

**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)	<u>File No. AX-2013-0091</u>
Practices for Residential Customers)	

COMMENTS OF MISSOURI UTILITIES

COMES NOW the undersigned utilities (the “Missouri Utilities”) and, in response to the Commission’s August 2, 2013 Proposed Rulemaking, file these Comments to the proposed amendments to Chapter 13 of the Commission’s Rules, and in support thereof state as follows:

INTRODUCTION

This Rulemaking is the culmination of several years of workshops led by Gay Fred and the Staff’s Consumer Services Department. The main goal of these workshops was to update the Chapter 13 rules to reflect modern technology without materially changing the balance among the three main factions affected by these rules: the large majority of residential customers who stay current on their bills, the minority of residential customers who are either unable or unwilling to stay current, and the utilities that serve them. The proposed rules previously provided by the Staff to the Commission were based on input from numerous parties, including Staff members, utilities, the Office of Public Counsel, AARP, and at least one community action agency. The Missouri Utilities are generally supportive of the Commission’s final product and believe that these amendments will improve the Chapter 13 rules.

Subject to the specific comments provided below, the Missouri Utilities believe that the proposed rule revisions accomplish the goal of updating the Chapter 13 rules.

First, many of the proposed rule changes clarify ambiguities, correct errors and sharpen language. These changes are sprinkled throughout the 11 separate rules addressed in this rulemaking. The Missouri Utilities will not pore over those details in this pleading, but believe that these changes generally improve the rules.

Second, the Missouri Utilities also believe that the rule changes maintain an appropriate balance among all residential customers and their utilities. From the perspective of the utilities, the balance reflected in the Commission's current rules has reasonably accommodated those customers who struggle to pay their utility bills. The main rule provision protecting non-paying customers is, of course, the Cold Weather Rule. Since this rulemaking leaves the Cold Weather Rule virtually untouched, it does not substantively change the current balance.

Third, the Missouri Utilities support the proposed changes that modernize the Chapter 13 rules. We believe that the amended rules better reflect the technological and other realities of 21st century utility service. Below are several examples of opportunities to modernize the rules:

- A. Many customers today prefer to receive and pay bills electronically. The rules should not be interpreted to require utilities to physically mail every bill to a customer, but should allow for electronic billing and communications where agreeable to the customer. One amendment to the rules does allow for electronic notices, but the Commission should also confirm that the definition of billing in Rule 13.015 includes an electronic billing option;
- B. A payment made by check should only be considered valid if there are good funds available to cover it. Accordingly, the new definition of payment

should either refer to a “draft that has not been dishonored” or a “draft of good and sufficient funds.”

- C. Rule 13.020(2)(A) should be changed to reflect that modern meter reading is often done by remote transmission rather than manual review, and that estimating a bill is appropriate where there is an equipment or mechanical failure, and not just due to a lack of access. With one minor exception discussed below, the revised rules effectively accomplish this goal;
- D. In the information age, utilities should be permitted to replace the outdated and subjective deposit criteria in Rule 13.030(1)(C) with the quantitative and objective criteria provided by credit scoring. While the rule change implies that credit scoring is an acceptable option, it could be more definitively stated;
- E. In the near future, technology may be able to reduce the costs incurred to disconnect service by providing the ability to do so remotely. Rule 13.050 should allow for such improvements by requiring a technician discontinuing service to knock on the customer’s door only when the technician is working on-site, and only when he or she believes it to be safe.

Finally, the most significant addition to the rules is the medical emergency certificate program. The Missouri Utilities supports the concept behind the program, but believe it could be streamlined to make the program less complex.

COMMENTS TO SPECIFIC RULES

4 CSR 240-13.020 BILLING AND PAYMENT STANDARDS

Section 13.020(1) requires utilities to “render a bill” to every residential customer in accordance with their tariffs. A minor change was made to this section to confirm that

the tariffs must be approved. However, during the workshops, the parties proposed changes to the definitions of “Bill” and “Rendition of a bill” in **Rule 13.015** just to confirm that bills may be rendered in electronic format. Changes to these definitions may be unnecessary since a “Bill” is defined as a written demand for payment, and an electronic bill is certainly in written form. And “rendition of a bill,” as defined, includes mailing, but is not limited to physical or postal mailing. If this is the case, that the Chapter 13 rules already permit electronic billing, and the Commission so confirms in its Order adopting the proposed rules, then further terms of electronic billing may be left to each utility’s tariff.

Section 13.020(3) requires utilities to permit customers to do their own meter reading and reporting. This system was helpful under circumstances where meter reading required regular physical access to the meter, and especially where that access was restricted. Today, many meters are read by devices which send remote signals to the utility. These devices have proven to be more reliable and accurate and less burdensome to the customer. Utilities that employ remote meter reading are no longer structured and no longer have the need to conduct the expensive process of sending and receiving meter reading cards for manual input. However, there still may be circumstances where remote meter reading cannot be performed and customer meter reads could be useful. Therefore, the Missouri Utilities suggest that customer meter reading be permitted by mutual agreement of the customer and utility. Language supporting this change to Rule 13.020(3) is set forth below.

3) If a utility is unable to obtain an actual meter reading for three (3) consecutive billing periods, the utility shall advise the customer by first class mail or personal delivery that the bills being rendered are estimated, that estimation may not reflect the actual usage, and that, **upon mutual agreement of the utility and the customer**, the customer may

read and report their electric, gas or water usage to the utility on a regular basis. [The] **A utility shall explain to the customer the** procedure by which this reading and reporting may be initiated[shall be explained]. **At least annually, a** utility shall attempt to secure an actual meter reading from customers **who are** reporting their own usage[at least annually], except for quarterly-billing utilities in which case it shall be every two (2) years. These attempts shall include personal contact with the customer to advise the customer of the regular meter reading day. The utility shall offer appointments for meter readings on Saturday or prior to 9:00 p.m. on weekdays. The utility[]’s obligation to make appointments shall begin only after a tariff,[for] **describing** the appointment[s] **process**, has been filed with and approved by the commission. Discontinuance of the service of a customer who is reading and reporting usage on a regular basis because of inability to secure an actual meter reading shall not be required.

4 CSR 240-13.025 BILLING ADJUSTMENTS

The Rulemaking proposes a new **Rule 13.025(1)(C)**, which provides that “In the event of an undercharge, the utility shall offer the customer the option to pay the adjusted bill over a period at least double the period covered by the adjusted bill.” Currently, provisions allowing payment of an undercharge are only in utility tariffs and not in the Chapter 13 rules. For example, Laclede Gas Company’s tariff allows a customer to pay the adjustment in equal installments “over a period not to exceed the period for which the billing adjustment was applicable.” In other words, if a customer was undercharged \$300 over 6 months, the customer could pay back the \$300 over a period of up to 6 months. The Missouri Utilities have come to view such a tariff as unnecessarily restrictive, as there are sometimes circumstances that warrant a longer payback period. However, requiring the payback period to be at least double the adjustment period also seems unnecessarily restrictive as circumstances often do not warrant such a long period. Moreover, some utility billing and accounting systems are not set up to permit such extended payments except through a payment agreement – a circumstance that should be recognized in any final rule. The Missouri Utilities propose a middle ground that will allow the customer at least the same payback period as the adjustment period pursuant to

a payment agreement and leaves discretion for the parties to agree to a longer payback period. We suggest the following language:

(C) In the event of an undercharge, the utility shall offer the customer the option to pay the adjusted bill pursuant to a payment agreement under which the customer may pay the amount of adjustment in equal monthly installments over a period at least equal to the period covered by the adjusted bill.

4 CSR 240-13.030 DEPOSITS AND GUARANTEES OF PAYMENT

Section 13.030(1)(C) allows customers to avoid paying a deposit for new residential service if they can “establish an acceptable credit rating.” As discussed above, the current criteria for determining an acceptable credit rating is both subjective and out-of-date. For example, it provides that the customer have “an adequate regular source of income.”¹ Not only is this criteria vague and ambiguous, but it does not address the key factor of whether the customer is likely to meet his or her payment obligations. Another criteria is whether the customer “owns or is purchasing a home.” Even in the past, the assumption that homeowners were better credit risks than renters was at best a generalization. But that has become even less certain in recent years amid plunging housing prices that occurred in the wake of the mortgage credit crisis.

While it may not be perfect, utilizing credit scoring is, without question, the best and fairest criteria for determining deposits on new residential service, because credit scoring is correlated to the likelihood that a customer will pay the bill. The proposed rule provides that deposits for an applicant who has no credit score should be determined

¹ The proposed amendment to this particular provision which deletes the word “adequate,” further weakens the rule by providing that the customer just have “a regular source of income” without any regard to the customer’s likelihood of meeting payment obligations.

based on the old criteria. The old criteria may be acceptable in the absence of credit scoring, but if a utility uses credit scoring, it should be entitled to seek a deposit from an applicant who has insufficient credit history to determine a credit score, because that applicant has not yet established “an acceptable credit rating.”

The Missouri Utilities suggest the following language for Section 13.030(1)(C):

(C) The *[customer]* **applicant** is unable to establish an acceptable credit rating under standards contained in *[tariffs filed with and approved by the]* **the utility’s commission-approved tariffs. A utility may use credit scoring to determine an acceptable credit rating. In the absence of tariffed standards, If the applicant has insufficient credit history to determine a credit score, then the applicant shall be deemed to have established an acceptable credit rating if the applicant** *[customer]* meets any of the following criteria:

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.

4 CSR 240-13.035 DENIAL OF SERVICE

Rule 13.035(1)(A) pertains to situations where a utility has requested payment of a past-due balance as a condition for commencing or restoring service, and the customer disputes the debt. Conditioning new service on the payment of old debt is perhaps the utility’s best opportunity to reduce bad debt. In order to avoid customers circumventing this opportunity by concocting a dispute over the debt, the current rule requires that such dispute be “the subject of an open informal complaint at the Commission.” The proposed amendment to this rule strikes this requirement and just provides that the charge be “not subject to dispute.” At the workshops, the consumer groups believed that requiring the customer to have opened an informal Commission complaint was too high a hurdle, while the utilities viewed the customer merely alleging a dispute to be too subject to abuse.

As a compromise, the Missouri Utilities suggest that this rule be made consistent with the dispute provisions in Rule 13.045(1) and (4), which provide that (1) a dispute be registered with the utility at least 24 hours before discontinuance in order to avoid discontinuance, and that (4) customers presenting frivolous disputes have no right to service. Accordingly, the Missouri Utilities suggest the following amendment to Rule 13.035(1)(A), wherein a utility may refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay a[n undisputed] delinquent utility charge for services provided by [] that utility or by its regulated affiliate **that is not subject to a bona fide dispute under 4 CSR 240-13.045**. To be considered to be disputed, [the unpaid charge must be the] **a dispute must have been registered with the utility at least 24 hours prior to the service request. Outside of the Cold Weather Rule period, if the utility asserts that a dispute is frivolous, it may defer commencing service until a decision is rendered under Rule 13.045(4).**

4 CSR 240-13.050 DISCONTINUANCE OF SERVICE

Section 13.050(4) allows the utility to send electronic notices where authorized by the customer, and adds that the customer should also receive a non-electronic notice prior to disconnection. Because electronic notices are delivered in writing, and in order to provide a notice window rather than a point in time, the Missouri Utilities offer the following clarifying suggestions:

(4) Electronic notice may be sent to the customer if the customer has provided prior authorization to the utility to provide billing and notices electronically in place of any ~~hard copy written and verbal~~ oral notices; however, the utility shall provide at

least one **non-electronic written notification, via either hard copy sent at least ninety-six hours prior to discontinuance or by phone call placed at least twenty-four (24) hours prior to discontinuance of service.**

Section 13.050(8), renumbered to 13.050(10), is known as the ‘knocking rule.’ It requires the utility employee to try to contact the customer when discontinuing the customer’s service, except where the safety of the employee is endangered. The employee is also required to leave a notice informing the customer that service has been discontinued. This is a controversial rule because the employee is on the customer’s property to take an action adverse to the customer in a situation where the customer may already be frustrated. On the other hand, in some circumstances it may actually be safer for the employee to announce his or her presence.

While the rule intends to protect the employee, the reality is that the employee may not know he or she is in danger until after the customer contact has been made. Such situation can be further exacerbated by the fact that some utilities do not allow their field employees to accept payment, a policy designed to protect the employee from being a target by preventing the employee from carrying any significant amount of money, but that can also add to the frustration of a customer who has some cash and would like to avoid disconnection.

From the standpoint of personal notice, it is difficult to understand the customer need. By the time discontinuance occurs, the customer will have received multiple bills and multiple notices of discontinuance. The customer is undoubtedly aware that a debt is owed and that discontinuance is at hand.

Another factor affecting the knocking rule is the technological development of remote shut-offs, which would alleviate the need to physically visit the property and possibly confront the customer. The efficiency driven by such a technology would be frustrated by a requirement that a field representative knock on the door and leave a notice.

In consideration of these factors, the Missouri Utilities suggest the following amendment to Rule 13.050:

([8]10) When a utility seeks to discontinue service to a customer by physical visit to the customer's premises, [I]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, in a manner consistent with the utility's practices for performing such activities, 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. For purposes of satisfying this requirement, an additional attempt to call the telephone number listed on the customer's account on the day service is being discontinued shall be deemed sufficient. When service is discontinued, the employee shall leave a notice upon the premises in a manner conspicuous to the customer that service has been discontinued and the address and telephone number of the utility where the customer may arrange to have service restored. **When service is discontinued other than by physical visit to the customer's premises, the utility shall provide such notice by mailed written notice or telephone call within one business day following disconnection.**

Section 13.050(11) is proposed to replace Section 13.050(9), which currently provides for a utility to postpone a discontinuance for 21 days if the discontinuance will aggravate an existing medical emergency of a permanent resident at the premises. The current rule further provides that a person alleging the medical emergency shall, if requested, provide reasonable evidence of the necessity. Utilities have been following this rule for the better part of two decades and had not sought to change it in the workshops.

The proposed rule does not appear to change the concept or substance of the current rule, but adds a substantial amount of structure and administration. Below is a comparison of the current and proposed rule:

SUBJECT	CURRENT RULE	PROPOSED RULE
Health Standard	Aggravate an existing medical emergency	Give rise to a substantial risk of death or gravely impair health
Postponement of Discontinuance	Up to 21 days	14 days on an informal notice; 28 days for a physician's certificate or letter
Purpose	Allow the customer time to secure payment for utility service or make other healthcare arrangements	Allow the customer time to secure payment for utility service or make other healthcare arrangements
Evidence of Necessity	Reasonable evidence to be provided upon request (Physician's certificate would be reasonable evidence)	Personal visit, telephone, fax or letter from physician, nurse, nurse practitioner, physician's assistant, or other licensed health care professional; follow-up with required certificate within 14 days
Restore discontinued service	No obligation other than as set forth in Cold Weather Rule	Restore if notice received within 14 days after discontinuance. Restore for 14 days on informal notice and 21 days on a physician's certificate or letter
Notice to Customer	Informal	Formal – Inform customer of postponement of discontinuance and expiration of postponement
Discontinuance following postponement	Notice terms not addressed	Second notice required

As previously noted, the Missouri Utilities do not object to the concept behind the proposed rule, but do not understand the necessity for the changes being proposed. The specific changes being proposed were not discussed during the numerous workshops

held to consider amendment to Chapter 13. Moreover, No explanation has been provided as to what problem exists with the current rule, or why the layer of additional complexity being proposed would enhance a process that is already working well. If there are discernible problems with the current rule, there is also no explanation as to why they couldn't be addressed with a more incremental and streamlined amendment to the current rule. In summary, the Missouri Utilities believe that the proposed changes will complicate rather than simplify the process. For these reasons, the Missouri Utilities recommend that these proposed changes not be made.

Should changes be made to the current rule, however, such changes should include: (a) a limit on how many times a customer may use this provision during a particular period (perhaps once during a rolling 12 month period); (b) a continuing requirement that physicians rather than "licensed health care professionals" provide the requisite notice; and (c) a requirement that the delay in discontinuance extend until receipt of the next regular notice of discontinuance rather than set period of time.

Rule 13.050(13)[11] requires the utility to restore service by the next day for a customer who has been disconnected, but has since paid the delinquent charges. Rule 13.035(3) allows up to three business days, if necessary, for a utility to commence service for an applicant. The next day service requirement forces the utility to prioritize a customer who has previously defaulted over a customer who has not defaulted. The Missouri Utilities believe that all customers entitled to commencement of service should stand on equal ground. Therefore, in addition to the currently proposed amendment to renumbered Rule 13.050(13), we recommend the following amendment:

([11]13) Upon the customer's request, a utility shall restore service consistent with all other provisions of this chapter when the cause for discontinuance has been eliminated,

applicable restoration charges have been paid and, if required, satisfactory credit arrangements have been made. At all times, a **utility shall make** reasonable effort [shall be made]to restore service upon the day **service** restoration is requested, and in any event, restoration shall be made not later than the next working day following the day requested by the customer; **provided, however, that the utility shall not be required to give higher priority to customers reconnecting under this provision over other customers seeking to commence service.** The utility may charge the customer a reasonable fee for restoration of service, if permitted in the utility's approved tariffs.

In summary, the efforts of the Staff, the parties to the workshops, and the Commission have led to an amendment to the Chapter 13 Rules that effectively modernize the rules without disturbing the balance that exists among the various parties. The Missouri Utilities support the rule changes subject to the comments set forth herein. The Missouri Utilities reserve the right to offer further comments and to reply to other comments submitted in this docket.

WHEREFORE, for the foregoing reasons, the undersigned utilities respectfully requests that the Commission accept their comments and amend the Chapter 13 Rules with the changes set forth herein.

Respectfully,

/s/ Rick Zucker
Rick Zucker, #49211
Laclede Gas Company
720 Olive Street, Room 1520
St. Louis, MO 63101
(341) 342-0532 (phone)
(314) 421-1979 (fax)
rzucker@lacledegas.com

/s/ Sarah E. Giboney
Sarah E. Giboney, #50299
111 South Ninth Street, Suite 200
P.O. Box 918
Columbia, MO 65205-0918
(573) 443-3141 (phone)
(573) 442-6686 (fax)
giboney@smithlewis.com
Attorney for Ameren Missouri

/s/ Wendy K. Tatro
Wendy K. Tatro, #60261
Corporate Counsel
Ameren Services Company
P.O. Box 66149
St. Louis, MO 63166-6149
(314) 554-3484 (phone)
(314) 554-4014 (fax)
AmerenMOService@ameren.com

/s/ Paul A. Boudreau
Paul A. Boudreau 33155
Brydon Swearngen & England, P.C.
312 E. Capital Ave.
P.O. Box 456
Jefferson City, MO 651902
(573) 635-7166 (phone)
(573) 636-6450 (fax)
paulb@brydonlaw.com
Attorney for The Empire District
Electric Company

Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the Staff and Public Counsel on this 7th day of October, 2013, by hand-delivery, facsimile, email or United States mail, postage prepaid.

/s/ Paul A. Boudreau
Paul A. Boudreau