

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

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

**JOINT COMMENTS OF AARP
AND THE CONSUMERS COUNCIL OF MISSOURI**

AARP¹, with its nearly 38 million members in all 50 States and the District of Columbia, Puerto Rico, and U.S. Virgin Islands, is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities and fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse. AARP has more than 755,000 members in Missouri.

The Consumers Council of Missouri (“Consumers Council” or “CCM”) is a non-governmental, nonpartisan, nonprofit organization dedicated to educating and empowering consumers statewide and to advocating for their interests. For decades, Consumers Council has promoted more rigorous consumer protections for utility consumers as well as promoted financial regulations that would better protect vulnerable consumers from predatory lending practices.

AARP and Consumers Council (“Joint Commenters”) are grateful to the Missouri Public Service Commission (“Commission”) for formally proposing this amendment to its

¹In 1999, the “American Association of Retired Persons” changed its name to simply “AARP”, in recognition of the fact that people do not have to be retired to become members.

Chapter 13 Residential Billing Rules which would provide consumer protections to those customers choosing to pay their utility bills in person at a utility pay station. The proposed amendment would place reasonable restrictions on the type of locations which a regulated utility may use as a pay station and the formal relationships in which the utility may engage for accepting utility payments.

The Commission's proposed amendment is long overdue. Versions of this regulatory amendment have been advanced by public interest organizations and by the Missouri Office of the Public Counsel (OPC) for many years, and has been vetted through numerous informal workshops and forums held by the Commission. Similar regulatory restrictions were proposed by the Joint Commenters as early as 2008, in the context of workshops to consider broader revisions to Chapter 13. When all of the proposed revisions to the Chapter 13 residential billing rules ultimately came before the Commission in a formal proceeding in 2013, there was little opposition to the idea of restricting pay stations from locating in payday lending facilities.² However, the Commission spun off the issue to a separate workshop.³ In that subsequent workshop case, by a vote of 4-1 in September 2014, the Commission agreed to move forward with a rule that restricted pay stations from locating in payday lending facilities and other facilities. The rulemaking proposal currently being considered is less restrictive than rule and provides an exception that was not contained in earlier proposals.

² See "Joint Comments On Proposed Rulemaking To Amend Chapter 13 Residential Service And Billing Practice Rules", filed on October 7, 2013 in Case No. AX-2013-0091 by Consumers Council, AARP, and Legal Services of Eastern Missouri.

³ "In the Matter of a Working Case to Draft a Rule regarding Utility Pay Stations and Loan Companies", Case No. AW-2014-0329.

The legal foundation for this rulemaking proposal is solid. Regulated monopoly electric, natural gas, water and sewer monopolies provide essential services that are necessary for basic health and safety in our modern society. Thus, the Commission's supervisory role over these services is vital and necessary. The Commission has explicit legal rulemaking authority for setting the conditions for utility service, and the Commission's rulemaking authority is very specific with regard to setting the terms and conditions to which a utility must adhere *for billing and for accepting payment for utility service*.⁴

Joint Commenters have fielded numerous concerns over the years about Commission-regulated utilities (directly or indirectly) associating with pay agents which also offer short term loans (also known as "payday loans"). Payday lending, and other similar predatory financial practices, have been known to target cash-strapped individuals and families. Missouri has one of the most permissive laws in the United States with regard to allowing high interest payday lending terms.⁵ These practices have the ability to exacerbate economic hardship and can constitute predatory lending. While "predatory lending" is not a term specifically defined under Missouri law, it is generally defined as "imposing unfair and abusive loan terms on borrowers," and must be understood in the entire context of a loan transaction.⁶

Allowing a short term lender also serving as a utility pay agent is a hazardous situation ripe for predatory behavior. Many low-income or otherwise financially vulnerable customers visit utility pay stations in Missouri in order to pay for essential services. When

⁴ Section 386.250(6) RSMo.

⁵ See Section 408.500 RSMo.

⁶ FDIC Office of the Inspector General Audit Report "Challenges and FDIC Efforts Related to Predatory Lending", Report No. 06-011 (June 2006).

formal arrangements exist between Commission-regulated utilities and payday lenders, an appearance is created that the Commission sanctions such associations as financially safe, reputable, trustworthy, and in the public interest. However, Joint Commenters contend that such arrangements are unreasonably dangerous to consumers and calls upon the Commission to adopt its proposed rule banning the utilities that it regulates from formally associating with short term lenders.

To the extent that payday lending can contribute to financial hardship, the activity threatens to siphon off consumer resources that could otherwise be used to pay for essential utility services. By depleting the money that could be used to pay utility bills, payday loans have the potential to increase the demand for federal and state low-income energy assistance dollars. The activity can also increase a utility's level of bad debt caused by uncollectible bills, and thus increases the likelihood of utility disconnections. Increasing demand for energy assistance strains government budgets, while increasing uncollectible utility accounts can put upward pressure on the rates paid by all utility consumers. In these ways, the proposed amendment has the potential to positively impact the utility rates for all consumers.

The proposed amendment is just and reasonable in that an exception to the restriction has been added allowing utilities to still associate with financial lending institutions that offer short term loans at an "aggregate, effective annual percentage interest rate of less than thirty-six (36) percent". Allowing utilities to have a formal pay agent relationship with such lenders will set a reasonable standard that nonetheless excludes formal association with lenders that charge an egregious APR above thirty-six (36) percent.

Joint Commenters ask the Commission to adopt its proposed rule, restricting utilities from entering into formal pay agent relationships with payday lenders and other similar businesses that charge outrageously high interest rates, so that vulnerable consumers are no longer steered to pay agent locations that have the potential to threaten their ability to continue paying their utility bills.

Respectfully submitted,

/s/ John B. Coffman

John B. Coffman MBE #36591
John B. Coffman, LLC
871 Tuxedo Blvd.
St. Louis, MO 63119-2044
Ph: (573) 424-6779
E-mail: john@johncoffman.net

Attorney for AARP
and for the Consumers Council of Missouri

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