**BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI**

In the Matter of a Working Case to Consider )

Proposals to Create a Revenue Decoupling ) **File No. AW-2015-0282**

Mechanism for Utilities. )

**JOINT COMMENTS OF AARP AND THE CONSUMERS COUNCIL OF MISSOURI**

AARP[[1]](#footnote-1) and the Consumers Council of Missouri (“Consumers Council” or “CCM”)[[2]](#footnote-2) appreciate this opportunity to share their perspectives on proposals to add revenue decoupling mechanisms to the utility bills of Missouri consumers. Utilities have applied the word "decoupling" to a variety of different rate changing mechanisms[[3]](#footnote-3), but usually, the term refers to some attempt to sever the regulatory connection between the amount of energy sold by a utility and the amount of revenue that the utility can collect from its customers. Decoupling is a controversial subject for most consumer advocates.

Both AARP and CCM are highly skeptical of decoupling, due to the lack of legal authority to impose such devices in our state, due to the unfair shifting of business risk from utilities onto consumers, and due to the negative customer impacts that have been experienced when such mechanisms have been implemented in other jurisdictions. “Decoupling” usually results in utility rates increasing quicker and at higher levels than the level those utility rates would otherwise be after a comprehensive rate review, and the increases can result for reasons that have nothing to do with the purported goals of energy efficiency and conservation. In fact, if implemented poorly, decoupling can raise rates for residential consumers due to the lower usage caused by a general economic downturn, while decoupling simultaneously shields the utility from such economic effects.

As a preliminary matter, it should be noted that Missouri law currently would not permit the Public Service Commission (“Commission”) to impose decoupling, as it would be a “single-issue ratemaking” mechanism that fails to consider “all relevant factors” before changing rates.[[4]](#footnote-4) Decoupling usually involves a recalculation of the billing determinants for a utility based upon some update to usage calculations, but does so *without* an update of other factors such as investment, depreciation, expenses and other financial considerations. Those other ratemaking factors could have the effect of counter-balancing a decoupling rate increase or actually lower the rates that consumers pay, if properly recognized. Decoupling constitutes illegal single-issue ratemaking because it can mechanistically and unfairly create a mismatch between the factors that are used to set utility rates, increasing rates due to lower usage patterns, while ignoring factors that would otherwise tend to lower rates overall.

Decoupling is not necessary as a policy to promote energy efficiency. Several Missouri laws and standards already exist to encourage the efficient use of energy and water. Moreover, a preference for energy efficiency is already official state policy. In 2007, the Missouri General Assembly passed [393.1040 RSMo](http://www.moga.mo.gov/statutes/C300-399/3930001040.HTM), which states that it is "the policy of this state to encourage electrical corporations to develop and administer energy efficiency initiatives that reduce the annual growth in energy consumption and the need to build additional electric generation capacity." Shortly thereafter, the Missouri Energy Efficiency Investment Act (“MEEIA”) was passed into law[[5]](#footnote-5), and the Commission’s rules implementing that law[[6]](#footnote-6), have provided more than sufficient incentive to encourage significant new utility investments in energy efficiency programs for regulated electric companies, including an (overly generous) recognition for so-called “lost revenues”. For electric consumers, adding decoupling rate changes would pile on even more unfair single-issue mechanisms to the anti-consumer exceptions already promulgated by this Commission rule.

Utilities tend to propose decoupling because it would reduce their risk of doing business. What business wouldn't welcome a more predictable income stream, one that is independent of the uncertainties regarding the actual sale of its products or services? But the concept raises the question of whether such a risk should be shifted completely onto captive utility consumers. From a consumer perspective, decoupling is unlikely to produce benefits that outweigh the additional risks that consumers would be forced to bear through their monthly utility bills. In fact, decoupling can be counter-productive to the goal of energy or water conservation, because it can deprive the general body of consumers from receiving the full savings that they would otherwise experience as a result of their collective conservation efforts.

The concerns that AARP and CCM are expressing here about decoupling are shared by a broad spectrum of consumer advocates, including a significant majority of the members of the [National Association of State Utility Consumer Advocates (“NASUCA”)](http://www.nasuca.org/archive/index.php).[[7]](#footnote-7) Industrial consumer organizations like the [Electricity Consumers Resource Council (“ELCON”)](http://www.elcon.org/) are also critical.[[8]](#footnote-8) State public utility commissions in the states of [Washington](http://www.utc.wa.gov/consumers/energy/Pages/default.aspx)and [Maine](http://www.maine.gov/mpuc/electricity/index.shtml)have experienced unfavorable results with decoupling experiments, partly due to the way that recession economics can magnify the negative impacts of decoupling. Several other state utility commissions, while rejecting versions of decoupling as being unfair to consumers, nonetheless have adopted a version of decoupling that attempts to isolate those revenue changes that can be verified as being directly linked to the utility's energy efficiency efforts. Still other utility commissions have implemented decoupling with a variety of caps, claw backs, or other “consumer protections” that limit the way that decoupling can change rates absent a full rate review.

In order to fully understand the consumer concerns with decoupling, it is important to note how decoupling fits into a trend of changes that have been proposed by utilities to "improve" the regulatory process. From a consumer perspective, decoupling may not be the worst idea currently being debated in the context of encouraging utility-sponsored efficiency programs. For example, bad ideas such as mechanisms to allow utilities to recover so-called “lost revenue”, straight-fixed/variable rate designs, and other proposals that would dramatically increase the customer charge (the minimum portion of a monthly utility bill) can also harm utility customers unfairly. These mechanisms vary from jurisdiction to jurisdiction with regard to the degree of risk transferred to consumers and with regard to the consumer protections that may accompany them.

By virtue of the “regulatory compact”, an investor-owned electric, gas or water company agrees to serve customers as a public utility, taking on the obligation to provide service at "just and reasonable" rates. This obligation is generally interpreted by Missouri courts as an obligation to provide service on a least cost basis.[[9]](#footnote-9)  In other words, the state of Missouri grants investor-owned utilities an exclusive franchise to serve a group of customers within a defined territory, plus the opportunity to earn a reasonable rate of return, in exchange for serving those customers in the most prudent and economically efficient manner. The utility is legally required to provide service in the least cost manner, not necessarily in the manner that produces the greatest shareholder profits at the lowest level of risk. It is true that conservation and efficiency efforts can theoretically dampen utility earnings, at least on a short-term basis between rate cases. But it is not the purpose of utility regulation to maximize a utility’s profits; rather the Commission’s overriding purpose (its “guiding star”) is to protect the rate-paying public.

Decoupling is usually implemented as a single-issue (piecemeal) adjustment to rates as revenue is recalculated at regular intervals (annual or otherwise). As such, decoupling suffers from the same problems as single-issue surcharges (i.e., Fuel Adjustment Clauses; Infrastructure System Replacement Surcharges) that allow rates to be raised outside the context of a full rate case. If the revenue component of ratemaking is similarly adjusted in isolation, the utility's balance sheet is not being examined in its entirety to ensure that “all relevant factors” are being considered. If unknown factors cause a miscalculation when utility revenues and utility sales are being reconciled to compute a rate, it is more likely to be discovered by auditors who are examining the utility's records in a full-blown rate case. Adjustments made outside of rate cases tend to miss things, to the detriment of consumers. Regardless of how many prudence reviews are conducted when rates are changed outside a full rate case, if one component of a utility's cost of service is essentially put on autopilot, consumers are at risk of being charged too much. Any shortfall related to revenue reductions will likely be short-lived, because utilities can -- and do -- file for a general rate increase as frequently as they feel it is needed, whenever the combined impact of all relevant factors cause it to begin to under-earn. Overearnings situations are not nearly so quickly remedied, and decoupling can allow rates to increase without utility overearnings being corrected.

The current utility ratemaking system in Missouri has worked well to promote *cost efficiency* for over 100 years. But surcharges and other piecemeal mechanisms have caused damage to that system's inherent incentives for cost efficiency. Based on those experiences, consumer advocates are fearful of further tinkering. The calculation of revenue concurrently with all other relevant factors is an important pillar of cost of service regulation. If this framework is weakened further through “decoupling”, the inherent incentives that currently promote cost efficiency could be eroded.

As the Commission considers the concept of decoupling, AARP and CCM urge a carefully consideration of who should bear revenue risk and how it should be properly allocated under cost of service ratemaking. The allocation of utility risk is a zero-sum game. When a new ratemaking policy is adopted to alleviate some risk to the utility, that risk doesn't simply evaporate; rather, that risk is shifted to consumers.

Decoupling is often expressed as shifting the risk of revenue variability to consumers because of a desire to counteract a perceived perverse incentive contained within cost of service regulation, the so-called "throughput disincentive". The Commission should also explore whether decoupling would create a different perverse incentive -- one that discourages consumers from embracing efficient choices by taking away some of the economic savings they achieve when they reduce their utility usage.

One of the worst risks that consumers have to fear from decoupling is that it may reward the utility -- and conversely punish consumers -- as a result of revenue reductions unrelated to efficiency programs. This risk is particularly acute with so-called full decoupling, which does not attempt to isolate the cause of any dip in utility revenues. A host of reasons unrelated to the impact of energy efficiency may cause utility revenues to fluctuate. Some of those reasons may be related to good management, some may be related to mismanagement, and some of those reasons may be attributable to the general state of the economy. The Commission should be able to make judgments regarding which reason is which. Some of the reasons for reduced revenues are outside the control of the utility. These reasons can be extreme weather or a significant economic event, like the recession that began in 2008. In the latter example, when revenues were dropping due to hard economic times, full decoupling would have shielded the utility from the recession while raising rates at the same time on households and businesses which were cutting back on utility usage for purely economic reasons.

Decoupling can also be particularly unfair to low-income customers or customers whose usage is already at the bare minimum amount necessary to get by in life and who may have a difficulty affording efficiency upgrades. To the extent that decoupling raises rates for those customers, to the benefit of higher income customers, it is potentially discriminatory and not in the public interest.

The Commission should ensure that cost recovery processes and incentives are fair and reasonable and linked to the performance of the utility in acting in a cost efficient manner. Utility bills should also not increase because consumers as a whole have been successful in their efforts to use utility services more efficiently. Nor should utility rates increase due to utility revenue reductions that result from purely economic reasons. Moreover, a utility’s revenue risk should not simply be passed onto consumers without a proper recognition of that risk shift.

Respectfully submitted,

/s/ John B. Coffman

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Filed: September 1, 2015.

1. AARP, a nonprofit organization, helps people over the age of 50 to exercise independence, choice, and control in ways beneficial to them and to society as a whole. AARP members, many of whom live on fixed incomes, need affordable, reliable utility service. In 1999, the “American Association of Retired Persons” changed its name to simply “AARP”, in recognition of the fact that people do not have to be retired to become members. Approximately 748,000 AARP members reside in Missouri. [↑](#footnote-ref-1)
2. Consumers Council of Missouri is a nonprofit organization that is dedicated to educating and empowering consumers statewide and to advocating for their interests. It is the successor organization to the “Utility Consumers Council of Missouri” (“UCCM”) that was founded in 1968. [↑](#footnote-ref-2)
3. “Decoupling” can be implemented in a variety of different ways and can be subject to many varying conditions, and this diversity of implementation methods makes it hazardous to make side-by-side comparisons of such mechanisms across different jurisdictions. [↑](#footnote-ref-3)
4. State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission, 585 S.W.2d 41, 56-58 (Mo. banc 1979). [↑](#footnote-ref-4)
5. 393.1075 RSMo, et al. (2009). [↑](#footnote-ref-5)
6. 4 CSR 240-20.093 “Demand-Side Programs Investment Mechanisms”. [↑](#footnote-ref-6)
7. [NASUCA Resolution 2007-01](http://www.nasuca.org/archive/Resolutions/Decoupling-2007-01.doc). [↑](#footnote-ref-7)
8. [Revenue Decoupling: A Policy Brief of the Electricity Consumers Resource Council](http://www.elcon.org/Documents/Publications/3-1RevenueDecoupling.PDF) (2007). [↑](#footnote-ref-8)
9. [393.130.1,](http://www.moga.mo.gov/statutes/C300-399/3930000130.HTM) [393.140(11)](http://www.moga.mo.gov/statutes/C300-399/3930000140.HTM) RSMo. The least cost obligation is codified in the “Policy Objectives” of Missouri Public Service Commission’s Integrated Resource Planning (IRP) Rule, that was updated subsequent to the passage of MEEIA, stating that “minimization of the present worth of long-run utility costs” should be the utility’s “primary selection criterion in choosing the preferred resource plan” [4 CSR 240-010(B)]. [↑](#footnote-ref-9)