

1

2

STATE OF MISSOURI

3

PUBLIC SERVICE COMMISSION

4

5

TRANSCRIPT OF PROCEEDINGS

6

7

Agenda Discussion

8

September 9, 2009

9

10

University of Missouri-Kansas City

11

Kansas City, Missouri

12

Volume I

13

14

Office of Public Counsel's)

Petition for Promulgation of)

15

Rules Relating to Billing)File No. AX-2010-0061

and Payment Standards for)

16

Residential Customers)

17

18

COMMISSIONERS

19

ROBERT M. CLAYTON, III, Chairman

JEFF DAVIS

20

TERRY JARRETT

KEVIN GUNN

21

ROBERT S. KENNEY

22

23

24

REPORTED BY: Lea Ann Martin, RPR, CSR, CCR

25

1 APPEARANCES:

2 For Community Financial Services Association of
3 America:

4 MR. MATT WILTANGER
5 Vice President, General Counsel
6 9401 Indian Creek Parkway
7 Suite 1500
8 Overland Park, KS 66210
9 (913) 234-5210
10 matt.wiltanger@qchi.com

11 For United Payday Lenders of Missouri:

12 MR. RANDY J. SCHERR
13 RJ SCHERR & ASSOCIATES
14 101 E. High Street, Suite 200
15 PO Box 1543
16 Jefferson City, MO 65102
17 (573)636-2822
18 rjscherr@swsconsultants.com

19 For Missouri Energy Development Association:

20 MR. PAUL A. BOUDREAU
21 BRYDON, SWEARENGEN & ENGLAND
22 312 East Capitol Avenue
23 PO Box 456
24 Jefferson City, MO 65102-0456
25 (573)635-7166
paulb@brydonlaw.com

For AmerenUE:

MR. JAMES B. LOWERY
SMITH LEWIS, LLP
111 South Ninth Street, Suite 200
PO Box 918
Columbia, MO 65205-0918
(573)443-3141
lowery@smithlewis.com

1 APPEARANCES: (cont'd.)

2

MS. CAROLE M. HUNT, CTP

3 Assistant Treasurer, Manager Business Services
Operations

4 One Ameren Plaza
1901 Chouteau Avenue
5 PO Box 66149, MC 235
St. Louis, MO 63166-6149
6 (314)554-4122
chunt@ameren.com

7

For Missouri Telecommunications Industry
8 Association:

9 MR. RICHARD TELTHORST, CAE
President

10 312 East Capitol Avenue
PO Box 785
11 Jefferson City, MO 65102
(573)634-2527
12 ric@mtia.org

13 For Office of Public Counsel:

14 MR. MICHAEL DANDINO
Deputy Public Counsel

15 200 Madison Street, Suite 650
PO Box 2230
16 Jefferson City, MO 65102
(573)751-1304
17 michael.dandino@ded.mo.gov

18 For Public Service Commission Staff:

19 MS. NATELLE DIETRICH
Director, Utility Operations

20 200 Madison Street
Suite 800
21 Jefferson City, MO 65102
(573) 234-5210
22 natelle.dietrich@psc.mo.gov

23

24

25

1 P R O C E E D I N G S

2 (Exhibit UPLM 1 was marked.)

3 CHAIRMAN CLAYTON: At this point
4 in the agenda we will go back onto our scheduled
5 agenda, Case Discussion No. 2, AX-2010-0061,
6 Office of Public Counsel. This is a petition by
7 the Public Counsel for promulgation of rules
8 relating to billing is how it's on the agenda.

9 This is the Public Counsel's petition.
10 Mike Dandino is here. Please introduce yourself
11 to us and tell us who you are and tell us what you
12 want to say today.

13 MR. DANDINO: Okay. Thank you,
14 Mr. Chairman.

15 May it please the Commission, my name is
16 Michael Dandino. I'm the chief legal adviser for
17 the Missouri Office of Public Counsel.

18 Just as a way of introduction, the
19 Missouri Office of Public Counsel represents the
20 consumer, the rate participators in utility
21 matters before the Public Service Commission and
22 in the courts on appeal. Primarily that means
23 that we represent residential and small business
24 concerns.

25 The petition the Office of Public Counsel

1 filed was for the purpose of -- of taking a matter
2 to the Commission that usually you don't see right
3 at the beginning. The focus of most of your cases
4 is rate cases to the utility and you start with
5 the depreciation and accounting and cost factors
6 and the inventories and financial information and
7 rates of return. We wanted to get a new debate
8 going, raise the level of public debate on the
9 impact of -- on consumers and probably one of the
10 biggest impacts on consumers other than price is
11 billing. We wanted to make sure that everyone
12 understands that billing is part of the whole
13 system, the whole continuum of utility regulation
14 because it starts not only with the product and
15 the distribution and -- and the rights for
16 connection and disconnection and termination of
17 service and billing and payments, that billing is
18 an integral part of this and that's why we're
19 talking about billing factors or billing issues.

20 Just to -- a lot of the focus in the
21 newspapers and elsewhere is on payday loan --
22 payday loan companies and other second tier
23 financial institutions as agents, pay agents, pay
24 stations for the utilities but I don't want any of
25 that debate to cloud the real issues that we're

1 really talking about billing. We're talking about
2 the responsibility that the utilities have for
3 billing, about the accountability and I think
4 that's what we wanted to raise with the Commission
5 and raise with the public are those issues.

6 Speaking of payday loans, I did want to
7 disclose to the Commission that I've recently
8 received an award from the payday loan industry on
9 one of their websites. I was given the award of
10 having the most ignorant statement of the day. I
11 was quoted from the petition. I didn't -- they
12 quoted it, I'd rather not go into that now, but
13 also they did talk about -- I think the ending
14 line was, "Hey, Dandino, don't try to save the
15 world." Well, the Office of Public Counsel is not
16 trying to save the world, we're not even trying to
17 reform the world, we're just looking at utility
18 companies and we want them to respect and to serve
19 the customers in the best way possible. I think
20 we all share that, companies, this Commission, the
21 Office of Public Counsel.

22 So let's look at what our proposal is.
23 Well, first kind of context of it is, whenever one
24 says the protection, consumer protection, there's
25 two aspects of this, correct any wrongs, of

1 course, and protect the consumer. We're trying to
2 protect the consumer from the nickel and diming of
3 them as what occurred in the telephone industry.
4 You ended up with a laundry list of little fees,
5 regulatory, administration fees, you have tax
6 fees, you have personal property tax surcharges,
7 you have in-state -- intrastate charges, USF
8 charges, Missouri USF, you have this whole laundry
9 list of fees and charges that normally would have
10 been within the rate structure, the rates that are
11 paid, and we wanted to avoid this with the -- with
12 the other industries. There's some talk and
13 discussion about electricity going into
14 competitive status. This is the very thing we
15 want to do -- probably should have done with the
16 telephone is restrict some of these because once
17 it becomes -- once it is established and once it
18 gets into the companies' financial line -- or
19 revenue stream, it'll be much harder to pull it
20 back out.

21 Once again, the -- perhaps some of the
22 comments that I've seen in the filings that the
23 utilities have filed was that these really aren't
24 problems, the billing -- the fees for a bill,
25 well, we don't charge for that or we don't charge

1 for this, we have just a few payday loan
2 companies. The question is, this Commission has
3 to look at and decide what should be the public
4 policy and if the utilities agree that they don't
5 have these -- these special charges or they don't
6 use payday loan, then they have nothing to fear
7 about these rules. They should support them. If
8 they do have these practices, then it's a perfect
9 example of why they should end it if this
10 Commission declares it as public -- in the public
11 interest and in the interest of the consumer.

12 The three elements basically of the -- of
13 the proposed rules is, one is of course the payday
14 loan as a pay station and the question isn't
15 whether payday loan stores are good or bad, it's a
16 question of -- from the utility point of view. Is
17 a utility -- should a utility partner with them,
18 should they assist the company -- payday loan
19 company create traffic in their stores. And the
20 very essence of it is, should these -- the payday
21 loan, and I'm just kind of grouping them all
22 together, the second tier financial, should they
23 make a loan -- should the utility make them an
24 agent and the representatives of the utility, what
25 is the impact of that, and I think those are the

1 questions that I think the Commission really needs
2 to say is who regulates that. Well, where is the
3 responsibility at that end? To what extent has
4 the utility outsourced their responsibility as
5 well as their -- this function? And, once again,
6 we go back to the essence of it is billing is a
7 utility function and remember that concept and
8 keep -- keep it together. If billing is a utility
9 function then what are payday loan companies doing
10 acting as agents, and if they are, there should be
11 some guidelines, responsibilities for them just
12 like...

13 And then that comes to the next question
14 is, is any of the -- of the outsourcing for
15 customer service centers. Some of the utilities
16 used to have customer service centers. I now
17 Laclede used to have one in St. Charles County
18 where I live and that is now closed. I don't know
19 if they have one downtown now or not but, in any
20 event, with a customer service center you can go
21 and pay your bill, you can pay it in cash, you can
22 pay it in any form, but also you had people there
23 from the company that could help you resolve your
24 problems -- resolve your problems, set up a pay
25 arrangement. They were the company's

1 representatives and they could provide a full
2 array of those services. You can file a complaint
3 there and I think that's very important. With any
4 of the agents, if I go into a Schnucks or
5 Dierbergs or payday loan, I'm not going to get
6 that type of service. I'm going to get there, I'm
7 going to pay a bill and I'll get a receipt. And
8 there's also a question of if I pay the bill
9 there, is that the authorized payment or is it
10 whenever the money gets to -- to the company?
11 These are the type of issues that we want the
12 Commission to look at in the billing aspects.

13 And then, finally, we have just the fees
14 for the transaction and the fees -- right now we
15 just want -- wanted to say let's -- let's try to
16 look at when a utility and a ratepayer interacts,
17 the ratepayer should not have to bear the brunt of
18 it, especially not for every transaction that
19 ratepayer has. And I'm talking about getting a
20 bill or getting copies of bills or any interagency
21 agreement. That should be part of the whole
22 service and that should be built into the entire
23 rate structure because I think it's also cheaper
24 to the consumers as a whole for it to be done that
25 way rather than individually. And, you know, so I

1 just ask the Commission to -- we hope that this
2 will be a very open and very informative, very
3 congenial, civil discussion on these rules and it
4 will come out with something that will protect the
5 consumer and -- and advance the public interest.
6 Thank you.

7 CHAIRMAN CLAYTON: Thank you,
8 Mr. Dandino.

9 All the folks sitting at the table also I
10 think are going to be providing presentations. I
11 wanted to ask my colleagues if it would be all
12 right if we go ahead and give everybody a chance
13 to come up, offer some comments and then if we
14 have time we'll open it up for discussion
15 questions. Is that all right or...

16 Hearing no objection, Mr. Dandino, thank
17 you. Please stick around if that's all right.

18 MR. DANDINO: Sure.

19 CHAIRMAN CLAYTON: I've been given
20 a list of folks that expressed interest in
21 participating today. The next entity to
22 participate in these discussions is Community
23 Financial Services Association of America.

24 MR. WILTANGER: Mr. Chairman, may
25 it please the Commission, my name is Matt

1 Wiltanger. I am general counsel for QC Holdings.
2 QC Holdings is a payday lender. We're based in
3 Overland Park, Kansas. We operate several payday
4 loan stores in the state of Missouri and we
5 operate Quik Cash, and although I work for QC
6 Holdings, I'm here on behalf of Community
7 Financial Services Association, or the CFSA.

8 Real briefly, the CFSA is the trade
9 organization for payday loan owners around the
10 country. Approximately 60 percent of all payday
11 loan operators are members of the CFSA. It was
12 formed about ten years ago and one of its main
13 purposes was to enact a series of consumer
14 protections that go above and beyond what various
15 states provide and I'll talk briefly about that.

16 I am, however, I guess a little bit
17 embarrassed. I was supposed to bring the award
18 today for the most ignorant statement and I want
19 to apologize, I left it in my car. So I will --
20 when this is done I will go out and get that. I
21 will bring that in, so, again, my apologies for
22 that.

23 MR. DANDINO: I appreciate that.

24 MR. WILTANGER: As it relates to
25 payday lenders, these proposed rules will not help

1 the consumer. Let me be real clear. If the
2 ultimate goal of the Public Counsel is to figure
3 out a way to allow Missouri consumers to pay their
4 utility bills without any fees whatsoever, we
5 would support that. That's great. But if it
6 turns out that this becomes an attack on payday
7 lenders in the state of Missouri, we strongly
8 oppose that. And I'm going to talk about a couple
9 of reasons why we oppose that.

10 First of all, let me explain a little bit
11 about how the bill pay service works in our stores
12 in the state. We contract -- Quik Cash or QC
13 Holdings, and other members as well, will contract
14 with someone like Western Union or a MoneyGram to
15 allow consumers to come in and pay bills. The
16 price on the -- for the fees will range anywhere
17 from 40 cents to a couple of dollars. In our
18 arrangement at Quik Cash, it's roughly \$1.50 per
19 transaction. Western Union will get \$1.50. We
20 take about 65 cents of that transaction that goes
21 to Quik Cash. This is not a huge money maker for
22 us and it's not a huge money maker for the
23 industry in Missouri. We do it because it's a
24 convenience and I would encourage as this debate
25 goes on, I would encourage -- including Public

1 Counsel, to come in a payday loan store and come
2 speak to consumers who use this service and ask
3 them whether they think this is useful. If they
4 think this is a benefit to be able to go use
5 Western Union and pay, whether it be 40 cents or
6 \$2, to pay their utility bill. What we find with
7 our customers who come in to use the service is
8 they appreciate it. It's another way for them to
9 pay off their utility bills if there isn't a pay
10 center or, as I will address later, if they don't
11 have a checking account. And I think that's the
12 biggest fallacy with the Public Counsel's
13 comments.

14 Our payday loan consumers have to have
15 two things before we lend money to them. They
16 have to have a job because ultimately we want them
17 to pay us off -- pay us back, and, secondly, they
18 have to have a checking account. The way our
19 product works is we need a source of collateral
20 and for us it's a postdated check. So they have
21 to have a checking account. That's what the
22 payday loan customer has to have and obviously
23 they have to qualify for a certain level of
24 lending.

25 The person who comes in to use a bill pay

1 service is generally using that bill pay service
2 because they don't have a checking account. They
3 want to use Western Union for a money order, they
4 want to use Western Union to pay a utility bill.
5 Otherwise, it might be very simple for them to
6 issue a check as opposed to having cash on hand
7 and going to use Western Union.

8 And there'll be comments you'll hear
9 later today from other gentlemen talking about how
10 there really isn't an overlap. So the concept
11 that we are somehow luring consumers into our
12 stores using this convenience of bill pay in order
13 to put them into a predatory payday loan is
14 misplaced and I think it suggests a lack of
15 research on the issue.

16 The other issue I want to address about
17 the report -- and, again, you understand, I'm here
18 talking specifically as to the payday lending
19 aspects of the report, is that the concept that
20 our -- that our loans are predatory. Again,
21 accept that we are not luring people in to put
22 them into payday loans, they're coming in to pay
23 off -- pay utility bills, they are generally not
24 our customer because they don't have checking
25 accounts. But our customer is not as portrayed in

1 the report. Our customer makes on average of
2 about \$40,000 a year. Our customer has more
3 college education than a member of the general
4 public. They know what they're doing. They're
5 paying a fee from \$15 to \$20 per \$100 to borrow
6 money from us and they understand if they come
7 back two weeks later they pay it off. If you look
8 at today's New York Times, it's very interesting.
9 The front page of the New York Times talks about
10 overdraft fees and there's a nice story about a
11 gentleman who's a 59-year-old graduate student,
12 someone who's gone back to college, who made
13 several low dollar transactions with his debit
14 card, and at the end of the day, he got hit for a
15 \$34 overcharge on his several debit transactions
16 and he's wondering why should a \$4.14 Starbucks
17 coffee cost me \$34.14. Our consumers understand
18 that our product can for them sometimes be a much
19 cheaper alternative. They know what they're
20 doing.

21 Second thing I want to talk a little bit
22 about briefly, the concept was raised in the
23 report that these customers are then trapped in
24 these payday loans. Understand 90 percent of our
25 customers pay us off in two weeks. And if we had

1 the ability to make that 100 percent, we would.
2 We're no different from a first tier financial
3 organization, to use the Public Counsel's words.
4 We want to get paid back. It's not in our
5 interests to have debt out there. One of the
6 things that the CFSA does to address those issues
7 is, generally speaking as business owners, we're
8 going to work with consumers who have trouble
9 making their payments. It's not on our interests
10 to have debt just vanish, but one of the things
11 CFSA did 10 years ago that went above and beyond
12 what other states did at that time, some have now
13 adopted this, is we offer an extended payment plan
14 so if there is a consumer out there who is
15 concerned that they're not going to be able to pay
16 off their loan within two weeks, they can come
17 into our store and say, I need a little bit of
18 extra time, and we will give them an additional
19 eight weeks at no charge to pay off their loan.
20 So a two-week loan will now be a ten-week loan so
21 they can pay us off. We don't have a cycle of
22 debt. More importantly, we have the tools to make
23 sure that just doesn't happen.

24 One other thing real briefly about payday
25 loans. It will be portrayed, as it was in the

1 report, that our fees are excessive and what's
2 breath taking about our product is we are, for
3 lack of better terms, saddled with having to
4 disclose an annual percentage rate. And our
5 annual percentage rates are breathtaking for folks
6 who don't understand the product. If you think
7 about it, if you go to your neighbor and say, "I
8 borrowed money a 391 percent interest," they would
9 say you're a fool, why would anybody borrow money
10 at 391 percent, your bank will give it to you for
11 far less than that. The reality is, that's an
12 annualized rate. That's if I gave you money, you
13 took out a two-week loan and you decided it was in
14 your best interests just to pay interest on that
15 loan for 26 two-week periods. Well, the State of
16 Missouri doesn't allow us to do that. No state
17 would allow anybody to renew a loan 26 times, but
18 we are required to disclose our rate of return in
19 annual percentage rate. Customers understand
20 they're paying \$15 to \$20 per \$100, they pay it
21 back in two weeks, so we're saddled a little bit
22 with that.

23 The other thing I think is interesting --
24 and I will share with you gentlemen some of the
25 research that has been done on this, is, generally

1 speaking, our rates are relatively fair. The FDIC
2 Chairwoman Sheila Bair has done studies on this
3 and said the amount of money that payday loans has
4 to charge for a long is fair given the costs and
5 risks associated with the loan.

6 I have a letter that I would like to hand
7 to you. I also have just snapshots of research
8 done on the payday lending industry.

9 And in closing, I recognize that this
10 is -- the debate over payday lending is not
11 something that is probably of interest to the
12 Commission. I'm here just because of the attack
13 made on it in the report. Again, if there's a way
14 to help Missouri consumers pay off utility bills
15 by having them pay no fees whatsoever, that's
16 great. But if it becomes an expedition to attack
17 payday lenders and say we're going to exclude this
18 subset of convenience fee providers, we take
19 strong objection to that, again, because our
20 consumers like it and, again, because our
21 consumers who are using the bill pay are not
22 getting payday loans.

23 I'm happy, as with everybody else, to
24 answer questions as they're asked but, again,
25 appreciate your time today.

1 CHAIRMAN CLAYTON: Thank you. And
2 it's Mr. Wiltanger?

3 MR. WILTANGER: Wiltanger.

4 CHAIRMAN CLAYTON: W-i-l-t-a --

5 MR. WILTANGER: -- n-g-e-r.

6 CHAIRMAN CLAYTON: Just like it
7 sounds.

8 Thank you very much for being here today.

9 I'm sure we're going to have some questions.

10 The next group is the United Payday
11 Lenders of Missouri. Mr. Scherr.

12 MR. SCHERR: Mr. Chairman, members
13 of the committee, my name is Randy Scherr.

14 CHAIRMAN CLAYTON: Hang on just a
15 second, Mr. Scherr. Let's make sure the court
16 reporter gets a copy of the exhibit. We are on
17 the record and this is being -- we've got a court
18 reporter here taking down everything so if you
19 can, make sure a copy gets to her.

20 MR. SCHERR: I have provided a
21 copy to the court reporter. Here is a copy of our
22 report and I'm really not going to refer to that
23 much in my presentation but that is a copy of the
24 New York Federal Reserve study dealing with
25 predatory lending and it is actually referenced in

1 Matt's letter to you. There is a link in his
2 letter. This is the actual report itself that may
3 be -- may be of interest to you, so that's my only
4 reference to it.

5 I very much appreciate the opportunity on
6 behalf of the United Payday Lenders to appear. We
7 appreciate your interest in delving into this
8 issue and looking at all of the facts.

9 I represent the state association. It's
10 the state, if you will, the chapter of the group
11 that Matt represents on the national level. We
12 represent probably 400 locations in the state of
13 licensees that you've seen referenced in Public
14 Counsel's document.

15 We would offer to you anything we can do
16 to help bring any of the material or information
17 to you that we possibly can. When this arose a
18 few weeks -- two week ago I guess we had an
19 emergency board meeting to talk about this -- this
20 effort to try to get a better understanding just
21 how it all works also. We at that time decided to
22 undertake a statewide survey of our membership
23 just to see what the tie is, if there is, in fact,
24 one. At the same time we found out that in the
25 State of Ohio and State of California, they had

1 previously looked at this effort and I think it
2 was overwhelmingly defeated in the legislature in
3 California. I don't think that the utility
4 commission in Ohio moved it very far after they --
5 after they got these facts. But there was a
6 national survey by one company that I'll refer to
7 briefly -- shortly, but in our -- in our board
8 call, we had ten members of the board there, they
9 represent both large and small and some of the
10 people here are members of the state association.
11 So I asked the board first how many of you provide
12 bill paying services, and we had ten members on
13 the board, ten -- ten of the board members. Five
14 offered them, five did not. Okay. Of the five
15 that offered them, what do you do and who do you
16 use? They use Budget Phone, they use MoneyGram
17 and they use Western Union. Now, I'm sure there
18 are others out there but the five that were there,
19 those covered the gambit.

20 Let's talk about the ties. How many bill
21 payers do you have come into your stores on a
22 regular basis? One company has 105 locations in
23 the state. Only one had been doing it more than a
24 month. They just started, just signed a deal with
25 one with of those companies, I don't remember

1 specifically which one, but of the one location
2 they had, they had 350 payments per month. 350
3 customers that came into their store to pay their
4 utility bills. How many loans do you get from
5 these 350 people, how many have you gotten over
6 the year? One loan from 350 people walking in
7 every month for a year, they got one loan out of
8 it.

9 The second person, how many do you have?
10 They had ten bill payers per month for a total of
11 120 for the year. They had one loan over the year
12 to one utility bill payer.

13 The third and fourth said that their
14 customers were virtually all neighbors. They come
15 in because they drive by the store at night, they
16 drive by and they come in and they pay their
17 bills. They'll cash their paycheck, pay all their
18 bills. Zero loans at those two -- at those two
19 companies.

20 The fifth one, this was a rather large
21 one, they have 1,800 bill payers per year. He has
22 two locations and over -- over a two-year period
23 they had 3,600 bill payers come in and over the
24 two years he had two people take out payday loans.

25 So the bottom line is, this is really a

1 nonissue from our standpoint. It is not a
2 money -- it is not a revenue source for us. The
3 one that does a lot of business says that he makes
4 maybe \$165 a month on this, so it's not an issue
5 for us. It's simply a convenience for the people
6 in the neighborhoods, it's a convenience for the
7 customers that come in that might use other
8 financial services other than payday loans. And I
9 think it was interesting that Matt made the
10 disconnect between the people that for some reason
11 don't particularly care for banks, don't have
12 checking accounts, want to come in and they want
13 to cash their paycheck, they want to pay all of
14 their bills through a service like Western Union.
15 They pay seven bills on their list, and some of
16 these companies have I've heard as many as 150 or
17 160 companies that they'll accept payment for, so
18 Ameren may just be one of 160 on the Western Union
19 list so when they come in they can pay it. But
20 they want to come in, pay all their bills at one
21 time. It's cheaper for them. I think it's
22 also -- it was also noted by Matt some of these
23 charges are 40 cents. You can't buy a stamp to
24 mail your check, but they don't have checks.
25 That's why they come and they use the bill paying

1 service. If they don't have checks they can't be
2 one of our customers, so there's a total
3 disconnect in that regard.

4 We -- I mentioned the services that they
5 use. I think what we would suggest is, as you
6 move forward, if you move forward in this, to get
7 a little more detailed information on this -- on
8 this tie. Again, in the state of Ohio it was
9 taken up by the utility commission, there was a
10 national survey that was done by a single company,
11 and that's the caveat, it was a single company
12 that had about 600 -- it was over 602,000 utility
13 bill payments at their locations nationwide. They
14 had less than 1 percent of those bill payers were
15 payday loan customers of their store.

16 So I think the concern that our board
17 when we were -- when we were taking up this issue
18 and discussing it on the call the other day, for
19 99 percent of the utility bill payers are all bill
20 payers, and there are those that come in to pay
21 other bills in addition, some make their car
22 payments this way, some may make their house
23 payment, we don't know, for 99 percent of the
24 people, our -- our board was sitting there
25 scratching our head saying this is going to be a

1 terrible inconvenience for those people because
2 they want a nice location, convenient location
3 where they can go in and pay their bills, they can
4 walk out and they know how much cash they have
5 left over from their check -- from their paycheck.
6 They've got all seven of their bills paid. It's a
7 matter of convenience. It's also a matter of
8 cost. These people are in some cases paying their
9 bills for 40, 60, 80 cents a bill and they can't
10 buy an envelope and a stamp for that.

11 We do not want to get into the
12 discussion, as the Public Counsel mentioned, of
13 the issue of the copies of the bills and all that,
14 that's not our issue, Mr. Chairman, and I think
15 you recognize that so we just want -- we want to
16 discuss the so-called connect here that is trying
17 to be made and we just can't find it.

18 It was interesting when the issue came up
19 in the state of Ohio that it bled over into
20 Indiana and a reporter from the Indianapolis Star
21 by the name of Rob Schneider went out and decided
22 he would just check into this so he went and
23 visited a whole bunch of stores in Indianapolis
24 and camped out to talk to the people that came in
25 to -- to pay their utility bills at payday loan

1 stores and he couldn't find anybody -- they all
2 came in and said, no, I'm here because it's
3 convenient, it's easy for me, it's cheap. Not one
4 person did he find that came in to take out a
5 payday loan. And, in fact, they said, why would
6 we take out one of those, all we're here to do is
7 pay our utility bills. It's convenient for us.

8 We would offer up any additional
9 information. As I mentioned, we were going to do
10 a statewide survey. We held that off because we
11 were looking at some other data that was coming in
12 actually from a nationwide company but we are
13 poised to do that to discuss what this connect
14 might be or not be in that case.

15 I don't want to get into specifics of the
16 details of the proposed reg but it's really
17 befuddling to us that you would look at a location
18 based on a service when, in fact, you -- if you're
19 doing check cashing in a liquor store under these
20 proposed rules that would still be allowed. So is
21 that enticing people to buy alcohol? I mean,
22 there are all sorts of suggestions here. But we'd
23 be glad to work with the Commission and provide
24 any data that we might have or can pull together
25 and we'll be available for questions.

1 CHAIRMAN CLAYTON: Thank you,
2 Mr. Scherr.

3 We invited the Missouri Energy
4 Development Association and I'm not sure if anyone
5 is here. Oh, Mr. Boudreau, you're here. I know
6 you've got a separate slot. Mr. Boudreau, go
7 ahead.

8 MR. BOUDREAU: Very good. Thank
9 you.

10 Just in the way of introduction, I'm Paul
11 Boudreau. I represent the Missouri Energy
12 Development Association. It's an association
13 whose members are investor-owned public utilities,
14 electric, gas and water utilities throughout the
15 state. MEDA represents these companies on matters
16 of common interest and the rule as proposed by
17 Mr. Dandino and the Office of Public Counsel would
18 have an impact on all of the members of the MEDA
19 group.

20 So I wanted to -- as you know, MEDA filed
21 a preliminary response in this docket on the 31st
22 and we're continuing to seek information from a
23 number of companies of the association as may be
24 pertinent to the topics that are raised in the
25 petition. There are a number of legal and

1 procedural concerns that MEDA has with the
2 petition but I'm not going to elaborate on those
3 points today. I will reserve the right to do so
4 at the appropriate time. I want to deal with the
5 subject matter of the petition but at a fairly
6 high level which I think is what the Commission
7 anticipated today. And I'm gratified to find that
8 I'm not here to make an oral argument. I was
9 somewhat alarmed when I heard that phrase because
10 really all I have is just a few casual comments.

11 The message I want to leave with you
12 today, it would be at best premature to embark on
13 rule making based on the information that you've
14 been presented with so far. And, in fact, the
15 information that I've heard this morning would
16 indicate that it's -- there's really no basis to
17 proceed, at least nothing that I've heard that
18 adds anything to what I've seen so far that has
19 been filed on the docket. There certainly is no
20 evidence of a problem concerning billing and
21 payment practices by MEDA's member utilities, nor
22 is there an indication of a problem associated
23 with the topic of use of authorized pay agents
24 including what are called payday loan offices.
25 The only Missouri-specific circumstances that was

1 referred to in Public Counsel's petition dealt
2 with AT&T and that company addressed that topic
3 very specifically in a filing that it made on the
4 31st as well.

5 I'd also like to point out that MEDA's
6 member companies have not received any indication
7 of complaints that have been filed with either the
8 Public Counsel or with the Commission staff on the
9 topics that are addressed in the petition. So
10 this was all relatively new and surprising when it
11 first came to light.

12 I think bottom line is that I think that
13 more needs to be known about this topic before the
14 Commission embarks on any formal process to fix
15 what is likely to be a nonexistent problem.
16 MEDA's member companies want to be helpful to the
17 Commission in any way they can in ascertaining
18 whether there is an unreasonable or unfair billing
19 or payment practice that's worthy of the
20 Commission's time and attention. But any such
21 assessment needs to balance the need to maintain
22 meaningful choices for the customers and to not
23 unthinkingly or reflexively limit those choices.

24 Also, the cost of any of the proposals of
25 implementing these proposals is something that

1 should be carefully considered. As these
2 things -- as these matters typically come before
3 the Commission, cost is always an issue. I think
4 it's just common sense not to get the cart before
5 the horse on this topic. I think before evoking
6 the Commission's rule making powers and committing
7 the resources to drafting and vetting proposed
8 rules, the Commission first needs to make some
9 inquiries concerning the necessity of any action
10 on this topic.

11 I would also like to remind you that we
12 have -- we have a pending request for some
13 additional time to get some information before the
14 Commission and we're still endeavoring to do so.
15 We'd ask for some time up until the 18th so that
16 process continues and MEDA will make a
17 supplemental filing in the not too distant future.
18 And I'll be available -- I'll conclude my comments
19 but I'll be available to answer any questions the
20 Commission has.

21 CHAIRMAN CLAYTON: Thank you,
22 Mr. Boudreau.

23 I think it's unclear if the Commission is
24 going to move forward, if at all, yet. This is
25 just the opening discussions so there will

1 definitely be a need for more substantive legal
2 argument --

3 MR. BOUDREAU: I understand.
4 Thank you.

5 CHAIRMAN CLAYTON: -- and
6 additional policy discussion later on.

7 Thank you very much for being here.
8 AmerenUE, Mr. Lowery.

9 MR. LOWERY: Good morning. My
10 name is Jim Lowery. I'm here on behalf of
11 AmerenUE this morning.

12 It's my pleasure this morning to
13 introduce Carole Hunt from Ameren. Ms. Hunt is
14 the one of the assistant treasurers of the company
15 and is manager of Business Services Operations
16 which is over this area of billing and deals with
17 the authorized agents and so on that's the subject
18 of the petition that the OPC has filed.

19 Ms. Hunt today hopefully can provide you
20 some real facts about what the facts are and what
21 the facts are not in relation to the -- to the
22 matters that have been raised by OPC. We thought
23 that it would be helpful for you to actually hear
24 what utilities do and don't do, particularly from
25 AmerenUE's perspective.

1 With that I'll let Ms. Hunt who knows
2 more about this topic than I do provide you some
3 information that will be helpful.

4 MS. HUNT: Thank you, Jim.

5 Good morning and thank you for allowing
6 me to speak with you this morning.

7 I have two objectives today. The first
8 one is to provide some perspective on the issues
9 raised by the OPC's petition and the second one is
10 to provide some accurate, basic factual
11 information based upon AmerenUE's experience about
12 how our customers pay their bills and the role of
13 third parties like grocery stores and other pay
14 agents in that process.

15 Let me first give you AmerenUE's
16 perspective. If the Commission needs additional
17 information or desires to determine if there are
18 concerns or issues that need to be addressed,
19 AmerenUE wants to be helpful and responsive to the
20 Commission. We hope the information I am
21 providing today provides helpful information to
22 the Commission.

23 Against that back drop I would note that
24 we are not aware of any issues or complaints
25 whatsoever with either the service that has been

1 provided, the nominal fees involved, or with
2 customer access to convenient ways of paying
3 utility bills. We inquired to the Commission's
4 Consumer Services Department and were told that in
5 checking their records back to the beginning of
6 2007 they too have no record of complaints in this
7 area.

8 I would also note that there are many
9 payment options in place today. Many more than
10 just a few years ago. And that all exists for
11 customers' convenience. While there are many
12 payment options for customers, generally the
13 unbanked customer, the customer that does not have
14 a checking account, an authorized walk-in pay
15 agent is their most likely option and in many
16 cases it is their least costly method of paying
17 their utility bill.

18 It's also important to keep in mind that
19 for all customers, banked or unbanked, there is
20 always an underlying cost for making a payment,
21 whether it be the cost of writing a check and
22 purchasing a stamp, the cost of having Internet
23 service and making a payment online, or the cost
24 of purchasing a money order to send through the
25 U.S. Postal Service.

1 Let me provide some basic facts about our
2 authorized pay agent. Ameren has agreements with
3 FirstTech, Incorporated to provide authorized
4 walk-in pay agent locations throughout our service
5 territory. We currently have 178 authorized
6 agents. The first choice and the vast majority of
7 agents are grocery stores and retail
8 establishments such as Schnucks, Gerbes and
9 Hy-Vee. In fact, approximately 90 percent of our
10 pay agents are grocery stores or retail
11 establishments. When a grocery store or retail
12 establishment is not available, FirstTech
13 contracts with financial services companies or
14 what was referred to earlier as second tier
15 financial companies. We have 17 authorized agents
16 today that are financial services companies. All
17 but two of these are located in the City of
18 St. Louis or north St. Louis County where a
19 grocery store or retail establishment is often not
20 available or is not available without the
21 customer, for example, purchasing a bus ticket and
22 traveling to a location that is available.

23 An important part of the payment options
24 we provide is to be sure that there is a
25 convenient location for customers who do not have

1 checking accounts, those unbanked customers, to be
2 able to make a payment. The customer pays a fee
3 up to one dollar for making a payment at an
4 authorized agent. The average fee is less at 77
5 cents. Ameren receives no portion of the fee that
6 the customer pays. In addition to the customer
7 fee, the authorized agent receives 15 cents from
8 Ameren for each payment transaction. In 2008 we
9 paid about \$231,000 in commission fees. This is
10 essentially overhead to cover the cost of making
11 the service available and it is included in our
12 cost of service.

13 Information from authorized pay agents is
14 transmitted to Ameren on a real time basis. This
15 means if a customer is scheduled to be
16 disconnected, our customer system is immediately
17 notified and stops the disconnect activity on the
18 customer's account essentially as soon as that
19 payment is made.

20 Another topic that's brought up in the
21 OPC petition is credit and debit card payments.
22 Unrelated to the use of pay agents, we do make
23 available for customers that desire to use credit
24 or debit cards to pay their utility bills. This
25 option is made available through Ameren's

1 agreement with Western Union Speedpay. The
2 customer pays a \$3.50 convenience fee to Speedpay
3 to process a payment. The charge covers merchant
4 interchange fees, providing a compliant, secure
5 processing platform and a profit for Speedpay.
6 Again, Ameren does not receive any part of the
7 convenience fee and no customer is required to use
8 this option. We implemented this payment option
9 in 2002 because customers were asking to pay with
10 a credit card. While the majority of customers
11 paying this way are residential customers, we do
12 have business and government entities that pay by
13 credit card. In November 2006 Ameren on behalf of
14 customers negotiated with Speedpay to reduce the
15 convenience fee from \$4.95 to the current \$3.50.

16 In conclusion, our main goal is to make
17 it convenient for all customers to pay their
18 utility payments. It is our belief that multiple
19 payment options for customers provide them with
20 choice. In our experience there are simply no
21 problems in this area and for that reason we
22 believe that rule making in this area is premature
23 and not warranted.

24 If after today's presentations the
25 Commission continues to have questions, we would

1 suggest that the utilities could work with the
2 Commission's Consumer Services Department to
3 provide additional information and answer
4 additional questions.

5 As I noted, we want to be cooperative,
6 helpful and constructive to the Commission and we
7 appreciate the opportunity to address you today.
8 Thank you.

9 CHAIRMAN CLAYTON: Thank you very
10 much, Ms. Hunt.

11 I just have one question I need to ask.
12 Please tell me the Public Service Commission has
13 never paid its electric bill with a credit card.

14 MS. HUNT: Not that I'm aware of,
15 sir.

16 CHAIRMAN CLAYTON: Thank you.

17 All right. Next up is Mr. Telthorst,
18 Missouri Telecommunications Industry Association.
19 Mr. Telthorst.

20 MR. TELTHORST: Good morning,
21 Mr. Chairman, members of the committee. My name
22 is Rick Telthorst. I'm the president of the
23 Missouri Telecommunications Industry Association.
24 Thank you for the opportunity to be here today to
25 appear on behalf of our members.

1 I don't want to be redundant to anything
2 that previous utility speakers have already
3 presented so I'll get to just two or three main
4 points. I think it's clear from what we've seen
5 in the petition and other comments that there just
6 isn't any evidence presented that these payday
7 loan centers as bill paying options disadvantages
8 any of our customers. There does seem to be some
9 evidence I think presented by Mr. Scherr and
10 Ms. Hunt that barring the use of those loan
11 centers as collection points may indeed reduce
12 some customers' options. There isn't any evidence
13 that I've seen that's been presented that any
14 telecom carrier regulated by the Commission
15 engages in any billing practice that -- that is
16 disadvantaging customers.

17 With the abundance of methods available
18 to customers to pay their bills, to make inquiries
19 about service, whether it's in person, by phone,
20 by Internet online, we would certainly be
21 concerned that this rule would also suggest that
22 it would be appropriate to mandate the telecom
23 carriers be required to have a specific number of
24 customer service centers that would be located in
25 certain physical locations. Certainly it would be

1 cost prohibitive for large carriers who cover a
2 large geographic area especially when there are
3 clearly very cost effective and equally useful
4 service options to our customers.

5 Now, it seems confusing to me that a rule
6 that on one hand suggests that we should implement
7 this very unnecessary mandate to have these
8 certain customer service centers established would
9 at the same time eliminate existing payment
10 centers that are clearly very useful to customers.
11 I think those two things in the -- in the
12 suggested rule within the petition certainly seem
13 to be working at cross-purposes.

14 And, of course, under state statutes that
15 the legislature recently passed last year in House
16 Bill 1779, the Commission has waived the
17 application and enforcement of billing standards
18 as they do apply to many incumbent carriers as
19 well as many alternative telecom carriers. The
20 proposed rule would seem to be contrary to that
21 effort of the Commission especially in light of
22 the fact there doesn't appear to be any evidence
23 of consumer harm.

24 We certainly would be glad to work with
25 the Commission and its staff on any matter

1 involving this petition and I would be glad to
2 take some questions.

3 CHAIRMAN CLAYTON: Thank you,
4 Mr. Telthorst. Appreciate it.

5 I want to thank the parties for sticking
6 within their -- we're within our time schedule.
7 We'll have plenty of time for questions. So
8 Ms. Dietrich is here for staff -- for the Public
9 Service Commission staff. We'll give her as much
10 time as she needs and then we'll proceed directly
11 to commission questions.

12 COMMISSIONER DAVIS: You want to
13 give Mr. Dandino an opportunity for rebuttal --

14 CHAIRMAN CLAYTON: Certainly.

15 COMMISSIONER DAVIS: -- because
16 the other parties had a lot of time.

17 CHAIRMAN CLAYTON: We can
18 certainly do that or we can ask questions and get
19 more information from Mr. Dandino, however we want
20 to proceed.

21 Ms. Dietrich.

22 MS. DIETRICH: Thank you. My name
23 is Natelle Dietrich. I'm the director of Utility
24 Operations and I'm speaking on behalf of staff of
25 the Missouri Public Service Commission.

1 The staff recognizes the concerns raised
2 by the OPC in its petition but does not support
3 the request for rule making for reasons that I
4 will explain in my comments.

5 Most of the focus this morning has been
6 on the payday loan aspect of the petition. OPC's
7 petition actually contains three overarching
8 issues, surcharges and fees for billing and
9 collection, payday lenders as pay stations,
10 customer service centers and fees to make
11 payments, and includes in the proposal rule making
12 language that would be applicable to all
13 utilities, electric, gas, water, and sewer, and
14 telecommunications, yet all utilities are not
15 regulated the same so a one-size-fits-all approach
16 is not practical.

17 On the payday lenders as pay stations
18 portion of the petition, OPC asks the Commission
19 to restrict or prohibit the use of payday loan
20 stores and similar lending enterprises stating
21 among other things that it is not in the interest
22 of consumers to have utility customers -- steer
23 customers to what it characterized as predatory
24 lending practices.

25 There are two types of agents, authorized

1 and unauthorized. Authorized agents are entities
2 such as grocery stores or retail units and they
3 have a contract with the utility to accept
4 payments. There are also unauthorized agents and
5 these are locations that accept utility payments
6 but have not negotiated a contract with the
7 utility company outlining the terms of that
8 arrangement. The Commission's Consumer Services
9 staff periodically hosts roundtables to discuss
10 issues effecting the industry and consumers.
11 There have been several conversations related to
12 customers making payments at both authorized and
13 unauthorized pay agent locations, how the agents
14 operate, advantages and disadvantages of the
15 availability of agents, and the fees related to
16 such arrangements. While the issues have been
17 discussed, there have been no easy answers to the
18 concerns that have been identified by such
19 arrangements by the various utilities. Utilities
20 have no way of controlling unauthorized agents and
21 a number of utilities in the past have also
22 expressed concerns regarding the rise of
23 unauthorized pay stations.

24 One specific concern expressed has been
25 the timeliness with which unauthorized pay

1 stations may actually make payment to the utility
2 after the customer has paid their bill. Timely
3 payment remittance is an important aspect of an
4 effective pay station. The Commission has no
5 authority over agents, whether authorized or
6 unauthorized, whether payday lender or local
7 grocery chain. From staff's experience, customers
8 like the convenience of being able to make
9 payments in one location while running other
10 errands. Some customers may wait until the last
11 minute and like the convenience of making sure
12 payment is received on time. Some customers don't
13 have checking or savings accounts so they need the
14 ability to make payments by cash, cashier's check
15 or money order. In other words, for some the
16 convenience outweighs the cost or the alleged
17 concerns.

18 Instead of opening a rule making to
19 address concerns related to pay stations, the
20 staff suggests consumers would be better served
21 through education. Utilities could educate
22 consumers of authorized and unauthorized agents,
23 utilities could provide easy access to a list of
24 authorized agents available for customer use, the
25 utilities could enhance efforts to review and

1 enforce contract terms, and if it is determined
2 that an authorized agent is not complying with the
3 contract the utility could and should investigate
4 terminating that contract. However, these
5 proposals do not eliminate the problem of
6 nonauthorized agents.

7 Switching to the customer service
8 centers, OPC requested the Commission to require
9 utilities to designate a reasonable number of
10 locations within the service area where customers
11 can pay bills in person and obtain information
12 about their accounts. The staff suggests this is
13 a step in the wrong direction. Considering the
14 utility service areas as vast as companies such as
15 Ameren and AT&T have, the staff also suggests this
16 is an unrealistic goal. Over the past few years
17 companies have adjusted the number of customer
18 care locations in an effort to be more cost
19 effective and efficient. Some companies also --
20 also offer the opportunity to make payments in the
21 field when service trucks appear but, again, this
22 is an option that fluctuates from company to
23 company and adjusts as the need adjusts. Just
24 recently a Missouri utility announced closing one
25 location due to limited foot traffic and also

1 eliminating the practice of accepting payments in
2 the field.

3 The staff receives monthly and quarterly
4 call service summary reports so it's constantly
5 monitoring the responsiveness of companies. The
6 Commission has not received any complaints or
7 inquiries related to utilities closing offices
8 since January 2007 as Ameren previously indicated.
9 So the staff suggests that this is not currently
10 an issue that needs to be addressed through rule
11 making but could be addressed on a case-by-case
12 basis if a concern arises.

13 Switching to surcharges for billing and
14 collection items and fees to make payments, OPC
15 requested the Commission address varies fees and
16 surcharges associated with paying your utility
17 bill and requesting various bill-related services
18 from the company. Companies incur costs for every
19 aspect of their business and customers either
20 implicitly through rates or explicitly through
21 surcharges and fees make payments so the utilities
22 will cover their costs. To the extent it has the
23 authority, the Commission already has processes to
24 establish and review rates. Companies should not
25 be charging customers any rates or fees that are

1 not in tariffs unless specifically allowed by laws
2 as an exception. If OPC or any other party would
3 like to challenge the reasonableness of a rate or
4 charge, the rate case is the proper venue for
5 utilities subject to rate of return regulation.

6 Members of the telecommunications
7 industry state that competition will address the
8 issues addressed by OPC. While the staff is not
9 willing to go so far as to claim competition as we
10 know it will resolve OPC's concerns, the staff
11 does acknowledge that legislative changes over the
12 past few years have significantly reduced the
13 Commission's authority over rates and billing and
14 quality of service issues with respect to the
15 telecommunications industry. Many
16 telecommunications carriers are now classified as
17 competitive companies. Many carriers have
18 requested and been granted waivers of the
19 Commission's billing and service quality rules.
20 In its order granting the waivers the Commission
21 encouraged customers to continue to contact the
22 Commission with positive or negative feedback and
23 direct its staff to continue to track that input.
24 Should there be a level of concern related to
25 billing issues the statutes provide a limited

1 avenue for the Commission to reimpose its rules
2 so, once again, there is a proper venue for
3 addressing OPC's concerns other than through
4 post-rule making.

5 In conclusion, while cognizant of OPC's
6 concerns, the staff does not believe a generic
7 rule making is the appropriate process to address
8 the concerns. The Commission has not received a
9 large number of complaints on any of the
10 subsections highlighted in OPC's petition and OPC
11 relies largely on press releases and stories from
12 around the country as support for its proposal.
13 As pointed out in these comments, some issues are
14 outside the Commission's jurisdiction while others
15 are more appropriately addressed on a case-by-case
16 basis or through a rate case. Thank you.

17 CHAIRMAN CLAYTON: Thank you,
18 Ms. Dietrich.

19 At this point is there anyone else that
20 wished to speak on this issue? That's everyone
21 that had indicated an interest.

22 I don't see anyone else raising their
23 hand.

24 Mr. Dandino, why don't you come on up to
25 the podium and at this point why don't you give

1 us, if you'd like, a short rebuttal to any or all
2 of the comments that have been made and then I'd
3 like to go ahead and if you'd stay at that mic and
4 we'll -- these participants have these mics and we
5 can share. We can begin with Commissioner Davis,
6 if he has any questions, and go around the table.

7 MR. DANDINO: I have no
8 rebuttal --

9 CHAIRMAN CLAYTON: You have no
10 rebuttal.

11 MR. DANDINO: -- so if you want to
12 ask questions.

13 CHAIRMAN CLAYTON: Okay. Then in
14 that case, Commissioner Davis.

15 And we are not going to be voting on this
16 today. In fact, I think we need to digest the
17 material that we have and we'll approach this
18 either next week or two weeks how we ought to move
19 forward.

20 Commissioner Davis.

21 COMMISSIONER DAVIS: Okay. Maybe
22 this question may be best for either Ameren or
23 Ms. Dietrich from PSC staff. Does a utility sign
24 up with either Western Union or an authorized pay
25 agent who in turn negotiates other contracts with

1 unauthorized pay agents or how -- or is it just,
2 you know, these agents can sign up with Western
3 Union and then directly send checks in? How
4 does -- how does this all work?

5 MS. HUNT: The utility, AmerenUE,
6 signs an agreement with a third party. We use
7 FirstTech as opposed to Western Union.

8 COMMISSIONER DAVIS: Okay.

9 MS. HUNT: FirstTech then goes out
10 and contacts stores and that sort of thing, the
11 agents, and so the agreement with the agents is
12 actually between FirstTech and the agents. But
13 the agreement that we have with FirstTech has a
14 cap on how much the agent can charge the consumer,
15 the utility customer. And it also has a number of
16 other things explicit as far as what's required to
17 send us files for accepting information, that sort
18 of thing. What happens then is that the utility
19 customer goes into the local authorized pay agent,
20 makes their payment, and that information is
21 transmitted to us basically real time through
22 FirstTech's information --

23 COMMISSIONER DAVIS: System.

24 MS. HUNT: -- system through their
25 platform.

1 Where unauthorized agents enter the
2 picture is if someone goes into, do I dare give an
3 example, a Wal-Mart, which is not an authorized
4 AmerenUE pay agent, and makes a payment there.
5 There is nothing systematically that is connected
6 to Ameren either through the third-party processor
7 that that institution uses or directly to Ameren
8 and so we do not receive that information real
9 time. And in that case that payment may be sent
10 to us electronically or it may actually arrive at
11 our lockbox processing facility in the form of a
12 check.

13 MR. LOWERY: Commissioner Davis,
14 if I can elaborate on that.

15 COMMISSIONER DAVIS: Sure,
16 Mr. Lowery.

17 MR. LOWERY: When you have an
18 unauthorized agent, it's not a lot different than
19 if I wanted to ask my friend Tom to take care of
20 paying my bill for me. I could do that but
21 there's -- Ameren or the utilities don't sanction
22 it, don't have relationships with these folks,
23 it's just something that the unauthorized agents
24 because they want to generate traffic or whatever
25 reason, whatever motivation they have, they accept

1 these bills and they pass them on. But it's not
2 anything that utilities have anything to do with
3 or any control over and it's not even something
4 utilities would like to encourage. It's just
5 something that has grown up in the -- in the
6 marketplace so to speak. It has nothing to do
7 with the authorized agents that AmerenUE or other
8 utilities use.

9 COMMISSIONER DAVIS: So in
10 essence, you're likening it to you giving cash to
11 your friend Tom and then Tom writes the check to
12 Ameren and then, you know, he either drops it in
13 the mail or --

14 MR. LOWERY: It's how I chose to
15 pay my bill but it's not something encouraged. In
16 fact, when -- when issues of confusion have come
17 up where Ameren's name has been used, we've taken
18 action to try to contact these unauthorized agents
19 and say, look, you shouldn't be using our name,
20 you're not authorized to -- you know, to represent
21 that you're an authorized agent for Ameren. But
22 in terms of having the legal ability to do
23 something about that, that's very questionable.

24 COMMISSIONER DAVIS: Do you know,
25 have those steps been taken with Wal-Mart yet?

1 MR. LOWERY: I don't know
2 specifically whether Wal-Mart is an example of one
3 where that's happened or not.

4 COMMISSIONER DAVIS: Okay.
5 Well --

6 MS. HUNT: Actually, we -- we are
7 aware that that establishment is accepting some
8 payments and we have approached them and we have
9 had FirstTech approach them and asked them to
10 become authorized agents. They have not been
11 willing to do so because they are lined up or
12 contractually under agreement with another
13 third-party processor. And so we are trying to
14 work out arrangements so that we can at least get
15 that information in a more timely manner.

16 COMMISSIONER DAVIS: All right.
17 It's my recollection from walking into a Wal-Mart
18 store and seeing the payment setup, you walk
19 through and there's -- I mean, there's a book of
20 places that you can pay your bills for right there
21 at Wal-Mart and Ameren is listed as one of those.

22 Thank you. Mr. Chairman, I don't have
23 anymore questions at this time.

24 CHAIRMAN CLAYTON: Thank you,
25 Commissioner Davis.

1 Commissioner Jarrett.

2 COMMISSIONER JARRETT: Thank you,
3 Mr. Chairman.

4 I had -- Mr. Dandino, I kind of wanted to
5 talk a little bit about your attachments. I guess
6 in relation -- you have attached some other
7 attachments but the ones I'm talking about are
8 about -- the payday loan attachments.

9 MR. DANDINO: Yes.

10 COMMISSIONER JARRETT: You had on
11 your petition Attachment A and specifically this
12 was an article from the St. Louis Post Dispatch,
13 Sunday, August 16, 2009. "Payday Loan Dispute
14 Does Not Slow Use," and that's the title of that
15 article. And in going through the article I note
16 there is one example relating to electricity. A
17 lady said that there was a note on her door that
18 said if she didn't pay by tomorrow they were going
19 to turn off her electricity and it says, "'That's
20 why I'm crying and upset,' said the woman,
21 stuffing \$400 in her purse." She asked not to be
22 identified. But the rest of the examples in here
23 relate to the payday loan industry generally and
24 don't specifically relate to customers being lured
25 in to pay their utility bills and then -- and

1 encouraged to take out loans. In fact, the one
2 that does talk about the electricity, it appears
3 she went there on her own initiative because she
4 got a notice that they were turning off her
5 electricity so she went there to get a loan. Is
6 that how you read that article?

7 MR. DANDINO: Generally it deals
8 more with the payday loan industry rather than the
9 payday loan industry and utilities.

10 COMMISSIONER JARRETT: And
11 utility.

12 MR. DANDINO: There was that one
13 example and I think -- and I think I also provided
14 it more for background information of -- of, you
15 know, what's -- what are some of the concerns.
16 And that was not necessarily with utility bills
17 with payday loans. It's basically just trying to
18 say that, you know, we're not making a -- we don't
19 want the Commission to do an investigation on
20 whether or not payday loan is good or bad. I
21 think we just want -- we just provided
22 representative information that we've had from
23 basically consumer groups and consumers and other
24 reports. And we know the other side has some
25 stuff too, we want to provide that to the

1 Commission, as with the report from the Consumer
2 Loss Center, you know, they had reports
3 specifically dealing with that and that's -- that
4 was one of the things we wanted to provide the
5 Commission.

6 COMMISSIONER JARRETT: But your
7 petition asks for us to -- Exhibit 1, don't you
8 have -- aren't you asking to us prohibit using
9 payday loan centers as fee agents for utility
10 payments?

11 MR. DANDINO: Yes, we are.

12 COMMISSIONER JARRETT: So don't we
13 have to make a finding in our rule making that
14 they are bad for utility making purposes -- for
15 bill paying purposes?

16 MR. DANDINO: I think you can have
17 the rule but I don't necessarily think you have to
18 make a factual finding on that.

19 COMMISSIONER JARRETT: Why would
20 we want to prohibit them if they're not bad?

21 MR. DANDINO: It may not be bad in
22 essence but it may not be appropriate for it to
23 act as a utility fee agent.

24 COMMISSIONER JARRETT: And why
25 wouldn't they be appropriate? Don't we have to

1 make a finding that somehow they're not good for
2 the utility consumers?

3 MR. DANDINO: Or it's not
4 something that -- that -- that is a -- I can't --
5 it's necessarily a business but you don't think
6 that these should be acting as a pay agent for
7 the -- for the utilities because there are some --
8 some questions about it now that comes up whether
9 they're an authorized agent or not an authorized
10 agent, whether they're luring customers in or not
11 luring customers in. You're going to be presented
12 with some evidence obviously from both sides, you
13 know. We were just trying to start -- start the
14 ball rolling and this is the information that we
15 had so far.

16 COMMISSIONER JARRETT: Well, the
17 next -- the next article you had was something
18 about payday loan lenders in nursing homes.

19 MR. DANDINO: That was part of the
20 same --

21 COMMISSIONER JARRETT: Nothing
22 about companies paying electric bills -- or
23 customers paying electric bills at payday loans.

24 And you say you have other evidence from
25 consumers that it hurts consumers?

1 MR. DANDINO: There was a --
2 there's a national Consumer Loss study about the
3 payday loan and utility payments. There's a study
4 I think by the TURN out in California. There's a
5 couple -- two of the -- Arizona and Kansas, they
6 raised questions about that -- about the payday
7 loan using them as a pay agent.

8 COMMISSIONER JARRETT: Okay. I'll
9 throw this question out to anyone else. Is anyone
10 else familiar with these studies that they can
11 talk about those? Do they have specific examples
12 of the consumers being -- being hurt or injured or
13 being lured into taking out payday loans when they
14 come in to pay their utility bills?

15 MR. SCHERR: Commissioner Jarrett,
16 I'm a little bit familiar with the Consumer Loss
17 study. It does not contain any data, it does not
18 contain any specific facts. In fact, it was used
19 in Ohio and discredited by the utility commission
20 there in their amendment or their step to take the
21 same step you are which I think they have
22 terminated. I think it was also floated in the
23 state of California where the effort was
24 overwhelmingly defeated in the legislature so that
25 Consumer Loss study has been pretty much

1 discredited nationwide as not containing any facts
2 regarding this issue.

3 MR. WILTANGER: That's my
4 understanding.

5 COMMISSIONER JARRETT: I don't
6 have any further questions. Thank you.

7 COMMISSION GUNN: I just have a
8 couple of questions.

9 Mr. Dandino, Ameren said, correct me if
10 I'm wrong, they had about 178 pay agent facilities
11 around -- around the service area. Would this
12 rule contemplate replacing all of those 178 agents
13 with a company-owned customer service center like
14 you described or -- or are you just advocating
15 that they kind of do a geographic sweep of the
16 area and put them where -- where they think they
17 will get traffic?

18 MR. DANDINO: We're not proposing
19 that they get rid of every pay agent and replace
20 it with a customer service center. We just think
21 that there at least ought to be in a reasonable
22 area a customer service center if that's rational,
23 if it's reasonable. If it doesn't seem reasonable
24 you don't have it but at least there ought to be
25 at least one convenient, you know, for most of the

1 customers or for customers in that area to go
2 there and to get information.

3 The question about whether they get --
4 haven't had any complaints about that, maybe the
5 question that often comes to us is I can't get
6 through to the utility company, I can't get a
7 response from them, and sometimes -- or when you
8 get in there they told me that they would be here
9 and they didn't show up. Sometimes, you know, I
10 think we practice -- when you're anonymous you can
11 tell a person anything, when you're looking at the
12 person or when they're there this may be a little
13 difficult. That's how -- that's how the problem
14 really comes to us if I'm going to give, you know,
15 examples.

16 COMMISSION GUNN: So that's really
17 kind of a distinct issue. You're not talking --
18 what that complaint is about -- and I'm just
19 trying to be clear to figure out what -- what that
20 complaint is about is utility communication with
21 customers about billing issues, that's not an
22 issue about bill payment?

23 MR. DANDINO: Well, it can
24 probably be both.

25 COMMISSION GUNN: That's fair.

1 That's fair.

2 So you're -- just, again, to be clear,
3 you're looking for a prohibition on co-locating
4 bill pay centers and payday loan centers and an
5 increase in company-staffed customer service
6 centers but are you saying that -- but you're not
7 saying that the Schnucks and the Hy-Vees should
8 eliminate their bill paying areas?

9 MR. DANDINO: No. I think you're
10 looking at kind of two questions in one and I
11 think it's -- I could answer this: Is it
12 reasonable for you to have satellite or authorized
13 agents out there to collect fees? I would say,
14 yes, it would be. The question is how do you
15 qualify them and how do people know -- how do
16 citizens know that's what they're -- that's what
17 they're paying, an authorized agent or not. And
18 it's also is that for not only for billing but for
19 other -- for other service issues, filing a
20 complaint, is the access easy to -- you know, for
21 those same persons to go into in pay a bill and
22 resolve their problem, too.

23 COMMISSION GUNN: Thank you.

24 Ms. Hunt, I just have a couple of
25 questions. Maybe just one. You said that it's

1 about 231,000. Is that yearly or -- that you are
2 paying on commissions?

3 MS. HUNT: That was for 2008.

4 COMMISSION GUNN: 2008?

5 MS. HUNT: Uh-huh.

6 COMMISSION GUNN: Ameren does not
7 receive any revenue from this, this is overhead
8 cost?

9 MS. HUNT: That's correct.

10 COMMISSION GUNN: From none of
11 these transaction fees, Ameren doesn't receive
12 anything?

13 MS. HUNT: That's correct.

14 COMMISSION GUNN: So the
15 service -- the 178 agents that you have is a net
16 loss -- or net cost, I should say, to Ameren?

17 MS. HUNT: I'm not sure I'm
18 following the question.

19 COMMISSION GUNN: You're paying
20 for these 178 service centers, you're not making
21 money?

22 MS. HUNT: Correct. Definitely.

23 COMMISSION GUNN: And then is that
24 money then recoverable or do you attempt to
25 recover it through a general -- through a general

1 rate case included in cost of service --

2 MS. HUNT: Yes, we do. It's
3 included in cost of service, the commission fees
4 that we pay.

5 COMMISSION GUNN: Have you had a
6 situation with an unauthorized payment dealer
7 where there have been disputes about -- about
8 timing of payment where customers are given a
9 receipt or anything like that so they can show
10 that they have paid their bill on time, are you
11 familiar with -- you may not even be familiar with
12 that.

13 MS. HUNT: I'm not familiar with
14 any.

15 COMMISSION GUNN: But everything
16 else is tracked in real time?

17 MS. HUNT: Yes.

18 COMMISSION GUNN: There's a system
19 if they bring in cash it's automatically credited
20 to the system?

21 MS. HUNT: Real time, within five
22 minutes.

23 COMMISSION GUNN: Pretty real
24 time.

25 MS. HUNT: Pretty real time.

1 MR. LOWERY: Something Ms. Hunt
2 told me -- shared with me yesterday about that;
3 we're tied in with -- let's say somebody got a
4 disconnect notice, they're scheduled to be
5 disconnected tomorrow morning -- or tomorrow
6 afternoon and they go in and pay this bill at an
7 authorized agent that morning. Within five
8 minutes our billing folks know the payment's been
9 made and our disconnection folks know the
10 payment's been made, we call off that service call
11 so we avoid the cost of it and they're also not
12 disconnected because that's where the real time
13 comes in. The importance of it is to avoid
14 disconnection, they immediately get credit for
15 that.

16 COMMISSION GUNN: Mr. Telthorst,
17 do the telecommunications companies have similar
18 or the volume of these types of pay agents or are
19 they -- are they different?

20 MR. TELTHORST: Well, the
21 information I've been able to gather so far, in a
22 general sense smaller providers in the state
23 generally don't use third-party agents because
24 they're -- they are small, more community-based
25 companies. Their customers, you know, perhaps can

1 go into the office or it's more convenient to
2 reach the customers that way. Larger carriers
3 that are more diverse, they've got a lot of
4 territory to cover, some do contract with
5 third-party groups. As has been described, as I
6 understand it, they will contract with perhaps
7 Western Union and their relationship is with
8 Western Union who I assume as part of the contract
9 says, you know, we will establish -- or we have
10 established a network of collection agencies that
11 will -- that will collect your bill. And the
12 customer, the telecom company, doesn't -- may not
13 necessarily know all the details of what that
14 agent network is. They know they've got a
15 contract with Western Union or Budget Phone or
16 whatever it might be to serve as agent -- as their
17 agents.

18 COMMISSION GUNN: Just one final
19 question. When AT -- does AT&T or any of the
20 telecommunications companies that allow online
21 bill payments directly through the company, do
22 they charge any convenience fees for doing that
23 and, if they do -- and you may not know the answer
24 to the question. But if they do, is that to cover
25 merchant fees or is that revenue to the company?

1 MR. TELTHORST: Commissioner, I'm
2 not aware that they charge a fee. If any fee is
3 associated it may be -- there may be some fee for
4 some sort of case-by-case if a customer needs some
5 special assistance with paying the bill. I'm not
6 certain. That may be the case but in a general
7 sense the online -- you know, the online systems
8 don't have a fee.

9 COMMISSION GUNN: That's putting
10 aside the whole jurisdiction waiver or argument
11 time.

12 Thank you very much for your time. This
13 was very helpful and I appreciate it.

14 CHAIRMAN CLAYTON: Commissioner
15 Kenny.

16 COMMISSIONER KENNEY: I have a few
17 questions first for Mr. Dandino and the Office of
18 Public Counsel. Thanks for taking the time to
19 look into this issue.

20 I know you've said that it's not a
21 question of whether payday loans are good or bad,
22 but when reading through the OPC's petition and I
23 also did take a look at the National Consumer Loss
24 Center 2007 report, it seems that OPC and NCLC can
25 conflate payday and predatory lenders and to my

1 mind I think they're distinct. Are you conflating
2 the two and do you equate payday lenders with
3 predatory lenders?

4 MR. DANDINO: They have been
5 classified that way -- well, in that report and I
6 think there was -- there is another -- there was
7 another study quoted and I can't remember what it
8 was, whether they were saying that that was what
9 they considered the second tier lenders in those
10 terms.

11 COMMISSIONER KENNEY: My second
12 question then is how do you respond to -- and I
13 don't know if it was AT&T's response -- responsive
14 pleading or MEDA's responsive pleading but what
15 OPC is asking us to do is a task better left to
16 the legislature?

17 MR. DANDINO: Well, I think that
18 when we're trying to focus just on utility issues,
19 and I think that falls within your parameters
20 because it's involves, you know, a billing issue.
21 I don't -- you know, I don't want you to feel
22 we're being some stalking horse on any group
23 that's opposed to payday loans or that. That's
24 not our purpose and that's why I was saying we
25 didn't want the good or bad or what they are.

1 What we're saying is they are what they are, based
2 upon our view as a consumer advocate and this is
3 what we've seen in consumer advocate information
4 how they're looking at it and that's how we're
5 presenting it to you. But I think the
6 legislature, if they wanted -- if they were going
7 to deal with regulation of that -- of payday loans
8 and those other lenders then, you know, that's up
9 to them.

10 COMMISSIONER KENNEY: Okay. Thank
11 you.

12 And I've got a question for Ms. Hunt.
13 Does Ameren in its contract with FirstTech have
14 the ability to direct which locations can or
15 cannot act as authorized agents? Maybe put
16 another way, could AT&T -- or, I mean, Ameren tell
17 FirstTech it does or does not want specific
18 entities to act as authorized agents?

19 MS. HUNT: I don't know if we have
20 that directly in our contract but we work with
21 them very collaboratively and if there is an agent
22 that we do not want them to use, I'm sure that
23 they would cooperate.

24 COMMISSIONER KENNEY: Then I have
25 another question for either Mr. Scherr or

1 Mr. Wiltanger. The NCLC report that's referenced
2 in OPC's petition doesn't provide specific
3 information about Missouri consumers specific
4 instances of -- or anecdotal evidence of anything
5 that's happened specifically in Missouri but it
6 does provide examples of consumers who came in to
7 pay bills and ended up taking out a loan to pay
8 that bill. Is it your opinion that the business
9 model of payday lending industries -- and what I
10 mean is paying commissions to the lenders -- or
11 the agents that work in the lending. Paying
12 commissions based upon the number of loans they
13 make, do you think that that encourages any type
14 of abusive practices?

15 MR. SCHERR: I'm sorry, paying
16 commissions for?

17 COMMISSIONER KENNEY: Well, the
18 people that -- the lending agents that work in the
19 payday loan shops, they're paid a commission it's
20 my understanding on loans they make.

21 MR. SCHERR: No, I don't think so.

22 COMMISSIONER KENNEY: So that's
23 inaccurate in the OPC's report?

24 MR. SCHERR: I'm not aware of that
25 practice in Missouri.

1 MR. WILTANGER: Yeah, I can speak
2 for QC Holdings and we pay an hourly wage to our
3 tellers. They don't get commission.

4 COMMISSIONER KENNEY: There is no
5 incentive for them to encourage folks to make a
6 payday day loan?

7 MR. SCHERR: None. Not that I'm
8 aware of.

9 MR. WILTANGER: Their incentive is
10 to make sure that people that take out payday
11 loans pay it back.

12 MR. SCHERR: Make sure they review
13 the application correctly and all the I's are
14 dotted and T's are crossed.

15 COMMISSIONER KENNEY: I think you
16 referenced that this report has been discredited
17 in some other --

18 MR. SCHERR: With respect to the
19 data -- with respect to its lack of data tying the
20 two, Commissioner, yeah.

21 COMMISSIONER KENNEY: Thank you
22 all for your time.

23 CHAIRMAN CLAYTON: Thank you,
24 commissioners, and thank you to the parties that
25 participated here.

1 I don't have any questions. I just want
2 to make a couple of observations. Obviously there
3 are a number of different parts of this whole
4 discussion, there are a number of issues that have
5 been brought up and with each of the different
6 sectors involved we may have differences in legal
7 authority for the Commission to act even if we
8 were to find action necessary. So we're going to
9 have to speak with the judge on how to address
10 these issues on a going forward basis. The
11 transcript today will be made part of the record
12 and certainly each of the parties that are here
13 are going to be included in providing more
14 responses if the Commission so asks. So we'll be
15 discussing this the next couple of weeks.

16 So at this point I want to thank all the
17 parties. Again, thank you, Mr. Dandino, for being
18 here presenting your petition.

19 Thank you to the commissioners for
20 indulging me on returning to the University of
21 Missouri-Kansas City. I think we can go off the
22 record for this portion of the proceeding.

23 (Off the record.)

24 (Exhibit CFSAA 1 was marked.)

25

1 INDEX

2	STATEMENT BY:	PAGE
3	MR. DANDINO	4
4	MR. WILTANGER	11
5	MR. SCHERR	20
6	MR. BOUDREAU	28
7	MR. LOWREY	32
8	MS. HUNT	33
9	MS. DIETRICH	41

10

11 E X H I B I T S

12	NO.	MARKED	OFFERED
13	UPLM 1	4	20
14	CFSAA 1.....	71	19

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

STATE OF MISSOURI)

)

COUNTY OF CLAY)

I, LEA ANN MARTIN, a Certified Court
Reporter, in and for the State of Missouri, do
hereby certify that the foregoing is a true and
correct transcript of the proceedings had in the
above-entitled cause on the date as indicated.

IN WITNESS WHEREOF, I have hereunto set my
hand this 19th day of September, 2009.

Lea Ann Martin, CCR No. 688
State of Missouri