

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review)
of Chapters 4901:1-07 and 4901:1-18 and) Case No. 08-723-AU-ORD
Rules 4901:1-5-07, 4901:1-10-22, 4901:1-)
13-11, 4901:1-15-17, 4901:1-21-14 and)
4901:1-29-12 of the Ohio Administrative)
Code.)

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PUCO

REPLY COMMENTS
OF
ACE CASH EXPRESS, INC.

I. INTRODUCTION

On June 25, 2008, the Public Utilities Commission of Ohio (PUCO) issued for comment proposed amendments to a number of its rules. The PUCO's proposed new rules in Ohio Administrative Code Sections 4901:1-5-07(E), 4901:1-10-22(D), 4901:1-13-11(E), 4901:1-15-17(D), 4901:1-21-14(D) and 4901:1-29-12(C) would prohibit telecommunications providers, electric distribution utilities, gas or natural gas companies, waterworks companies or sewage disposal system companies, certified retail electric service providers, retail natural gas suppliers and governmental aggregators from contracting with check cashing businesses, as defined in Ohio Revised Code Section 1315.21, or licensees issued a license under Ohio Revised Code Sections 1321.01 to 1321.19, the Ohio Small Loan Act, to be authorized payment agents.

On September 10, 2008, ACE Cash Express, Inc. (ACE) and others submitted Initial Comments to the proposed rules. ACE submits these Reply Comments to provide additional information not known on September 10, 2008 and to highlight certain comments submitted by others on September 10, 2008.

II. LACK OF DATA ON “PREDATORY LENDING PRACTICES”

The explanation accompanying the proposed new rules regarding authorized agents provides:

It has come to the Staff’s attention that some utilities have contracted with check-cashing businesses (also known as payday lenders) to act as authorized agents for the receipt of utility payments. Staff believes that this practice unnecessarily exposes Ohio’s financially vulnerable low-income population to the predatory lending practices of this industry.

A public records request was made to the PUCO for any “record” that supported the belief that utility companies contracting with check-cashing businesses or licensees to act as authorized agents for the receipt of utility payments “unnecessarily exposes Ohio’s financially vulnerable low-income population to the predatory lending practices of this industry.” The PUCO responded that “there are no records that are responsive to your request.”

Thus, there is no factual basis for the premise on which the proposed rule is based. In light of this fact, the proposed rule should be withdrawn.

III. COMMENTS OF UTILITY COMPANIES

Utility companies commenting on the authorized agent rules opposed the proposed rules and explained that the adoption of the rules would result in fewer payment options for consumers as summarized below.

A group of electric utility companies, Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company, stated in their comments:

The Companies request that the Commission reject this proposed change. The Companies believe this proposed change was intended to prohibit contracting with payday lenders which are very different than check-cashing businesses. Adopting the rule as proposed will significantly limit the availability to customers of locations to pay their electric bill. The Companies recommend that Staff's proposed change at least be limited to payday lenders and that interested parties be provided an opportunity to comment upon that proposed change.

Another electric utility company, Dayton Power and Light Company, stated in its comments:

The proposed elimination of payday lenders as authorized payment agents will have a significant negative impact for low-income customers and DP&L is proposing the elimination of that provision for this reason. . . . The candidate pool is severely limited because the current 84 cents allowable charge make it extremely difficult to attract other pay agents.

Yet another electric utility company, Columbus Southern Power Company and Ohio Power Company (AEP), stated in its comments:

AEP Ohio believes that it should be left to the legislature to determine if these businesses "unnecessarily [expose] Ohio's financially vulnerable low-income population to the predatory lending practices of this industry." The proposed rule change

would discriminate against these businesses even if the legislature imposes restrictions on these businesses which it perceives to balance the interests of the businesses and the individuals that conduct business with them. . . . For these reasons, the proposed new division should be rejected.

A combination gas and electric utility, Duke Energy Ohio, stated in its comments:

Oftentimes, check-cashing payment agents are the only local, accessible “store” in many urban and suburban areas. . . . The Staff’s proposed modifications will undoubtedly result in customers being required to travel farther to make payments toward their service accounts, as check-cashing payment agents begin discontinuing the practice of accepting service companies’ payments.

A gas utility company, Columbia Gas of Ohio, Inc., stated in its comments:

If the Commission prohibits utilities from using payday lenders as authorized payment agents, Columbia believes payments will decrease in the short-term. . . . During the transition, Columbia’s customers would have fewer locations at which to pay their utility bills and would have to travel further to find alternative payment agents. Columbia also does not believe that the Staff’s proposal is necessary.

A telecommunications company, AT&T, stated in its comments:

It is important that AT&T's customers have access to these conveniently located authorized payment locations in neighborhoods where they live. . . . AT&T urges the Commission to find that the existing protections delineated in MTSS Rule 7(C) are sufficient and that the Staff proposed addition to Chapter 17, Rule 7(E), is not necessary.

A telecommunications company, Cincinnati Bell Telephone Company, stated in its comments:

Prohibiting the use of check-cashing businesses as payment locations does not mean other types of businesses would fill the void. . . . Businesses that choose not to act as agents to accept utility payments must have reasons for doing so that probably would not change under the proposed regulation. The result would be to create a service gap for customers wanting to pay in person.

The Telecom Association state in its comments:

Neither check-cashing businesses nor "payday lenders" are unlawful in Ohio. . . . These check cashing businesses are popular with customers for making utility bill payments as they provide convenient locations and hours of operation, typically have secure teller windows, and provide a variety of other financial services (which may or may not include making payday loans). Where they do serve as authorized third party agents for the payment of

telecommunications bills, Ohio Admin. Code § 4901:1-05-07(C) restricts the amount which they may assess for processing payments to \$2.00 per transaction. Thus, the Commission already has adopted adequate consumer protections in this area, which ensure that customers are not subject to excessive payment processing fees. As such, the proposed addition of § 4901:1-05-07(E) is unnecessary. . . .As a result, the Staff proposed rule would operate to eliminate payments options for customers, harming rather than helping the very population it seeks to protect.

Thus, utility companies providing electric, gas and telecommunication services all recognize the important role these businesses serve in assisting consumers to pay their utility bills and utility companies to receive timely payment of utility bills. The proposed rules would harm consumers and utility companies, in addition to restricting the ability of legitimate businesses to offer a needed service.

IV. CONCLUSION

For the reasons stated above, ACE requests that the proposed rules regarding authorized payment agents be withdrawn.

Respectfully submitted,

DREHER LANGER & TOMKIES L.L.P.

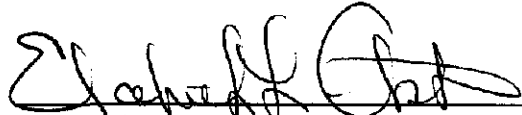
A handwritten signature in black ink, appearing to read "Elizabeth L. Anstaett", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of ACE Cash Express, Inc.'s *Reply Comments* was served upon the persons listed below via first class U.S. Mail, postage prepaid, this 14 day of October, 2008.


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