

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

In the Matter of a Working Case to Draft a Rule)
Regarding Utility Pay Stations and Loan Companies) **File No. AW-2014-0329**

**INITIAL COMMENTS OF MISSOURI ENERGY DEVELOPMENT
ASSOCIATION**

Comes now the Missouri Energy Development Association (“MEDA”)¹ by and through counsel, and submits its initial comments for consideration in the captioned matter.

This workshop appears to have come about as a consequence of the Commission’s recent revision of its Chapter 13 rules (utility billing practices).² The Commission’s order of rulemaking adopted earlier this year addressed a proposal submitted by AARP that suggested that the Commission prohibit utilities from authorizing pawn shops, auto title loan companies or payday loan companies to act as agents for the payment of customer utility bills. The Commission declined to adopt AARP’s proposal. Instead, it directed its staff (“Staff”) to again bring this matter to the Commission “for full consideration in a future rulemaking.”³ This workshop docket has been established to assist Staff with compiling pertinent information to present to the Commission.

This topic is not unfamiliar to the Commission. In August of 2009, the Office of the Public Counsel (“OPC”) filed a petition requesting that the Commission adopt a rule that, among other things, would place certain restrictions on the use of contract pay stations. Specifically, OPC requested that utilities be prohibited from using so-called payday loan establishments as

¹ MEDA is a Missouri not-for-profit corporation, which represents the interests of Missouri’s investor-owned utilities, including Union Electric Company d/b/a Ameren Missouri; Kansas City Power & Light Company; The Empire District Electric Company; The Empire District Gas Company; The Laclede Group; Summit Natural Gas; Liberty Utilities and Missouri-American Water Company.

² Case No. AX-2013-0091.

³ Mo. Reg. Vol. 39, No. 4, p. 503 (comment # 10).

contract pay stations. OPC alleged that there were potential problems associated with the use by utilities of such locations. OPC's stated concern at that time was the possibility of so-called "predatory lending practices" by payday loan establishments, that is, taking the opportunity to induce a utility customer to take out a high-interest, unsecured loan. OPC's rulemaking petition was docketed as Case No. AX-2010-0061.

Various parties filed comments in that case, including MEDA, and the Commission held a hearing concerning the petition at a meeting in Kansas City, Missouri. The Commission may recall that representatives of the payday loan industry testified that OPC's concern was not a practical problem because most people who used the pay station feature do so because they do not have a checking account whereas having a checking account is a prerequisite to qualifying for a small, small loan.⁴ Additionally, Staff filed a report concerning the petition containing information that it had compiled on the topic. Ultimately, the Commission concluded that there was "an insufficient basis to support Public Counsel's petition for rulemaking."⁵ The Commission directed that the matter be deferred to Case No. AW-2011-0252 (consumer protection rules).

MEDA is not aware of any change in circumstance that has occurred since 2009 that would cause the Commission to conclude that the use of payday loan companies or other short-term lenders as authorized utility pay agents is now a cause for concern. MEDA's member companies are not aware (nor have they been made aware) of any customer complaints or

⁴ The term "small, small loan" is the name given by the Missouri Department of Finance to unsecured loans of less than \$500.00.

⁵ Order Regarding Petition for Promulgation of Rules Relating to Billing and Payment, June 1, 2011, p. 3.

problems associated with the use of authorized pay stations.⁶ To the extent such issues exist, it would be an appropriate matter to explore them in this workshop.

MEDA reserves the right to review the information that is developed by Staff and other participants in this workshop and to provide additional comments or recommendations at a later date. Some initial observations, however, are appropriate. First of all, payday loan establishments are lawful business operations regulated by the Missouri Division of Finance.⁷ Accordingly, the Commission should begin its consideration of this topic with the presumption that these businesses are operating lawfully and in a reasonable manner. Evidence of actual questionable dealings with utility customers obviously would be a cause for concern, but mere innuendo and conjecture do not provide an adequate showing of abusive or inappropriate business conduct.

The principal interest of MEDA's member utilities in this docket is to ensure that the Commission not take any steps that inadvertently would be adverse to the public interest. The Commission should bear in mind the importance of the convenience and flexibility that pay agent arrangements provide for some utility customers. Several of MEDA's member companies utilize a network of unaffiliated pay agents to serve as pay stations throughout their service territories. This may involve some payday loan establishments. These arrangements are for the convenience of customers who may not have checking accounts or for some other reason are not interested in utilizing other available methods of payment. This observation contained in Staff's 2009 Report is as pertinent today as when made:

⁶ There are locations acting as unauthorized third-party pay stations. These arrangements do not involve any contractual arrangement between a utility and the third-party pay agent.

⁷ See, Chapter 408 RSMo. This past legislative session, Senate Bill 694 modifying the law relating to the regulation payday loan business was passed by the Missouri General Assembly. It has been delivered to the Governor.

Commission restriction of rate payer ability to use payday lenders may actually impede the ability of some customers to pay their utility bills in a timely manner. Specifically, the location of some payday lenders in neighborhoods where utility customers reside as well as the ability for customers to cash checks and pay their bills without requirement of a checking account may provide some customers with bill paying alternatives that they may not have otherwise.

In the absence of such contracted pay station arrangements, customers may not have any practical or reasonable alternatives. As such, it would be inappropriate to impose any arbitrary restrictions on the nature of authorized pay agents absent some compelling showing of abusive business practices that can be said to be materially disadvantageous to the customer's interest.

MEDA and its member utilities appreciate the opportunity to participate in this workshop. They look forward to working closely with Staff to compile the information necessary for the Commission to make an informed decision about whether and how to proceed with a rulemaking.

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, U.S. Mail and/or hand delivery to the following parties this 25th day of June, 2014:

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