MEMORANDUM

To: Missouri Public Service Commission

From: Geoff Marke, Chief Economist
Missouri Office of the Public Counsel

Subject: Response to Staff Report in Case No: AW-2020-0356

Date: August 31st 2020

Introduction:

The Missouri Office of the Public Counsel ("OPC") appreciates the opportunity to provide written feedback to the Staff Report and further dialogue on the issue of customer bad debt and arrearage in relation to the COVID-19 pandemic.

Current Context

On March 27th 2020[1] I filed surrebuttal testimony in Liberty Utilities most recent electric rate case where I cited the following information on the state of COVID-19 cases in the United States in a footnote:

> As of this writing, the United States now also leads the world in confirmed COVID-19 cases by 85,505 (at 3/26/2020, 9:42 pm), or approximately 4,000 more than China. Coronavirus COVID-19 Global Cases by the Center for Systems Science and Engineering (CSSE) at John Hopkins University.[2]

Five months and four days later, as of Monday afternoon (Aug. 31, 2020), the United States continues to lead the world in COVID-19 related positive cases with 6,032,100 positive infections and 183,200 deaths.[3,4]

<u>This represents a 6,955% positive case increase in less than half-a-year</u>.

[1] Eight days (March 19,2020) after Governor Mike Parson issued Executive Order 20-04, which authorized executive agencies, with the approval of the Office of the Governor, to temporarily waive or suspend the operation of any statutory requirement or administrative rule that interfered with Missouri's response to the virus or its recovery. And seven days (April 3, 2020) before Governor Mike Parson issued a statewide "Stay Home Missouri" Order.

[2] Case No: ER-2019-0374 Surrebuttal Testimony of Geoff Marke p. 17 footnote 23.

[3] The New York Times (2020) Coronavirus in the U.S.: Latest Map and Case Count. https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html (8/31/2020, 4:17 central PM).

[4] There are 25,304,600 worldwide cases of COVID-19 according to The New York Times (2020) Coronavirus Map: Tracking the Global Outbreak. https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html (8/31/2020, 4:19 central PM).

In that same time span, the State of Missouri has documented 86,021 positive cases (and 1,621 COVID-19 related fatalities) or roughly the equivalent of all the COVID-19 related positive cases in the entire United States (85,505) only 5 months ago that prompted temporary shelter-in-place orders and temporary self-imposed utility service disconnection moratoriums in Missouri.[5,6]

For further context, in its August 3rd Report to the Commission, Staff cites a July 22, 2020 Missouri number of 36,063 positive cases and 1,159 deaths. In a span of 40 days Missouri has experienced a 139% increase in COVID-19 positive cases (86,021) and 40% increase in COVID-19 fatalities (1,621).

On the other hand, the 86,021 positive COVID-19 cases represent 1.4% of Missouri's 6,137,428 million 2019 census population.[7]

As of this writing, there are no longer any shelter-in-place orders in effect in Missouri and the self-imposed utility disconnection moratoriums are either no longer in effect or will no longer be in effect shortly for all investor-owned utilities ("IOUs"). The total number of customers in arrearage and average amounts vary considerably as the data collected to date is distorted by many factors including: differing billing practices across utilities, lower than expected Low-Income Home Energy Assistance Program ("LIHEAP") applications, federal stimulus checks and "extra" unemployment assistance that are likely to not be renewed, the continued spread of COVID-19, the coming cold and flu season, etc…

Uncertainty and Mitigation

Presently, we are operating in a world of pronounced uncertainty, to quote former United States Secretary of Defense Donald Rumsfeld:

> Reports that say that something hasn't happened are always interesting to me, because as we know, there are known knowns; there are things we know we know. We also know there are known unknowns; that is to say we know there are some things we do not know. But there are also unknown unknowns—the ones we don't know we don't know. And if one looks throughout the history of our country and other free countries, it is the latter category that tend to be the difficult ones.[8]

Utilizing Rumsfeld's typology:

Known knowns: We know Missouri is experiencing record levels of unemployment. That certain parts of the state are suffering disproportionately from the economic fall-out (e.g., Branson). We

[5] The New York Times (2020) Missouri Coronavirus Map and Case Count. https://www.nytimes.com/interactive/2020/us/missouri-coronavirus-cases.html (8/31/2020, 4:20 central PM).
[6] According to the Staff report, utilities initiated the suspension of discontinuances of services in mid-March 2020 between March 13 and March 16 or approximately two weeks before my filed surrebuttal testimony in the Liberty Utilities rate case.
[7] United States Census (2020) Quick Facts: Missouri. https://www.census.gov/quickfacts/MO
[8] Rumsfeld, D. (2002) Department of Defense News Briefing, February 12, 2002. Achieved Material U.S. Department of Defense https://archive.defense.gov/Transcripts/Transcript.aspx?TranscriptID=2636

know COVID-19 numbers have increased categorically in a relatively short-amount of time. That cold and flu season is rapidly approaching while schools move forward with reopening. We know that the economy was impacted by shelter-in-place orders and that utility arrearage amounts are larger than they were this time last year.

Known unknowns: We do not know when a vaccine will be created or dispersed in a timely fashion. Or how federal policy will play out in the form of future stimulus bills. Or if the current increased LIHEAP funding will be enough to last the winter season. Or whether we will experience more or less heating and cooling degree days.

Unknown unknowns: Those variables that we have not considered or materialized to date.

I have heard the current operating environment described as a complicated jigsaw puzzle which does not contain a picture for reference.[9]

I disagree.

A more apt metaphor is that of the perfect storm.[10] A perfect storm is a rare combination of events or circumstances creating an unusually bad situation. However, the metaphor is often incorrectly stressed as a surprise. That the storm could not been foreseen beforehand. Quite the opposite is true. A perfect storm is a rare combination of events or circumstances that create an unusually bad situation that was entirely predictable and with obvious forewarning.

As winter approaches the data that I cited earlier will almost assuredly be more pronounced as a result of COVID-19's continued spread and the winding down of federal support. The regulatory oversight actions to date regarding COVID-19 have been minimal compared to other states. I believe that was the right response then and is the correct response now based on the information before me. However, I strongly believe it is incumbent on all parties: regulators, advocates and utilities to have continued dialogue and work on tangible contingency plans to put into place as if we were operating under the assumption that the data will likely be worse in the future. This docket along with further Commission orders can help guide that process and mitigate the uncertainty of future bad outcomes.

The comments within this memorandum are largely responses to specific recommendations identified within the Staff report. Presently, OPC's billing and collections practice recommendations have been limited to specific utility's seeking Authorized Accounting Orders ("AAOs") but those recommendations could very well expand to other utilities. I would encourage the Commission to keep this docket open, continue to seek feedback from stakeholders, and encourage utilities to work transparently on contingency planning that assumes a perfect storm

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[9] Lazard, J. (2020) Webinar: How will the pandemic change the electric utility industry's regulatory bargain? Rutgers Business School—Newark & New Brunswick. June 5, 2020 at 1:00:55/1:30:54 https://www.youtube.com/watch?v=qQBvywZ2Txo

[10] From the 1997 nonfiction book, *The Perfect Storm* by Sebastian Junger.

scenario which results in more pronounced customer arrearages and disconnections this winter and what appropriate "next steps" would be.

Coordinated Utility and DHSS Outreach Efforts

I have been fortunate to engage with ongoing weekly dialogue with each of Missouri's IOUs and other pertinent state actors every Friday since March about COVID-19 related utility impacts, actions and outreach efforts. These meetings have been productive and resulted in positive outcomes, perhaps most notably in the area of collective targeted customer outreach across the state for critical needs customers. Attachment GM-1 includes the memorandum describing the targeted groups, and coordinated planned activity between Missouri IOU's and various Missouri Department of Health and Senior Service ("DHSS") agencies to facilitate the spend-down of federal funding and available payment plan options for critical needs customers most likely at threat of harm. Considerable credit is due to the following contacts at DHSS including:

- Tiffany Bayer, Local Public Health Liaison, Division of Community and Public Health;
- Lisa Crandall, Bureau Chief, Bureau of Special Health Care Needs; and
- Marcia Davis, Disaster Response Coordinator, Division of Senior and Disability Services

Bill Assistance Policy: Payment plans, late fees, disconnection/reconnections, credit reporting, deposits, etc…

Missouri's IOU's have expanded payment plan offerings and, in some cases, included various "incentive" components to help customers pay down their arrearages. I support these efforts and do not recommend any universal Commission action presently.

I do not presently support a continued disconnection moratorium out of fear that customer's bad debt will increase to levels that may prove too difficult to overcome if left in place. This is a balancing act that requires constant attention. To be clear, this is my position today based on the available evidence before me and could very well change if future information supports it. No doubt, many customers are experiencing harsh economic realities including lost employment, decreased salaries and/or increased expenditures. However, based on the Company's weekly empirical arrearage amounts it appears that many customers, if given the choice, would elect to not pay their electric bill if they knew they could put it off. This is entirely rationale behavior when a household budget is constrained and needs are prioritized to make ends meet, but the disconnection moratorium has had the unintended effect of discouraging some customers from seeking out available assistance. For example, LIHEAP applications have been below historic averages throughout the summer despite the recession. Consequently, federal funding (which was increased because of the CARES Act) to help alleviate the financial stress related to utility service has gone unspent relative to what one would expect.

We need customers to address their obligation to cover their cost of service especially if there is outside funding that is available for them to do it. That being said, I recognize that not all customers are eligible for LIHEAP funding and that from a public health perspective, it may be necessary to impose a disconnection moratorium again in the future (e.g., if a locality were to impose shelter-in-place orders). Because of the uncertainty surrounding both the pandemic and the economy we need to be flexible and adapt bad debt and disconnection policy when and where appropriate.

Further refinements in billing practices, including, but not limited to, adjustments to incentive (matching arrearage programs) and disincentive (late penalties) policies will no doubt evolve rapidly depending on the operating environment and the utility in question. Presently, OPC has elected to make those recommendations on a utility-specific basis in other dockets as opposed to universal recommendations.

Energy Efficiency

The Staff report summarizes various recommendations from stakeholders that bad debt arrearage management should be tied to energy efficiency measures. These recommendations stop short of exactly what that means in practice. Presently, every one of our investor-owned electric and gas utilities have low income energy efficiency programs in place. Each one of them has stalled out due to health and safety concerns. Moreover, mailing out an expensive energy efficiency kit with 4 LED light bulbs, 1 High-Efficiency Showerhead, 1 Bathroom Faucet Aerator, 1 Kitchen Faucet Aerator, 3 feet of pipe wrap, and 1 dirty furnace filter alarm[11] will do very little for customers facing imminent disconnection. It is also likely a foregone conclusion that the various non-profit weatherization agencies will not be able to spend down their federal (let alone utility-sponsored) funds this year due to safety concerns. Keep in mind, that ratepayers pay no throughput disincentive or earnings opportunity for this social good. In fact, OPC has already conceded redirecting more than $3.5 million in funding it secured explicitly for low-income energy efficiency because we recognized that funding was not getting spent down and customers would lose service.

The pandemic and the economic recession has heighted the problem of scarcity. Put bluntly, it means that what everybody wants adds up to more than there is. Scarcity is forever and always a problem with finite resources but it is especially pronounced now. It is more incumbent than ever that all parties seek to allocate scarce resources at the most pressing and in most efficient manner possible at this moment. Long-term: weatherize homes, enable further energy efficiency for all customers—especially low-income. Short-term: keep customer's service on and affordable as much as possible. Presently, out of necessity, those short-term needs outweigh the long-term needs. The worst outcome would be for dedicated money to be left on the table while households suffer. If stakeholders have novel suggestions on how we can cost-effectively retrofit low-income customer's domiciles safely I would encourage them to share it with us.

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[11] Also the current energy efficiency kit of items included in Ameren Missouri's offerings: https://www.amerenmissourisavings.com/education

Low-Income Weatherization/Program ("LIWAP")

The OPC is a strong advocate for supplemental utility-funded LIWAP support. Each of Missouri's electric and gas utilities have some amount of ratepayer-funding built into rates which allow for greater degree of flexibility[12] and certainty[13] for Missouri's various Community Action Agencies ("CAA"). LIWAP activity provide for a greater likelihood of long-term reductions to targeted households with high energy burdens then one-time supplemental bill payments/credits.

In the last four years, OPC has been able to secure millions of dollars in further LIWAP funding, below-the-line, from each of the four electric IOU's through various stipulation and agreements. The most recent example, included $7 million for further weatherization for Ameren Missouri CAA's from Case No: ER-2019-0355. In that particular case, less than a month after entering into the agreement it was amended to allow for a reallocation of $3.5 million to Ameren Missouri's newly created "Clean Slate Program" to help customers survive the economic crisis.[14]

Presently, OPC does not support further reallocation of utility-sponsored LIWAP funding to customer bill assistance; however, if LIWAP activity were to stall out for an indeterminate period due to safety concerns and/or disconnection numbers were to increase critical numbers, then it is our position that all options be on the table, including LIWAP funding. If such an outcome were to arise, OPC would strongly suggest an equivalent *quid pro quo* in shareholder contribution or further customer-centric protections in recognition that direct subsidized funding is ultimately just a pass-through back to the utilities themselves and only amounts to a short-term fix for the customers receiving the subsidy.

Low-Income Home Energy Assistance Program ("LIHEAP")

The OPC filed comments and recommendations for LIHEAP eligibility requirement changes with the Missouri Department of Social Services in regards to its 2021 LIHEAP Plan. A copy of those comments is included in GM-2. In short, OPC supported raising the LIHEAP eligibility threshold from 135% to 150% and also suggested, to the extent permissible, to change its funding name to "Home Energy Assistance Program" with the hope that it may spur further applications.

[12] Utility-funded weatherization dollars do not necessarily need to adhere to strict Department of Energy LIWAP constraints. For example, a home that was weatherized twenty years ago with Federal funds would not eligible for re-weatherization; however, utility-funds could be utilized.

[13] Utility-funded weatherization dollars are built into rates and can "roll-over" into another year if they are not spent. There is not a "use or lose it" imperative (or at least less of one) like there is with federal LIWAP funding that does not necessarily carry-over. Having a degree of fiscal certainty ensures better continuity of non-profit operations that are highly dependent on a skilled workforce and uncertain year-to-year federal funding.

[14] An additional $500K was also secured and utilized to assist renters with arrearages whose accounts were tied T.E.H. Reality properties within Ameren Missouri's footprint. See also: Krull, R. (2020) Burglaries and broken promises: Life in Blue Fountain Apartments. *Riverfront Times*. https://www.riverfronttimes.com/newsblog/2020/02/17/burglaries-and-broken-promises-life-in-blue-fountain-apartments; and Flener, M. (2020) Sen. Josh Hawley introduces bad landlords bill. *KMBC News 9*. https://www.kmbc.com/article/sen-josh-hawley-introduces-bad-landlords-bill-teh-kansas-city-st-louis/31189463

Rate Base Investment as an Action to Increase the Economy

The Clean Grid Alliance filed comments recommending that the Commission should enable further utility investments as a means to spur economic recovery for Missouri by building out rate base. I would offer that these comments are not the appropriate forum for the topic at hand, which are—"Best practices for recovery of past-due utility customer payments after the COVID-19 pandemic emergency". The pandemic and economic recession should not be an excuse to blindly build out rate base. In fact, doing so will merely compound the problem for the many households currently facing increasing arrearage amounts. This is because the near-term effect will be to further increase rates. As to job creation and local impact of additional planned investment, I would merely point out that the Clean Grid Alliance's comments are general in nature and provide no empirical support beyond the assumption that spending money will create jobs. This is true for any investment but says nothing about who bares the risk for that investment.

It would be an understatement to say there is an immense amount of uncertainty present surrounding any investment that is not absolutely essential to provide safe and reliable service. Utilities would be wise to properly assess the many uncertainties at play and work on transparent cost-benefit analysis that incorporate robust discussions with stakeholders before moving forward on any large-scale capital investments. The topic at hand in this docket is large-scale bad debt and arrearages and it is a complex and difficult enough of a problem to address by itself without it being derailed into capital build-out proposals.

Statewide Low-Income Work Group

I do not see the need for a statewide low-income work group collaborative without details on what the agreed-to objectives are, who should be present, and what entity will coordinate it. Presently, almost every utility of a certain size has a low-income working group with stakeholders that deal with low-income programs in which utilities receive feedback and recommendations from various stakeholders. Additionally, there is a state-wide low-income working group coordinated by the National Housing Trust that meets on a quarterly basis with traditional regulatory and local, non-traditional stakeholders. Furthermore, there are multiple low-income work groups in which OPC, DE, Staff and various utilities participate in with Missouri Community Action Agencies.

Finally, although not specifically created with the intent to address low-income issues per se, the weekly COVID-19 utility stakeholder calls have, by necessity, made low-income issues a priority topic for the past half year now. The collaborative was created ad hoc and has served as a clearinghouse for best practice information sharing, data collection and targeted outreach efforts. Presently, OPC has elected to reduce the number of weekly COVID-19 calls to bi-weekly with the recognition that there is an opportunity cost in time and resources that needs to be accounted for in coordinating planned meetings with seven state agencies, eight investor-owned utilities and one non-government organization.[15] Whether future meetings increase, decrease, or cease all together will be based on how events unfold.

<u>Emergency Rulemaking</u>

If the Commission believes action should be taken to address low-income customers, affordability, arrearages or other related topics—the quickest, most efficient manner could be to open an emergency rulemaking docket, with clear directives and deadlines. Presently, given the data available before me and the weekly feedback I have received from utilities and non-utility stakeholders, I do not believe an emergency rulemaking docket is warranted at this time.

This position could very well change if things get worse (e.g., no further federal stimulus bills, continued record unemployment, exhaustion of LIHEAP funds relative to growing needs, or future shelter-in-place orders). Because of the uncertainty surrounding both the pandemic and the economy we need to be flexible and adapt bad debt and disconnection policy when and where appropriate. Presently, the "hands-off" approach from the Commission suggests that bad debt and disconnection policies should be utility-specific, and this memorandum's comments generally align with that sentiment. Whether or not that continues will likely be the result of a triggering event or a State-wide step change for utility customers.

With that in mind, I would recommend the Commission keep this docket open for the foreseeable future to continue to serve as a repository for information and feedback from all parties. The Commission's recent order to its Staff to collect monthly disconnection/arrearage information supports this assertion.

<u>Low-Income Legislation</u>

I am aware of the various bills introduced to the Missouri General Assembly over the years, most recently as it pertains to a low-income rate for water and waste-water customers. To the extent that low-income rates and energy assistance are a topic of interest to the Commission, I would suggest former National Regulatory Research Institute economist and 2017 FRI Crystal Award winner Kenneth W. Costello's *Public Utilities Fortnightly* 2020 February article on the subject that posits on the rationale of "affordable" utility service. In that article Mr. Costello opines on the issue of discriminatory pricing by pointing out that:

[15] Public stakeholders include: The Missouri Office of the Public Counsel, The Missouri Public Service Commission Staff, The Missouri Division of Energy, The Missouri Department of Health and Senior Services, The Missouri Department of Social Services, The Missouri State Emergency Management Association, and The Missouri Economic Research Information Center.
Private Stakeholders include: Ameren Missouri, Evergy, Liberty Utilities, Spire, Summit Natural Gas, Missouri American Water, Central States Water and Raytown Water Utility.
The non-governmental organization stakeholder is the Missouri Community Action Network ("Missouri CAN" or "MO CAN")

> Energy assistance (EA) in the form of rate relief reflects a pricing principle based on customers' ability to pay. Utility regulators have frequently approved a form of discriminatory pricing called value of service pricing.
>
> Under this pricing scheme, prices to different customers depend on the value that each customer places on the service, such as on willingness to pay. It seems fair to ask that if regulators can legally set prices based on willingness to pay, why can't they apply the same pricing principle to ability to pay, since ability to pay is really a sub-component of willingness to pay?
>
> If a utility is able to offer a rate discount to industrial customers who would otherwise bypass the utility if required to pay the full rate, why could it not offer a rate discount to low-income households? The so-called anti-bypass rate would benefit all of the utility's customers as long as the price allows the utility to earn some margin above variable cost and prevent bypass.[16]

No doubt any discussion regarding the regulatory goal of utility-service affordability is a complex endeavor that needs to be considered holistically to minimize distortions and possible unintended consequences. Low-income legislation or low-income rates are also topics largely beyond the scope of this memorandum; however, Mr. Costello's excerpt above is a byproduct of a larger report which I included in GM-3 for further reference. Alternatively, a 20-minute YouTube webinar presentation of the report in GM-3 can be found at:
https://www.youtube.com/watch?time_continue=15&v=X2wSu5aacXA&feature=emb_logo

[16] Costello, K. (2020) Advice to Regulators: Affordable Utility Service. *Public Utilities Fortnightly Magazine*. https://www.fortnightly.com/fortnightly/2020/02/affordable-utility-service.