

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

Office of the Public Counsel's Petition)	
for Promulgation of Rules Relating to)	Case No. AX-2010-0061
Billing and Payment Standards for)	
Residential Customers.)	

**SUPPLEMENTAL RESPONSE OF THE MISSOURI ENERGY DEVELOPMENT
ASSOCIATION TO RULEMAKING PETITION OF THE OFFICE OF PUBLIC
COUNSEL**

COMES NOW, the Missouri Energy Development Association ("MEDA"), by and through counsel, and for its Supplemental Response to the Petition of the Office of the Public Counsel ("OPC") in this matter, states the following:

1. On August 31, 2009, MEDA filed a Motion for Extension of Time and Preliminary Response in the referenced case. In that filing, MEDA indicated its interest in ascertaining facts relevant to OPC's Petition and more fully responding to a number of the billing and payment practices described of in the Petition.

2. The Petition addresses, generally, three topics. They are:

- Charges and fees relating to billing and payment;
- Restrictions on eligible pay stations (prohibition on use of payday loan offices); and
- Utility-operated customer service centers.

MEDA offers the following additional information for the Commission's consideration with respect to each topic.

CHARGES AND FEES RELATED TO BILLING AND PAYMENT

3. OPC has proposed rules that would prohibit a utility from charging a fee for a bill or replacement bill in printed or electronic format. The Commission is being asked to prohibit utilities from adding any additional or separate fee or “convenience charge” to any customer account based on the method or place of payment.

4. A general observation where this topic is concerned is that any payment option presented to a customer involves some cost to the customer either directly or indirectly. If a utility customer chooses to pay a bill by the traditional method of mailing a check to the utility company, for example, there is a cost to the customer associated with use of an envelope (assuming none is provided by the utility), the use of a bank check and the price of a stamp. The question should not be whether there is a cost to the customer associated with any particular payment option but, rather, whether the cost associated with the choice of a particular option is reasonable in the circumstance.

5. Where the topic of charges and fees for billing and payment are concerned, none of the member companies of MEDA assess any fee or special charge for the traditional paper bill provided to the utility. In some instances, the bill is accompanied by an un-posted return envelope to facilitate mailing. Member companies have attempted to provide a number of other payment options such as automatic checking withdrawal, e-billing, internet and credit card payment options for the convenience of their customers. None of the member companies retain any special fees for a customer to pay a bill. Some independent pay agents, third-party vendors or

providers of credit may charge a modest fee for services provided, but in no circumstance is any portion of any such fee retained the billing utility.¹

RESTRICTIONS ON ELIGIBLE PAY STATIONS (RESTRICTIONS ON USE OF PAYDAY LOAN OFFICES)

6. Under OPC's proposal, utilities would be prohibited from accepting payments for utility services at any payday loan office, check cashing outlet, pawn shop, currency exchange, financial service company, auto title loan company or other similar operation. The Petition is an appeal to emotion and does not accurately describe the much more mundane, actual circumstances.

7. A number of the member companies utilize a network of unaffiliated pay agents to serve as pay stations throughout their service territories.² In some cases, these subcontracting pay agents may involve the so-called payday loan industry. These arrangements are for the convenience of those customers who may not have checking accounts or for some other reason are not interested in utilizing alternative methods of payment. These third-party pay agents may assess a modest convenience fee for the services they provide.

8. Representatives of the payday loan industry described the nature of their operations at a meeting of the Commission in Kansas City on September 9, 2009.³ It is MEDA's understanding that those comments will be transcribed and filed as a matter of record in this case. MEDA is of the view that there was nothing in the comments of the

¹ Fees may be charged by credit card companies or by financial institutions offering electronic or internet debt payments. There are costs associated with the provision of such services and which are properly borne by the customers who utilize them.

² On September 9, 2009, Carole Hunt told the Commission that AmerenUE has contracted with First Tech Incorporated to provide a network of walk-in payment agents throughout its extensive service area.

³ Matt Wiltanger on behalf of the Community Financial Services Association (CSFA) and Randy Sheer on behalf of the United Payday Lenders of Missouri (UPLM).

representatives of the community financial services industry that should be a cause of concern for the Commission where the payment of utility bills is concerned. If anything, their comments indicated that the arrangements with these establishments meet a legitimate public need at a reasonably modest cost.

UTILITY-OPERATED CUSTOMER SERVICE CENTERS

9. Under OPC's proposal, utilities would be required to have "locations convenient for customers throughout the service territory where a customer can make in person cash bill payments, ask questions about bills or service, seek information or assistance for service problems or to make a complaint." Where this topic is concerned, the Commission should recall that the trend of closing company-staffed payment offices was driven by the low frequency of use by customers. Consequently, such closings resulted in savings to the utilities and their ratepayers. The fact that no complaints have been lodged with the utilities, the Commission or OPC concerning the closing of company-staffed pay stations is eloquent evidence of the fact that the practice has been non-controversial. There is no need to return to the bygone era of walk-in pay facilities to enable customers to talk with utility employees about billing issues at a time when most, if not all, of customers have access to a telephone and company representatives are readily available to meet their needs.

VARIOUS LEGAL/PROCEDURAL AND POLICY CONSIDERATIONS

10. MEDA's preliminary comments touched on a number of legal/procedural/policy deficiencies concerning OPC's Petition. MEDA is still of the view that OPC's Petition is deficient in the sense that it does not comply with the requirements of the Commission's rule 4 CSR 240-2.180, including a reasonable estimate of the cost of

compliance, which could be substantial. MEDA is additionally concerned that OPC's Petition does not set forth any statutory authority for the Commission to promulgate rules concerning the topics set forth in the Petition. In fact, the rule changes advocated in the Petition would directly interfere with the informed managerial responsibilities of the utilities to run the company's day-to-day operations effectively and efficiently. Finally, any rule on the topics addressed in OPC's Petition is problematic in that charges associated with utility billing and payment practices is a matter best left to a company-specific rate case as a rate design consideration.

11. From a pure policymaking prospective, OPC's Petition with respect to prohibitions on the use of payday loan offices as third party walk-in pay stations for utility services appears to be an attempt to address an issue better left to the Missouri General Assembly. Also, any finding of a necessity for a rulemaking that would restrict utilities from doing business with members of the payday loan industry would necessarily require a finding on the part of the Commission that that industry are "bad actors" and there appears to be no factual basis for suggesting that this is the case.⁴ To the contrary, the community financial services industry is both lawful and regulated by the Missouri Division of Finance. This fact alone should discredit the allegation that payday loan companies are engaging in "predatory lending" practices.

⁴ Messers Wiltanger and Sheer observed that the specter of these businesses using the lure of a utility pay station to reel in a loan customer is a demonstrably false premise. They pointed out utility customers typically use a walk-in pay station because they don't have a checking account whereas one of the key requirements to borrow money at such a location is that one must have a checking account. If attracting gullible borrowers is the payday loan industry's nefarious goal, it must rank as one of the worst business plans ever conceived.

CONCLUDING REMARKS

12. OPC's Petition provides no credible grounds for embarking on a formal rulemaking with respect to utility billing and payment practices and, consequently, should be denied. As MEDA observed in its preliminary comments, OPC's rulemaking appears to be a solution in search of a problem. Moreover, the more that becomes known about the topics the less problematic the issues appear to be. MEDA stands ready, however, to assist the Commission to better understand the billing and payment practices of the utility industry.

Respectfully submitted,

/s/ Paul A. Boudreau

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing has been duly served on this 24th day of September, 2009, by hand-delivery, facsimile, electronic mail, or by placing a copy of such brief, postage prepaid, in the United States mail to the following:

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