

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

In the Matter of a Proposed Amendment to)
Commission Rule 4 CSR 240-13.020) File No. AX-2015-0061
Regarding Authorized Pay Locations)

THE OFFICE OF THE PUBLIC COUNSEL’S COMMENTS

COMES NOW the Office of the Public Counsel (“Public Counsel”) and for its Comments states:

1. Public Counsel appreciates the Commission’s willingness and effort to pursue a rule aimed at prohibiting “authorized” pay stations at locations offering payday-type loans. The proposed rule currently as written is under-inclusive, incomplete, and unlikely to fully address the potential harm. First, the proposed rule fails to include language broad enough to address all types of short-term predatory lending. Additionally, the proposed rule includes an exception to the prohibition and the application of such exception is unclear as drafted. Lastly, the rule fails to prohibit the use of an affiliate to transact with prohibited entities to avoid compliance with the rule.

2. The Commission’s proposed rule language, shown below, includes certain criteria to be met before the pay agent relationship is prohibited.

(13) No utility may enter into any contractual or authorized pay agent relationship with any pawnshop, auto title loan company, payday loan company, or other short-term lending entity engaged in the business of making unsecured loans of five hundred dollars (\$500) or less, with original payment terms of thirty-one (31) days, or less, or where repayment of the loan is secured by the borrower’s postdated check. This restriction shall not apply if the lending entity offers such loans at an aggregate, effective annual percentage interest rate of less than thirty-six percent (36%).

Including specific references to a particular dollar amount and repayment period unnecessarily builds exceptions into the rule that could be exploited by sophisticated loan companies. For example, a lender might decide offer loans of \$500 or less, but establish a repayment term of 32 days, thus, evading the rule without implementing meaningful reform. These criteria in conjunction with the broad exception relating to interest rate may enable entities seeking to take advantage of low-income ratepayers through predatory loans to avoid the intended prohibition.

3. In order to ensure the final rule effectively accomplishes its purpose to restrict the targeted conduct, Public Counsel suggests certain modifications. First, the rule should be amended to incorporate the pay-station prohibition with the relationship of the interest rate charged by the short-term lender to the usury rate established in Section 408.030.1, RSMo. or the market rate, whichever is higher. Setting this clear standard eliminates the necessity for the broad exception included in the proposed rule and ameliorates the risk that the exception is abused.

4. Furthermore, to ensure the prohibition on the use of payday loan type lending entities as authorized pay agents for utility payments is effective, additional language circumscribing the use of affiliated entities to avoid compliance with the rule should be included.

5. Public Counsel suggests the Commission adopt the following language in lieu of the proposed rule published in the Missouri Register:

(13) No electric, gas, water or sewer utility, or agent thereof, shall use for any bill collection services or as a bill payment agent any financial institution, trust company, currency exchange, pawnshop or pawnbroker issuing secured personal credit loans, short-term loan establishment or title loan establishment which lends money to any customer when, aggregating all interest, fees and other charges, the effective interest for such loan exceeds the state usury rate established in Mo. Rev. Stat. § 408.030.1 or the market rate defined therein, whichever is higher.

(14) No electric, gas, water or sewer utility, may receive any funds transferred from any affiliate entity where the affiliate entity accepts any funds as payment for regulated services provided by the utility where such

payment, if transacted directly with the utility, would be disallowed under paragraph (13) of this rule.

Adopting the above language serves to strengthen the prohibition on the use of payday lenders as authorized pay-stations and protect the public.

WHEREFORE, Public Counsel respectfully submits its Comments.

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

/s/ Tim Opitz

Tim Opitz

Senior Counsel

Missouri Bar No. 65082

P. O. Box 2230

Jefferson City MO 65102

(573) 751-5324

(573) 751-5562 FAX

Timothy.opitz@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 25th day of March 2016:

/s/ Tim Opitz
