Legal Services of Eastern Missouri, Inc.
4232 Forest Park Avenue
St. Louis, Missouri 63108
(314) 534 - 4200 - www.lsem.org

Pursuing Justice,
Strengthening Lives

April 7, 2016

Morris L. Woodruff, Secretary
Missouri Public Service Commission
200 Madison Street, PO Box 360
Jefferson City, MO 65102-0360

Re: Case No. AX-2015-0061 – Proposed Amendment to Commission Rule 4 CSR 240-13.020 Regarding Authorized Pay Locations

Dear Commissioners:

Legal Services of Eastern Missouri (LSEM) provides these comments in response to the proposed rulemaking to amend commission rule 4 CSR 240-13.020 regarding authorized pay locations. We write in strong support of the proposed rule.

For almost 60 years, LSEM has provided high quality, free civil legal assistance to elderly, disabled, and low-income individuals in eastern Missouri. Today, we serve twenty-one (21) counties in our region. LSEM receives over 14,000 calls for assistance a year. Additionally, LSEM provided legal education outreach and referrals to over 21,000 people last year. From those calls and our education and outreach, we helped over 14,000 people in completed cases in 2015.

Of those families LSEM assists, it is rare for LSEM to help a client with any issue – housing, public benefits, or family law – and not discover that the client has an outstanding utility bill causing or contributing to a substantial barrier to housing, medical care, education, or employment. LSEM provides holistic services to help stabilize clients and issues affecting our clients' stability are of great concern.

Across the board, access to utility assistance, inability to establish utility services, and outstanding utility debt are common concerns raised by prospective clients and advocates in the communities we serve. Payday loans present an array of issues that will only be exacerbated if utilities are allowed to enter into contracts with payday lenders. The proposed rule appropriately addresses this problem by placing clear limits on the ability of utilities to engage in such practices.

Outlined below are LSEM's concerns and comments which we respectfully request the Commission consider in the proposed rulemaking regarding authorized pay locations.

Payday Loans Generally

Our clients are often in crisis and forced to choose which bills they can pay each month and which bills will have to wait until the next. These are not frivolous expenses or purchases, but basic life necessities – food, shelter, utilities, and transportation.

In our experience, it is unusual for a client to come to LSEM obligated on just one payday loan. We have had clients take out multiple payday loans to keep their utilities from getting disconnected; to cover rent and to prevent homelessness. Consumers resort to digging themselves into more debt because the consequences of default are so daunting and frightening. Rather than let the check bounce, clients will often seek additional payday loans from other companies, using the proceeds of one loan to pay off another but again taking out another loan. The result is a debt vortex in which the consumer becomes more and more entangled and obligated to the payday loan industry.

The following examples demonstrate how one payday loan, obtained to pay one utility bill, can lead an individual into deeper debt and more financial trouble. These troubles often mean an individual will also not be able to pay future utility bills.

Interest Cap

The proposed rule appropriately places an interest cap of 36% on any transaction where a utility company accepts payment from a payday lender. The Commission's proposed rule is vitally important to protect consumers from the pernicious effects of extreme interest. We have seen clients with interest rates as high as 900% on payday loans.

Capping the interest rate provides a sufficient profit motive to the industry while protecting consumers from unconscionable rates. A 36% interest rate cap would also force the industry to diligently assess credit risk rather than open the floodgates to any and all consumers regardless of ability to repay. As we have recently seen with the subprime crises, it is bad for our economy when lenders fail to assess risk.

Debt Collection Practices

In the context of a payday loan, the consumer is faced with the additional exposure of having written a postdated check to cover the future debt. The nature of a postdated check is inherently problematic. Payday lenders require the check along with the written contract because they know that the consequences of default are so economically devastating to the consumer that there is extreme pressure to make the payment.

Most consumers regularly write monthly checks for household necessities. Thus, numerous checks may be dishonored if the payday lender deposits the check. All dishonored checks will trigger fees and charges by the recipient and the bank. Since payday loans are capped at five hundred dollars ($500), and often are as low as two hundred dollars ($200), the fees and charges associated with default by other non-payday companies can easily exceed the amount of the loan.

Debt buying often leads to abusive collection practices, including threats of jail. Consumers are subjected to constant calls not necessarily by just the actual payday lender but also the collection companies who buy up old debt. These practices include:

- "[I]llegal visits to consumers at their homes and workplaces, empty threats of legal action, lying about consumers' rights, and explosion consumers to bank fees through unlawful electronic withdrawals."[1]

- "[Using] legal jargon in calls to consumers, such as telling a consumer he could be subject to 'immediate proceedings based on the law' even though ACE did not actually sue consumers or attempt to bring criminal charges against them for non-payment of debts."[2]

- "[Using] a host of business names to target consumers who obtained or applied for payday or other short-term loans, pressuring them into paying debts they either did not owe or that the defendants had no authority to collect."[3]

These abusive practices are why the proposed amendment are necessary and crucial.

Conclusion

When clients make their way to our office they are often worn out, desperate, and afraid. The Commission has the "…power to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas, electricity, water, or sewer system." Section 393.140(2) RSMo. It is in the public interest for the Commission to oversee the billing practices of utilities. Further, it is in the public interest that the Commission set conditions on formal utility pay location relationships to protect those who

[1] CFPB Orders EZCORP to Pay $10 Million for Illegal Debt Collection Practices, (Dec. 16, 2015) http://www.consumerfinance.gov/newsroom/cfpb-orders-ezcorp-to-pay-10-million-for-illegal-debt-collection-tactics/, last visited April 7, 2016.

[2] CFPB Takes Action Against ACE Cash Express for Pushing Payday Borrowers Into Cycle of Debt, (July 10, 2014) http://www.consumerfinance.gov/newsroom/cfpb-takes-action-against-ace-cash-express-for-pushing-payday-borrowers-into-cycle-of-debt/, last visited April 7, 2016.

[3] FTC and Illinois Attorney General Halt Chicago-Area Operation Charged with Collecting and Selling Phantom Payday Loan Debts, (March 30, 2016) https://www.ftc.gov/news-events/press-releases/2016/03/ftc-illinois-attorney-general-halt-chicago-area-operation-charged, last visited April 7, 2016.

are simply trying to meet a basic need for electric or gas. The conditions set out in the proposed rule are necessary to ensure that utilities are not complicit in taking advantage of vulnerable Missourians by establishing contractual relationships with payday lenders.

Thank you for your time and consideration.

Sincerely,

/s/ Jacki J. Langum
Jacki J. Langum
Attorney at Law

/s/ Robert L. Swearingen
Robert L. Swearingen
Attorney at Law