BEFORE THE
ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF A GENERIC
PROCEEDING TO DETERMINE IF METERING,
BILLING AND OTHER CUSTOMER SERVICES
ARE COMPETITIVE SERVICES

REBUTTAL TESTIMONY OF

LOUIS S. TOTH

ON BEHALF OF
THE ELECTRIC DISTRIBUTION COOPERATIVES

JUNE 23, 2000
Q. Please state your name and business address.
A. My name is Louis S. Toth. My business address is P.O. Box 10062 G.S., Springfield, Missouri, 65808.

Q. Mr. Peaco, in his prepared testimony in this docket on behalf of the General Staff ("Staff") of the Arkansas Public Service Commission ("Commission"), recommends that the Commission, at this time, declare billing eligible for competition at retail open access and states that Act 1556 of 1999 (the "Act") provides authority to do so now. Do you agree?
A. No. Ark. Code Ann. §23-19-501(a) specifically prohibits the Commission from declaring billing, metering, collection or any customer service competitive prior to the implementation of retail open access.

Q. Mr. Peaco also suggests that an evaluation of the six factors considered by the Staff regarding whether it is in the public interest to declare customer billing services competitive supports such a declaration by the Commission. Are you aware of any studies or empirical evidence that confirms this conclusion?
A. No. In fact, Mr. Peaco's own testimony points to no such evidence. The evaluation of these factors appears to be based solely on Staff's opinion, without any underlying investigation. Furthermore, Staff's opinions are
qualified by terms such as “may” and “likely.” Thus, Staff is offering

surmises, not facts or evidence. The Commission has yet to be presented

with any evidence to support the conclusions drawn by Staff.

Q. Mr. Peaco also states that Staff believes uniformity in billing practices is

essential. He cites the Interim Report on Uniform Business Practices

(March 10, 2000) (“Interim Report”) as support for the importance of

uniformity. How does this apply to electric cooperatives?

A. First of all, I would like to note that Mr. Peaco states that preparation of the

Interim Report was sponsored by the Edison Electric Institute, the Coalition

for Uniform Business Rules, the National Energy Marketers Association and

the Electric Supply Association. None of these entities represents the

viewpoint of local electric cooperatives. Secondly, as Mr. Peaco notes, the

Interim Report studies business practices from the standpoint of an interstate

issue and states that the same conclusions will hold true in Arkansas.

However, he offers no evidence in of support this. While some conclusions

may be equally valid for in-state markets, I would caution against such a

blanket assumption. Finally, the unique operations of electric cooperatives

were not a factor considered in the preparation of the Interim Report. The

Interim Report takes a much broader view of business practices without

making allowances for cooperatives.
Q. On behalf of Staff, Mr. Peaco also recommends that payment processing and collections be declared competitive, not to include suspension issues. What concerns does this raise?

A. The primary concern is one of guaranteed payment. In the case of consolidated billing by the energy service provider ("ESP"), small electric utilities would suffer severe economic hardship if the ESP were not to make full payment to the electric utility or failed to make any payment at all due to bankruptcy or other reasons. In that situation, the status of the electric utility’s relationship with the customer is unclear. The customer has paid his or her bill, but the electric utility has not received that payment. Can the electric utility disconnect service due to the ESPs failure? A logical solution would be to require direct billing by the electric utility, at least for its services, in all situations. Similarly, in the event of a billing dispute, the ESP may choose to simply discontinue service and leave the matter unresolved. The electric utility doesn’t have that option. ESPs and third party billing providers may enter and leave the market daily, and customers may choose a different provider each month, but the single constant remains the electric utility. It makes sense to consolidate billing with the one entity that will always provide service to the customer.

Q. Mr. O’Rourke, on behalf of Entergy Arkansas, Inc. ("EAI"), concludes that
consolidated billing by ESPs should be the Commission’s preferred option because it supports a competitive market and gives ESPs “one touch” with their customers. Do you these as valid reasons to support consolidated billing by the ESP?

A. No. Throughout his testimony, Mr. O'Rouke makes the assertion that consolidated billing by the ESP will “support a competitive retail market” and “encourage ESPs to compete” in the retail market in Arkansas. Although seemingly accepted at face value by some other parties, these statements are not supported by any evidence submitted for the Commission's review in this docket.

Q. What about the argument that consolidated ESP billing would allow ESPs to bill for a wider variety of services?

A. That argument would support consolidated billing by electric utilities as well.

Q. Mr. O'Rourke suggests that consolidated billing by the ESP simplifies the process since the ESP need only process standard bill-ready information from one or a few electric utilities. Do you agree?

A. No. With very few exceptions, the same principles apply to consolidated billing by the electric utility. More importantly, by consolidating billing at the electric utility, the customer always receives his or her bill from the same entity, regardless of how often the ESP changes as a result of customer
choice or other market factors. The same company that the customer is used
to dealing with continues to provide familiar services and support. This is
particularly important in the case of customers/members of electric
cooperatives.

Q. But Mr. O'Rourke states that consolidated billing by the electric utility is
not beneficial to consumers. How do you respond to that?

A. Mr. O'Rourke’s argument is based on an unsupported assumption that
consolidated billing would be cost prohibitive for electric utilities. He states
that “[a]t best, the billing services offered by EUs will be competitive with
services offered by third parties or provided directly by ESPs” and not an
economical choice for consumers. Electric cooperative utilities will already
have facilities and billing systems in place since they will be offering a
standard service package and at least stage one billing services. The costs
and market risks associated with providing consolidated billing should be
evaluated by each provider and consumers should be offered the choice of
consolidated billing by the electric utility.

Q. Mr. O'Rourke refers to a study conducted by the New York Department of
Public Service concerning customer preferences for consolidated billing.
Are you familiar with this survey?

A. Yes. The survey was referred to in an order of the New York Public Service
Q. What was the Commission’s decision on consolidated billing?

A. The New York Public Service Commission directed that all major gas and electric utilities “accommodate the wishes of retail access customers who prefer to receive combined single bills from either their utility company or from their ESCO.” An ESCO is an energy service company functioning in the competitive environment like an ESP. I note that this is directly contrary to Mr. O’Rourke’s position that consolidated billing should not be performed by electric utilities.

Q. Mr. O’Rourke asserts that billing has been declared competitive in 13 of 24 states which have implemented retail competition and that of the remaining 11 states, none have declared billing not to be competitive. Does your research confirm this?

A. No. As I stated in my initial testimony, Michigan has recently chosen not to make billing competitive for electric utilities or ESPs. Michigan’s Customer Choice and Retail Electric Reliability Act was signed into law on June 3, 2000, and open retail access is to begin on January 1, 2002. Michigan’s restructuring law specifically provides that metering and billing services be retained by the incumbent distribution utility.

Q. Does your research of other states’ legislation otherwise agree with that of
Mr. O'Rourke?

A. Somewhat, although he has chosen to focus on different aspects of other state activity. Based on my research, the majority of states either (i) have not yet dealt with the issue of competitive metering and billing, (ii) have provided for consolidated billing by the electric utility, or (iii) have allowed separate billing by the electric utility. A number of them have also exempted electric cooperatives from competitive billing.

Q. Can you give specific examples?

A. Yes. In addition to the comments made in my initial testimony, a good summary is contained in the Virginia State Corporation Commission’s Report to the Virginia General Assembly on Competition for Electric Metering, Billing, and Other Services which was previously filed in this docket. As stated in that report, Pennsylvania, Maryland, Delaware, California, Texas and Oregon have not authorized competitive billing for cooperative customers. Massachusetts, New Hampshire and Maine do not provide for consolidated ESP billing. California, Delaware, Illinois, Maryland, Oregon and Texas allow customers to choose consolidated billing by the electric utility or ESP as well as dual billing.

Q. What recommendations do you have with respect to consolidated billing?

A. I recommend that customers retain the choice to receive consolidated billing
services from the electric utility. Alternatively, customers should be able to
choose to receive separate bills from the electric utility and ESP. In any case,
the electric utility should continue to bill for the services it provides.

Q. Does this conclude your testimony?
A. Yes.
CERTIFICATE OF SERVICE

A copy of the foregoing pleading has been delivered to the parties of record shown below by email (or United States mail, where no email address is shown) this ____ day of June, 2000.

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