

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

In the Matter of a Working Case to Consider)	
Establishment of a Low-Income Customer)	
Class or Other Means to Help Make Electric)	File Nos. EW-2013-0045
Utility Services Affordable)	GW-2013-0046 and
)	WW-2013-0047

**SAINT LOUIS UNIVERSITY SCHOOL OF LAW CHILD ADVOCACY
CLINIC’S REPLY COMMENTS REGARDING THE NEED FOR A LOW-
INCOME CUSTOMER CLASS AND ADDITIONAL ENERGY ASSISTANCE**

In response to the Commission’s August 2, 2012 invitation for reply comments responding to any analysis or proposals brought forth in the initial comments, St. Louis University School of Law Child Advocacy Clinic and member of the St. Louis Children’s Health Advocacy Project provide the following reply comments.

Funding the Program

Concerning the issue of how to fund a program such as this, we stand by our previous suggestion that the funding costs be split between existing utility customers and utility providers. A great example of how this was previously implemented well is Ameren Missouri’s test-program “Keeping Current”, which ran for the past two years and was funded by large promised donations from Ameren and a small percentage increase in the amount paid by customers. Because the currently considered low-income program would be a larger program than confined to Ameren customers, other utility providers and by extension other customers would also be helping to fund the program. While our suggestion would require utility companies such as Ameren to provide additional

funding, it would lower the costs to customers by reducing the amount the customers were already paying under programs like Ameren's *Keeping Current* program.

Several filed comments refer to programs such as Ameren's *Dollar More* and suggest that these programs can take the place of a low-income class rate. Unfortunately, while *Dollar More* has been helpful, it seems unrealistic to assume that a program based on voluntary donations from customers can truly meet the assistance needed for low-income Missourians. A low-income rate class would create one funding avenue to address the need.

A small number of public comments filed were against a low-income program. The majority reasoned that increasing their rates to pay for low-income customers was unfair. One comment suggested that low income customers purposely stay at a low poverty level to receive benefits and not work. Of course statistics and research provided by various comments prove this is not accurate. But it is understandable that some customers feel this way. It is important to note that if a low-income class rate is created and implemented as our comments suggests; by splitting the difference between utility customers and utility providers, than the percentage increase for customers would be minimal. Moreover, when compared to the percentage increases that customers normally face when a utility rate is increased and the rates that current customers are paying under *Keeping Current*, this could be significantly lower.

Administering the Program

Many comments expressed concern that utility companies are not capable of administering a low-income program. We agree that the framework for a program like this is already in place with Missouri's LIHEAP funding dispersal system. LIHEAP uses various Community Action Agencies that qualify customers for eligibility and help those in need apply for funding. While there have been concerns with this system's effectiveness in notifying all people who qualify, the most pressing issue is the limited the funds available to help those who do qualify. A low-income customer rate could effectively provide for those not helped by the under-funded existing programs.

If a new low-income program were created, the current LIHEAP funding network could administer the qualification requirements using a standard percentage of the Federal Poverty Level system such as that suggested in our filed comment.

Legality

Several comments refer to Sections 393.130.2 and 393.130.3, R.S.Mo. These statutes prohibit utility providers from charging similarly situated customers different rates because those rates would be unlawfully discriminatory. Low-income customers are not similarly situated. Although they receive the same service, their circumstances and situation are absolutely different than other customers. Their income prevents them from paying the same rate and to charge the same rate would be unjust and unreasonable. It should be also noted that those statutes are directed towards utility companies charging

different rates for similar services, and not directed towards the PSC setting a low-income rate class. In fact, Section 393.140.5, R.S.Mo. allows the Commission to police the utility companies if they determine the companies are charging discriminatory rates. This suggests the Commission has more authority in these circumstances than other comments has suggested. In addition, Section 393.1075.6 specifically refers to low-income classes and gives the Commission some authority to change rates and expenditures related to those classes. When taken together with the Commission's statutory ability to set lower rates for telecommunications services, deemed not unlawfully discriminatory, it is arguable the Commission has the implied authority to set different rates for low-income classes which are not discriminatory.

The PSC staff's comment shows the Commission has the implied power to set interim rates and programs of this sort. Past programs very similar to this have been established, such as Ameren's *Keeping Current*. The suggested low-income state rate could be created by the Commission under the interim rate authority. The Commission could institute a test program as was done in *Keeping Current* to assess the effectiveness of a low-income rate class on Missouri's low-income needy residents.

Finally, Chapter 392 of the Missouri Statutes, relating to telecommunications, provides that economy rates or lower rates for telecommunications services are not unlawfully discriminatory. While this is not specifically provided for in chapter 393 relating to utility services, there are other provisions that are not included in chapter 393

that Missouri courts have found to be implied in chapter 393, such as the commission's power to set interim rates.

Wherefore, Saint Louis University School of Law Child Advocacy Clinic is asking that this reply comment be filed in this investigation and considered in deliberations.

Respectfully Submitted

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