

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
Rulemaking Hearing
April 8, 2016
Jefferson City, Missouri
Volume 1

In The Matter Of A Proposed)
Amendment To Commission Rule) File No. AX-2015-0061
4 CSR 240-13.020 Regarding))
Authorized Pay Locations)

MORRIS L. WOODRUFF, Presiding
CHIEF REGULATORY LAW JUDGE

DANIEL Y. HALL, Chairman,
COMMISSIONER

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1 JUDGE WOODRUFF: All right. Welcome
2 everyone to this public hearing concerning a proposed
3 rulemaking proposed by the Commission. It's a
4 proposed amendment to 4 CSR 240-13.020, which is our
5 billing and payment standards rule and it's subsection
6 13 and it concerns utility relationships with what's
7 been termed as payday lenders.

8 The rule has been filed in the Missouri
9 Register. At this time we are taking comments from
10 the public about that rule to decide what form the
11 rule would take if the Commission decides to
12 promulgate it as a final rulemaking.

13 We're not taking testimony at this point
14 so I'm not going to swear in witnesses, but I will
15 give you a chance to give -- make comments. After
16 you've made your comments, if you'll wait -- remain at
17 the podium, I may have some questions or Chairman Hall
18 may have some questions as well.

19 So we have no particular order of
20 witnesses -- or of commenters here. I'll just go
21 through the list of entities that filed written
22 comments and see if anybody's here for them and then
23 we'll give anybody else who did not file written
24 comments a chance to come forward. And then I'll
25 reserve the last spot for Staff so that they can

1 respond to the comments that were filed by the other
2 par-- mentioned by the other commenters.

3 So the first comment was from Legal
4 Services of Eastern Missouri. Anyone here for them?

5 MR. COFFMAN: Your Honor, I -- I notice
6 that they filed their comments yesterday.

7 JUDGE WOODRUFF: They did.

8 MR. COFFMAN: And they asked me if -- to
9 make sure that that was in the record in this case
10 even though it didn't meet the deadline for the
11 written comments. So I have copies to enter into the
12 record now if that would be helpful or if they are in
13 the record as far as you're concerned --

14 JUDGE WOODRUFF: Just for the record,
15 this is John Coffman who is representing I believe
16 AARP and Consumers Council.

17 MR. COFFMAN: That's correct.

18 JUDGE WOODRUFF: They were actually filed
19 late con-- by terms of the notice that was put in the
20 register, but it's still -- it is in EIFS and I know
21 of no reason why it cannot be considered at this point
22 so --

23 MR. COFFMAN: Okay. I just pass that
24 along on their behalf.

25 JUDGE WOODRUFF: There we go. Okay. We

1 were muted for that first discussion so the people
2 upstairs didn't see it, but it's still on -- all part
3 of the official record being transcribed here.

4 All right. Next item would be Empower
5 Missouri. Anyone here for Empower? AARP,
6 Mr. Coffman?

7 MR. COFFMAN: May it please the
8 Commission. Thank you for this opportunity to comment
9 and thank you to the Commission for finally putting
10 this -- this proposed rule through the process. We
11 think that this is a very reasonable request and one
12 that could prevent potential tragedy and aggravation
13 for consumers.

14 This issue has been percolating or at the
15 Commission for a long time. Maybe even as long as ten
16 years, but at least -- at least for eight years. The
17 idea has been proposed by various consumer entities
18 and public interest entities that are aware that folks
19 who sometimes have trouble paying their bills will
20 reach out to payday lenders or to other entities that
21 may not offer loans on the most favorable terms and
22 which can then further lead to even more difficulty in
23 paying bills down the road.

24 It was brought to our attention that in
25 the past there have been payday loan facilities that

1 would put the decals of, you know, Ameren and Laclede
2 or other utility companies on their door sort of
3 inviting them in. And it was -- it appeared as if
4 they were using these official utility logos and names
5 to suggest that this was a place not only to pay your
6 bills, but to also -- that it was somehow safe.

7 And our concern was that this was leading
8 to the impression that there was some sort of stamp of
9 approval because they are regulated monopolies and
10 that that ought to be addressed by the Commission and
11 at least formal relationships not permitted between
12 loan -- loan agencies of that type and regulated
13 monopolies that consumers are captive to and have no
14 other choice but to deal with.

15 So we think that the Commission's
16 proposed rule is fair. We understand the Public
17 Counsel would like to go further with that. And we
18 would be in favor of either the Office of public
19 Counsel's version or the one that is currently
20 proposed in the Missouri Register.

21 We think that the Commission has clear
22 authority to direct the utilities as to what they can
23 do when it comes to billing and payment and collection
24 practices. That is explicitly listed in the
25 Commission's rulemaking authority under 386.250,

1 subsection 6. And so this rule, I think, is very
2 firmly grounded in the Commission's rulemaking
3 authority.

4 And to the extent that the Commission has
5 proposed an exception for loan entities that don't
6 offer short-term loans in excess of a 36 percent APR,
7 that seems to be a reasonable exception to that. And
8 I would point out not a -- not a direct regulation to
9 those entities, but just an exception to what the
10 utilities may do. And this is clearly a -- a
11 restriction on utility authority.

12 So again, this is -- this issue I think
13 has been fully vetted. It has been proposed
14 throughout the Chapter 13 rulemaking workshops that
15 occurred over a period of six to eight years here at
16 the Commission. It had -- had some opposition from
17 the utilities, was not one of the major issues that
18 was litigated in and out of those processes.

19 The Commission then I guess set up a
20 separate process -- an informal process which led to
21 the vote about 18 months ago. And we're just very
22 glad that it's finally coming to fruition and would
23 urge that the Commission follow through on it.

24 JUDGE WOODRUFF: Let me ask you some
25 questions.

1 MR. COFFMAN: Yes.

2 JUDGE WOODRUFF: You mentioned Public
3 Counsel's proposal. Are you satisfied with the
4 current language or is there a need to amend it?

5 MR. COFFMAN: I think the Public
6 Counsel's proposal may be more thorough and address
7 the problem more extensively, but we would be
8 satisfied with the one that the Commission has
9 proposed.

10 JUDGE WOODRUFF: Okay. And earlier you
11 mentioned the filing from Legal Services of Eastern
12 Missouri.

13 MR. COFFMAN: Yes.

14 JUDGE WOODRUFF: After thinking about
15 that, I think it might be helpful if you went ahead
16 and offered it into the record at this point. I don't
17 want to have any questions.

18 MR. COFFMAN: It might be a good idea to
19 make sure it's in the record and maybe attach it to
20 the transcript or however you --

21 JUDGE WOODRUFF: That's fine.

22 MR. COFFMAN: I have some copies. They
23 have not been stapled. Do you just need one? And
24 here's more copies.

25 JUDGE WOODRUFF: We'll mark it as

1 Exhibit 1.

2 (Exhibit 1 was marked for
3 identification.)

4 MR. COFFMAN: And in those comments, I
5 think it was -- they didn't list individuals but they
6 did note clients that the Legal -- Legal Aid of
7 Eastern Missouri has dealt with that got into
8 significant loan problems and debt, which originated
9 from a need to pay utility bills. So I think there's
10 a direct relationship to harm here.

11 JUDGE WOODRUFF: Okay. Chairman Hall,
12 did you have any questions?

13 CHAIRMAN HALL: Yeah. Just a few,
14 Mr. Coffman. I just want to make sure I understand
15 some facts from your perspective. There's nothing in
16 the proposed rule that would prohibit a customer from
17 using a payday loan establishment to pay his or her
18 bill; is that correct?

19 MR. COFFMAN: That's right. In the
20 Commission's proposed rule, that's correct.

21 CHAIRMAN HALL: Okay. So a customer
22 could go into a payday loan, take advantage of the
23 services offered and -- and leave with cash and -- and
24 use cash to pay his or her bill or they -- yes, is
25 that -- yes, that's true?

1 MR. COFFMAN: I believe that would be
2 right. I think the utility doesn't always check
3 what -- where the source of funds are and --

4 CHAIRMAN HALL: I would probably say it
5 never does.

6 MR. COFFMAN: Correct.

7 CHAIRMAN HALL: And this is more a
8 question about how payday loans function. Would
9 they -- would a customer be able to get -- obtain a
10 payday loan and somehow wire the -- the proceeds from
11 that loan using the payday loan establishment?

12 MR. COFFMAN: I'm not aware of anything
13 that would prohibit the utility from accepting it
14 under the Commission's proposed rule.

15 CHAIRMAN HALL: But I mean, is that -- is
16 that -- is that common?

17 MR. COFFMAN: I don't know.

18 CHAIRMAN HALL: You don't know.

19 MR. COFFMAN: I don't know. As I see it,
20 this rule is prohibiting, you know, formal
21 relationships, prohibiting contractual relationships,
22 you know, setting up these places as official pay
23 stations. We think there are so many different
24 opportunities and locations and places that utilities
25 could use other than these particular troublesome

1 locations.

2 But yeah, I don't know that -- that
3 there's a way to -- to know where the money's coming
4 from if it's been converted to cash or some other form
5 of money.

6 CHAIRMAN HALL: And then comparing the
7 current language to OPC's proposed language, can you
8 explain to me in what ways you -- you view OPC's
9 language as preferable, if that's the word that you
10 used?

11 MR. COFFMAN: Well, it would go -- it
12 would -- I mean it does not make an exception for
13 particular types of loans and then does -- it does
14 prohibit the utility then from knowingly accepting
15 funds from the prohibited entities. And I guess that
16 goes to your question about, you know, how would they
17 know. Right?

18 But at least as I would understand it,
19 and I'm sure the Mr. Owen would be able to maybe tell
20 you better, but I think this would at least prevent
21 the utility from having knowledge of where that money
22 came from.

23 CHAIRMAN HALL: Okay.

24 MR. COFFMAN: And still accepting it.

25 CHAIRMAN HALL: Thank you. I have no

1 further questions.

2 JUDGE WOODRUFF: Thank you, Mr. Coffman.
3 Let's get to Public Counsel at this point, if you
4 could.

5 MR. OWEN: Good morning, Your Honor,
6 Chairman. My name is James Owen. I'm the acting
7 director of the Office of Public Counsel. We
8 represent the public before this body as well as all
9 other appropriate venues. I'm joined this morning
10 from our office by Senior Counsel Tim Opitz as well as
11 Dr. Geoff Marke, our office's economist, and I'm ready
12 to proceed if it pleases the Commission.

13 JUDGE WOODRUFF: Proceed.

14 MR. OWEN: I want to begin by first
15 applauding the Public Service Commission for even
16 taking on the task of proposing rules to regulate how
17 utility companies interact with these -- with these
18 entities, payday loan companies, check cashing
19 entities, pawn stores, those sorts of -- those sorts
20 of businesses. I think that any direction and any
21 course the Public Service Commission takes is going to
22 be something that benefits the public and their
23 welfare and their safety and their health.

24 Now, when we look at the language that's
25 been put before this Commission to consider what kind

1 of regulation that is, it is the opinion of the Office
2 of Public Counsel that after the research that has
3 been conducted, after the data that's been reviewed,
4 after listening to public comments, the language that
5 we have proposed is going to be more narrowly focused,
6 it is going to be more tied to usurious lending
7 practices, it is going to be more tied to
8 the -- to the statutes that have been promulgated by
9 the legislature that deals specifically with the
10 interest rates that are at issue here and we believe
11 that's going to offer more protection.

12 And with all due respect to the -- to the
13 language that is in the registry that is being
14 proposed here today, we do believe that is overly
15 broad, we do believe that is not specifically tied to
16 how usurious lending works. And we do believe that as
17 was addressed by the previous witness, that there will
18 be ways to track exactly how these -- these consumers
19 are paying utility companies and whether they're
20 coming from these establishments.

21 Now, while the Staff has not had a chance
22 to speak, I know that there are some concerns about
23 whether or not this body has the ability to regulate
24 this kind of relationship. I want to make sure it's
25 clear here. We're not asking this -- the Public

1 Service Commission to alter any existing rules,
2 regulations or statutes involving these kind of
3 institutions such as payday loan companies, such as
4 any kind of short-term, high interest loan businesses.

5 What we're talking about here is trying
6 to -- trying to establish a rule or -- a rule that
7 will dictate how utility companies collect and bill
8 their consumers and making sure the way they do that.
9 As specifically under Section 386.250 of the Revised
10 Missouri Statutes or under 393.140, subsection 2 of
11 the Missouri Revised Statutes, in addition to the
12 rules under 4 CSR 240, Chapters 10 and 13, we believe
13 that you have the absolute authority to look at health
14 and public -- the health and public interest of how
15 these bills are collected and how they are -- and how
16 they are -- how they are sent out to their consumers.

17 And when we talk about health and public
18 safety, it seems like it might be a bit of a stretch
19 to say, well, I mean we're talking about payday loan
20 companies, we're talking about, you know, entities
21 that can charge 36 percent without any kind of
22 security. What kind of threat to health and public
23 safety do those pose?

24 And what we would say is if you look at
25 data out there, if you look at research that's been

1 done, we're not talking about anecdotes, we're not
2 talking about -- you know, we're not talking about
3 hyperbole in the world of social justice and equity.
4 We're talking about studies such as Brian T. Melzer's
5 Real Cost of Credit Access: Evidence from Payday
6 Lending Markets that's been done the past eight years
7 that shows empirical evidence that payday loans do not
8 alleviate economic hardship.

9 And that when you look at few charitable
10 trusts who borrows, where they borrow and why they
11 borrow, where 69 percent of the users who go into
12 payday loan companies do it to pay for things like
13 utility bills. They do that on top of trying to take
14 care of things like their rent payment or their
15 mortgage payment, depending on their situation. They
16 also take care of other things such as credit card
17 bills and food bills. So I mean we're talking about
18 basic needs here.

19 The way these things get advertised to
20 people saying, Hey, if you need a short-term fix for
21 just, you know, kind of these expenses that come up
22 out of nowhere, like say you've got a problem with
23 your roof, come in here and we'll give you the money.
24 But that's not the majority of who uses these.

25 I mean, these are people -- if you look

1 at other -- if you look at other research where --
2 such as -- such as -- such as just basic studies that
3 show that these -- that these lenders target low
4 income, the disabled and the elderly. These are the
5 people that are going in there.

6 And certainly these are going to be the
7 same kind of utility customers that go into pay these
8 utility bills where they're going to be -- where
9 they're certainly going to be propositioned to -- to
10 make a decision about borrowing money to pay for --
11 you know, to pay for things like utility bills. We
12 believe that it sol-- we believe it is a soliciting
13 opportunity.

14 And you know, the reality is as we should
15 be -- as the Public Service Commission should be
16 looking at how they can help direct consumers to do
17 things that are in their best interest. If you
18 prohibit this -- if you look at the language in the
19 Office of Public Counsel's proposed language about
20 prohibiting this and not giving any loopholes and not
21 giving any kind of exemptions to this, I mean, I
22 believe this is going to give the utility companies an
23 opportunity to look at other places to do this.

24 When you look at studies that have been
25 done by other states, when you look at what public

1 comments have merited, what -- what people have said,
2 what the public has said, what they want is they want
3 to be able to do this in person, but they want to do
4 it in places like grocery stores. They want to do it
5 at pharmacies. They want to do it at the post office.
6 They want to do it at their community center. They
7 want to do it at city hall.

8 And there's going to be people who make
9 comments to say, well, that's not available in every
10 neighborhood. Well, if you're either looking at the
11 inner city of Kansas City or you're looking at a town
12 like Marshfield, which is where I'm from, you're going
13 to see post offices, you're going to see community
14 centers. That's something that's common to
15 communities all throughout the state.

16 One thing that's also common throughout
17 the state is the -- you know, is the fact that in some
18 towns, small towns, urban centers, you see these
19 payday loan companies outnumber grocery stores. And
20 there's a reason for that, but that doesn't mean that
21 we have to start driving people there. We have an
22 opportunity to kind of curb that off and promote a
23 different kind of behavior and different kind of
24 policy of utilities and hopefully that will be to the
25 benefit of the public.

1 And, you know, as far as what -- you
2 know, as far as what payday loan lenders say, I mean,
3 I think this has been bought up before. I'm very new
4 to this office, but I know payday lenders have said
5 they don't have any issues with this. I mean, they're
6 not asking for anything here. They're not challenging
7 this. There's no one here that's filed a comment.
8 There's no one here that's here to speak out against
9 it.

10 So this is not something that they're
11 going to be -- that's not something that they're
12 opposed to. And I think that that's got to be taken
13 into consideration by the Commission as well.

14 I mean the reality is if you look at
15 distinction between our language and the language
16 proposed in the registry, there are exceptions and
17 there are going to be some loopholes here.

18 And I can tell you right now -- I
19 don't -- I'm not trying to make this a personal thing
20 or anything, but before I came to this job, before I
21 had some other jobs in government, I was a private
22 attorney and I worked for some of these companies. I
23 worked for businesses that issued high interest,
24 short-term loans to these individuals.

25 I can tell you something right now.

1 While it's perfectly legal what they do and they're
2 certainly entitled to representation, if you give them
3 an inch, they're not going to take a foot, they're not
4 going to take a yard. They're going to take a mile.

5 While I'm not asking you to regulate
6 them, I am asking you to put in rules that will put a
7 prohibition on utility companies being able to do this
8 and that's going to be a good thing not only for the
9 public, in our opinion, but it's also going to be good
10 for the utility companies as well.

11 And at this point I'll entertain any
12 questions from the Court or from the Commission.

13 JUDGE WOODRUFF: Well, let me ask you,
14 first of all, you mentioned that you were concerned
15 about loopholes in the Commission's current language.
16 What specific loopholes are you concerned about?

17 MR. OWEN: Well, I mean, you know, we
18 talk about the specific concerns we've got with this.
19 I mean, we believe that the way -- the -- the entities
20 that are going to be regulated here -- or the -- not
21 the entities that are going to be regulated, but the
22 entities that the utility company is going to be
23 regulated from entering into, they're not tied to
24 specific usurious -- to usurious language. They're
25 not tied to the legislation, to the bills, to the

1 statutes that define exactly what kind of rates can be
2 issued.

3 I mean I think when you look at our
4 language versus the language that's been proposed, I
5 mean we -- we point specifically to Section 408.030,
6 subsection 1 of the Revised Missouri Statutes, which
7 talks about market rates. And we believe that is
8 something that has got to be spelled out.

9 We also believe that when you look at
10 affiliate entities, currency exchanges, financial
11 institutions, I mean we're looking at more
12 encompassing definitions. And we believe that's
13 primarily where those loopholes are going to happen.

14 JUDGE WOODRUFF: Why is tying it to usury
15 rate more restrictive than using the 36 percent?

16 MR. OWEN: Well, I think, one, because I
17 think those statutes can change. And so I mean -- I
18 may -- I'm sorry. So I said that completely
19 backwards.

20 I think that when you look at -- I think
21 when you look at -- I think when you look at like what
22 the legislature has already got in place and I think
23 you've really got to make sure to make this as narrow
24 and as focused as possible, you got to tie it
25 specifically to legislation.

1 I think, one, that avoids the likelihood
2 of success of anyone trying to appeal this and this
3 being overturned, I think when you tie it to a
4 specific -- specific regulation. But I also think
5 there's usury language in those statutes that are more
6 clear, that are more defined as opposed to just doing
7 an interest rate.

8 I think when you look at the actual
9 language of that -- of those statutes, that gives
10 people a clear distinct line to say, well, this is
11 what market rates mean, this is what these
12 institutions mean. I think that's a little more clear
13 and I think it gives us a little more of a concrete
14 foundation for this.

15 JUDGE WOODRUFF: Next line of inquiry
16 here. When Mr. Coffman was commenting, he mentioned
17 the idea that your language would prevent -- or might
18 prevent utilities from accepting money that came from
19 a payday loan. Would you agree with that?

20 MR. OWEN: Yeah, I would agree with that
21 to a point. I think that when -- I think it comes
22 then to the point where you're talking about
23 collections. I think when it gets to the point of
24 collections, then they can start tracing that.

25 But if you're talking about, as Chairman

1 Hall said, someone going and getting cash in exchange
2 for a contract, in exchange for a car loan, that's
3 going to be tough to do. But you get to a collection
4 point, I mean, there is paperwork that is going to be
5 compiled, going to be looked at. I mean, and
6 certainly if it -- you know, I think that's where
7 you're going to be able to trace it is at the
8 collection process. Before that, I don't know.

9 JUDGE WOODRUFF: That's a lot broader
10 than the idea that we've been talking about of
11 preventing the companies from -- the utilities from
12 having a formal relationship with the payday lenders.
13 Now you're suggesting that if they tried to collect
14 money -- or collect a debt, they would have to go back
15 and determine whether the customer had taken out a
16 payday loan?

17 MR. OWEN: Well, no. I think maybe what
18 the -- the question I'm trying to answer is I mean, I
19 think when we're talking about prohibitions on payday
20 loans -- I mean on -- on utility stations in these --
21 in these kind of entities, in these kind of
22 businesses. I mean that's what we're talking about
23 trying to prevent.

24 If you're talking about trying to -- just
25 completely keep people from using these businesses to

1 pay utility bills, I'm not sure that's exactly what
2 we're hoping to accomplish here. What we're hoping to
3 accomplish is saying that utility companies cannot
4 have a direct or even an indirect relationship with
5 them as far as having some sort of --

6 JUDGE WOODRUFF: All right. Now -- no,
7 the rule is intended to prevent a direct relationship.

8 MR. OWEN: Yeah.

9 JUDGE WOODRUFF: How would it -- how
10 would your language prevent an indirect relationship?

11 MR. OWEN: Well, I mean, I think that,
12 you know, obviously indirect is going to be -- that's
13 not going to be something -- we're talking about
14 direct relationships here. I mean, we can't -- we
15 can't prohibit consumers from going in and taking
16 these -- these high interest, short-term loans.

17 I mean obviously the legislature has the
18 authority do to that. There's going to be some other
19 entities at work, the Department of Economic
20 Department, financial institutions that can also
21 regulate that to a certain extent. That's not what
22 this body can do and we -- we understand the realities
23 of that.

24 JUDGE WOODRUFF: Now, there is -- as I
25 recall from the last eight years of looking at this

1 issue, there is also something called unauthorized pay
2 agents where they have no relationship -- formal
3 relationship with a utility, but they will collect
4 payments and they tell customers hey, if you give us
5 this money, we'll pay your bill at Ameren or at
6 Laclede or wherever. Would your language deal with
7 that?

8 MR. OWEN: Well, I think if you look at
9 paragraph 1, subsection 1, when you talk about the
10 definition of affiliate entities and you look at
11 intermediary's control or is controlled by or under
12 common control with regulated utility companies, I
13 think that there is a question not just of
14 affiliation -- not just -- not just of association,
15 but of control. And that's the question that I think
16 that addresses with that language.

17 JUDGE WOODRUFF: I don't follow.

18 MR. OWEN: If you're talking about --
19 well, if you're talking about --

20 JUDGE WOODRUFF: Let me -- let me -- let
21 give you a specific.

22 MR. OWEN: Sure.

23 JUDGE WOODRUFF: As I recall, Wal-Mart
24 was one of these unofficial -- unoffi-- unaffiliated,
25 un-- unauthorized pay agents that was -- that

1 frequently collects money from customers, sends it on
2 in and they're doing it as a service to their
3 customers, not necessarily through a relationship with
4 the utility. Would your affiliate language prevent --
5 attempt to prevent the utility from taking money from
6 Wal-Mart?

7 MR. OWEN: Well, I mean I certainly think
8 there's more likelihood of it. I think -- that's
9 where it comes down to the issue of control. I don't
10 know if any of my associates here have had any kind of
11 experience with that language or not.

12 I don't mean to put you on the spot, but
13 I've only been here six weeks so -- as opposed to the
14 several years that this body has been looking at that.
15 But I do -- do you want -- I'm sorry. Hold on a
16 second. Yeah.

17 Mr. Opitz is joining me at the dais.
18 When we look at the language that we've got in what we
19 filed on March 25th of 2016, we talk about no
20 electric, gas, water or sewer utility or agent thereof
21 shall use any bill collection services or as a bill
22 payment agent any financial institution, trust
23 company, et cetera. So I think you're talking about
24 agency then.

25 JUDGE WOODRUFF: Okay

1 MR. OWEN: In that language that we
2 proposed most recently.

3 JUDGE WOODRUFF: This is expanding to
4 bill collection, which that was not in the original?

5 MR. OWEN: Not in the original, no.

6 JUDGE WOODRUFF: What is -- what is your
7 concern about bill collection?

8 MR. OWEN: Well, I mean I think that
9 we're just trying to clear that up to make sure when
10 we talk about bill collection services, I think that
11 puts it more clearly under what this Commission can
12 regulate. You're talking about billing practices,
13 you're talking about collection practices. I think
14 that's more -- I think that's -- I think that's more
15 crafted -- better crafted language.

16 JUDGE WOODRUFF: Have you seen incidents
17 where utilities have been using payday lender type
18 organizations as bill collection agents?

19 MR. OWEN: Well, I think that's certainly
20 a possibility. And I think even by their -- I think
21 even by what they would tell you, is they don't even
22 know if they can control that sort of thing. So I
23 think that's why it's important to have it in a rule.

24 JUDGE WOODRUFF: Well, they can control
25 who they hire as a bill collection agency, can't they?

1 MR. OWEN: Yeah. But I think -- you
2 know, as far as like their bill collection. But I
3 think, you know, if you start talking about agencies,
4 you start talking about how those things can be moved
5 and shifted and kind of be an indirect relationship, I
6 think that language is probably better.

7 JUDGE WOODRUFF: Okay. Mr. Chairman?

8 CHAIRMAN HALL: Yeah. Good morning.

9 MR. OWEN: Good morning, Chairman.

10 CHAIRMAN HALL: I'm looking at your
11 proposed language, in particular section 13 --

12 MR. OWEN: Yeah.

13 CHAIRMAN HALL: -- that instead of
14 employing the 36 percent that's in the -- in the
15 current rule, OPC's position is that we should rely on
16 the state usury rate established in 408.030; is that
17 correct?

18 MR. OWEN: That is what -- yeah, we
19 are -- that is what that -- that is what that says,
20 yes.

21 CHAIRMAN HALL: Are there any payday loan
22 establishments out there right now offering loans in
23 violation of that statute?

24 MR. OWEN: I mean, to my knowledge I'm
25 not sure. I don't know.

1 CHAIRMAN HALL: I mean, isn't it safe to
2 assume that if there were payday loans offering loans
3 in violation of that statute, that the Department of
4 Insurance would be shutting them down, along with the
5 AG's office?

6 MR. OWEN: That would be our hope.

7 CHAIRMAN HALL: I would assume that's
8 true. So I would -- I would -- it would appear to me
9 that -- that your language might have no effect
10 whatsoever.

11 MR. OWEN: Well, I think that was what it
12 comes down to. I mean we're talking about market rate
13 or that statutory language, whichever is higher, I
14 think is what we spell out there. And I think it's --
15 I think it's a clearer standard.

16 CHAIRMAN HALL: Okay. I have no further
17 questions.

18 MR. OWEN: Thank you.

19 JUDGE WOODRUFF: Thank you, Mr. Owen.

20 MR. OWEN: Thank you.

21 JUDGE WOODRUFF: KCPL/GMO filed comments.

22 MR. FISCHER: Yes, Judge. Jim Fischer on
23 behalf of Kansas City Power & Light and GMO. We did
24 file comments. They're limited comments. I don't
25 really have an opening statement beyond that.

1 I would just note that the company has
2 been involved in the working docket and as a result of
3 that, has either closed any payday loan, pay stations
4 that they had or found alternative sites so --

5 JUDGE WOODRUFF: Yeah. Can you expound
6 upon that last statement a little bit? Because I
7 noticed that in your written comments also.

8 MR. FISCHER: I think from a -- the point
9 is from a practical standpoint, it shouldn't have a
10 large impact on our client -- on my client because
11 they have gone -- taken steps to try to limit the use
12 of payday loan providers and have closed those that
13 they could and then -- or found other alternatives.
14 Some of the cases there, the problem was in the area
15 there really wasn't an alternative for a pay station
16 other than a payday loan. Now they've found
17 alternatives so --

18 JUDGE WOODRUFF: Do you know what kind of
19 alternatives they were able to find?

20 MR. FISCHER: You know, there -- there
21 could be a new convenience store or grocery store,
22 something that they hadn't approached or hadn't found
23 before. And -- but they -- they've taken steps to try
24 to limit this as an issue.

25 JUDGE WOODRUFF: All right. Did you get

1 a chance to see Public Counsel's proposed alternative
2 language?

3 MR. FISCHER: I did look at it. And I
4 don't know that we have any -- our concerns that we
5 have with the rule would be the same with -- with his
6 proposal, but as I say, from a practical standpoint,
7 it's not going to have a big effect on the company.

8 JUDGE WOODRUFF: Thank you very much.

9 CHAIRMAN HALL: Mr. Fisher, what are your
10 concerns with the rule?

11 MR. FISCHER: They -- we listed several
12 just in the -- in paragraph 2 of our comments. I
13 think over the years we've been involved in this
14 issue, people have raised a lot of concerns about the
15 abuses that occur whenever a consumer walks into a
16 payday loan area -- station to pay their bill and
17 they're coerced or they're taken advantage of in some
18 way.

19 And the rule itself I don't think would
20 keep a consumer from going into a payday loan location
21 and paying a bill and probably they would still have
22 the opportunity, if that kind of coercion exists,
23 to -- that could happen anyway under the rule.

24 We don't know of any examples where that
25 has occurred, but -- but the rule itself wouldn't

1 address those kinds of concerns because as -- as I've
2 heard from the Bench, the proposed rule would just
3 limit the formal autho-- or formal relationship
4 between utilities and the payday loan folks. It
5 wouldn't keep customers from going into a payday loan
6 place and asking them to pay the utilities. And we
7 certainly wouldn't want to limit the places where
8 people could go and have -- have our bills paid for.

9 CHAIRMAN HALL: Right. And I agree that
10 the language is pretty clear that it doesn't prohibit
11 that. So if -- so I guess I'm still trying to
12 understand. I mean is it just a philosophical
13 abstract objection to the rule?

14 MR. FISCHER: Yeah. I think it's mostly
15 that it wouldn't -- it doesn't address all the
16 concerns that have been raised by --

17 CHAIRMAN HALL: Okay. So that's not your
18 concern?

19 MR. FISCHER: No.

20 CHAIRMAN HALL: So what --

21 MR. FISCHER: And we're just pointing
22 that out.

23 CHAIRMAN HALL: All right. So you don't
24 necessarily think it will accomplish the -- its
25 purpose. Putting that aside --

1 MR. FISCHER: The other issue we raised
2 was to the extent that the utilities or the Commission
3 are put in an enforcement role on this, that's not
4 something that we'd desire to step into.

5 CHAIRMAN HALL: Well, do you think it
6 would be hard, from the company's perspective, to
7 comply?

8 MR. FISCHER: I don't, no. I think in
9 the past --

10 CHAIRMAN HALL: Okay. That's the most
11 important thing for me. Because I mean, if you were
12 to come forward and explain how it would be difficult
13 or possibly expensive or in any way difficult to
14 comply, that would be something I would be concerned
15 about. But if you're saying that you -- it -- it's
16 pretty black and white, it's pretty simple, you think
17 your client would be able to comply without
18 difficulty.

19 MR. FISCHER: Yes. And I think we
20 would -- we would take every effort to comply, you
21 know, once the rule was effective.

22 In the past, the issue has been there
23 haven't been alternatives available for -- for pay
24 stations in some of the areas. We've taken greater
25 steps to try to find alternatives and I think -- and

1 we've closed those where we could and the alternatives
2 are now available. So from a practical standpoint, I
3 don't think it's going to have a big effect.

4 CHAIRMAN HALL: So in terms of the
5 difficulty in alternatives, which KCPL -- it's not a
6 problem that KCP&L has had in terms of closing its
7 relationship with -- right? I mean, so far?
8 Explain -- explain that to me though. Where -- what
9 type of geographic area is it difficult to find
10 alternatives generally?

11 MR. FISCHER: I'm not a rate expert in
12 that area, but in the past cases, I recall testimony
13 that in some of the rural areas and some of the -- and
14 this might not affect Kansas City Power & Light so
15 much, but in some of our rural areas there just aren't
16 available grocery stores in the area or whatever and
17 people have used payday loan places as an alternative.

18 CHAIRMAN HALL: And -- and so is that
19 where KCP&L had its -- its authorized payday loan
20 agents in rural areas?

21 MR. FISCHER: Unfortunately, Mister --
22 Chairman, I'm not really sure where the big issues
23 were. But they weren't big issues for the company
24 and --

25 CHAIRMAN HALL: Yeah. Well, I mean --

1 and I'm asking you a bunch of questions because you're
2 the only utility here.

3 MR. FISCHER: I understand.

4 CHAIRMAN HALL: Oh, I'm sorry.

5 JUDGE WOODRUFF: Mr. Zucker is back there
6 for Laclede.

7 CHAIRMAN HALL: Back row. Well, so -- I
8 mean, I appreciate you being here. I appreciate the
9 information that you've provided. I also even more so
10 appreciate the company's action in -- in establishing
11 new locations for -- to allow customers to pay their
12 bills so --

13 MR. FISCHER: Okay. Thank you.

14 JUDGE WOODRUFF: Thank you. That's all
15 the people that filed written comments And as we
16 mentioned, Mr. Zucker is back there for Laclede and
17 MGE. Do you want to come forward?

18 MR. ZUCKER: Yes, your Honor. Thank you.
19 Good morning.

20 CHAIRMAN HALL: Good morning.

21 MR. ZUCKER: My name is Rick Zucker. I
22 represent Laclede Gas Company and Missouri Gas Energy,
23 both of which will soon be known as Spire, pending
24 shareholder approval.

25 I think the questions that -- that the

1 Chairman asked KCPL were key questions, which is will
2 it be difficult to comply with this. And I think the
3 answer is that for years, this project was about
4 payday loan companies, not contracting with payday
5 loan companies.

6 Now, in this proposed rule, it's expanded
7 to pawn shops, to auto title loan companies, payday
8 loan companies and other short-term lending entities
9 engaged in the business of making unsecured loans of
10 500 dollars or less with payment terms of -- of
11 31 days or less, but it's okay as long as their
12 aggregate effective annual percentage interest rate is
13 less than 36 percent.

14 So I think this makes -- makes complying
15 a little more difficult. You have to know what all
16 those terms mean and -- and how to apply them. I
17 appreciate the comments of the consumer advocates and
18 I can see what their goal is and it's a worthy goal.
19 I also agree with the comments of Staff and KCPL. I
20 thought Staff's comments were very balanced.

21 And in terms of looking at other places
22 to replace payday loan companies and others as pay
23 agents, I also would applaud Jackie Hutchinson, who is
24 not here today, but we have worked with her. She has
25 a project going to get banks in urban areas to -- to

1 serve -- to take utility payments and we -- she has
2 invited us to meetings. I've personally gone to them.

3 And our agent who assembles the pay agent
4 network, which is called First Tech, came and did a
5 presentation to these banks on how it would work to
6 take utility payments and the equipment that we would
7 bring in and -- and that sort of stuff. And so we're
8 available to contract with these banks should they
9 decide to do it. And Jackie has taken the lead in --
10 in spearheading that.

11 One of the things that Mr. Coffman said,
12 and he's been very consistent in saying this over the
13 years that I've been involved in this docket and this
14 issue, is that he wants to take away the Commission
15 and the utilities giving payday loan companies a stamp
16 of approval. In other words, contracting with them
17 gives them the kind of legitimacy that Mr. Coffman
18 objects to.

19 And so my view of maybe the best answer
20 here -- well, let me take one -- one more step back.
21 This fight is really between the consumer advocates
22 and the short-term lenders. And if this solved that
23 fight, then it would be a good idea. But
24 unfortunately, I -- as we've discussed, it doesn't
25 accomplish what we would like it to accomplish because

1 consumers can still use the payday lenders for utility
2 bill payments. They would just be unauthorized.

3 And because they would be unauthorized,
4 we would not get data from them that the payment came
5 from them. We not be able to limit the charges that
6 they charge their customers for utility bill payments
7 and we would get the money slower. Our customers
8 would not get credit as fast.

9 Right now if you go into a store, most of
10 ours are in Schnucks -- Schnucks and Dierberg stores.
11 But if you go in there and you pay your bill, they
12 have equipment to send the payment to us same day.
13 The way it's handled without that equipment is the
14 company handling it will take the customer's money,
15 write a check, put the check in the mail and then we
16 would get it, you know, in the next day or two.

17 So in my view, this rule does not
18 accomplish a lot and it does put some risk on
19 utilities to -- in terms of possible violations. And
20 so my suggestion is something akin to what we do with
21 hedging and -- and mitigation of upward price
22 volatility in the gas market, which is -- which you
23 can see in Commission Rule Number 40.018 --
24 4 CSR 240-40.018.

25 And what that rule does is it makes a

1 policy statement, makes a very clear policy statement
2 that -- that encourages hedging by utilities, that
3 sets forth several choices -- nonexclusive choices in
4 making hedges and that encourages utilities to do
5 that. And I think that that rule works in terms of
6 letting us know what the Commission would like us to
7 do. And -- and -- and as a result, we have done it,
8 we have done -- we have hedged. and so I find that
9 rule to be effective.

10 And I think it may be just as effective
11 here to make this kind of policy statement on this
12 rule. And if we want to enlarge the rule from just
13 payday loans to these other companies, the pawn shops,
14 the auto title loans, it's much easier for us if
15 that's done within a policy statement and a -- a
16 statement encouraging utilities to not use these
17 entities and even saying that they should not use them
18 where possible.

19 Finally, speaking of hedging, the best
20 low-income program -- and we're really talking about
21 low-income issues here. The best low-income program
22 we've had is low gas costs. And thanks to the
23 fracking and the shale revolution, it has greatly
24 brought down gas prices and that has really helped our
25 customers.

1 And we hope that -- you know, fracking is
2 controversial and there are a lot of people who would
3 like to stop it. And if it is stopped, I fear that
4 gas prices will rise again, but -- so while they're
5 low, we certainly like to take advantage of them
6 through the -- the hedging programs that -- that we
7 just discussed that the Commission has encouraged. I
8 think that concludes my comments and I'm ready for
9 questions.

10 JUDGE WOODRUFF: If you can tell me more
11 about the unauthorized -- I don't want to call them
12 agents, but pay stations. How does that work?

13 MR. ZUCKER: Well, there could be a
14 store -- let's call it a check cashing store. And
15 that store can have a sign that they make themselves
16 that say, We pay utility bills here. And so customers
17 who live in the area who may not have transportation,
18 who may not have a checking account can walk into
19 those stores and they bring their bill with them and
20 they bring their cash and the -- the pay agent or the
21 pay station takes the cash, writes a check to us, puts
22 it in their with the bill stub so we know who to give
23 credit to and sends to us.

24 JUDGE WOODRUFF: Probably charges a fee?

25 MR. ZUCKER: And charges a fee, which we

1 wouldn't know what that fee is.

2 JUDGE WOODRUFF: As far as MGE or Laclede
3 is concerned, it's just a payment from the customer?

4 MR. ZUCKER: Right. We don't track where
5 it comes from. It comes into the -- you know, the
6 payment drawer and gets processed.

7 JUDGE WOODRUFF: And I assume there's --
8 is there any way for your company to be able to track
9 that?

10 MR. ZUCKER: No.

11 CHAIRMAN HALL: Is that the only way that
12 the unauthorized pay station would work? Is there any
13 way that it could wire that money electronically?

14 MR. ZUCKER: Yes. That could work -- it
15 could work that way also. Just the same way that you
16 and I probably pay our bills with a bank online
17 electronically. And that is a free service to, you
18 know, whoever's using that service with their bank. I
19 don't know if it's -- if what -- if what a pay station
20 does is free, but if mine is, I assume theirs is. So
21 yes, it could come that way.

22 CHAIRMAN HALL: So someone could go to a
23 Wal-Mart, which has a variety of financial services
24 available, go to a Wal-Mart with a -- with -- and --
25 and take cash or a check and -- and have Wal-Mart wire

1 payment for its utility bill?

2 MR. ZUCKER: Absolutely.

3 JUDGE WOODRUFF: And this regulation
4 would not affect that?

5 MR. ZUCKER: No. The customer -- and I
6 guess that's one of my points. It wouldn't stop the
7 customers from using the -- the short-term lending
8 companies to pay their bills. It would just be
9 unauthorized instead of authorized.

10 CHAIRMAN HALL: And -- and if it's
11 unauthorized, then it can't have -- the payday loan
12 establishment can't have the insignia of Laclede, MGE
13 or Spire on the -- on the front door. Right?

14 MR. ZUCKER: Right. Not authorized. I
15 mean, I guess they could write down, Utility bills
16 paid here, including Laclede Gas, Ameren, MGE, KCPL.

17 CHAIRMAN HALL: But if they used your
18 insignia, you and the rest of your legal team would --
19 would take issue with that.

20 MR. ZUCKER: Certainly.

21 JUDGE WOODRUFF: Do you know if Laclede,
22 MGE, Spire currently uses any -- any payday loan type
23 entities as authorized pay agents?

24 MR. ZUCKER: Well, as part of this
25 process, we looked at that and we did find a few.

1 When we found them by looking online at the -- on --
2 the Missouri State website has a page where it lists
3 the registered payday lenders. And so we matched that
4 page to ours and we did find a few out of our 200 pay
5 agents.

6 And then at Staff's request, we looked to
7 see where the nearest pay station was to that -- to
8 those pay stations. And in some cases it wasn't far
9 and in other cases it was. And we have instructed our
10 network aggregator to not sign up -- to avoid signing
11 up payday loan companies. And they say that they
12 haven't.

13 JUDGE WOODRUFF: Okay. I'm just curious,
14 do entities that become pay agents, do they approach
15 you to become that or does the company approach them?

16 MR. ZUCKER: The company that we hire
17 called First Tech, that's their job to get a network
18 put together. So they go around soliciting companies
19 to -- to -- to do that business. And a lot of
20 companies don't want to because it's more trouble than
21 it's worth in terms of the dollar or dollar and a half
22 they might charge for it. As I said, Schnucks and
23 Dierberg are the overwhelming majority of ours.

24 JUDGE WOODRUFF: Do you know what the
25 financial arrangements are between the agent and the

1 company? Is the company paying them or is the agent
2 paying the company for the privilege?

3 MR. ZUCKER: The agent -- I mean the pay
4 station takes money from the customer and some of that
5 payment is shared with the network. But at our
6 insistence, there's a limit on -- on how much they can
7 charge.

8 JUDGE WOODRUFF: Right.

9 MR. ZUCKER: And in some cases we pay.
10 In other words, the -- I think Schnucks, for example,
11 pays less -- I mean charges the customer less and we
12 add to that payment so that the network provider gets
13 their contractual amount.

14 JUDGE WOODRUFF: Okay. Anything else?

15 CHAIRMAN HALL: In Staff's report in the
16 working docket, which was filed in August of 2014 I
17 think -- let me verify that real quick. Yeah.
18 August 13 of 2014.

19 In response to DRs, Laclede indicated --
20 indicated it had five licensed payday lenders as pay
21 stations and MGE had five licensed payday lenders as
22 pay stations so ten total. Do you know what that
23 number is today?

24 MR. ZUCKER: I don't. I haven't followed
25 up on that, but that is what I did recall, about five

1 each. I can follow up on it, if you'd like. You
2 know, we told our -- our agent to avoid signing them
3 up. I don't know if that means that they ended the
4 contracts with those five.

5 CHAIRMAN HALL: Avoid signing up any
6 additional ones?

7 MR. ZUCKER: Right.

8 CHAIRMAN HALL: Do you know what the
9 typical term of the contracts -- of these contracts
10 is?

11 MR. ZUCKER: I would say no, but my guess
12 is that they can cancel on pretty short notice.

13 CHAIRMAN HALL: Okay.

14 MR. ZUCKER: You know, 30 days notice. I
15 can find that out also if you would like.

16 CHAIRMAN HALL: Well, yes. I would be
17 curious as to that -- as to that information.

18 JUDGE WOODRUFF: Just let me be clear
19 about the request. The Chairman certainly has a right
20 and -- to find out this information, but I'm not going
21 to hold the record open for that purpose, and I just
22 want to be clear about that.

23 CHAIRMAN HALL: No. Well, what does that
24 mean? That means the information is submitted outside
25 the record?

1 JUDGE WOODRUFF: Yes.

2 CHAIRMAN HALL: Okay.

3 JUDGE WOODRUFF: It would be information
4 you would be providing directly to the Chairman. It
5 would not be part of the record in this case. Because
6 we have to be able to be clear what the record -- when
7 the record ends today because we have time frames for
8 when we have to file the ruling.

9 Okay. Anything else, Mr. Zucker?

10 MR. ZUCKER: One other comment. I would
11 note that the -- the solution that the consumer
12 advocates have offered is that loan rates be capped at
13 36 percent. And -- in other words, they're not saying
14 don't do short-term loans at all. They're still
15 making those available, but they want to set a
16 parameter around it.

17 And I applaud them for that because, you
18 know, there are people that do need short-term loans
19 and -- and so they're allowing for that to happen.
20 They just would like to see it regulated.

21 JUDGE WOODRUFF: Thank you.

22 MR. ZUCKER: Thank you.

23 JUDGE WOODRUFF: Anyone else wish to make
24 a comment before we turn to Staff? All right. For
25 Staff.

1 MS. DALE: Thank you. Obviously Staff
2 has already submitted its written opinion -- written
3 comments and I won't go over those, but just address
4 those issues that have been brought up very recently.

5 The first thing I would like to address
6 is the proposal of the Office of the Public Counsel to
7 restrict the interest rate and to not allow
8 unauthorized pay -- unauthorized pay station payments
9 to come through. In subparagraph 14 of their
10 proposal, no electric, gas, water or sewer utility may
11 receive any funds transferred from essentially an
12 unauthorized pay station.

13 Of course, paragraph 13 establishes who
14 can be authorized and who cannot. So the Staff is
15 concerned that a customer may pay an unauthorized
16 agent, but then the utility is precluded from
17 receiving it.

18 The Staff is also concerned about the
19 characterization of 408.030.1 as a cap on interest
20 rates in Missouri. The Staff would like to direct the
21 Commission's attention to 408.100 concerning unsecured
22 loans.

23 Finally, in relation to one other
24 suggest-- or one other issue that was brought up
25 today, if you look at the Commission's proposed

1 language, the Staff would suggest that the words pawn
2 shop, auto title loan company, payday loan company or
3 other short-term lending entity -- or short-term
4 lending be removed so that the rule would say, No en--
5 no utility may enter into any contractual or
6 authorized pay agent relationship with any entity
7 engaged in the business of making unsecured loans,
8 blah, blah, blah.

9 JUDGE WOODRUFF: And what's the reason
10 for that change?

11 MS. DALE: As Mr. Zucker pointed out, it
12 adds a level of confusion that the Staff believes is
13 not necessary. There may be other entities that are
14 not in the list that engage in that lending business
15 or that may become engaged in that lending business.
16 And the Staff believes that listing those names is
17 unduly restrictive.

18 JUDGE WOODRUFF: Okay. Mr. Chairman,
19 anything?

20 CHAIRMAN HALL: Well, actually,
21 Mr. Coffman, I would be interested in your response to
22 that concept.

23 MR. COFFMAN: I think the important thing
24 is that -- the business of providing the short-term
25 loans at high interest rates is the -- is the most

1 important thing other than what they are called. I
2 mean we've seen several entities in this state, you
3 know, call themselves title loan companies or maybe
4 currency exchanges and play around with what they're
5 labeled. And I'm not sure even payday lending isn't
6 even a defined term under the Missouri statutes.

7 So I think the operative problem here
8 that we're worried about is the -- engaging in these
9 high interest, short-term loans and having that
10 formally affiliated with a utility that is -- you
11 know, a monopoly regulated essentially service here in
12 the state.

13 So I don't know that the names are as
14 important as the activity that we don't want
15 associated with utility bill payment. I don't know if
16 that helps.

17 CHAIRMAN HALL: So you would not any
18 problem with that recommendation?

19 MR. COFFMAN: I think as long as it's
20 very clear that you are regulating entities that
21 engage in the practice of the short-term lending.

22 CHAIRMAN HALL: Well, do you think it is
23 clear? If we remove that language, which actually I
24 must admit makes some sense -- do you want to look at
25 it and think about for a second?

1 Anyone else in the room prepared to
2 comment on that? Yeah.

3 MR. ZUCKER: Hi, this is Rick Zucker, for
4 the record. I think that the change points up the
5 problem that I identified, which is trying to
6 determine when a pay agent is being looked at, whether
7 or not they make loans at 31 days, 32 days, 400
8 dollars.

9 CHAIRMAN HALL: But specifically the
10 concern raised by Staff, which is just deleting these
11 descriptions of the entities and just saying no
12 entity, regardless of what it is or what it calls
13 itself, can do X if the utility wants to have a
14 contractual relationship with it. And I think this --
15 so --

16 MR. ZUCKER: That makes it even harder.

17 CHAIRMAN HALL: -- it doesn't solve all
18 of the problems that you raised, but I think it does
19 address at least one of them.

20 MR. ZUCKER: I think what it -- what it
21 shows me is that taking out those specific names
22 didn't really help because the "or other" makes it
23 just as broad. In other words, it's already broad.

24 MS. DALE: And the Staff is not arguing
25 with that. The Staff is just suggesting that it would

1 be clearer without those labels.

2 MR. OWEN: Chairman, I think just to echo
3 some of the things we said initially, I think it does
4 take out some of the narrowing effects that we were
5 hoping to have with some of this language and I think
6 that would be our only concern.

7 I mean, I think -- I understand where
8 Mr. Coffman is coming from, but I do think it does --
9 it's a clarity issue now that -- there is some
10 operative definitions out there. I mean, if there's
11 no definition or statute or regulation of what auto
12 loan -- you know, auto title loan companies are --
13 certainly that's something that could be researched,
14 but we believe that this helps narrow what this --
15 what this is going to be regulating.

16 MR. ZUCKER: Let me just add, Mr. Coffman
17 is exactly right. When we looked on the list of who
18 are -- the pay stations are, it's very difficult to
19 tell from their name what they do.

20 MR. COFFMAN: And I think that's right,
21 because some of these entities that I would call
22 predatory lenders do try to hide the fact of what
23 they're doing. And there are places that call
24 themselves currency exchanges, some of which only
25 engage in the practice of exchanging money when

1 different -- you know, different types of foreign
2 currency. But there are some that call themselves
3 currency exchanges and really engage in these kind of
4 predatory short-term, high interest loans.

5 So I would just ask that -- you know, I
6 mean I think that it's better that you have a -- you
7 know, that we list the types of entities that have
8 been troublesome in the past and say -- but as long --
9 the most important thing in my mind is just retaining
10 the -- you know, the entity engaged in the business of
11 making the unsecured loans and include that
12 definition.

13 And I would also say that it's not -- it
14 is I think a standard that is already in the law, or
15 at least in federal law, the 36 percent. I think that
16 is a number that you can hang your hat on. It is a
17 distinction that has already been made in other
18 governmental regulations, including -- the Military
19 Lending Act comes to mind. So I think that's
20 something that the Commission's rule does make a good
21 clear reasonable standard if you're putting that
22 exception in.

23 JUDGE WOODRUFF: Anything else from
24 Staff?

25 MS. DALE: No, thank you.

1 CHAIRMAN HALL: I have a question. Well,
2 before we move to that, does KCPL -- Mr. Fischer, do
3 you have any comments or anything to add to that?

4 MR. FISCHER: I don't have any opinion
5 about that, no. Thanks.

6 CHAIRMAN HALL: The proposed rule says no
7 utility may enter -- enter into a contractual
8 relationship. What is your understanding as to
9 whether or not if -- if this rule is promulgated and
10 is ultimately in full force and effect, to what extent
11 would the rule affect pre-existing contractual
12 relationships? If -- if a utility had a relationship
13 prior to the date of the effectiveness of the -- of
14 the effective date of the rule, would this -- would
15 they be in violation of the rule if they didn't
16 terminate that relationship?

17 MS. DALE: I haven't thought about that
18 question before now, but I -- I would assume that they
19 could continue relationships but not extend them. But
20 that's off the top of my head.

21 CHAIRMAN HALL: Okay. Any other lawyers
22 in the room have any thoughts on that issue?

23 MR. ZUCKER: I think it's not clear. You
24 might -- as Staff says, it could be interpreted to
25 mean -- you know, go through the term of the agreement

1 you already have, but don't -- don't renew the term.
2 I think it could be interpreted to mean you should
3 give notice of termination.

4 MR. COFFMAN: Your Honor, my hope would
5 be that that issue, while very interesting, would not
6 come up. All the utility entities that have been
7 engaged in this process for many years I think have
8 attempted to eliminate those relationships. And so
9 we're just trying to prevent, you know, new entities,
10 new utility management in the future from getting into
11 these practices.

12 CHAIRMAN HALL: So it's really whether or
13 not we should say no utility may enter into any new
14 contractual or authorized agent relationship possibly
15 to clarify that.

16 MR. OWEN: Well, Mr. Chairman, I was
17 going to say under what's been proposed about entering
18 into any contractual relationship, when you look at
19 paragraph 13 of what Public Counsel suggested is that
20 they shall not -- they shall not be used in any
21 reason-- I think that would effectively cease any
22 relationship. I mean, I think that would -- I think
23 what that language would do is, in effect, nullify and
24 void it by operation of the regulation. So that's
25 why -- another thing that we think is beneficial about

1 our language. Thank you.

2 JUDGE WOODRUFF: Anything further?

3 CHAIRMAN HALL: I don't think so. Thank
4 you.

5 JUDGE WOODRUFF: All right. I believe
6 that takes care of everyone in the room. Anything
7 else anyone has to bring up?

8 All right. With that then, we are
9 adjourned. Thank you all for coming.

10 (WHEREUPON, the hearing was adjourned.)

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EXHIBIT INDEX		MARKED	REC'D
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Written comments of Legal Aid of			
Eastern Missouri	9		

CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Tracy T. Taylor

Tracy Thorpe Taylor, CCR



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