BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of a Proposed Rulemaking to Amend 4 CSR 240-13 Service and Billing Practices for Residential Customers	)))	**Case No. AX-2013-0091**

JOINT COMMENTS ON PROPOSED RULEMAKING TO AMEND CHAPTER 13 RESIDENTIAL SERVICE AND BILLING PRACTICE RULES

COMES NOW **AARP**, the **Consumers Council of Missouri ("CCM")**, and **Legal Services of Eastern Missouri, Inc. ("LSEM"),** collectively referenced herein as "Joint Commenters", and hereby provide these written comments in response to the proposed revisions[1] to the Missouri Public Service Commission's ("Commission's") Chapter 13 Rules (currently entitled "Service and Billing Practices for Residential Customers of Electric, Gas, and Water Utilities"), which govern the basic rights and responsibilities of regulated utilities vis-à-vis their captive residential consumers.

Over the past few years, each of the Joint Commenters have participated in several informal stakeholder discussions leading up to this rulemaking case, during which a wide variety of possible changes to Chapter 13 of the Commission's Rules were proposed. Clarification of many issues were resolved among the stakeholders and the Commission's Staff ("Staff") during those productive discussions, and are reflected in

[1] These joint comments refer to the proposed rule changes set out in nine separate amendments in the above-styled rulemaking case on the Commission's EFIS website on August 2, 2013, and as published in the Missouri Register on September 3, 2013 (pp. 1363-1376).

the proposed revisions. However, several challenging issues between consumer interests and regulated utilities remain unresolved.

In Section I of these comments, Joint Commenters discuss some concepts to consider regarding the overall impact of the proposed changes to Chapter 13, and then in Section II, specific comments are made in chronological order regarding proposed rule changes. In some places, the Joint Commenters suggest specific new language where it is believed that inadequacies should be corrected to the manner in which Chapter 13 currently protects consumers. Joint Commenters also reserve the right to offer additional comments and suggestions at the rulemaking hearing on October 10, 2013.

I. General Comments and Concerns

The primary concern of the Joint Commenters in this matter is preservation of the balance of rights between utilities and their captive customers who need essential services. We urge the Commission to prevent an unintended erosion of consumer rights during the process of revising Chapter 13. During the previous stakeholder discussions, a substantial amount of time and attention was devoted to what some utilities termed “problem customers”. However, the Joint Commenters repeatedly warned against making rule changes that are designed to address a few difficult situations, but that would have the overall effect of infringing upon the rights of customers who have legitimate disputes regarding utility charges and/or problems accessing essential utility services.

The Joint Commenters also have special concerns regarding the public health and safety impacts of certain proposed changes to Chapter 13 that would weaken consumer protections or that could further limit access to utility service for vulnerable consumers (including senior citizens, families with young children, consumers with disabilities, and those consumers who are medically frail or who rely upon electrically-powered medical devices).

When a controversy arises, the power relationship between an individual residential consumer and a regulated utility is not equal. Oftentimes, the minimum consumer protections provided in Chapter 13 are the only bulwark that a captive consumer has against a utility that is attempting to deny access to essential services or is attempting to discontinue those essential services. For instance, it is important that changes to Chapter 13 do not currently place an innocent consumer in a situation where she must pay for the utility bill of another person as a condition of receiving service for herself. Under Missouri law, a utility may not compel payment for utility services for which that customer did not receive "significant benefit". See State ex rel. Imperial Utility Corp. v. Borgmann, 664 S.W.2d 215, (Mo. App. 1983).

Regulated utilities may comment that certain vulnerable consumers, defined as "disabled" or "elderly" (over sixty-five years of age), *if registered with the utility*, are granted extra protections under the Cold Weather Rule ("CWR") section[2] of Chapter 13. However, there is no automatic process to place such individuals on a registration list when that individual first becomes eligible (i.e., when someone celebrates their 65th birthday). Furthermore, the process for registering under these protected categories is not widely known and the current CWR requires renewals each year in order to stay

[2] 4 CSR 240-13-055.

registered. Thus, the utility lists of “registered disabled” and “registered elderly” fall far short of including all persons who are eligible for the extra protections under the CWR. Moreover, there are consumers for whom essential services are a major public health concern (e.g., consumers with infant children or family members that are otherwise medically frail) but which do not fall within a recognized category under the CWR. Joint Commenters believe that, while the registration provisions provide a helpful safeguard, it is no substitute for ensuring that the minimum public safety protections of Chapter 13 as a whole are adequate to protect all consumers, recognizing that accessing essential services can be a matter of life and death for many consumers who are not registered.

Another concern relates to provisions of Chapter 13 that defer to utility-specific tariffs regarding certain important issues (i.e., bill estimation procedures; deposits); the proposed revisions would defer the particulars of certain consumer protections to those utility-specific tariffs. Joint Commenters believe that referencing tariffs is not an ideal rulemaking policy, and urges the Commission to avoid doing so when possible. Preferably, the residential billing rules contained in Chapter 13 should have general applicability and ensure minimum standards and fundamental rights that are guaranteed to all residential consumers. The rules contained in Chapter 13 are more easily accessed by consumers than are tariffs, and tend to be more easily understood by consumers. If exceptions to Chapter 13 are deemed warranted by the Commission, Joint Commenters believe that it is a better practice to have the utility seek an exception through a specific waiver filing, rather than through a proposed tariff provision that may conflict with the general consumer protections offered by Chapter 13.

Joint Commenters support the proposal to add sewer companies to the type of utilities subject to Chapter 13. Sewer customers (and customers of small utility companies generally) should benefit equally from the protections afforded in the Commission's residential billing rules. However, the Commission should be careful to avoid lowering the general protections available to all consumers in an effort to include sewer companies or small companies in these rules. Joint Commenters also oppose allowing disconnection of water service for nonpayment of unrelated charges (i.e., sewer utility charges), as discussed more specifically below.

Another overriding principle that the Joint Commenters believe should guide any revision to Chapter 13 is the incentive for accurate billing. Any changes to the rules regarding billing adjustments or to estimation procedures should not foist upon consumers the risk of mechanical meter malfunctions or which force consumers to pay estimated charges when billing errors occur that are not the consumer's fault or are otherwise beyond the consumer's ability to control. Ratepayers expect and deserve accurate bills and they do not believe that they should bear the risk of inaccurate readings.

II. Comments on Specific Proposed Changes

a. Definitions – Rule 13.015

Most of the proposed definitional changes are not objectionable, although it is important that each definitional change be analyzed carefully, not just by how the word itself is defined, but also by how a definitional change may inadvertently change every

use of that word throughout Chapter 13. The following definitions bear special scrutiny in order to ensure that proposed definitions do not cause unintended changes to existing consumer rights.

i. "Applicant" and "Customer"

The proposed rule would amend the definition of "applicant" by adding this sentence, "Upon initiation of service, the applicant becomes a customer." Joint Commenters are concerned that the use of the words "applicant" and "customer" throughout Chapter 13 are not currently consistent with that dichotomy, in that certain operative rules refer to applicants as customers [For example: 4 CSR 240-13.030(1) regarding deposits]. Joint Commenters are concerned that an existing "customer" will be re-labeled as an "applicant" simply by moving to a new address, and thus be required to go through an entirely new credit check process in order to transfer their service.

Before the Commission decides to proceed with revisions to the proposed definitional part of the rules, it should ensure that no definitional change results in an unintended denial of consumer protections to an applicant that would otherwise be afforded under the current billing rules.

ii. "Inquiry" and "Complaint"

The proposed new definition of "inquiry" creates similar concerns. Creating this new official definition of consumer contacts, to the exclusion of those consumer contacts that fall within the definition of "complaint", could unintentionally cause a

shrinkage of consumer rights, limiting the appropriate remedies available under 4 CSR 240-13.070. If this new definition of "inquiry" is created, Joint Commenters suggest that the following clarifying language be added to it: "An inquiry that expresses a concern or disagreement with a utility charge or utility service shall also be considered a complaint under these rules."

iii. "Payment Agreement"

The proposed definition of "payment agreement" is not necessary and could lead to confusion. The proposal is not a proper definition in that it does not actually describe the essential properties of a payment agreement, rather it creates two new limitations on payment agreements: 1) that a payment agreement "remains in effect as long as its terms are being adhered to", and 2) that a payment agreement "shall not exceed twelve (12) months duration, unless the customer and utility agree to a longer term". Joint Commenters do not agree that this definition is necessary because utilities should have the flexibility to work with their customers and offer payment agreements that exceed such limits. Joint Commenters propose that this definition be deleted as unnecessary.

iv. "Rendition"

The new proposed change to the definition of "rendition" would expand the term to include a bill "posted electronically". Such a method of rendering a bill is acceptable, provided that the rules make it clear that the customer has agreed to receive his utility bill in that particular way (i.e., electronically), such as adding the words "as agreed to by the customer". Joint Commenters object to this definition without such a clarification.

v. "Payment"

The proposed new definition of "payment" should likewise recognize that any new method of payment (i.e., "electronic transfer") for utility charges must be agreed upon by the customer. Joint Commenters suggest adding the words "as agreed to by the customer" to the end of this definition.

b. Billing and Payment Standards – Rule 13.020

i. Joint Commenters Oppose the Expansion of Estimated Bills

The current electronic era justifies setting a higher standard for accurate billing by utilities, not a lower standard. Joint Commenters believe that the Commission should discourage estimated utility billing practices, rather than expand the ability to use estimates through a rule revision. The current Rule 13.020 prohibits estimated billing unless absolutely necessary (i.e., extreme weather, emergencies, work stoppages, or when a utility is unable to gain access to a customer's premise for the purpose of reading a meter) or when a seasonal customer agrees to an estimated bill. Several provisions of the proposed rule would expand such exceptions to include situations when an actual reading is possible, but it is simply more convenient for the utility to estimate the bill. Joint Commenters urge the Commission to retain the current consumer protections that require an actual reading whenever it is possible.

Joint Commenters oppose the proposal to create or expand deferrals from the protections of this rule to utility-specific tariffs [proposed subsection (2)(C)(1)]. Chapter

13 should establish basic consumer rights that adhere to all consumers. Company-specific tariffs are not easily accessed nor understood by the normal consumer. If special circumstances warrant, it is a better practice to require utilities to file for a waiver from the rule to seek an exception from the generally applicable rule.

Joint Commenters also oppose the way that the proposed rule would place the risk of equipment failure upon the consumer. We believe that the risk should be placed upon the utility whenever an automatic meter reader ("AMR") fails or other "equipment or mechanical failure" occurs. It is, after all, the utility that installs and maintains such equipment, and thus it is only proper to place the incentive on the utility to reduce such failures and to reduce the likelihood that a customer is sent a large catch-up bill resulting from an estimated bill. Estimated bills generate numerous complaints filed with the Commission. Correctly aligning the risks and incentives with the regulated utility will reduce the number of complaints lodged at the Commission from angry consumers who have no control over the faulty equipment belonging to the utility or to its vendors.

Joint Commenters strongly urge the Commission to reject the proposed expansion of estimated billing practices and accompanying erosion of consumer protections. Rather, the Commission should adopt a rule that encourages utilities to pursue actual and accurate meter readings, and that provides strong incentives for utilities to prevent and to fix problems that occur with AMR devices. Utilities have control over the management of meter reading technology, while consumers have virtually no such control.

Furthermore, Joint Commenters propose (below, in the section on Discontinuance – Rule 13.050) that no customer should have their utility service involuntarily discontinued based solely upon an unpaid bill which was estimated. Unless a customer is unreasonably preventing the utility from obtaining an actual meter reading, it is unfair to disconnect service solely on an estimation. Discontinuance of service is a severe enough remedy that the utility should be required to first obtain an actual reading.

ii. Equalization of Billing Time for Monthly and Quarterly Bills

There is no justification for the current uneven billing turnaround required for paying utility charges under subsection (7): "A monthly-billed customer shall have at least twenty-one (21) days and a quarterly-billed customer shall have at least sixteen (16) days from the rendition of the bill to pay the utility charges . . ." Joint Commenters propose that all customers be permitted 21 days from rendition to pay a bill. It is particularly onerous to shorten by 5 days the time permitted to pay when a quarterly bill is likely to be three times as large as a monthly bill.

iii. Mandatory Preferred Billing Date

Most utilities (but not all) currently offer a preferred billing date plan. For many consumers who receive their income on a specific date each month (such as a retirement check), a preferred billing date plan is necessary in order to be able to pay their utility bills on time. Joint Commenters propose that subsection (7) of this rule be

clarified so that it is mandatory for a utility to offer its customers the ability to choose their preferred billing date.

iv. Format for Customer Billing and Status Information

The proposed rule would add a new subsection (13) that states, "A utility shall allow payment by mail but may allow payment through telephone, electronic transfer or through a pay agent." Joint Commenters propose that this new provision further clarify that such information shall be available in whichever of these formats the customer chooses, by adding the phrase, "pursuant to the customer's preference".

The proposed rule would also add a new subsection (14) that states, "A utility may provide customers current bill status information via telephone, electronic transmission or mail." Joint Commenters propose that this new provision also clarify that such information shall be available in whichever of these formats the customer chooses, by adding the phrase, "pursuant to the customer's preference".

v. Ban on Formal Relationships with Predatory Lenders

It is important that utilities are not given permission to formally associate with predatory or "payday" lenders. In order to avoid harming their reputation, most (but not all) regulated utilities in Missouri currently refuse to formally do business with such payday lenders in a pay agent relationship. By not restricting formal pay agent relationships with such businesses, the Commission allows utilities to steer vulnerable consumers into financially hazardous situations that threaten their ability to continue paying their utility bills.

It may not be possible or wise to prevent utilities from accepting payments that are sent to it from such disreputable businesses on behalf of their consumers; however, the Commission should ban formal business dealings that send consumers the message that predatory lenders are endorsed by state regulation. Therefore, Joint Commenters propose adding this sentence to a new subsection (14) of this rule:

> "No utility may enter into any formal pay agent relationship with pawnshops, auto title loan companies, payday loan companies or other entities that are engaged in the business of making unsecured loans of five hundred dollars or less or that lend money where repayment is secured by the customer's postdated check."

vi. No Extra Charges for Format of Billing

Joint Commenters propose that a new subsection (15) be added to Rule 13.020 to ensure that utilities do not use the availability of new billing formats to charge extra fees or surcharges for rendering a bill or for issuing other essential billing information:

> "No utility shall charge any customer a fee or charge for rendering a bill or a replacement bill or any other statement of account of amount due in a printed form or, if available and at the customer's preference, rendering the same in an electronic format. If no customer preference is made, the utility shall provide a printed copy without charge. If alternate bill formats are available, the customer shall have the right to choose or to change the method of billing without an additional charge."

c. Billing Adjustments – Rule 13.025

i. Backward-looking Re-billing Period for Undercharges

Joint Commenters propose an amendment to subsection (1) of this rule to allow a shortened period for capturing errors that are caused by the utility undercharging.

Currently, the rule allows a utility to re-bill backwards for *twelve months* of error, even in instances where the utility's incorrect billing is the result of a malfunction in company-owned equipment or other circumstances outside the consumer's control. Shortening the backward-looking period in this situation to *six months* of erroneous billing would lessen the controversy, as well as recognize that adding an entire year's worth of re-billing can be difficult for customers with limited incomes. Shortening the backward-looking period to six months would also increase the incentive for the utility to reduce billing errors and minimize the difficulty in correcting underbillings.

ii. Repayment Period for Undercharges

The proposed new subsection 13.025(1)(c) states that, in the event of an undercharge that is not the fault of the customer, requires utilities to "offer that the adjustment be paid over a period covered by the adjusted bill." Sometimes undercharge errors can be quite large, even for short periods of time, and for many consumers requiring the adjustment to be placed on top of current charges is still very difficult. Joint Commenters suggest that the customer also be allowed to pay such adjustment over at least a 12-month period, if the customer so desires. This change could be accomplished by adding this phrase at the end of the proposed subsection 13.025(1)(c): "or twelve (12) months, whichever is greater."

d. Deposits – Rule 13.030

i. Joint Commenters Urge Preservation of the Prima Facie Methods of Achieving Credit for All Consumers

Credit scoring by regulated utilities raises serious questions of fair practice and access to essential services, especially for low-income and "working poor" consumers. While utilities claim that credit scoring helps them be more efficient and profitable, credit scores are often based on reports that contain erroneous information due to mistakes or identity theft. Therefore, Joint Commenters recommend that the Commission not allow the widespread use of credit scoring, and when it is allowed, it should not be the only method for determining whether a consumer must pay a security deposit.

The current Rule 13.030(1)(C) allows credit scoring as a method of establishing an acceptable credit rating to avoid having to pay a deposit, but also allows the consumer four "prima facie" methods of establishing an acceptable credit rating:

"1. Owns or is purchasing a home;
2. Is and has been regularly employed on a full-time basis for at least one (1) year;
3. Has an adequate regular source of income; or
4. Can provide adequate credit references from a commercial credit source."

The proposed rule would limit the availability of these four methods to only those consumers with "insufficient credit history".

The Joint Commenters believe that it is unreasonable to allow utilities to rely so heavily on credit scoring alone. The availability of the four additional methods to establish credit provides an essential safety net to ensure that all consumers who own a home (important for many older consumers) and those who can provide evidence of regular employment or income also qualify. These four methods of establishing credit with the utility should continue to qualify consumers for avoidance of a deposit

regardless of their credit history. The Joint Commenters urge the Commission to revert back to the current consumer protection language, allowing consumers to retain all of the current methods for establishing credit.

ii. Excessive Deposits

The current subsection (4)(A) of this rule allows a deposit that is "two times the highest bill". The proposed rule would also allow a deposit up to "four times the average bill", if so stated in the utility's tariff. As an alternative, the Joint Commenters suggest a revision that would allow the required deposit to be "either two times the highest bill or four times the average bill, whichever is less".

e. Denial of Service – Rule 13.035

i. Access to Essential Services Should Not Be Dependent Upon a Complaint.

The new subsection 13.035(1)(A) of this proposed rule contains a sentence that could allow a utility to deny service based upon a disputed utility charge, unless that utility charge is "subject to dispute" under the specific procedures of the Commission's complaint procedure in Rule 4 CSR 240-13.045. It is unfair to require a consumer to know about the Commission's complaint procedures, and be forced to lodge a complaint, in order to avoid an otherwise unlawful denial of service. If a consumer does not believe that she is responsible for a utility charge, then the charge is indeed disputed, no matter whether the consumer is savvy enough to know how to utilize the Commission's complaint procedures, and no matter how the utility wishes to label the

dispute. The Joint Commenters propose clarifying that this subsection still prevents the denial of service only for any disputed charges (i.e., only "undisputed charges" may be the basis of the denial of service), and further propose deleting the second sentence of this subsection altogether.

ii. Refusal of Service Should Be in Writing

The proposed new subsection 13.035(1) would state:

> "When the utility refuses to provide service to an applicant for service, the utility shall inform the applicant verbally, if recorded and retained, or written upon applicant request, unless otherwise specified."

The Joint Commenters believe that when a utility issues a denial of service such denial should be required to be in writing, and thus propose the following alternative language, in order to ensure that the applicant/consumer receives all of the adequate and appropriate notices and information in a format that he can take with him:

> "When the utility refuses to provide service to an applicant for service, it shall inform the applicant in writing, and shall maintain an accurate record of the written notice."

Denial of the right to access essential services is too important to allow mere verbal communications to serve as adequate notification.

f. Discontinuance – Rule 13.050

i. Joint Commenters Strongly Support the Commission's Retention of the In-Person Premise Visit (or "Door Knock Safety Check") Prior to Discontinuance of Service

The current subsection (8) [new subsection (10)] retains a requirement designed to help prevent public health tragedies by creating an expectation of reasonable effort

for in-person contact by a utility employee with the customer immediately prior to an involuntary discontinuance of essential services:

> "(8) Immediately preceding the discontinuance of service, the employee of the utility designated to perform this function, except where the safety of the employee is endangered, shall make a reasonable effort to contact and identify him/herself to the customer or a responsible person then upon the premises and shall announce the purpose of his/her presence. . . "

Some regulated utilities may propose to eliminate this subsection. The Joint Commenters strongly support the Commission's retention of this requirement as important to public health and safety. The main purpose of this subsection is to ensure that a human being attempts to make direct contact with the consumer and is physically present to identify any obvious public safety issues that might be associated with disconnecting service at that premise. It is also important to note that (by explicit exemption) the rule does not ever require an employee to go into a situation that the employee subjectively feels is dangerous. Many unfortunate risks to older customers with health concerns have thankfully been avoided in the past due to this practice because alert employees noticed health concerns on the premises.

For a discussion of the evidence of health and safety problems related to the discontinuance of residential electric service without an attempt to provide in-person notice at the home, please read the attached letter from Dr. Megan Sandel regarding a recent Health Impact Assessment of proposed remote disconnection practices in the service area of Commonwealth Edison in Illinois.

ii. Joint Commenters Propose Ban on Discontinuance for an Estimated bill.

As discussed earlier, Joint Commenters propose adding a new provision to the list of causes in subsection (2) that are insufficient to permit discontinuance of service, banning discontinuance for an estimated bill:

> "13.050(G) Failure to pay estimated charges, unless the customer has unreasonably hindered the utility's attempt to obtain an actual meter reading."

Adding this ban would require the utility to simply make the effort to obtain an actual reading prior to discontinuance of service. Disconnection of essential services is a drastic remedy, and it is considered to be patently unfair by consumers who believe that they are being charged an estimated bill based upon an inaccurate assessment of the customer's usage. Consumers should not bear the risk of factors outside their control, and the utility should face an incentive to fix problems and maintain accurate readings. If this provision is adopted, it will go a long way towards eliminating other language disputes discussed earlier regarding the methods permitted for estimating bills.

iii. Electronic Discontinuance Notices

Consistent with its strong positions regarding sufficient and adequate notice provisions, Joint Commenters oppose the newly proposed subsection (4) that would allow notice of discontinuance to be delivered by electronic means, in place of currently required written notices. Even if a customer once gave consent to the utility for electronic billing information, it is possible that by the time that the customer is facing the discontinuance of essential services, the customer's internet service has been disconnected. Notice requirements are simply too important for consumer protection

when the remedy is as extreme as discontinuance to rely solely on electronic means for notices to the exclusion of written and verbal notices. Thus, Joint Commenters propose deleting the words ". . . in place of any written and verbal notices. . . " in the proposed subsection (4).

iv. Joint Commenters Oppose Disconnection of Water Service for Nonpayment of Sewer Service

Joint Commenters oppose the language of the newly proposed subsection (6) that would allow the disconnection of water service from a water customer who has kept current with payment of her water bill, but has outstanding sewer charges. It is a long-held principle of consumer protection that no essential service be discontinued for nonpayment of unrelated charges. The proposed subsection (6) sets a precedent against the public interest by allowing such essential services to be used as leverage in collecting unrelated debts. Sewer utilities have all of the debt collection remedies available to non-regulated businesses for collecting on unpaid sewer bills, plus the remedy of placing a lien on the property of a delinquent sewer customer. This provision is unnecessary and should be removed from the proposed rule.

v. Adequate Time Needed to Seek Means for Reconnection

The current subsection 13.050(3) allows utility shut-offs between the hours of 8:00 am and 4:00 pm. The proposed rule would expand those shut-off hours to any time from 7:00 am to 7:00 pm. The Joint Commenters are concerned with the public health and safety implications of allowing shut-offs to occur late in the day. If a

household is disconnected, the family will often need to very quickly seek financial assistance from a community action agency ("CAA"), a church, or other charity, before returning to the utility with the means to obtain a restoration of service. Allowing shut-offs of a heating utility service only one hour prior to the time that the utility will stop performing reconnections for that day has proven to be an insufficient amount of time to prevent that family from spending the night without heat, even if they can find assistance. Therefore, Joint Commenters support retaining the current end-of-day time limit of 4:00 pm for allowing the discontinuance of utility service.

For the same reasons stated above, the Joint Commenters also propose that new language be added to this part of the rule clarifying that a utility may not discontinue service on weekends or holidays.

g. Cold Weather Rule – Rule 13.055

i. Registration Process Not Widely Known.

The current CWR offers additional protections to "elderly" and "disabled" consumers, provided that those consumers comply with a registration process by filling out a utility-approved form, although no notifications about the registration process are required. Subsection 13.055(1)(D). Joint Commenters are concerned that many qualifying consumers are not aware that they would need to register in order to benefit from the extra protections, and thus propose a new requirement to the rule that electric and natural gas companies must notify all consumers via a conspicuous notice in its billings prior to each annual cold weather period, stating that these special categories of

consumers can receive additional protections during the winter months and explaining where the forms may be accessed.

ii. Temperature Moratorium Calculation Needs Clarification.

Subsection 13.055(5), which prohibits disconnection on certain days during the cold weather period when the temperature is predicted to drop below 32 degrees Fahrenheit, has been the subject of some controversy on days when the temperature is predicted to be higher than 32 degrees but does not actually rise to that predicted temperature level in some parts of a utility's service area. Joint Commenters support clarifying language that would ensure that the utility may also not proceed with discontinuances during times of day when the *actual* temperature is below 32 degrees.

Respectfully submitted,

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Dated: October 7, 2013

Attachment: Letter from Dr. Megan Sandel

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of October 2013 copies of the foregoing have been mailed, emailed or hand-delivered to the Commission's General Counsel's Office and the Office of the Public Counsel.