



Daniel K. Glazier
Executive Director and
General Counsel

Youth and Family Advocacy Program

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Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Via electronic submission to <https://www.efis.psc.mo.gov/mpsc/Comments.html>

Attn: File No. AW-2020-0356

To Whom It May Concern:

We write today in response to the Missouri Public Service Commission's request for public comment in File No. AW-2020-0356, "Best Practices for Recovery of Past-Due Customer Payments After the COVID-19 Pandemic Emergency."

Legal Services of Eastern Missouri (LSEM) is a private non-profit organization dedicated to advancing justice through legal representation, education and supportive services. We provide high quality civil legal assistance and equal access to justice for low-income individuals and families in 21 Missouri counties. Housing and homeless prevention assistance is core to our mission because Missourians' health, well-being, and survival depend upon their ability to be housed.

Our state and our nation are on the precipice of a massive housing and homelessness crisis.¹ Even before the pandemic, Missouri's low-income families were routinely confronted with the imminent threat of either losing their homes or losing access to essential utility services due to their inability to pay for both. We at LSEM witness this hardship firsthand through our legal representation. Our clients regularly face eviction lawsuits and homelessness after making difficult decisions to sacrifice rent payments for utility bills. Now, with historic unemployment and economic adversity striking a

¹ Renae Merle, *Evictions are likely to skyrocket this summer as jobs remain scarce. Black renters will be hard hit.*, WASH. POST (July 6, 2020, 10:27 AM), <https://www.washingtonpost.com/business/2020/07/06/eviction-moratoriums-starwood/>. Merle writes, "A crisis among renters is expected to deepen this month as the enhanced unemployment benefits that have kept many afloat run out at the end of the July, and the \$1,200 per adult stimulus payment that had supported households earlier in the crisis becomes a distant memory." *Id.* Furthermore, "Of the 110 million Americans living in rental households, 20 percent are at risk of eviction by Sept. 30, according to an analysis by the Covid-19 Eviction Defense Project, a Colorado-based community group. African American and Hispanic renters are expected to be hardest hit." *Id.* See also Alicia Adamczyk, *A housing 'apocalypse' is coming as coronavirus protections across the country expire*, CNBC: MAKE IT (June 10, 2020, 4:19 PM), <https://www.cnbc.com/2020/06/10/how-to-prevent-the-coming-coronavirus-tsunami-of-evictions.html> ("If state and local governments don't step in to help soon, there will be a 'tsunami of evictions and a spike in homelessness' nationwide, that will 'devastate' not just individuals and their communities, but the economy broadly, Diane Yentel, president and CEO of the National Low Income Housing Coalition, says in a statement to CNBC Make It."). According to a recent national survey, more than 29 percent of those surveyed had "no confidence" or "slight confidence" in their ability to pay next month's rent. U.S. Census Bureau, *Week 8 Household Pulse Survey: June 18 - June 23*, U.S. CENSUS BUREAU (July 01, 2020), <https://www.census.gov/data/tables/2020/demo/hhp/hhp8.html>. More than 42 percent of African Americans had "no confidence" or "slight confidence" in their ability to pay next month's rent. *Id.* In Missouri, more than 22 percent of those surveyed had "no confidence" or "slight confidence" in their ability to pay next month's rent. *Id.* More than 38 percent of African Americans surveyed in Missouri had "no confidence" or "slight confidence" in their ability to pay next month's rent. *Id.*

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majority of Missouri families, more and more Missourians are finding themselves caught on the horns of this dilemma.²

The devilry of this conundrum is that if a family decides to sacrifice rent payments for utility bills or vice versa, that family will remain at risk for eviction and homelessness regardless of which payment they make. Failing to maintain utility service can be grounds for eviction via an unlawful detainer action.³ And for those families in federally subsidized housing, a utility disconnect can result in the termination of their subsidy⁴ and a ban from accessing other federally supported housing for the indefinite future.⁵ In short: with a growing number of families unable to afford to keep their utilities on, widespread eviction and homelessness is the inevitable outcome.

Research led by Dr. Patrick Fowler and colleagues at Washington University warns of the longer-term impact of COVID-19 on homelessness in the St. Louis region.⁶ Projections suggest a rapid increase in COVID-related homelessness that would peak 12 months following economic recovery, and the wave of new homelessness will not abate over a five-year period without intervention. More than 150,000 people who had housing will become homeless or face housing insecurity in St. Louis City and County alone. Immediate intervention to protect utility customers and ensure continued services is necessary to curtail this impending statewide disaster.

Utility intervention is not only necessary to prevent increases in homelessness, but also to ensure the viability of utility companies post-pandemic. A surge in homelessness and loss of housing will ultimately result in decreased revenue for utility companies as far fewer customers will be housed and using their services. Furthermore, families made homeless by the pandemic will no longer be paying utility bills and the likelihood that utility companies will be able to successfully locate these transient families and collect on delinquent accounts is slim. The best plan for ensuring continued revenue is to protect customers from utility disconnections by implementing new measures, which includes keeping customers engaged with flexible, extended payment arrangements.

While we have been encouraged by the actions individual utility companies have voluntarily taken to protect customers, such as issuing moratoria on late fees and utility disconnections and, in the case of Ameren UE, the establishment of the COVID-19 Clean Slate Program,⁷ more is required to confront this crisis. For instance,

² In March 2020, the statewide unemployment rate was 4.5 percent. Dep't of Labor & Indus. Relations, *Department Statistics Archive: March 2020*, DEP'T OF LAB. & INDUS. REL., <https://laborwebapps.mo.gov/data/statArchive?s=1&date=2020%2C03&sub=> (last visited July 6, 2020). As of May 2020, a few months after the COVID-19 pandemic started, the unemployment rate was 10.1 percent. Dep't of Labor & Indus. Relations, *Data and Statistics*, DEP'T OF LAB. & INDUS. REL., <https://labor.mo.gov/data> (last visited July 6, 2020). Locally in the City of St. Louis, the unemployment rate rose from 5.2 percent in March 2020 to 13.5 percent in May. Dep't of Labor & Indus. Relations, *Unemployment Benefits by County: St. Louis City*, DEP'T OF LAB. & INDUS. REL., https://laborwebapps.mo.gov/ui_stats?s=1&county=101&month_year=All+Months%2FYears (last visited July 6, 2020). In St. Louis County, unemployment rose from 4.1 percent in March to 10.3 percent in May. Dep't of Labor & Indus. Relations, *Unemployment Benefits by County: St. Louis County*, DEP'T OF LAB. & INDUS. REL., https://laborwebapps.mo.gov/ui_stats?s=1&county=102&month_year=All+Months%2FYears (last visited July 6, 2020).

³ Many lease agreements contain a provision requiring the tenant to maintain utility services at the rental property. If utility service is disconnected, then a landlord is entitled to evict the tenant for breach of the lease.

⁴ See 24 CFR 982.552(c) (allowing a Public Housing Authority (PHA) to terminate assistance for a Section 8 Housing Choice Voucher Program participant due to a breach in family obligations, which pursuant to 24 CFR 982.551(c) and 24 CFR 982.552(c)(1) includes failing to pay for utilities).

⁵ See 24 CFR 982.552(c)(1)(ii)-(iii) (permitting PHAs to deny admission to Section 8 Housing Choice Voucher applicants “[i]f any member of the family has been evicted from federally assisted housing in the last five years” and where a PHA “has ever terminated assistance [i.e. subsidy] under the program for any member of the family.”) (emphasis added); 24 CFR 960.203(c) (allowing PHAs to consider “all relevant information” when determining whether to admit a family into its public housing program). See also St. Louis Housing Authority (July 2019), *Admissions and Continued Occupancy Plan*, Section 8.8, (<https://www.slha.org/wp-content/uploads/2019/08/ACOP-062719-with-covers.pdf>) (SLHA will deny admission to the public housing program if “any family has been evicted from federally assisted housing in the past three years.”)

⁶ Patrick J. Fowler, HOMELESSNESS PREVENTION: AN EVIDENCE-BASED RESPONSE TO COVID-INDUCED HOUSING CRISES PRESENTATION TO ST. LOUIS CITY AND COUNTY (June 2020).

⁷ Ameren Mo., *Clean Slate Program: Get a Fresh Start*, AMEREN MO., https://www.ameren.com/missouri/residential/energy-assistance/clean-slate%20?wt.mc_id=EA-CS-COVID-L-WP (last visited July 6, 2020). See also Spire, Missouri Residential Customers Confidential Application for Assistance, SPIRE, <https://uwgsl.tfaforms.net/4602918> (last visited July 6, 2020).

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Ameren's Clean Slate Program provides one-time debt forgiveness to low-income customers who can pay 25% of their energy bill. Yet, the economic impact of the pandemic is anticipated to continue well beyond the initial months of re-opening such that eligible customers who avail themselves of this one-time assistance, will likely require additional measures to stay current and avoid disconnection.

For these reasons, we recommend that the the Commission adopt the following best practices to ensure that no Missourian faces homelessness during and following this pandemic emergency due to a failure to pay their utility bills.

1. Provide flexible and extended deferred payments plan for customers.

Provide flexible and extended deferred payment plans that allow all customers verbally expressing financial hardship to pay off utility arrearages over a twenty-four (24) month period and, in the event of a one-time default, the opportunity for customers to renegotiate a payment arrangement with the same terms.⁸ Prior to any deferred payment agreement, a customer service representative should assess the customer for eligibility under all available bill assistance programs, inform the customer whether any such program is available to reduce the customer's arrearage, and provide information on how the customer can access such assistance.

Those customers verbally expressing financial hardship and those who are LIHEAP-qualified should be offered deferred payment arrangements with no down payment. Self-certification should be sufficient to waive the down payment. For all other customers, utilities should be limited to requiring down payments that do not exceed ten percent (10%) of the deferred payment amount. Such deferred payment arrangements increase a customer's likelihood of successfully completing a payment plan, while reducing the utility company's uncollectible expense and increasing its chance of recouping costs from customers.

Utilities should offer such deferred payment plans to customers for up to 6 months following the end of Governor Parson's Executive Orders⁹ declaring a state of emergency or until June 30, 2021, whichever is later.

2. Establish a percentage-based account credit for customers expressing financial hardship due to COVID-19 pandemic.

Establish a percentage-based account credit for customers verbally expressing financial hardship due to the COVID-19 pandemic. The utility company should credit eligible customer accounts based on the percentage that reflects the individual default rate for each utility company or in the flat amount of \$125, whichever is greater. The percentage-based credit should be based on the customer's total outstanding arrearage. The percentage-based credit or flat credit should be applied to the customer's total outstanding arrearage. If an arrearage remains on the customer's account, then a customer service representative must work with the customer to establish a deferred payment plan consistent with the above recommendation.

Utility companies should be required to submit information relating to its annual default rate to the Public Service Commission no less than 15 days prior to the implementation of a credit policy.

3. Cease credit reporting on delinquent accounts.

Cease reporting late payments and nonpayment for active customers to credit bureaus and reporting agencies for up to 6 months following the end of Governor Parson's Executive Order 20-02 declaring a state of emergency or until June 30, 2021, whichever is later.

⁸ Pursuant to 20 CSR 4240-13.060(2), electric, gas, sewer and water companies are permitted to provide payment plans to customers that exceed 12 months based on the customer's ability to pay the amount, reasons for the debt, and other relevant factors.

⁹ Mo. Sec'y of State, *Governor's Executive Orders 2020*, MO SECRETARY OF STATE, <https://www.sos.mo.gov/library/reference/orders/2020> (last visited July 6, 2020).

4. Actively identify appropriate customer referrals to the Low-Income Weatherization Assistance Program (LIWAP).

Customer service representatives should actively review a customer's utility account for higher than average usage whenever a customer initiates contact with the utility company regarding the need for a deferred payment arrangement. If the customer's account shows a higher than average usage, the customer service representative should refer the customer to the LIWAP where appropriate and provide the customer with information on how to access such assistance.

5. Establish clear communications about new policies.

Establish clear communications about new utility policies and programs. Utility companies should communicate information about new policies to customers with utility arrearages on their accounts by U.S. Postal Mail or by electronic mail to those customers who has provided their email addresses as an acceptable means to receive such electronic communications. Utility companies should also communicate this information on its website and social media.

We thank you for the opportunity to provide comment on this important issue. As you continue to work to address this crisis, we urge you to focus on those most vulnerable and to ensure that all Missourian residents can remain safe, healthy, and housed.

Sincerely,



Daniel K. Glazier
Executive Director and General Counsel

Missouri Public Service Commission**Public Comments**

Public Comment No. **P202100009**
Utility Type **N/A**

Utility Company **N/A**

First Name **Victoria**
Middle Initial **N/A**
Last Name **Dempsey**
Street Address **4232 Forest Park
Avenue**
Mailing Address **N/A**
City **St. Louis**
State **MO**
Zip **63108**
County **N/A**
Phone No. **314-256-8708 Ext -**
Email **vedempsey@lsem.org**
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Services of Eastern Missouri, Inc.**
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