BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Rulemaking Hearing

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

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

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

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

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

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

JUDGE WOODRUFF: They did.

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

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

MR. COFFMAN: That's correct.

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

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

JUDGE WOODRUFF: There we go. Okay. We

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

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

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

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

It was brought to our attention that in the past there have been payday loan facilities that would put the decals of, you know, Ameren and Laclede or other utility companies on their door sort of inviting them in. And it was -- it appeared as if they were using these official utility logos and names to suggest that this was a place not only to pay your bills, but to also -- that it was somehow safe.

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

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

We think that the Commission has clear authority to direct the utilities as to what they can do when it comes to billing and payment and collection practices. That is explicitly listed in the Commission's rulemaking authority under 386.250, subsection 6. And so this rule, I think, is very firmly grounded in the Commission's rulemaking authority.

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

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

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

JUDGE WOODRUFF: Let me ask you some questions.

MR. COFFMAN: Yes.

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

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

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

MR. COFFMAN: Yes.

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

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

JUDGE WOODRUFF: That's fine.

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

JUDGE WOODRUFF: We'll mark it as

Exhibit 1.

(Exhibit 1 was marked for identification.)

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

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

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

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

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

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

CHAIRMAN HALL: I would probably say it never does.

MR. COFFMAN: Correct.

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

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

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

MR. COFFMAN: I don't know.

CHAIRMAN HALL: You don't know.

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

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

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

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

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

CHAIRMAN HALL: Okay.

MR. COFFMAN: And still accepting it.

CHAIRMAN HALL: Thank you. I have no

further questions.

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

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

JUDGE WOODRUFF: Proceed.

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

Now, when we look at the language that's been put before this Commission to consider what kind of regulation that is, it is the opinion of the Office of Public Counsel that after the research that has been conducted, after the data that's been reviewed, after listening to public comments, the language that we have proposed is going to be more narrowly focused, it is going to be more tied to usurious lending practices, it is going to be more tied to the -- to the statutes that have been promulgated by the legislature that deals specifically with the interest rates that are at issue here and we believe that's going to offer more protection.

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

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

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

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

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

And what we would say is if you look at data out there, if you look at research that's been done, we're not talking about anecdotes, we're not talking about -- you know, we're not talking about hyperbole in the world of social justice and equity. We're talking about studies such as Brian T. Melzer's Real Cost of Credit Access: Evidence from Payday Lending Markets that's been done the past eight years that shows empirical evidence that payday loans do not alleviate economic hardship.

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

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

I mean, these are people -- if you look

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

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

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

When you look at studies that have been done by other states, when you look at what public comments have merited, what -- what people have said, what the public has said, what they want is they want to be able to do this in person, but they want to do it in places like grocery stores. They want to do it at pharmacies. They want to do it at the post office. They want to do it at their community center. They want to do it at city hall.

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

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

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

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

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

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

I can tell you something right now.

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

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

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

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

MR. OWEN: Well, I mean, you know, we talk about the specific concerns we've got with this. I mean, we believe that the way -- the -- the entities that are going to be regulated here -- or the -- not the entities that are going to be regulated, but the entities that the utility company is going to be regulated from entering into, they're not tied to specific usurious -- to usurious language. They're not tied to the legislation, to the bills, to the statutes that define exactly what kind of rates can be issued.

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

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

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

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

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

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

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

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

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

But if you're talking about, as Chairman

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

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

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

If you're talking about trying to -- just completely keep people from using these businesses to pay utility bills, I'm not sure that's exactly what we're hoping to accomplish here. What we're hoping to accomplish is saying that utility companies cannot have a direct or even an indirect relationship with them as far as having some sort of --

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

MR. OWEN: Yeah.

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

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

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

JUDGE WOODRUFF: Now, there is -- as I recall from the last eight years of looking at this issue, there is also something called unauthorized pay agents where they have no relationship -- formal relationship with a utility, but they will collect payments and they tell customers hey, if you give us this money, we'll pay your bill at Ameren or at Laclede or wherever. Would your language deal with that?

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

JUDGE WOODRUFF: I don't follow.

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

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

MR. OWEN: Sure.

JUDGE WOODRUFF: As I recall, Wal-Mart was one of these unofficial -- unoffi-- unaffiliated, un-- unauthorized pay agents that was -- that frequently collects money from customers, sends it on in and they're doing it as a service to their customers, not necessarily through a relationship with the utility. Would your affiliate language prevent -- attempt to prevent the utility from taking money from Wal-Mart?

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

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

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

JUDGE WOODRUFF: Okay

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

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

MR. OWEN: Not in the original, no.

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

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

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

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

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

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

JUDGE WOODRUFF: Okay. Mr. Chairman?

CHAIRMAN HALL: Yeah. Good morning.

MR. OWEN: Good morning, Chairman.

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

MR. OWEN: Yeah.

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

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

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

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

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

MR. OWEN: That would be our hope.

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

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

CHAIRMAN HALL: Okay. I have no further questions.

MR. OWEN: Thank you.

JUDGE WOODRUFF: Thank you, Mr. Owen.

MR. OWEN: Thank you.

JUDGE WOODRUFF: KCPL/GMO filed comments.

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

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

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

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

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

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

JUDGE WOODRUFF: All right. Did you get

a chance to see Public Counsel's proposed alternative
language?
MR. FISCHER: I did look at it. And I
don't know that we have any -- our concerns that we
have with the rule would be the same with -- with his
proposal, but as I say, from a practical standpoint,
it's not going to have a big effect on the company.
JUDGE WOODRUFF: Thank you very much.
CHAIRMAN HALL: Mr. Fisher, what are your
concerns with the rule?
MR. FISCHER: They -- we listed several
just in the -- in paragraph 2 of our comments. I
think over the years we've been involved in this
issue, people have raised a lot of concerns about the
abuses that occur whenever a consumer walks into a
payday loan area -- station to pay their bill and
they're coerced or they're taken advantage of in some
way.
And the rule itself I don't think would
keep a consumer from going into a payday loan location
and paying a bill and probably they would still have
the opportunity, if that kind of coercion exists,
to -- that could happen anyway under the rule.
We don't know of any examples where that
has occurred, but -- but the rule itself wouldn't

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

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

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

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

MR. FISCHER: No.

CHAIRMAN HALL: So what --

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

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

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

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

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

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

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

In the past, the issue has been there haven't been alternatives available for -- for pay stations in some of the areas. We've taken greater steps to try to find alternatives and I think -- and we've closed those where we could and the alternatives are now available. So from a practical standpoint, I don't think it's going to have a big effect.

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

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

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

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

CHAIRMAN HALL: Yeah. Well, I mean --

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

MR. FISCHER: I understand.

CHAIRMAN HALL: Oh, I'm sorry.

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

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

MR. FISCHER: Okay. Thank you.

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

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

CHAIRMAN HALL: Good morning.

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

I think the questions that -- that the

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

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

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

And in terms of looking at other places to replace payday loan companies and others as pay agents, I also would applaud Jackie Hutchinson, who is not here today, but we have worked with her. She has a project going to get banks in urban areas to -- to serve -- to take utility payments and we -- she has invited us to meetings. I've personally gone to them.

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

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

And so my view of maybe the best answer here -- well, let me take one -- one more step back. This fight is really between the consumer advocates and the short-term lenders. And if this solved that fight, then it would be a good idea. But unfortunately, I -- as we've discussed, it doesn't accomplish what we would like it to accomplish because consumers can still use the payday lenders for utility bill payments. They would just be unauthorized.

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

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

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

And what that rule does is it makes a

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

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

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

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

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

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

JUDGE WOODRUFF: Probably charges a fee?

MR. ZUCKER: And charges a fee, which we

wouldn't know what that fee is.
JUDGE WOODRUFF: As far as MGE or Laclede is concerned, it's just a payment from the customer?
MR. ZUCKER: Right. We don't track where it comes from. It comes into the -- you know, the payment drawer and gets processed.
JUDGE WOODRUFF: And I assume there's -- is there any way for your company to be able to track that?
MR. ZUCKER: No.
CHAIRMAN HALL: Is that the only way that the unauthorized pay station would work? Is there any way that it could wire that money electronically?
MR. ZUCKER: Yes. That could work -- it could work that way also. Just the same way that you and I probably pay our bills with a bank online electronically. And that is a free service to, you know, whoever's using that service with their bank. I don't know if it's -- if what -- if what a pay station does is free, but if mine is, I assume theirs is. So yes, it could come that way.
CHAIRMAN HALL: So someone could go to a Wal-Mart, which has a variety of financial services available, go to a Wal-Mart with a -- with -- and -- and take cash or a check and -- and have Wal-Mart wire

payment for its utility bill?
MR. ZUCKER: Absolutely.
JUDGE WOODRUFF: And this regulation would not affect that?
MR. ZUCKER: No. The customer -- and I guess that's one of my points. It wouldn't stop the customers from using the -- the short-term lending companies to pay their bills. It would just be unauthorized instead of authorized.
CHAIRMAN HALL: And -- and if it's unauthorized, then it can't have -- the payday loan establishment can't have the insignia of Laclede, MGE or Spire on the -- on the front door. Right?
MR. ZUCKER: Right. Not authorized. I mean, I guess they could write down, Utility bills paid here, including Laclede Gas, Ameren, MGE, KCPL.
CHAIRMAN HALL: But if they used your insignia, you and the rest of your legal team would -- would take issue with that.
MR. ZUCKER: Certainly.
JUDGE WOODRUFF: Do you know if Laclede, MGE, Spire currently uses any -- any payday loan type entities as authorized pay agents?
MR. ZUCKER: Well, as part of this process, we looked at that and we did find a few.

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

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

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

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

JUDGE WOODRUFF: Do you know what the financial arrangements are between the agent and the company? Is the company paying them or is the agent paying the company for the privilege?

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

JUDGE WOODRUFF: Right.

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

JUDGE WOODRUFF: Okay. Anything else?

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

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

MR. ZUCKER: I don't. I haven't followed up on that, but that is what I did recall, about five each. I can follow up on it, if you'd like. You know, we told our -- our agent to avoid signing them up. I don't know if that means that they ended the contracts with those five.

CHAIRMAN HALL: Avoid signing up any additional ones?

MR. ZUCKER: Right.

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

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

CHAIRMAN HALL: Okay.

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

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

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

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

JUDGE WOODRUFF: Yes.
CHAIRMAN HALL: Okay.
JUDGE WOODRUFF: It would be information you would be providing directly to the Chairman. It would not be part of the record in this case. Because we have to be able to be clear what the record -- when the record ends today because we have time frames for when we have to file the ruling.
Okay. Anything else, Mr. Zucker?
MR. ZUCKER: One other comment. I would note that the -- the solution that the consumer advocates have offered is that loan rates be capped at 36 percent. And -- in other words, they're not saying don't do short-term loans at all. They're still making those available, but they want to set a parameter around it.
And I applaud them for that because, you know, there are people that do need short-term loans and -- and so they're allowing for that to happen. They just would like to see it regulated.
JUDGE WOODRUFF: Thank you.
MR. ZUCKER: Thank you.
JUDGE WOODRUFF: Anyone else wish to make a comment before we turn to Staff? All right. For Staff.

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

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

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

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

Finally, in relation to one other suggest-- or one other issue that was brought up today, if you look at the Commission's proposed language, the Staff would suggest that the words pawn shop, auto title loan company, payday loan company or other short-term lending entity -- or short-term lending be removed so that the rule would say, No en-- no utility may enter into any contractual or authorized pay agent relationship with any entity engaged in the business of making unsecured loans, blah, blah, blah.

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

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

JUDGE WOODRUFF: Okay. Mr. Chairman, anything?

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

MR. COFFMAN: I think the important thing is that -- the business of providing the short-term loans at high interest rates is the -- is the most important thing other than what they are called. I mean we've seen several entities in this state, you know, call themselves title loan companies or maybe currency exchanges and play around with what they're labeled. And I'm not sure even payday lending isn't even a defined term under the Missouri statutes.

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

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

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

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

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

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

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

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

MR. ZUCKER: That makes it even harder.

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

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

MS. DALE: And the Staff is not arguing with that. The Staff is just suggesting that it would be clearer without those labels.

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

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

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

MR. COFFMAN: And I think that's right, because some of these entities that I would call predatory lenders do try to hide the fact of what they're doing. And there are places that call themselves currency exchanges, some of which only engage in the practice of exchanging money when different -- you know, different types of foreign currency. But there are some that call themselves currency exchanges and really engage in these kind of predatory short-term, high interest loans.

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

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

JUDGE WOODRUFF: Anything else from Staff?

MS. DALE: No, thank you.

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

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

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

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

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

MR. ZUCKER: I think it's not clear. You might -- as Staff says, it could be interpreted to mean -- you know, go through the term of the agreement you already have, but don't -- don't renew the term. I think it could be interpreted to mean you should give notice of termination.

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

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

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

JUDGE WOODRUFF: Anything further?

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

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

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

(WHEREUPON, the hearing was adjourned.)

EXHIBIT INDEX

	MARKED	REC'D
Exhibit 1 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 Thorpe Taylor, CCR