have jurisdiction is that you would -- a reservation
24 would become equivalent to, for example, another state.

25

1 For example, Ottertale, in this case, serves
2 in Minnesota and North Dakota and so what happens there
3 is we don't consider the revenues or expenses and the
4 like of Minnesota or the assets, the portion of the
5 assets used to provide service in Minnesota only in --
6 as far as our rates are concerned, we would separate
7 that out.

8 We would basically exclude that as far as the
9 reservation is concerned. The second thing that would
10 happen is potentially if, as in this case, where there's
11 just a few feet for Baker to serve this facility but
12 over a mile for Ottertale to serve, you're putting in a
13 lot more investment in assets there to serve than those
14 costs are going to be concentrated.

15 They would be costs of providing electric
16 service within the reservation which could raise the
17 cost there. Legislature and the Supreme Court said that
18 wasteful duplication is not desirable. I don't think
19 it's desirable in any case. I think it has
20 ramifications for the customers, the tribes and the
21 companies. They all should be carefully considered
22 before you make that type of a decision.

23 I think if you consider all those types of
24 things there's a lot of draw backs.

25 MR. STREIBEL: Any further questions on the

1 part of the Committee members of Dale?

2 Being none, thanks, Dale.

3 MR. SANDSTROM: Thank you.

4 MR. STREIBEL: Okay, now we're a little ahead
5 of schedule and it says 3:00 o'clock break. I don't
6 know if we need a break. We'll go on to the 3:05 item.
7 Is Wannetta Bennett here?

8 MS. BENNETT: My name is Wannetta Bennett.
9 I'm from Turtle Mountain Reservation. I'm here as a
10 consumer and hopefully representing a large number of us
11 dissatisfied consumers on the reservation.

12 For approximately the last three years I've
13 talked to a number of people on and off the reservation
14 involving the electricity bills because ours are so
15 high, and in talking with these people I discovered a
16 number of things.

17 First of all, that the people on the
18 reservation are paying 30 to 50 percent higher bills
19 than those off the reservation of comparable size
20 households and where there is electric heat in the home,
21 total electric heat.

22 Secondly, that the new housing on our
23 reservation has dual heat and they pay the reduced rate
24 but their bills are still running, in a number of cases,
25 \$200, which is high considering these houses are new

1 houses that have been put up within the last year or
2 two, fully inspected and insulated, they have to be to
3 be brand new houses, and the bills they're paying are
4 still higher than a comparable household off the
5 reservation and these are in the houses that are not as
6 new as the ones we just built.

7 Third thing that I discovered is that people
8 on the reservation are required to pay a substantial
9 amount more in higher deposit for their electricity than
10 the people off the reservation. I know of cases where
11 there was absolutely no deposit required for people that
12 have left the reservation and went to a surrounding
13 community and come back and were still required to put a
14 deposit down, and in some cases as high as \$200.

15 And the other thing I've noticed is people on
16 the reservation have paid such high bills for so long
17 that they're used to it. They're not aware of the fact
18 that these bills are outrageously high. You can go to
19 any number of households and they don't have electric
20 heat, just the regular electricity that they use and
21 they have a hot water heater or dryer and find bills in
22 the winter time that are \$200 to \$250.

23 Where you can go to the same household off the
24 reservation and find the people there are paying less
25 than \$100 and that's just for the lights, that doesn't

1 include the electric heat.

2 Personally, I called about every agency I can
3 think of and I'm very dissatisfied with the Public
4 Service Commission. I called them. They're more
5 concerned about are you paying your bills than to wonder
6 why are your bills so high and I've checked and watched
7 the rates and the people are paying -- the electric
8 company is right -- they are paying the right rate. The
9 rate is straight across the board the same.

10 But the kilowatt hours used by the people on
11 the reservation are so outrageously high that you tend
12 to wonder if there's something wrong with the meters?
13 It can't all be poor housing. I mean, when you have
14 over 50 percent of the people within a community with
15 outrageously high bills, somebody should take a look and
16 say every house in this community can't be that bad.

17 And the other thing is, I was listening when
18 they were talking about the wages and peoples' income
19 and when you have an income as low as the majority of
20 the people on the reservation, they can't afford to pay
21 a bill that comes in \$200 for one month's electricity
22 and if a person falls behind it's because they can't
23 afford to feed their family and still pay this half of
24 what they're making in a month into electricity payment.

25 We have a number of cases of that at home

1 where you get a general assistance check of say maybe
2 \$300 a month. Well, your electricity bill, a lot of
3 times, is that high or higher.

4 I have a couple notes that I wrote down here
5 as I was listening to the gentlemen speak. First of
6 all, the Baker Electric representative they were talking
7 about is not Indian, so he doesn't represent Indian and
8 Indian outlook. And I was led to believe -- or I felt
9 that you were led to believe this was an Indian
10 representing our reservation on the Baker Electric Board
11 and he's not.

12 The 30 days they said they have as much as 90
13 days before they shut people off. On our reservation
14 the bill comes in approximately the first or a little
15 before and they have ten days. If not, the Baker
16 Electric man is there to shut them off. I don't think
17 that's enough time for a lot of people. You have other
18 things that come up.

19 And the other thing that I would like to
20 comment on is bad debt. They made a big issue out of
21 the bad debt owed to the electric companies and I feel
22 that if they will check into the kilowatt hour usage and
23 find out why are these so high? Is there something
24 we're doing or not, and if the people could have bills
25 that were the same as off the reservation.

1 If I had a bill every month in the summertime
2 that was \$50 and \$100 in the winter, there would be no
3 problem about payment. But when, in the past, I just
4 switched to propane because my electricity bills were so
5 high. I was paying anywhere from four to six hundred
6 dollars and that was beg, borrow and steal practically
7 to get it paid in the wintertime with all electric heat.

8 I switched to propane this last year. My
9 electricity bill is still 200 to 250 in the winter and
10 the heating costs I broke down to approximately \$50 a
11 month. So it wasn't all that much for -- I felt that
12 even just cutting that back \$50 a month was more
13 realistic for what you'd have to pay for heat.

14 Oh, and the other thing is I rather took
15 exception to the man insulating our mentality to be --
16 if it's hot to open the window in the middle of winter.
17 I'm paying \$300 bills. I don't open a window to cool my
18 house off.

19 MR. STREIBEL: Thank you, any questions on the
20 part of the Committee members? John? .

21 MR. OLSON: Did you ever request an energy
22 audit --

23 MS. BENNETT: I didn't because I was disgusted
24 with the electric company and I found out that to
25 request an energy audit, the people who come out and

1 audit you are the same people you're having trouble
2 with. That's like asking someone to -- I mean, that
3 you're upset with to come by and -- I don't know.

4 It didn't make sense to ask Ottertale to come
5 and audit me when Ottertale was the company that I was
6 fussing with. To me, why would they rule in my favor
7 when I'm already fussing.

8 MR. OLSON: How did you find your home? Do
9 you think, yourself, it was properly winterized, the R
10 value was satisfactory?

11 MS. BENNETT: No, I know home can use, you
12 know, a lot of --

13 MR. OLSON: What kind of sources do you have
14 available to you if you wanted to do some weatherization
15 of your home, caulking or reinsulating or do some window
16 work, that kind of thing; what kind of resources are
17 available to you?

18 MS. BENNETT: There is a winterization program
19 I have applied to in the past and I was never able to
20 get any funds for it but, you know, I keep applying.

21 I work and we try and seal everything up as
22 best as we can in the fall to cut down and that's
23 something that we do every year to try and cut down our
24 fuel costs.

25 There's, like I said, winterization, there's a

1 large number of people that need to be served. I can't
2 just say they turned me down because they weren't
3 helping people. We do try to seal our house the best we
4 can every year.

5 MR. STREIBEL: Jim?

6 MR. LADUCER: He asked my questions.

7 MR. STREIBEL: Okay, Betty?

8 MS. MILLS: I'm confused about the business of
9 cutoffs. When you say there's ten days after you get
10 the bill, is that a delinquent bill or is that your
11 regular monthly bill?

12 MS. BENNETT: I'm not on Baker Electric. I've
13 been upset with the high cost of the electricity bills
14 so I've been talking to a number of people and the
15 majority of the cases it's not only the bill. It's the
16 bill that came and then you have so many days, unless
17 they call for an extension.

18 A lot of people call and ask can you extend my
19 bill so many days until I get a check and in most cases
20 they will, but if you don't call they're there that day
21 to cut it off.

22 MS. MILLS: Your current bill --

23 MS. BENNETT: Yes.

24 MS. MILLS: Thank you.

25 MR. STREIBEL: Mark?

1 MR. SCHNEIDER: Thank you, Mr. Chairman.

2 Ms. Bennett, you stated that it's not all
3 substandard housing as an explanation for why the
4 utility rates are so high, at least on your reservation,
5 is that correct?

6 MS. BENNETT: It's not the rate. They
7 charge --

8 MR. SCHNEIDER: The rate's the same, we've
9 established that.

10 MS. BENNETT: But the kilowatt hours, you
11 know, no one's checked into -- everywhere I've looked
12 that's all they're concerned with the rate is right, the
13 rate is right.

14 Well my question is, why is there 8,000
15 kilowatt hours used in this household when you have
16 approximately the same size household two towns away
17 that's only using maybe 500 kilowatt hours.

18 MR. SCHNEIDER: Well, assuming that the
19 explanation is not the fact that the house on the
20 reservation is a poor house in terms of its energy
21 efficiency, what other explanation do you have?

22 MS. BENNETT: I don't know. I know that I
23 receive fuel assistance. At the point I started
24 receiving fuel assistance, approximately three months
25 later my bills started going very high. I mean, I have

1 no way of knowing what, you know, what the justification
2 for this is. I never did anything different. I live in
3 the same house.

4 It's just questions that I've come up with and
5 I don't have the answers for.

6 MR. SCHNEIDER: Did your kilowatt usage go up
7 on your billing, accounting for the higher billing? You
8 said it was done after you went on fuel assistance?

9 MS. BENNETT: After I went on fuel assistance.

10 MR. SCHNEIDER: In your talking with other
11 members of the reservation, has that been a similar
12 circumstance with them?

13 MS. BENNETT: In a majority of the cases it
14 has.

15 MR. SCHNEIDER: Has that been brought to the
16 attention of the, say, your REC?

17 MS. BENNETT: I don't deal with Baker. I've
18 called Ottertale on it many times. As a matter of fact,
19 they got so sick of me calling that when they sent my
20 bill out they'd send a letter saying we want this paid
21 on this date, which allowed me a few days, and I know it
22 was tactics because I was calling them and fussing all
23 the time.

24 MR. SCHNEIDER: How does the specific
25 question, though, the increase -- the electric increase

1 in rates after being designated as a fuel assistance
2 family; has that been brought to the attention of REC,
3 if you know?

4 MS. BENNETT: I don't know. I've talked to a
5 number of people and they've complained about it but as
6 far as an agency to go to, I've directed as many people
7 as I can telling them you can call the Public Service
8 Commission.

9 MR. SCHNEIDER: Public Service Commission, I
10 assume, tells you they have no jurisdiction?

11 MS. BENNETT: Yeah, and they suggested to the
12 people that I know in Ottertale to go to the Attorney
13 General's office, I think it was the Attorney General's
14 office.

15 MR. SCHNEIDER: Consumer Fraud, maybe?

16 MS. BENNETT: They in turn say they have no
17 jurisdiction on the reservation so you're just like in a
18 circle.

19 MR. SCHNEIDER: What does Ottertale say?

20 MS. BENNETT: About the high rates? Well,
21 they suggested it may be the wiring in the house, maybe
22 some internal thing, but I don't know where you have
23 something internal when you've lived in a house ten
24 years and it's within a matter of a couple months you
25 have a different -- a higher rate.

1 I was very dissatisfied. I felt that they
2 were more concerned with the company than the public.

3 MR. SCHNEIDER: Senator Olson pointed out, you
4 do have this available to you is that you can call up
5 now. It's true, you got the -- guarding the hen house
6 coming in to look at your house to see if it's energy
7 efficient or if they're charging rates accordingly, but
8 they're also supposed to do an energy check on the
9 house.

10 MS. BENNETT: I talked to one lady that had it
11 done and I asked her what they told her and she said the
12 only thing they told her why don't you move out of your
13 house if you can't afford to live here.

14 That's no answer to someone when you have your
15 home. I just -- I don't know, I just don't know where
16 else to turn. I've even called as far as Ralph Nader's
17 office to find out where you get an investigation into
18 this.

19 MR. OLSON: When you do an energy audit, don't
20 you have some kind of infrared device that you can tell
21 where the heat loss is and that kind of computer
22 programmed out and given to the subscriber?

23 Is that the way you do that normally?

24 MR. CARLSON: That's one technique. I don't
25 know about Ottertale.

1 MR. OLSON: I think that's the way it was done
2 here in Bismarck when they did mine. There's not very
3 much subjectivity in the whole process and if that's the
4 kind of comment that you got on a reservation --

5 MS. BENNETT: I don't believe she ever got any
6 paperwork on it because she would have shown me, you
7 know.

8 MR. SCHNEIDER: Well, how does Baker do their
9 energy audits? Say a consumer calls and complains that
10 they're paying too much for utility bills and they want
11 an energy audit. What does Baker do?

12 MR. JOHNSON: I'm Tim Johnson, Baker Electric,
13 and I work in the Energy Division of our Baker Electric
14 Cooperative.

15 When we're requested to do energy audits we do
16 not have an energy infrared scanning camera because
17 costs run from typically probably up to the \$20,000
18 area.

19 We do have a small, an infrared, small
20 scanning gun that we check heat loss calculations around
21 doors and windows. We do give information regarding
22 wall insulation, single pane of glass to triple glazed,
23 how much attic insulation, is the basement insulated,
24 water heater covering kit. All those energy items along
25 with appliance usage.

1 We use the list figures, put it together and
2 tell people where their energy is being used.
3 Typically, the number of people in a household will
4 affect the kilowatt hour usage. Baths and showers,
5 water heaters are a major concern.

6 So when you're comparing apples with apples,
7 one home might have a gas water heater and the other one
8 will have electric. That's where energy consumption
9 goes. Gaskets around refrigerator doors, deep freezes,
10 those types of things.

11 Seals on the windows, doors and that type of
12 thing but we do an energy audit basically according to
13 the indexes that they give us according to figures. You
14 can't open up that wall and say I know there's three and
15 half inches of fiberglass. If they can tell us or show
16 us a spec plan of a home -- now, we can go to the
17 Housing Authorities of all their project homes. They
18 can show us specs of what that was designed for when it
19 was new.

20 We can do an energy audit off of there and
21 then we do what we call a field audit. Actually,
22 basically looking for where energy is being lost and
23 then they get an idea of where their energy is being
24 lost, the cost paybacks of making improvements and we do
25 make loans available to our members if they wanted to do

1 so.

2 MR. SCHNEIDER: How many loans have you made
3 on an Indian reservation?

4 MR. JOHNSON: Lots. I have no idea how many
5 houses but we've made lots of loans. We've also used
6 the -- money to the program. We've converted close to
7 probably 200 homes through the -- money in just the last
8 three, four years. -- money is good, but there is not
9 enough of it.

10 MR. OLSON: Well, let me just ask a question
11 about the utility companies.

12 Do you have knowledge or information -- and
13 this has been raised a couple of times by somebody being
14 on low income energy assistance or fuel assistance
15 programs -- do you have information that somebody is on
16 that kind of a program? How do you get that
17 information?

18 MR. JOHNSON: We work exclusively -- when
19 people have got a bill that's delinquent, they're on
20 collections and they're having a tough time paying that
21 bill, again, we don't want to have that on our bad bill
22 collections.

23 So we work with fuel assistance, the --
24 people, energy assistance, we work with all those people
25 through the counties, through the reservations and so we

1 have a good working relationship.

2 MR. OLSON: But that's after the fact. That's
3 after the bill has become delinquent.

4 MR. JOHNSON: But we have probably never
5 disconnected anybody up to the point of trying to get
6 those agencies involvement. Most of those agencies are
7 limited with funds.

8 MR. OLSON: The implication has been made that
9 the utility company, when it becomes aware that somebody
10 is on low income fuel assistance, that the rates are --
11 there's more money being charged.

12 With something like that, I'm just wondering
13 of the utility company has information when somebody is
14 on -- that's something you might do in your collection
15 process and find that out.

16 MR. JOHNSON: Yes, other than we work with
17 them to try to help get money available to pay their
18 bills.

19 MR. STREIBEL: Jim?

20 MR. LADUCER: Wannetta, do you feel that since
21 you've gotten fuel assistance that you've been labeled
22 because your rates increased?

23 MS. BENNETT: I actually believe so. I
24 believe that if I had never got fuel assistance, that I
25 wouldn't have found myself having to switch to a

1 different source of heat.

2 MR. LADUCER: And the person who just left
3 here -- Mr. Johnson?

4 You said you give a lot of loans to native
5 Americans? Is there a credit application that needs to
6 be filled out?

7 MR. JOHNSON: Yes, there is, but again, the
8 credit application that we fill out is a regulation that
9 we go through. Again, we don't want to make the loan to
10 someone who's not necessarily -- they're delinquent with
11 us and we're going out and collecting all the time.

12 Who would want to make a loan to make home
13 improvements energy wise. We want to make it where
14 they're at least going to pay it back to us.

15 MS. BENNETT: In other words, the people who
16 really need are going to be turned down from the start.

17 MR. JOHNSON: If they've been able to work
18 through the agencies and keep their bills current,
19 because if I was a banker I would not make these loans.

20 But we make loans on those areas because the
21 people have made honest efforts through all the other
22 agencies and we do make loans.

23 MR. STREIBEL: Getting back to Wannetta's
24 concern about the kilowatt hours used and you have no
25 concern there but you have a concern as to the

1 differential in the total bill that you would get for
2 months, have you had any of your customers evidence
3 concern in that area?

4 MR. JOHNSON: I would say that's typically
5 right to what she says that the consumption is very high
6 in some of these homes. And when we go out and do
7 energy audit, we sometimes point out that a home that
8 they might be comparing with that's say a non white home
9 off the reservation compared to on the reservation, the
10 home size might typically be the same but if you put
11 three people in it compared to eight or nine there's a
12 tremendous amount of difference.

13 You're going to furnish food for that family,
14 the numbers are going to make some differences. Baths,
15 showers, also the amount of lights, the water heating
16 running a lot more.

17 MR. STREIBEL: Ingress, egress, opening the
18 doors a lot more.

19 MR. JOHNSON: Yes.

20 MR. LADUCER: Getting back to your
21 application, I work quite a bit with financial packages,
22 given the number of applicants per house, what your
23 income would be and what your expenses of operating that
24 home and if you're on general assistance with a family
25 of six and you get a check for three, four hundred

1 dollars a month and your electricity bill is 300, say,
2 it doesn't give much -- the credit app, itself, is more
3 likely to be denied because the person is unemployed,
4 isn't that correct.

5 MR. JOHNSON: Well, again, if I were a banker
6 looking at the financial statement, I would say that's
7 correct. But we look at these and it's a final board
8 approval, but we look at these through the seriousness
9 of how are they really paying their light bill to us.

10 We have denied people because they've been
11 delinquent once or twice. We've still made loans and
12 some of those people we've made loans to who have been
13 delinquent partially due to very expensive electric heat
14 rates, got them on an off peak situation, they've been
15 able to pay their loan and they have not been delinquent
16 since we've been able to help them.

17 And there's been lots of money -- we have
18 programs of the oil excise money. That was put in for
19 no cost in some of these individuals.

20 MR. STREIBEL: We'll take one more question
21 from John Olson and go on to the next item.

22 MR. OLSON: Thank you, Mr. Chairman.

23 My question concerns the need for
24 weatherization of these homes. Apparently there is a
25 great need there and the question is number one, the

1 factor for this is that these people are not educated or
2 aware of what kinds of needs their home has; whether
3 it's caulking or whether it's something else, to make
4 them more energy efficient and if that's the case what
5 is the tribe doing or the Housing Authority doing and
6 the utilities doing in concert with each other to try to
7 address that problem?

8 And if there's something that could be done
9 there, a more than organized effort between the Housing
10 Authority, the reservation families and the utilities
11 company to address that situation, whether that would be
12 a step in the right direction whether that should become
13 more formalized.

14 Number two, even if that were the case, is it
15 really a question of money that we're talking about and
16 that's something that's probably out of all of our
17 control here at this point.

18 But I'm just wondering of those are the two
19 factors that could be united with some commitment to
20 address the needs for weatherizing these homes properly
21 and I somehow pick up a little bit lack of communication
22 maybe between some of the residents and the utility
23 companies and the need for maybe some energy audits and
24 maybe more of a uniform approach to addressing that
25 problem.

1 Also a need for proper grants and proper
2 funding to pay for needed weatherization.

3 MR. STREIBEL: I said one more question. One
4 more, okay, that's it. Dean.

5 MR. WINKJER: You've indicated you don't have
6 confidence in the meters, electric meters. Whose
7 testing would you believe?

8 MS. BENNETT: I think that the majority of
9 people would feel more confident if there was an
10 independent audit done.

11 MR. WINKJER: Do you accept the reading from
12 the Public Service Commission?

13 MS. BENNETT: They don't do their own. They
14 send --

15 MR. WINKJER: Would you accept a reading by
16 the Public Service Commission?

17 MS. BENNETT: At this point?

18 MR. WINKJER: Uh-huh.

19 MS. BENNETT: I would feel more secure if I
20 knew that John Doe from Minnesota did it.

21 MR. WINKJER: Thank you.

22 MR. STREIBEL: Thank you.

23 Our next item on the agenda is divided into
24 six parts. Whether all the participants are here or
25 not, we will begin in the order listed on our agenda and

1 it's Pat Malnourie from Fort Berthold Utilities
2 Commission. Is Pat here? Evidently not.

3 Next is Giles Yankton of the Fort Totten --
4 Utilities commission. This is going pretty fast.

5 Lyman Laverdure from Trenton Weatherization
6 Program. Well, we're half through.

7 Charles Lafloe, a member of the Public Utility
8 Commission at Turtle Mountain.

9 We didn't strike out totally, did we?

10 MR. LAFLOE: My name is Charles Lafloe. I'm a
11 member of the Public Utility Commission on Turtle
12 Mountain and I'm also the contracting officer for the
13 Turtle Mountain Housing Authority and I've heard some
14 very interesting testimony before noon and also this
15 afternoon from different reservations as well as my own
16 reservation.

17 Some of the comments I heard were of shoddy
18 construction that supposed to be going on on different
19 reservations and as the contracting officer with the
20 Turtle Mountain Housing Authority, if I allowed anything
21 like that to happen on the Turtle Mountains I guess I
22 wouldn't be there very long because we monitor the
23 construction of these hours regardless of who the
24 contract is from and we've had contractors from New
25 Mexico, Nebraska, Montana, North and South Dakota.

1 We monitor them very closely as to the
2 construction of our houses and we have some inspectors
3 on the job from early morning until late evenings
4 watching the pouring of the footings all the way up to
5 the peak of the roof where the shingles are laid and
6 having quarter inch or half inch gaps in the windows and
7 doors, you don't just allow them on our reservation.

8 And I will say that in the years that I've
9 been there we have made some great strides in
10 improvements in quality construction of our houses and
11 since I've been there we've been putting some two by six
12 walls with insulation which has been 18, 19 R-Factor and
13 with an R-Factor of 38 in the ceilings.

14 But Mr. Paul McCloud this morning just covered
15 pretty much of what our Housing Authority is composed of
16 and my other half I work for is the Public Utility
17 Commission there is what I'm here for basically.

18 We work in a united effort with the public
19 utilities and the Housing Authority and the public
20 utilities basic responsibility is to supply water to
21 most of our tenants that we have and there is a \$75
22 connection fee that each tenant must pay and basically
23 what they're rates are, they pay according to the water
24 usage that they use within the month.

25 Like I say, we have -- public utilities have

1 five certified operators that work for us full time and
2 they passed a state test to conduct their work and their
3 daily operation and their duties carrying out their
4 daily duties.

5 We're also responsible for the sewer lagoons
6 and we work very closely with the Indian Health Service
7 in designing the drain fields for our individual
8 scattered sites and also the tribal houses also.

9 As far as -- I guess everybody at one time or
10 another complains about the higher utility rates and the
11 rates that the electricity power companies have on the
12 reservations and off reservations our housing projects,
13 which we have over 1200 units. And we always complain
14 about our rates, too.

15 And if there is a way, maybe, with that many
16 units under management if there was a way we can get a
17 break from the utility companies because we have so many
18 houses under management and some of our houses are not
19 subsidized, some of them are, but if we could get a
20 break that would be just appreciated.

21 But I guess we just have to live with what we
22 have on a daily basis and especially in the winter
23 months when they are so high. I guess that's basically
24 all I have to offer today.

25 MR. STREIBEL: Yes, Betty?

1 MS. MILLS: You do assist in subsidizing the
2 utility bills for the people that are in rental units,
3 the Housing Authority?

4 MR. LAFLOE: Yes, ma'am.

5 MS. MILLS: And how do you do that, by what
6 formula do you --

7 MR. LAFLOE: Well, I think Paul McCloud gave
8 you that formula this morning.

9 MS. MILLS: But you do subsidize the utility
10 bill.

11 MR. LAFLOE: Yes. But on the home ownership
12 homes, the home buyers, themselves, are responsible for
13 their own utility bills and their maintenance of their
14 units and windows and keeping them as energy efficient
15 as possible.

16 The maintenance on our low rent projects is
17 the Housing Administration has the responsibility of
18 keeping them -- maintenance.

19 MR. STREIBEL: You mentioned your concern when
20 the homes are being constructed from the footings all up
21 to the roof and do you monitor evidence of the
22 maintenance of those homes as they're being lived in and
23 do you try to have the concern that it's good management
24 and maintenance and upkeep so that --

25 MR. LAFLOE: Yes, we do. We have on staff

1 some resident trainers/counselors which visit the home
2 buyers and the tenants throughout the time they move in
3 and they make semi-annual visits to their houses and
4 also the tenants.

5 MR. STREIBEL: That's excellent. Any other
6 questions? Yes.

7 MR. LADUCER: Chuck, as a contracting officer
8 for the Housing Authority do you feel that any of your
9 homes are substandard once you build them and after you
10 inspect them?

11 MR. LAFLOE: Well, in the last couple years or
12 last seven, eight years, I would say that the houses
13 might be a little small but I'm not saying they're
14 substandard because we have two bedroom houses from 740
15 feet to four bedroom houses up to 1100 square feet of
16 living space.

17 But the construction of them, I'd say they're
18 well built and I would say constructionally they're
19 substandard because structurally I'd say they meet the
20 codes and that's because we monitor these projects so
21 closely that we do meet the code.

22 MS. MILLS: Is there any other questions?
23 Thank you very much.

24 MR. LAFLOE: Thank you.

25 MS. MILLS: Are there any other members that

1 are here on this panel that would like to testify?

2 MR. BRIEN: I'm Reginald Brien from the Turtle
3 Mountains and I'm the Director and also have Mr. Larock
4 here.

5 MS. MILLS: Which one of you wants to testify?

6 MR. LAROCK: I'll go first. I have some
7 material for you.

8 I got an invitation from the Civil Rights
9 Commission so that's why I'm here. I wasn't on the
10 agenda, I guess. I didn't get on it but I wrote a
11 report and would like to go over the report with you at
12 this time and then I'll read it.

13 -- to participate at this forum and the
14 appreciate the opportunity to -- on the Turtle Mountain
15 Indian Reservation.

16 The Department of Energy Weatherization
17 Assistance Program was established to assist low income
18 households, the elderly and the handicapped to better
19 insulate their homes for the purpose of less fuel
20 consumption thus saving energy throughout the United
21 States.

22 Native American reservations were funded for
23 weatherization assistance as direct grantees by the
24 Federal Government Department of Energy because they
25 felt Indian housing is a -- situation.

1 Most Indian reservations have a high
2 unemployment rate because jobs are not available. Many
3 homes on reservations are substandard. -- recognized
4 these facts and said -- Indian reservations to
5 administer their own Weatherization Assistance Programs
6 and to solve their own problems.

7 Today I'm here to speak for the elderly, the
8 handicapped, the low income households from the Turtle
9 Mountain Indian Reservation. Hopefully we can share
10 better and equal treatment by a larger allocation for
11 weatherization assistance.

12 We feel we are being shortchanged by the
13 federal and state government. From a letter dated
14 February 5th, 1987 -- you have that in your packet.
15 It's dated February 5th. And I quote:

16 The -- is proposing to eliminate all direct
17 grants to Indian tribes in North Dakota. The
18 appropriation from the Department of Energy
19 Weatherization Assistance Program has been dramatically
20 reduced for the 1987 fiscal year.

21 We are requesting that the State of South
22 Dakota provide services to the reservation residents to
23 the local community action agencies funded by --. The
24 State of North Dakota has -- that the reservation
25 residents will receive services equal to if not greater

1 than what is currently being provided by the -- to the
2 tribe.

3 They will also attempt to employ many fully
4 qualified native Americans as possible for the
5 production crews who will be working for the
6 reservation, end of quote.

7 In March of '87 I wrote a letter to the Office
8 of Management and Budget, State Capitol, Bismarck, North
9 Dakota, Director Shirley --

10 On April 28, 1987 we received a response
11 from -- and I quote:

12 Recently our office received a letter form
13 Karris Larock -- weatherization --. Mr. Larock, --
14 North Dakota I have not yet provided any weatherization
15 services on the Turtle Mountain Indian Reservation -- or
16 overcharge -- funds.

17 I would like to assure you again that all
18 reservations will receive their proportionate and
19 equitable share of any weatherization benefits paid
20 for -- overcharge funds.

21 The State of North Dakota receives \$7.7
22 million under the -- overcharge settlement. The total
23 amount of -- funds has increased to 8,460,000 as
24 interest has accumulated on -- deposits, end of quote.

25 The Weatherization Assistance Program --

1 allocations amounts to \$1,325,018. Of this amount the
2 Turtle Mountain Chippewa Indians have not up to date
3 received any funding or services from the -- overcharge
4 settlement.

5 -- has been cut approximately 50 percent
6 because of it but the -- department -- support office.

7 Working hand in glove with the State of North
8 Dakota the -- office has promoted to the funding --
9 throughout the state but on the other hand eliminating
10 three of the four Indian reservations as direct federal
11 grantees.

12 The Turtle Mountain Indian Reservation is
13 currently under the gun to be eliminated as an official
14 grantee of the Weatherization Assistance Program by --
15 Support Office. On several occasions, through grant
16 award notices, the Denver support office has request for
17 the tribes' best interest for the State of North Dakota
18 to -- to be responsible for providing weatherization
19 services on the Turtle Mountain Reservation.

20 The Turtle Mountain Chippewa Indians feel at
21 this time the Denver Support Office does not have our
22 best interests in mind. Contrary to what they say
23 they're going to do, going to provide, they have cut our
24 weatherization assistance allocation by 50 percent as of
25 1987 and has -- that even insults and discourages us

1 to -- the Weatherization Assistance Program for the
2 Turtle Mountain Indian Reservation.

3 However, we are determined to regain the
4 Weatherization Assistance Program and to keep operating
5 at a local tribal level -- to the eligible family units
6 who are in great need for services -- on the
7 reservation. That's my report.

8 MR. STREIBEL: Thank you, any questions on the
9 part of the Committee members? Mark?

10 MR. SCHNEIDER: Mr. Chairman, as I understand
11 it the settlement money from Exxon is going to be funded
12 to the community action agencies instead of your
13 agencies, is that the gist of it?

14 MR. LAROCK: Yes, that's correct, they have
15 been doing it. Earlier they said they've been serving
16 the tribe but they didn't serve --

17 MR. SCHNEIDER: So you're actually saying they
18 do not serve the tribe at all?

19 MR. LAROCK: No.

20 MR. SCHNEIDER: What community action agency
21 is in your area?

22 MR. LAROCK: Devils Lake.

23 MR. SCHNEIDER: Devils Lake? Have you had
24 correspondence or communication with the CAP Agency
25 regarding what their weatherization plans are --

1 MR. LAROCK: I called them a couple times and
2 I didn't get a response.

3 MR. SCHNEIDER: It's our understanding that
4 the Governor's office and legislature made the final
5 decision to allow the money to go through the
6 communication action agencies for the weatherization as
7 opposed to tribes.

8 MR. LAROCK: That's correct.

9 MR. SCHNEIDER: And you've received no
10 assurances at all from the government or the community
11 action agency to what extent they've used those funds to
12 weatherize with regard to your tribe?

13 MR. LAROCK: I went to a meeting down in --
14 Montana last week and I talked to the Director there, I
15 met him there for the first time and he says they're
16 working on land adjacent to the reservation. They're
17 not working on the tribal land, but the Exxon settlement
18 was supposed to be directed for the reservation.

19 They even said they were going to hire some
20 local work crews to apply the material on the
21 reservations, which they have never done.

22 MR. SCHNEIDER: Mr. Chairman, perhaps it would
23 be appropriate to have the staff after our meeting
24 contact the community action agencies involved in the
25 State of North Dakota with a request on behalf of our

1 Committee as to what plans they have for using the Exxon
2 settlement funds to provide weatherization services on
3 the reservations in North Dakota.

4 MR. STREIBEL: Tom, would you make note of
5 that?

6 MR. LEMBKE: Mr. Chairman?

7 MR. STREIBEL: Yes.

8 MR. LEMBKE: On that very issue, I did
9 understand Paul McCloud this morning said that they're
10 in the midst of a two year program on the Turtle
11 Mountain thing.

12 He didn't know exactly where the funding came
13 from there but I drew a conclusion that they came from
14 the Exxon Fund.

15 MR. LAROCK: The Exxon fund was divided into
16 five areas and weatherization was one of them and what
17 I'm talking about is the weatherization part of it we
18 haven't received any weatherization part of it. It is
19 five different areas that it was divided into on this
20 report here, this letter.

21 MR. LEMBKE: Where is the money coming from
22 that you're talking about?

23 MR. LAROCK: I have no idea.

24 MR. LADUCER: He's talking about home improved
25 housing that H.U.D. presently funds, there's money

1 there.

2 MR. LEMBKE: But he said in the state of North
3 Dakota -- fund. That's what Mr. McCloud said this
4 morning.

5 MR. LAROCK: I was understanding it was coming
6 from the H.U.D. housing because he said there were no
7 more housing -- there's remodeling, renovation and stuff
8 like that on these houses, fix them up.

9 MR. WINKJER: Mr. Larock, are you saying, in
10 fact then that the diversion of these Exxon monies from
11 the tribe over to the Devils Lake Community Action
12 Agency is in fact a violation of the tribe civil rights?

13 MR. LAROCK: I feel it is. We're being left
14 short funded and I feel that the Denver support office
15 also wants to close down the Turtle Mountain
16 Weatherization Program. They so stated they proposed to
17 eliminate us as a grantee and they worked with the State
18 of North Dakota to do it.

19 MR. WINKJER: And you believe that is in
20 violation of your civil rights?

21 MR. LAROCK: I think it is.

22 MR. STREIBEL: Any other questions? Being
23 none, thank you.

24 You're Mr. Brien?

25 MR. BRIEN: Yep.

1 MR. STREIBEL: State your name and
2 organization.

3 MR. BRIEN: LIHEAP Director and first I'd like
4 to tell you what LIHEAP is. That stands for Low Income
5 Home Energy Assistance Program and the purpose is to
6 assist to help those who are low income under the --
7 guidelines, heat their homes during winter months by
8 allotting them an amount based on several criteria and
9 if necessary supplement them by emergency funds.

10 The program consists of four types of energy;
11 fuel oil, propane, electricity, wood and coal. We deal
12 with three utility companies although there are four
13 involved. We deal with Baker Electric, North Central --

14 The Baker people up here, I didn't know that
15 they provided so many services. We haven't had any
16 problems with North Central or Ottertale but I would
17 just like to read you a letter that I got from Baker
18 Electric.

19 It says as our collection day nears each month
20 we receive an overwhelming amount of phone calls,
21 letters and so forth from people who claim your office
22 is paying all or part of that bill.

23 As far as we are concerned, it is a wasted
24 phone call, letter and so forth on their part because
25 the official verification from your office. We have to

1 tell them have you call us and this is time consuming
2 for both our office and yours.

3 We will have no other option but to disconnect
4 those people that you have told would be receiving money
5 from your office if you haven't called us about them
6 before we go to the residents to collect.

7 Actually, we called them the \$20 company
8 because if people don't pay on that date then they --
9 \$20 and it goes through our program so we have to pay
10 the \$20 and it sounds like they don't have to provide
11 anything but electricity according to this letter.

12 I don't see anything wrong with them calling
13 us to verify a customer.

14 MR. STREIBEL: Is that the extent of your
15 report?

16 MR. BRIEN: Pardon?

17 MR. STREIBEL: I say, is that the extent of
18 your testimony?

19 MR. BRIEN: Yeah.

20 MR. STREIBEL: Are there any question of any
21 of the Committee members?

22 MR. LADUCER: Do you feel that they are
23 working to solve some of these problems with you, like
24 whether you make a thousand calls to them, or could they
25 make one call to you and find out who's involved --

1 MR. BRIEN: Yes. According to this, we have
2 to make the calls otherwise they'll just turn them off
3 without out knowing it or they'll be at the residence
4 and the person will call and say they're here and it'll
5 still costs \$10.

6 I mean, they could put a little effort into
7 contacting us also because we could forget, too.

8 MR. LADUCER: But you don't feel the working
9 relationship is there and it should be a lot better.

10 MR. BRIEN: No, it's not there at all.

11 MS. MILLS: Are you saying there's a \$20 late
12 charge if they don't have their bill paid on time?

13 MR. BRIEN: No, there's a \$20 charge when they
14 disconnect and to reconnect it, yes, and we had a lot of
15 those last year.

16 MR. LADUCER: To solve the problem you're
17 talking about, Rich, how long do you think it would
18 take?

19 When I lived on a reservation, my bills was
20 delinquent, they would come disconnect. If they would
21 have called you, how long would it -- rather than going
22 through all that --

23 MR. BRIEN: I really can't tell. They send a
24 letter, you know, a shut off notice saying what day
25 they're going to turn it off.

1 Another thing, they're shut offs don't
2 coincide with a lot of people's check day which is AFDC.
3 They get paid on the 27th and the electric companies are
4 the 25th.

5 MR. LADUCER: And they won't spread it out a
6 couple of days?

7 MR. BRIEN: -- get their checks so there's \$20
8 extra.

9 MR. LADUCER: Sounds like a fast way to get
10 some income, huh?

11 MR. BRIEN: Yeah, figure that's where they're
12 making all their money.

13 MR. STREIBEL: This issue has come up any
14 number of times throughout the day and maybe you ought,
15 as a panel here, as a Committee, ought to ask the
16 question what makes that so difficult to reconcile? Is
17 it irreconcilable or what are the stumbling blocks?

18 I'm asking you and also --

19 MR. BRIEN: We never had this problem before.
20 They have new people there the last two or three years.

21 MR. STREIBEL: Do you want to speak to that,
22 Dennis?

23 MR. HILL: I guess just from a philosophical
24 standpoint again, I would trust and hope that any
25 cooperative that was involved in a situation like that

1 would be very happy to take a look at the policy and it
2 would be a local board decision and I would think that
3 they'd be quite responsive. I think that's the way the
4 cooperative structure is supposed to work in that they
5 respond to the needs of the members because that's who
6 they serve.

7 Now, a policy that has to do with Ottertale or
8 any other utility, obviously, we can't speak for that
9 situation but I would encourage any specific instances
10 like that to be brought to the attention of the Director
11 that is elected from that area and brought before the
12 board.

13 MR. STREIBEL: Most of the electrical
14 cooperatives either had their meeting or are going to
15 have it shortly, am I correct?

16 Maybe if you're not in position to prepare
17 your presentation before the annual meeting, maybe it
18 would be more appropriate if you asked to have it
19 scheduled with the next board meeting was scheduled.
20 That would probably be more appropriate anyway.

21 MR. HILL: Yes, I think that would be
22 appropriate.

23 MR. STREIBEL: I would advise -- member of the
24 Committee that you perceive that and -- sakes, it's very
25 important that people talk with each other especially

1 when there are differences.

2 MR. BRIEN: I'd like to do that but I can't
3 talk to this guy.

4 MR. STREIBEL: Well, you have a number of
5 directors there. If the person that you have been used
6 to dealing with, which I imagine is the office manager,
7 is that right?

8 MR. BRIEN: Uh-huh.

9 MR. STREIBEL: Go to some of the directors or
10 before you leave here talk to Dennis and he can be an
11 intermediary for you, you know, between you and the
12 electrical cooperative up there. Before you leave today
13 do that because it doesn't make much sense to have
14 something like this stand in your way when it really
15 doesn't seem to be that big a stumbling block, you know.

16 Yes, Mark.

17 MR. SCHNEIDER: Thank you, Mr. Chairman.

18 Mr. Brien, you're speaking specifically about
19 Baker Electric, is that correct?

20 MR. BRIEN: Yeah.

21 MR. SCHNEIDER: All right. The attorney for
22 Baker Electric this morning said that they had corrected
23 the problem of the billing at the wrong time or
24 coordinating so they bill at the time the checks are
25 received so they can reduce the number of cutoffs.

1 You're saying that they're still having
2 billings that require either cutoffs or payment --

3 MR. BRIEN: Unless they did it just lately.

4 MR. SCHNEIDER: Perhaps the attorney for Baker
5 Electric would like to clear that up.

6 MR. BEAR: Well, the billing cycle was changed
7 this last winter, I think October/November and the
8 billing cycle prior to that came five days earlier, now
9 it's five days later.

10 Mr. Brien indicated, he was talking about one
11 specific class of consumer, AFPC recipients. I don't
12 know if the billing cycle modification, the five days,
13 reached that class of consumer. It was designed to
14 reach that majority of native Americans where they were
15 receiving support funds from other sources in addition
16 to just AFPC.

17 Without talking to the office manager, I would
18 know what it was specifically relating to. What Mr. --,
19 the office manager, is requesting is that on a monthly
20 basis, especially in the wintertime, we would appreciate
21 a list of those people that are going to be guaranteed
22 to facilitate the cost of calling back and forth as to
23 who should or should not even have someone sent out on a
24 collection.

25 The man should not have been sent to the home

1 in the first place if they are receiving assistance from
2 Mr. Brien's office. We shouldn't have wasted the
3 expense of sending that man out there. They get to the
4 door and all of a sudden the person says hey, I'm
5 receiving assistance. You can't turn me off, you
6 shouldn't turn me off and it's true. When we call and
7 find out that person is receiving assistance, we've
8 wasted our time, we've wasted Mr. Brien's staff time and
9 the cost of the phone calls.

10 MR. SCHNEIDER: Well, it seems to be that
11 Chairman Streibel is right on the mark; it seems to be a
12 very --

13 MR. BEAR: I'm sure the problem is more a
14 communication problem. I think the person that was here
15 today can even talk to Mr. Brien after the hearing and
16 come up with something to resolve it. New technology
17 with FAX machines might even solve with where they have
18 the ability to put something in the FAX machine -- we
19 can have it instantaneously.

20 MR. STREIBEL: Thank you. Any other -- thank
21 you, gentlemen.

22 MR. BRIEN: Thank you.

23 MR. STREIBEL: Now we're down to one more
24 presenter from the 3:20 p.m. agenda item and that's Irma
25 Walking Elk. Is Irma here? I don't think so.

1 Okay, so we'll go to the 4:10 p.m. agenda and
2 is Thomas Brewer here?

3 MR. BREWER: I'm here.

4 MR. STREIBEL: From the Housing Unit, Aberdeen
5 Area Office of the Bureau of Indian Affairs. Welcome to
6 North Dakota.

7 MR. BREWER: My name is Tom Brewer of the
8 Bureau of Indian Affairs in the Aberdeen Area Program
9 Housing Office. I have got a package up here that has
10 some statements in it.

11 It has the regulations, policies and
12 procedures, the housing inventory showing standard
13 housing units and substandard housing units. Most of
14 the ones that can be repaired and those needing
15 replacement. Also, the number of families needing
16 housing.

17 Also, in that inventory on the second page
18 there's a list of the number of new houses that were
19 built on the reservation since 1963. Also, the funding
20 for -- I have for the H.I.P. Program and then I have it
21 on the very last part of this we have a G.A.O. report
22 which is General Accounting Office from the Washington
23 office.

24 In going to the statements, one of the
25 questions asked on the letter to the area director was

1 what support the BIA gives to the Indian Housing
2 Authorities and it's a short statement because the
3 Indian Housing Authorities are put together by the
4 Department of Housing and Urban Development and the only
5 assistance that the Bureau of Indian Affairs gives to
6 them is through the realty section, which is from our
7 leasing, and roads.

8 It used to be the grant to Housing did a lot
9 of work with the Housing Authorities and provided
10 support services to them to management and assistance to
11 their executive directors. Any more they have
12 certainly, on their own, they've developed to the point
13 where they no longer need this management type
14 assistance.

15 Right now in that case we do provide a liaison
16 service to the Housing Authorities for realty and branch
17 of roads but those are the only three support services
18 that the Bureau has for the Department of H.U.D. We
19 provide these services based on the community
20 departmental agreement that is in the H.U.D. regulations
21 and it was put together by the three departments; Indian
22 Health Service, the Department of Housing and Urban
23 Development and the Bureau of Indian Affairs.

24 Another question that was presented were they
25 wanted an overview of reservation housing and I think

1 rather than read that statement, I think we can go back
2 to 1972 it says here 1972 but it's a typo. It's
3 actually 1962 was when H.U.D. first put houses on the
4 Indian reservation and since that time we've been trying
5 to upgrade the housing by providing standard housing
6 through repairs or new construction.

7 H.U.D. has been providing new houses for the
8 reservation. We have H.U.D. and FHA projects throughout
9 the Aberdeen area. I think on the inventory -- the
10 second sheet of the inventory shows that we have 946
11 H.U.D. ownership houses and 1,831 rental units that were
12 put on the five reservations in the State of North
13 Dakota.

14 Now, that includes Standing Rock, which some
15 of the houses on Standing Rock are in South Dakota. I
16 had a footnote on here but it didn't get typed in for
17 Standing Rock included South Dakota. Trenton Indian
18 Service area included North Dakota -- I'm way off --
19 included Montana. Their service area includes Montana.

20 The H.U.D. providing those services for new
21 houses, the Bureau of Indian Affairs Program went more
22 to repairs and building new houses for those people who
23 didn't qualify for the H.U.D. houses and in the
24 regulations when they were finally put together for the
25 housing improvement program, the BIA Housing Program

1 included the fact that the BIA -- the H.I.P. Program was
2 a program of last resort.

3 Anybody who didn't qualify for any of the
4 other federal housing programs or private housing
5 programs then qualified for the Bureau of Indian Affairs
6 Housing Improvement Program. We still go with that
7 notion that if they don't qualify for anything else,
8 then they qualify for our program.

9 In our application form we require them to
10 provide a letter saying that they've gone to H.U.D.,
11 they don't qualify for the H.U.D. program, therefore, we
12 can provide housing assistance.

13 The BIA Program has been in existence since
14 actually 1964, when they provided some flood relief
15 homes to Minnesota, Montana and California and then in
16 1967 since H.U.D. was doing such a great job of putting
17 new houses on the reservations, the Bureau decided to
18 stick with the repairs and those very, very low income
19 families who did not qualify for the H.U.D. Program.

20 The H.U.D. Program at that time took care of
21 everybody, anybody who had any type of income, except
22 for the 20 percent of very, very low income people. So
23 there was 20 percent that weren't being assisted
24 anywhere and the Bureau of Indian Affairs took care of
25 those people. They might have qualified but they were

1 at such low income that they would possibly not have
2 been helped by the H.U.D. Program.

3 The Bureau Program went along until 1980.
4 About 1984 Congress started looking at some of the --
5 inspector's audits and determined that the program was
6 not run in the manner that they had perceived it would
7 run and that was to eliminate substandard housing.

8 They decided we had better get in gear and
9 operate it the way that they intended, which, they said,
10 we had to come up with new method of funding, a more
11 equitable method of funding and also we had to monitor -
12 - we were getting our hands slapped for not monitoring
13 the program.

14 We had housing officers up in the areas,
15 Bureau of Indian Affairs housing officers who were not
16 doing housing work. They were getting paid by the
17 Housing Program, but they were being used as employment
18 assistance officers, credit officers, property and
19 supply officers, facilities managers, I think there were
20 eight or nine methods they were being used.

21 So we also decided that housing officers would
22 only be used as housing officers and we would present
23 this to Congress, which we did, and they approved it
24 through our position paper.

25 So we redirected the program. The redirection

1 of the program now is the method that is being used. It
2 assists the needy. It assists the very needy families
3 that don't qualify for other types of housing and let's
4 see.

5 In getting to the redirection of our program,
6 we also came up with a different method of funding the
7 tribe. Before they were funded under the band analysis
8 or through the Indian priority system. This was done
9 locally by the superintendent and the tribes themselves
10 in dividing up the money that they received each year
11 for that program.

12 This is where we found we were losing some of
13 our monies that were allocated to the housing program,
14 that it was being used for well digging, for water for
15 cattle and many other things other than what it was
16 allocated for.

17 So we changed that method of funding to
18 funding for a need which would be determined by an
19 inventory of each tribe's housing stock on the
20 reservation and this inventory was done by the tribes
21 themselves. In the process of determining how to divide
22 these funds and in the consultation steps done with the
23 tribe, they wanted to do the inventories themselves.

24 So they counted their houses, they made the
25 determination based on whether that house could be

1 brought to a standard condition or whether it needed
2 replacement. They counted the families that needed
3 housing and they counted their standard housing and then
4 they presented this to the superintendents and the
5 superintendents, in looking it over, decided that if
6 that -- they felt if they were anywheres close to it,
7 they would approve it and we would either have the area
8 corrected or concur with it and this is the method that
9 we would use for funding. So right now that's the
10 method we use for funding.

11 We have taken their housing units that need
12 repairs and renovations and we've taken an overall cost,
13 it's a national average of \$8,000 unit, to bring those
14 units to standard conditions. Regulations say that we
15 can spend anywhere up to \$20,000 to bring an existing
16 unit to a standard condition and to build a new house we
17 could spend up to \$45,000. That's giving them a house
18 and it's built in accordance with the Uniform Building
19 Code or local code or any housing code that the tribe
20 might have.

21 When the unit is completed it's accepted by
22 the government by one of our housing program
23 specialists. We have one for North Dakota and part of
24 South Dakota and another one for about half of South
25 Dakota and then we have another one that takes care of

1 two tribes down in the southwestern part of South
2 Dakota.

3 In our redirected program in determining that
4 we're going to bring these homes to standard conditions.
5 We felt that we didn't have the qualified people to
6 determine that these houses were standard so in our
7 redirected program we wrote the job descriptions for
8 people who were construction oriented. People who
9 qualified as construction people who could go out and
10 inspect these homes.

11 Prior to 1964 they had housing program
12 officers who were administrators, housing program
13 specialists who were not inspectors and hopefully we
14 have taken care of that by hiring people who are
15 construction oriented and can go in and determine that a
16 house had been brought to standard condition under our
17 guidelines.

18 I have that -- the redirected program is the
19 one with the BIA position paper and that's basically our
20 redirected program.

21 Next, we have some federal regulations that go
22 along with the BIA Housing Improvement Program and
23 they're in 25CFR Chapter 1, Subchapter A, Part 256 and
24 you find the method of providing housing assistance to
25 the tribes.

1 Most of the tribes in the -- well, all the
2 tribes in North Dakota contract their program under --
3 93638. Only one tribe out of 15 in the Aberdeen area
4 does not contract their program, it is run by the Bureau
5 of Indian Affairs.

6 The main thing about our regulations is that
7 we have four types of categories that we assist each
8 individual who qualifies for the program. We go
9 Category A, B, C and D, and Category A is, that's
10 repairs to those units that are in such shape that they
11 cannot ever be brought to a standard condition using our
12 guidelines.

13 They have a maximum of funds that you can put
14 into that house and that's \$2500. It's not a lot of
15 money to put into a house, but we go in and make it more
16 livable until that person can get his house replaced
17 either through H.U.D., Farmers Home, HFA/VA or whoever
18 builds new houses or even the Bureau P.I.T. Program
19 might go in and replace it the following year when they
20 get enough funds.

21 We have Category B which is a house that can
22 be brought to standard condition within the H.I.P.
23 guidelines. That is you can spend up to \$20,000 to
24 bring that house to a standard condition. Most of those
25 are additions to a fairly decent house, one that's

1 strong but it may be overcrowded and we can put in up to
2 \$20,000 to bring that house to standard condition.

3 Put an addition on it and bring the remainder
4 of the house up to standard condition, it usually brings
5 it right up to the \$20,000 mark. Our average throughout
6 the United States and Alaska for this category is
7 approximately \$8,000. The H.U.D. houses don't qualify
8 for this program at all anywhere, neither in Category A
9 or B, and that's one of the bad things.

10 We don't count them in our program as a house
11 needing renovation but when that project is paid off, if
12 there's 50 units in a project and they're all paid off,
13 that -- all those 50 units become eligible for the
14 H.I.P. Program and it puts quite a burden on the BIA's
15 Housing Program. It's already underfunded and we just
16 have more houses out there and a lot of the H.U.D.
17 houses are substandard. They're wearing out, they've
18 been around since 1962 but the maintenance on them
19 just -- it took a while to teach our Indian people to
20 maintain a home.

21 We're still having the maintenance problem
22 with it so that's under Category B, we can spend up to
23 the 20 on that and under Category B when we finish that
24 house if it's considered a standard unit, we have our
25 inspectors go in and verify the fact that somebody went

1 in and brought that home to standard condition.

2 Whether it's a contractor or the individual
3 himself may have worked on it or the tribal workforce,
4 somebody has gone in and repaired that house so that
5 it's now standard.

6 Then we have Category C, which isn't used very
7 often, but some of the tribes use it and it's a down
8 payment assistance grant. It's for anybody, whether
9 they make a lot of money or -- as long as they can
10 qualify for a loan, they can get a down payment
11 assistance grant. It's more for the people who can get
12 a loan and pay that loan off, but they don't, at the
13 time, they don't have enough money for a down payment.

14 We have maximums in that, too. We have --
15 they can get ten percent of the total cost of the loan
16 or \$5,000 so they have a maximum of \$5,000 that they can
17 receive but normally that individual has some down
18 payment of his own. It's just an assistance to his
19 fund.

20 Like I say, that is not used too much by the
21 tribes because it's more for people who really aren't in
22 the low income bracket. Under Category C there's a
23 payback. If that individual was to buy a house and sell
24 it or get a grant to help for the down payment and then
25 sell it within five years then he would have to repay

1 that grant back to the Bureau of Indian Affairs. It
2 doesn't go back to the tribe, it goes back to the Bureau
3 of Indian Affairs. We have a lien on that house for
4 whatever the down payment assistance was.

5 Then there's Category D, which is a new home
6 for a qualified family or individual and that's a newly
7 constructed home. The individual has to have his own
8 land or a lease agreement for 25 years with an option
9 for another 25 and that also has a lien on it, that's
10 for 20 years, if he sells the house.

11 The first ten years if he sells the house back
12 to anyone within the first ten years, the payback is 100
13 percent. He has to pay all the money back and then it's
14 deducted ten percent each year until that 20 years and
15 then they can sell it after that and make anything on
16 it. It's more power to them, I guess.

17 That's about the crux of our regulations as
18 far as the federal guidelines. That's more or less how
19 we operate the Housing Improvement Program.

20 We have the internal controls. We have a --
21 contract that we use with the 638 regulations and their
22 contract document. Our model contract is the statement
23 of work for that contract, whatever they say they're
24 going to do in the model H.I.P. contract is what we are
25 supposed to be monitoring when we go out and review

1 their contract.

2 We also have selection criteria. We have an
3 application form that anybody who wants assistance
4 through the H.I.P. Program would fill out this
5 application form and turn it in to the tribe. The tribe
6 keeps a list of all these people who require assistance.

7 From that list, each year they take the most
8 needy and their list is determined from that, number one
9 being the most needy, number two and down the line until
10 their money runs out. They only get so much and right
11 now I just -- because our funding --

12 I have in back, I don't even remember which
13 one it is, but there is a copy of our funding. Our
14 request for funds, based on the tribal requests and
15 through their inventories, our request for funds each
16 year, for the Aberdeen area, that's including South
17 Dakota and Nebraska, is approximately \$3.7 million.

18 When we turn this in to the central office,
19 it's consolidated with all of the other -- well, there's
20 11 others, but it's 12 all together -- areas and that
21 request comes, usually comes up in the neighborhood of
22 \$48 million, an annual request to Congress for the
23 Housing Improvement Program.

24 Congress, in turn, turns around and provides
25 approximately 39 percent of that amount back to the BIA

1 for their Housing Improvement Program. So we, in turn,
2 have to take each tribe and provide them with 39 percent
3 of their annual need and this is how the funds go out.
4 Everybody gets 39 percent of their annual need and when
5 they come in with a list of ten people for their need,
6 say their need was for \$100,000, then we give them 39
7 percent of that and they can only do four projects out
8 of ten.

9 And sometimes if it happens if on their top
10 priority people are -- their need is not great, then
11 they might go a few more, but that's basically what it
12 is. They get less than 40 percent of their total need
13 each year. So if they came in with their annual need of
14 100 percent and they are funded at 39 percent, then it
15 takes them two and a half years to complete that first
16 year's plan and each one of them, based on their
17 inventory, has determined what their housing plan in to
18 eliminate substandard housing.

19 Most of them are ten years but at the rate
20 we're being funded now, it's going to be 25 years just
21 to eliminate substandard housing that was identified in
22 1985. Each year there's always more and more houses
23 becoming deteriorated to the point where they need
24 assistance and it's turning out to be a losing battle.

25 We have people who come on the Housing

1 Improvement program -- now, I run a program in Wagner,
2 South Dakota and I made up the list last year and I felt
3 bad when I had to cut some people off. I knew their
4 house was in terrible shape and a lady came up to me and
5 asked me when she was going to be assisted and I looked
6 on there to find her name and how many points she got
7 through our system and I told her it would probably be
8 about six years before she could be assisted.

9 And she sat down and cried. There wasn't
10 nothing I could do, it was all the money I had and it's
11 all the money we're going to get and we have to operate
12 the program according to regulations and we expect the
13 tribes to operate the programs the same way.

14 We monitor them and if they don't operate in
15 accordance with the regulations, we tell the contracting
16 officer and he goes out and gets them back in line. So
17 that's one of the things that we -- we have such a small
18 amount of money that we can't go out there and bring a
19 whole bunch of houses to a standard condition.

20 We worked along with -- in here somewhere on
21 one of those statements I tell about the other housing
22 programs that we have on the reservations. A lot of the
23 times the Community Development Block Grant, which I
24 notice when it's typed up, it's typed up CDBG. That's
25 what we call it when you're not familiar with it, it's

1 the Community Development Block Grant and received from
2 H.U.D.

3 The tribes go after this money because they
4 can use it for a lot of things and one of the things
5 they can use it for is repairs to houses. So they use
6 that money in conjunction with the H.I.P. Program.
7 Usually, that money that receive from H.U.D. is usually
8 about two or three times more when granted with the
9 Bureau's Housing Program funded so that's a --

10 I guess all of the other programs they have
11 their input into replacing those -- or repairing those
12 units to a standard condition and any time we find out
13 about another program, we let the tribes know so that
14 they can apply for it and include it in their funding.

15 The selection criteria that we use for them is
16 five factors and that's for the tribe to determine who
17 gets the most points. There's five factors on there and
18 those factors are income. You get points for being
19 below the poverty line, poverty guidelines as provided
20 by the Health and Human Services every March.

21 They're used throughout the United States and
22 Alaska to determine points for the H.I.P. Program. And
23 we have the number of dependent children living in the
24 household. Then we have overcrowded and the condition
25 of the house. And then there's a handicapped, those

1 that are handicapped receive points.

2 And on the last is elderly and the elderly we
3 have started at age 55. And they get points for being
4 between 55 and I think it is 72, the maximum.

5 The GAO report is something that there's a
6 method of checking up on the Bureau after they had the
7 redirected program and we felt that there were some
8 areas where they weren't living up to the redirection of
9 the program and we tightened down on all these so that
10 now hopefully we do have a program that, if it was to be
11 expected, people would say it was a well run program,
12 although it's not funded to the 100 percent.

13 That's what we're looking for is trying to get
14 it funded at 100 percent. With Congress the way they
15 are right now and feeling that they can't put anymore
16 money into any of the programs. We've got -- working on
17 it, too. We're kind of at a standstill as far as our
18 funding goes.

19 Other than that, if you have any questions,
20 I'd be glad to answer them if I could.

21 MR. STREIBEL: Are there any questions on the
22 part of the Cambodia members for Mr. Brewer?

23 We want to thank you for coming up and sharing
24 a bit of the federal system.

25 Next here we have Marilyn Hudson. Is Marilyn

1 here?

2 Margie Morin? Pardon me, you're substituting
3 for Marilyn? Okay, state your name for the record.

4 MR. FOX: My name is Angus Fox and I'm the
5 Facility Manager for the Fort Berthold Agency -- and I
6 see that -- has covered pretty much what we were going
7 to tell so I'm not going to repeat any of this.

8 I'll restrict my comments to the Housing
9 Utility Program under the immediate jurisdiction of the
10 Agency, Fort Berthold Agency.

11 Prior to 1953, the agency was located in Elk
12 Woods. Housing was adequate and energy was provided by
13 Power Plant -- Garrison Dam was built -- Indian
14 families were forced to -- facilities were constructed
15 in -- as well as the Agency headquarters in Newtown.

16 Houses were built for the purpose of providing
17 shelter for teachers and other government staff coming
18 to the reservation. -- rates are set by the Department
19 of Interior based on the appraisals.

20 Utilities are provided by existing suppliers.
21 We currently obtain electrical services from three
22 cooperatives, McLean, Mountrail and McKenzie. Tenants
23 make their own arrangements for services and are
24 responsible for their own bills.

25 We have a good working relationship with the

1 cooperatives. Services are sufficient and there are no
2 problems with repairs and delivery. We have negotiated
3 contracts for services and they are working
4 satisfactorily.

5 We would like to state for the record that
6 severe cold and long winters in North Dakota create
7 economic hardships for all North Dakotans. There are
8 high utility bills for lights and heat. Since the
9 weather is so unpredictable, it's hard to plan ahead for
10 these costs.

11 Most houses with a lack of insulation in the
12 exteriors take a beating from the elements. The cost of
13 maintaining -- in this type of climate is costly and
14 that's pretty much what I need to present.

15 MR. STREIBEL: Thank you. Are there any
16 questions on the part of the Committee?

17 Being none, thanks for coming.

18 The last presenter listed on our agenda is
19 Margie Morin and I -- she's not here. Okay, so we're
20 down to the end of our agenda. Tom has listed open
21 session and it applies to anybody else that's here who
22 wants to say something.

23 Five minutes for anybody -- yes.

24 MR. CADOTTE: My name is Gilbert Cadotte, I'm
25 with the Bureau of Indian Affairs, Standing Rock Agency

1 at Fort Yates. I'm the Employment Assistance Officer
2 and am involved in job placement and training.

3 I don't have too much right now, however, I
4 wanted to bring to the Committee's attention a problem
5 that exists.

6 I've been in job placement and location of
7 housing for quite a few years and there are ongoing
8 concerns. One of the problems that we run into when
9 we -- I came up from Standing Rock in late February and
10 one of the problems we've been running into in locating
11 housing were Indian individuals from Standing Rock are
12 relocating is the utility rates.

13 The deposit that M.D.U. is requiring is
14 excessively high. That's how we felt and how the
15 individual felt. I recently called the Consumer
16 Protection Agency here in Bismarck, but I didn't get too
17 much resolved.

18 I suppose, possibly, and I still intend to
19 continue to follow up and hopefully get something
20 resolved, but what the -- what seems like happening is
21 the Utility Commission is establishing the rate
22 according to previous experiences that they've had with
23 tenants like in the mobile home -- for example.

24 Individuals lived there before, they probably
25 had electric bill, an electric bill that they didn't pay

1 and so this other person comes along and moves in there
2 and their utility rate is established from the previous
3 individual's bad experience that's been had with
4 previous individuals.

5 So one of the concerns that we're working on
6 and like I said I probably continue to work with the
7 Consumer Protection Agency or other resources to resolve
8 that.

9 Another area that we're concerned with is the
10 renting of housing to Indian people. They'll see an ad
11 and they'll call up and ask if this apartment or house
12 is available and they're told yes. When they're asking
13 me that the house or apartment to look at it to see if
14 it was suitable for their needs and want to rent, when
15 the landlord see that they're Indian they sell, well,
16 sorry, it's been taken or they won't even say anything.

17 We had one just the other day where I had an
18 elderly lady move up here who took a job and her and her
19 husband called to find about this place for rent and
20 they had a time to established. When they drove up and
21 got out of their car and the landlord got out of the car
22 and looked at them and he didn't even say it was rented.
23 He just got in his car and drove off.

24 So these are only two incidents that I wanted
25 to mention now and I hope that the Commission doesn't

1 feel that since I've presented just a small amount of
2 problem that we don't have that problem. The problems
3 there and I hope that something could be done about it.
4 Thank you.

5 MR. STREIBEL: Thank you. Any questions on
6 the part of the Committee members?

7 Yes, Jim?

8 MR. LADUCER: Have you had this problem run
9 into quite a bit?

10 MR. CADOTTE: Pardon?

11 MR. LADUCER: Have you had this problem,
12 native Americans trying to find housing?

13 MR. CADOTTE: I've only been up in Standing
14 Rock now -- well, I'm from Standing Rock but I only came
15 back two months ago, but I've been working with students
16 from United Tribes that are graduated and when it comes
17 to finding housing if we find a job -- they've informed
18 me of incidents they've been into of this nature and
19 it's something we just have to keep working on but we
20 need some help.

21 MR. STREIBEL: Any other questions?

22 Thank you, sir.

23 MR. PILLA: I just have -- a little earlier I
24 disseminated a copy of a written submission by Edward
25 Lone Flight who's Chairman of the three affiliated

1 tribes. I just wanted to get it for the record that he
2 did appear but he had to leave and catch a plane, but
3 this should be included in the record. Each of you have
4 a copy of that.

5 MR. LONE FIGHT: Chairman Streibel and members
6 of the North Dakota Advisory Committee. Thank you for
7 the invitation today and the opportunity to discuss
8 housing concerns and utility rate issues affecting
9 Indian citizens. For the record, my name is Edward Lone
10 fight and I am the Chairman of the Three Affiliated
11 Tribes Tribal Business Council residing on the Forth
12 Berthold Indian Reservation. I wish to express the
13 gratitude of the Three Affiliated Tribes for being
14 granted this opportunity to present our testimony to
15 you. Further, I wish to express our gratitude for your
16 demonstrated concern for and interest in the
17 preservation of Indian civil rights manifested by the
18 assembled forum today to hear Indian housing and utility
19 service concerns.

20 The recognition and proper resolution of
21 disparaging housing and utility standards on Indian
22 reservations is one long awaited link to mitigating the
23 prevailing substandard living conditions that exist on
24 our reservation. On behalf of the Three Affiliated
25 Tribes I would like to point out housing and utility

1 problems that have hindered effective social welfare
2 development.

3 Above all of the problems, it must be noted
4 that the creation of the Garrison Reservoir has
5 contributed significantly to the deplorable living
6 conditions by creating geographical barriers that
7 subject our tribal citizens to various and often times
8 inconsistent utility service companies. However, it is
9 these various utilities that impose burdensome rates
10 which lack any sense of consistency in providing
11 adequate and affordable utilities consistent with an
12 area of limited economic activity. Those inconsistent
13 policies have led to several problems which include:
14 inconsistent energy costs; inconsistent utility
15 administration policies; local and municipal government
16 reluctance to cooperate with the Three Affiliated Tribes
17 and its members.

18 With regard to the nature of inconsistent
19 energy costs, the tribally enrolled members of the Three
20 Affiliated Tribes are subject to varying, and at often
21 times excessive, energy rates. This is a result of
22 various utility companies operating on our reservation
23 without any regard for our depressed economic situation.
24 Granted some electric companies do inform, to a certain
25 extent, tribal members of policy issues, they fall short

1 of adequately addressing the policy and rate application
2 to the Fort Berthold Indian residents. Those utility
3 companies simply overlook the fact that the reservation
4 is experiencing a high percent of unemployment. Many
5 elderly and handicapped Indian are on set incomes and
6 are unable to meet the high cost of energy needed for
7 this climate. Additionally, it is a known fact that
8 electric energy costs exceed natural gas costs of which
9 many homes are totally electric. Therefore, many set
10 and low incomes in our depressed economy are unable to
11 cover the energy costs needed for our climate, an area
12 that should be considered by companies that provide
13 utility services to the Indian residents of Fort
14 Berthold.

15 Clearly evident of tribally enrolled members'
16 inability to approach utility companies is the fact that
17 Indians are not elected to the controlling boards of
18 directors that many Indians are a part. This inability
19 would appear to limit tribal participation because of
20 the apprehension of outside officials restrains tribal
21 individuals from approaching a representative.

22 Further, the utility companies must go one
23 step further to inform the people of policy changes,
24 simply because they do not have any formal
25 representation in those controlling boards of directors.

1 The list of service inadequacies albeit insignificant
2 all add up to an inconvenience that increase the burden
3 of living under substandard conditions.

4 Clearly an approximate 70 percent unemployment
5 rate on the Fort Berthold Reservation lends credibility
6 to the fact that many elderly, handicapped and welfare
7 Indian recipients with set monthly incomes of \$200 to
8 \$300 cannot afford or live, over time a monthly energy
9 rate of approximately \$200 to \$300 a month. Therefore,
10 there exists a need to review current policies and
11 determine a suitable cause of action which would
12 accommodate the Indian consumer without harm to utility
13 companies.

14 The problem we have experienced with
15 municipalities have hindered adequate housing
16 development with regard to proximity for our people who
17 are able to obtain employment. We have encountered
18 denials in the past from municipalities to develop
19 housing projects in their locations for our people.
20 Often times those municipalities are unable to define
21 any reason to deny access to the city limits except for
22 an alleged lost tax base. However, it must be noted
23 that in some cases operation, maintenance and repair
24 costs are attached to the owner of those homes thereby
25 alleviating any burden in that respect to the

1 administration of those municipalities.

2 In closing, Three Affiliated Tribes are
3 willing to cooperate to everyone's benefit. However, it
4 is time that consideration be given to hear and review
5 our needs in light of our geographical location and
6 depressed economy. Perhaps a single utility operation
7 for electricity and water should be considered to
8 alleviate the service disparity that exists on the Fort
9 Berthold Indian Reservation.

10 Realistically, a viable solution to provide
11 adequate utilities for our tribal members is to require
12 the federal government to subsidize our utility
13 commission in order to restore the service as it once
14 was previous to the creation of the Garrison Reservoir.

15 The Joint Tribal Advisory Committee's finding
16 that it is incumbent upon the federal government to
17 restore the Three Affiliated Tribes' economy, and
18 providing adequate housing and utility services, in this
19 respect, would fulfill that mandate.

20 MR. STREIBEL: Thank you. Well, just stay
21 right there, Tom, while we conclude this. Yes?

22 MR. RESCLOFF: Will you take one comment?

23 MR. STREIBEL: Sure.

24 MR. RESCLOFF: I'm Wayne Rescloff, Manager of
25 McKenzie REC in Watkins City and I had made a comment

1 before but I wanted to, just briefly before the process
2 was over here, just mention that it's been a goal of
3 mine -- I've always wanted to better the relationship
4 with the tribes than I think we've had.

5 I think in the last two, three years we've
6 been able to accomplish some of that. I really wanted
7 to pick up on some thing that you said, Chairman
8 Streibel, and that a lot of things can be accomplished
9 if we talk together.

10 We need all members, if they have a concern,
11 to speak up and anybody that has a problem with their
12 bill or anybody that has a problem with their usage, I
13 think we do a very good job of responding but if people
14 don't call us, we don't know there's a problem, there's
15 very little we can do.

16 Some things have been mentioned about
17 employment of Indian people and I think it's quite
18 curious in my 12 years of experience in this business,
19 to my knowledge, I have never had an application for a
20 job from an Indian person and I usually do not have time
21 or have not had to go out looking for employees and I
22 think some things need to be done as far as talking with
23 tribal people and whatever, that maybe there are some
24 jobs that Indian people could obtain if some efforts
25 were made. I think communicating can be very

1 significant in that area.

2 I wanted to address something as far as the
3 bill and the high usage and so forth and I think this is
4 not been brought out so far today and that is that we,
5 as coops or power companies, municipals, whatever, are
6 power suppliers. We bring the power up to and including
7 the meter and yes, we're concerned about where that
8 power goes and how it's used and we can do some things
9 to help members, Indians or anybody, try to figure out
10 where that power is going.

11 But we have some limitations there, some
12 limitations by law. Electricians, licensed
13 electricians, electricians are the ones that deal with
14 the power on the member side of the meter and often
15 times members feel a little bit at a loss to know what
16 to do.

17 We talked with people on the reservation that
18 we serve at Fort Berthold about it is very difficult for
19 them to get an electrician to come to the reservation to
20 investigate to see where this power is going. We might
21 have some people that would have some general expertise
22 in that area, but they're not licensed to do that.

23 Now, some coops have hired electricians and
24 can do that but I wanted to make that distinction that
25 there is -- if this is the meter, there's this side

1 that's power supply and this side that belongs to the
2 member and I think it's very important to understand
3 that when something needs to be done as far as finding
4 out where all that power goes.

5 MR. STREIBEL: That's a very good point, you
6 know, we're certainly made very aware of that by another
7 utility; that's telephone companies. They say exactly
8 what you said.

9 Our responsibility comes to here, from here on
10 it's you. If you want to pay \$1 a month, we can
11 probably take care of any problems that go on on your
12 side, otherwise it's yours totally.

13 Any questions? Thanks for your comments.

14 MR. PILLA: One other quick item. In the
15 course of putting together the agenda for this meeting,
16 a lot of interest was expressed by tribal officials to
17 participate.

18 There were a couple of events happening
19 outside of the state that prevented participation from
20 some tribal officials. Number one, there was a housing
21 conference of some kind in Florida which was beginning
22 this weekend and that pulled away a number of tribal
23 housing officials that would have liked to have
24 participated.

25 I did indicate to them that they could submit

1 written testimony for the record. And there were
2 another group of tribal officials who were going to
3 Washington, D.C., for another series of meetings and
4 they, too, indicated that they would like to submit
5 something for the record and I said that the Advisory
6 Committee would be more than happy to receive that.

7 MR. STREIBEL: Good; and then reading one of
8 your memorandums or letters, Tom, you informed us as to
9 funding -- future funding is very tenuous right now with
10 regard to the U.S. Commission on Civil Rights.

11 How do we do it; play it by ear, so to speak,
12 or what?

13 MR. PILLA: Well, play it by ear but show --
14 there will be a transcript --

15 MR. STREIBEL: No, I mean about future
16 meetings and that.

17 MR. PILLA: Future meetings, we'll play by
18 ear.

19 MR. STREIBEL: We'll let you be our ear.

20 So, yes?

21 MR. WINKJER: Mr. Chairman, I think that at
22 least one other meeting of this agency ought to be held
23 so that this Committee then can act on the -- all this
24 material that has been presented and is going to be
25 presented and we can make such recommendations as this

1 Committee deems appropriate.

2 To not now meet again would make this whole
3 process futile, other than for the breakdown in
4 communications that had previously existed.

5 MR. STREIBEL: Well,, again, we'll leave that
6 up to Tom because of the --

7 MR. PILLA: Right. I think we can guarantee
8 that there will be a product that will come out of these
9 proceedings, that the Advisory Committee will have its
10 input on the draft and the summary report.

11 MR. STREIBEL: Good.

12 MS. MILLER: Mr. Chairman, I would just like
13 to add, I think we should all commend Tom for putting
14 this forum together. The contacts he^o made and the
15 presenters that were here today, I think we got a very
16 nice, broad sampling of the feel for the people of North
17 Dakota on this issue and thank you very much, Tom.

18 MR. STREIBEL: You beat me to it.

19 Any other comments?

20 One in closing, for the record, the focus of
21 today's proceedings have been to obtain information on
22 housing concerns and utility rates on Indian
23 reservations in North Dakota.

24 We've heard from public and private groups and
25 organizations as well as individuals who are

1 knowledgeable about the issues we had under
2 consideration today.

3 The Advisory Committee will review the
4 transcript of this meeting, Tom just alluded, and
5 prepare a summary report for the United States
6 Commission on Civil Rights.

7 The Advisory Committee would like to thank all
8 of you, many of you have left, who have participated
9 here today and the meeting is now adjourned.

10 (Hearing adjourned.)

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North Dakota Advisory Committee

Name of Hearing

Docket No. (If applicable)

Bismarck, North Dakota

Place of Hearing

June 9, 1989

Date of Hearing

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 254, inclusive, are the true, accurate and complete transcript prepared from the reporting by Timothy Payne in attendance at the above identified hearings, in accordance with applicable provisions of the current GSA professional verbatim reporting and transcription contract, and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the hearings and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the hearings.

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