

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
to promulgate rules governing consumer standards) Case No. U-14851
and billing practices for electric and gas residential)
service.)
_____)

At the June 26, 2007 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Monica Martinez, Commissioner

ORDER APPROVING RULES

On February 14, 2006, the Commission applied for permission from the State Office of Administrative Hearings and Rules (SOAHR) to commence a rulemaking proceeding for the purpose of revising the Consumer Standards and Billing Practices for Electric and Gas Residential Service (residential billing rules). SOAHR granted its approval on the same day. *See*, SOAHR # 2006-014 LG, available on the SOAHR website.¹ Subsequently, the Commission submitted a draft version of the proposed rules to SOAHR and the Legislative Service Bureau (LSB) for their informal approvals, which were granted on August 7, 2006 and September 11, 2006.

In continuation of the rulemaking process, the Commission scheduled a public hearing on January 31, 2007 to hear comments on the proposed residential billing rules. The Commission also invited interested persons to submit written comments regarding the rules.

¹ <http://www.state.mi.us/orr/emi/rules.asp?type=dept&id=LG&subId=2006%2D014+LG&subCat=History>.

In addition to comments made at the hearing, the Commission received written comments from the Center for Civil Justice (CCJ), the Heat and Warmth Fund (THAW), disAbility Connections, Inc. (disAbility Connections), Michigan Association of Community Organizations for Reform Now (ACORN), Michigan Electric and Gas Association (MEGA) on behalf of its members and other industry participants,² Michigan Electric Cooperative Association (MECA), SEMCO Energy Gas Company (SEMCO), the Michigan Office of Services to the Aging (OSA), as well as several individuals.

As an initial matter, several commenters request that the Commission address the reporting of bill payment information to credit reporting services by certain utilities. Bruce C. Ford, Laurie Marchlones-Angeli, Arnold and Debra Chema, and Budimir Damjanovic all express concerns about credit reporting practices by Michigan utilities, noting that a reported late payment of a utility bill could significantly lower a customer's credit score. The Commission observes that credit reporting practices are governed by the Fair Credit Reporting Act (FCRA), 15 USC 1681 as amended, which largely preempts state law. *See, e.g., In re Complaint of Pelland against Ameritech Michigan*, 254 Mich App 675, 687-688; 658 NW2d 849 (2003) and 15 USC 1681t. The Commission further notes that furnishers of credit information are required under the FCRA to provide accurate information to credit reporting services, 15 USC 1681s-2(a), and that consumers have a right to dispute inaccurate information contained in their credit reports, 15 USC 1681s-2(b).

²The MEGA members include Alpena Power Company, Aurora Gas Company, Citizens Gas Fuel Company, Edison Sault Electric Company, Indiana Michigan Power Company, Michigan Gas Utilities, Upper Peninsula Power Company, We Energies, Wisconsin Public Service Corporation and Xcel Energy. The other industry participants in the comments submitted by MEGA are The Detroit Edison Company, Michigan Consolidated Gas Company (collectively, DTE Energy), SEMCO Energy Gas Company, Consumers Energy Company (Consumers), and the Michigan Electric Cooperative Association.

R 460.102

Proposed Rule R 460.102 provides definitions of various terms used in the rules. SEMCO recommends that “in lieu of shutoff of service” be deleted from the definition of “Collection charge” in R 460.102(g), to comport with R 460.141, which governs collection fees. The Commission disagrees that “in lieu of shutoff of service” in R 460.102(g) should be removed. The clause makes it clear that the collection fee may only be assessed in cases where a utility representative receives payment at the customer’s residence and does not shut off service.

MEGA and the CCJ recommend that the eligibility limit for the winter protection program (WPP) for low-income customers, defined in R 460.102(n), should be raised to 200% of the federal poverty level (FPL).³ The CCJ also recommends that recipients of benefits under MI-Child be included in the definition of eligible low-income customers.⁴

OSA points out that some utilities set eligibility for the WPP for senior citizens at 62 years of age, while others use 65 years as provided by the current rules. OSA notes that there are more low-income elderly persons between the ages of 60 and 64 than there are between the ages of 65 and 69, yet the former group receives fewer government benefits. OSA therefore proposes that the eligibility criteria for WPP for senior citizens, described in R 460.102(p), be set at age 60 to comport with MCL 400.582(g).

The Commission observes that the Legislature established the eligibility guidelines for the WPP for electric service for low-income and senior citizen customers in MCL 460.10t (Section 10t). Section 10t(6) provides:

³Under 2007 guidelines, 150% of FPL is \$30,975 taxable annual income for a family of four, and 200% of FPL is \$41,300 taxable annual income for a family unit of four.

⁴MI-Child is a health care program administered by the Department of Community Health for the uninsured children of low-income working families.

- (a) “Eligible customer” means either an eligible low-income customer or an eligible senior citizen customer.
- (b) “Eligible low-income customer” means a customer whose household income does not exceed 150% of the poverty level, as published by the United States department of health and human services, or who receives any of the following:
 - (i) Assistance from a state emergency relief program.
 - (ii) Food stamps.
 - (iii) Medicaid.
- (c) “Eligible senior citizen customer” means a utility or supplier customer who is 65 years of age or older and who advises the utility of his or her eligibility.

As quoted above, an “eligible low-income customer” is one whose income “does not exceed 150% of the poverty level,” or who receives certain services and an “eligible senior citizen customer” is a customer who is “65 years of age or older.” Because the Legislature has expressly defined the eligibility requirements for the WPP for electric service, the Commission cannot alter or expand the definition of “eligible low-income customer” or “eligible senior citizen customer” through rulemaking. Nevertheless, the Commission notes that “state emergency relief program” is not defined in Section 10t, or anywhere else in the Michigan Compiled Laws. Thus, the current rule, R 460.2174(1)(b)(i) provides that an “eligible low-income customer” is one who receives, “Supplemental security income, aid to families with dependent children, or general assistance.”⁵ In the proposed rule, the language is slightly modified to state, “Supplemental security income or low-income assistance through the department of human services or successor agency.”

The CCJ requests that the Commission add recipients of benefits from MI-Child to the list of eligible low-income customers. The Commission finds this unnecessary in light of the fairly expansive eligibility criteria in the proposed rules and given the likely implementation of the

⁵This minor discrepancy between the statute and the current rule results from the fact that the Commission established the WPP by rulemaking in 1980 (*see*, August 8, 1980 order in Case No. U-4240), whereas Section 10t was not enacted until 2000.

additional shutoff protection program proposed by MEGA (see, discussion under R 460.148, *infra.*)

MEGA points out that the limit on eligibility for senior citizens, in cases where unauthorized use of utility service has occurred in the past, should be 6 years rather than 3 years proposed under R 460.102(p)(iii). However, the Commission finds that the eligibility criteria for senior citizen customers contained in Section 10t does not include a limitation because of unauthorized use of utility service. Accordingly, the Commission finds that R 460.102(p)(iii) should be deleted from the proposed rules.

Nevertheless, the Commission has made an exception to many consumer protections and benefits, such as deposit limits and shutoff protection, for those who have engaged in the unauthorized use of utility service. The Commission sees this problem not only as a costly one for the utilities,⁶ and ultimately for ratepayers, but also as a significant safety concern.

The CCJ points out that R 460.2(mm) should be expanded to include customers who are in compliance with the WPP and customers whose payments are made by the DHS as customers having a “satisfactory payment history.” The Commission finds that this is unnecessary. The definition of “satisfactory payment history” simply addresses the timeliness of payments and cross-references to R 460.118,⁷ which addresses equal monthly billing programs, and R 460.109(2)(d), which addresses deposit conditions for senior citizens.

⁶In 2005, Consumers confirmed over 6,000 cases of unauthorized use of utility service, which cost the company and ratepayers over \$3.5 million. Likewise, DTE Energy reported over 14,000 cases that same year with an associated cost of over \$14 million.

⁷Under the current rule for equal monthly billing programs, offering the program to customers is at the discretion of the utilities. Under the proposed rule, any customer with a “satisfactory payment history,” who requests equal monthly billing, shall be enrolled in the program.

Finally, the Commission notes that MCL 722.4 requires expansion of the definition of “applicant” to include emancipated minors, which has been added to Rule 102(b).

R 460.104; R 460.106

MEGA recommends that the heading for R 460.104 be changed to “Conduct of proceedings” rather than “Form of proceedings.” Likewise, MEGA recommends that the caption for R 460.106 be changed from “Service for new or previous customers” to “Service requests for new or previous customers.” The Commission agrees that these proposed headings more accurately reflect the subject matter of these rules.

MEGA recommends that the Commission delete “both of” from the list of conditions under which a utility may require payment of a delinquent account in R 460.106(2). MEGA claims that there are more than two conditions contained in that subrule. The Commission agrees and adopts this recommendation.

MEGA also recommends that the phrase “owed to the utility” be deleted and the time limit for collecting on an applicant’s delinquent account be increased from 3 years to 6 years in R 460.106(2)(b). The Commission disagrees with the first of these recommendations. The phrase “owed to the utility” makes it clear that the delinquent bill is owed to the utility from which the service is requested. There are too many instances where utility service providers attempt to collect delinquent charges on an account in the name of a person who is not the applicant or the customer. It is the Commission’s view that allowing a utility, by implication, to deny service and attempt to collect on an account purportedly owed by an applicant to a different utility, would simply exacerbate this problem. However, the Commission finds that MEGA’s recommendation, that the time period for collection on a delinquent account should be increased from 3 to 6 years, is

appropriate and comports with the statute of limitations on a collection of a debt provided in MCL 600.5807(8).

The CCJ recommends that R 460.106(2)(b) should be amended to require utilities to provide information on how an applicant can contest a delinquent account if service is denied on that basis. The Commission agrees with this recommendation and adds, “The utility shall provide the applicant with information on the process to refute or contest the delinquent account” to the end of R 460.106(2)(b).

The CCJ also recommends that, to comport with R 460.111(5), R 460.106(2)(b) should not permit a utility to deny service on the basis of a prior delinquent account, unless the applicant was offered a settlement. The Commission finds that this recommendation should be rejected on grounds that it is overbroad and may require burdensome record keeping for utilities. The Commission notes that there may be situations where a customer would not be offered a settlement agreement, yet if the CCJ’s recommendation were adopted, a utility could not deny service to that customer. In addition, utilities would not only be required to document settlement agreements that were entered into but would also have to maintain records of settlement agreements that were offered and refused.

R 460.107

MEGA suggests that the caption for this rule be changed to “Applicant information” because this better reflects the subject matter in the rule. As with the captions for R 460.104 and R 460.106, the Commission agrees that the subject of the rule is clarified by adopting the recommended change.

R 460.107(2) addresses the submission of a lease to prove that the applicant is a tenant. In the current rule, proof of tenancy can be demonstrated by the submission of a lease by the landlord. In

the proposed version of the rule, the tenant is permitted to submit a copy of the lease as proof of tenancy. MEGA raises concerns about falsified leases and recommends that the Commission return to the previous version of the rule, or add “verified” before “signed copy of the lease.” The Commission accepts this recommendation and adds the sentence, “An applicant may verify a lease by submitting a lease agreement containing notarized signatures of the landlord and tenant or by providing the utility with contact information for the landlord” to the end of R 460.107(2).

R 460.108

MEGA recommends that R 460.108(a)-(m) be eliminated and the rule shortened to simply provide that “A utility shall not require a deposit or other guarantee as a condition of new or continued service except as specifically authorized by these rules.” The Commission disagrees and observes that the list of specific criteria that may not be used in determining whether a deposit or guarantee is required is largely modeled after the anti-discrimination provisions of 1976 PA 453; MCL 37.2101 *et seq.* In the proposed rule, the Commission has added the additional categories of “marital status” and “familial status” to the ones listed in the current rule. However, in light of the concerns raised by disAbility Connections (see discussion of R 460.109, *infra*), the Commission finds that “disability” should be added to the list of prohibited considerations for requiring a customer to pay a deposit or provide a guarantee.

R 460.109

MEGA observes that R 460.109(1) and R 460.109(2) should be clarified by adding, “Notwithstanding any of the provisions of subrule (1)” to the beginning of subrule (2) and eliminating R 460.109(2)(c). The Commission agrees that this clarification is reasonable and should be adopted.

MEGA also recommends that the time limit on R 460.109(1)(f) should be extended from 3 to 6 years. Proposed R 460.109(1)(f) provides that a utility may require a deposit for an applicant in a case where, “[w]ithin the past 3 years the applicant lived in a residence with a person who accrued a delinquent account for electric or gas service to the shared residence, during the time the applicant lived there, which remains unpaid and is not in dispute, and the person with the delinquent account now resides with the applicant.” The CCJ objects to this rule, as well as other rules that apply in similar circumstances including R 460.110(i), which provides for a deposit for a previous customer for continued service, and R 460.137(h)(ii), which permits service shutoff. The CCJ argues that these particular provisions are “contrary to basic notions of contract liability.” Specifically, the CCJ claims that a person cannot be held responsible for the debt of another person unless that person agreed to pay the debt as a guarantor. Moreover, the CCJ asserts that the debt may not be assigned on a quasi-contractual theory because a contract may not be implied where an express contract covering the same subject matter exists.

The Commission disagrees and observes that R 460.109(1)(f), R 460.110(i), and R 460.137(h) apply in only exceptional circumstances: the parties must have been living together at the time the delinquency accrued, and they must be living together at the time the non-party on the original account applies for new or continued service. Moreover, the utility can only charge the applicant for a delinquency that occurred during the time the applicant lived with the person who incurred the delinquency, and the delinquent account must not be in dispute. The purpose of these provisions is to avoid the practice of “account switching” whereby customers may avoid payment of a delinquent account by moving and applying for service in another household member’s name.

In response to the CCJ’s assertion that that this practice is not supported by fundamental contract principles, the Commission points to *Morris Pumps v Centerline Piping, Inc*, 273 Mich

App 187; 729 NW2d 898 (2006), where the Court of Appeals held that an express contract between two parties did not bar a third party's unjust enrichment claim on a quantum meruit theory. The Court found that although there were express contracts that covered the same subject matter, the defendants had no contractual relationship with the wronged party, who therefore had an equitable claim for restitution.

In response to MEGA's recommendation regarding the time limit in R 460.109(1)(f), the Commission finds that this change would be unnecessarily prejudicial to the interests of some customers. There is a significant group of customers, primarily younger and low-income customers, who change residence with some frequency. Requiring these customers to provide proof of residency, dating from three to six years in the past, in order to dispute a delinquent account, is potentially quite burdensome. The Commission therefore declines to adopt this recommendation.

MEGA also recommends that R 460.109(d), which provides that the utility shall not require a deposit as a condition of providing new service to a customer who is over 65 years old and who has a satisfactory payment history for the past 3 years with any electric or gas utility, should be changed to 6 years. The Commission finds that a satisfactory payment history over 3 years is sufficient to establish credit-worthiness for this group of customers and therefore declines to adopt this recommendation.

disAbility Connections argues that R 460.109(1)(a), which provides that a deposit may be required from an applicant who "has a delinquent bill with any electric or gas provider that accrued within the last 6 years and that remains unpaid and is not in dispute," imposes an unreasonably long time limit for responsibility for a delinquent bill. Similarly, disAbility Connections argues that R 460.109(g) and (h), which provide that a deposit may be required if a

receiver has been appointed for the applicant or if the applicant has sought relief under federal bankruptcy laws in the past 6 years, unduly burdens the disabled, who often have court-appointed receivers or have filed for bankruptcy protection due to the medical costs resulting from the injury that caused the disability.⁸

The Commission disagrees and finds no evidence that R 460.109(1)(a), (g), and (h), R 460.110, or R 460.111 were in any way designed to discriminate against disabled persons, although the rules may have a disproportionate effect on the disabled, as disAbility Connections claims. The rules are neutral on their face, they do not “invoke criteria that have a particular exclusionary effect on the handicapped,” and they do not distinguish “on the basis of any test, judgment, or trait that the handicapped as a class are less capable of meeting or less likely of having.” *Alexander v Choate*, 469 US 287, 302; 105 S Ct 712; 83 L Ed 2d 661 (1985). The Commission finds that because the rules conform to the requirements stated in *Alexander*, disAbility Connections’ recommendations should be rejected on these particular grounds. Nevertheless, the Commission can find no reasonable justification for requiring a deposit when a receiver has been appointed within the past 6 years. Therefore, R 460.109(1)(g) and R 460.110(1)(g) are stricken from the rules and the subsequent subrules are renumbered accordingly.

⁸disAbility Connections makes a similar recommendation in its comments on R 460.111, which addresses general deposit conditions. disAbility Connections contends that people with disabilities should only be required to pay a deposit for service restoration in cases of misrepresentation or unauthorized use of utility service. Alternatively, disAbility Connections recommends that a disabled customer be permitted to pay a deposit in installments over 4 to 6 months rather than 2 months as provided in proposed R 460.111(1)(c). For the same reasons discussed here, the Commission declines to adopt these recommendations.

R 460.110

As discussed in R 460.109, MEGA recommends that R 460.110(1) and R 460.110(2) should be clarified by adding “Notwithstanding any of the provisions of subrule (1)” to the beginning of subrule (2) and eliminating R 460.110(2)(c). The Commission agrees that this clarification is likewise reasonable and should be adopted.

MEGA also recommends that the time limit in R 460.110(1)(i) and R 460.110(2)(d) should be increased from 3 years to 6 years. As previously stated, the Commission finds the recommended extension of time in R 460.110(1)(i) is unduly burdensome for some customers and that it is unnecessary in the case of R 460.110(2)(d).

The CCJ observes that R 460.110(2)(d), which addresses deposit conditions for senior citizens, conflicts with R 460.102(mm). The Commission disagrees and finds that there is no conflict. R 460.110(2)(d) merely extends the time period for “satisfactory payment history” from 1 to 3 years for the purposes of this particular rule.

R 460.111

MEGA observes that if the proposed shutoff protection program, discussed under R 460.148 *infra*, is approved, there will be no deposits required for eligible low-income or senior citizen customers. Therefore, MEGA claims that R 460.111(1)(c), which provides for installment payments for deposits paid by eligible customers, and R 460.111(3)(a), which provides for a lower limit on deposits collected during the space heating season, are unnecessary and should be eliminated. The Commission disagrees and observes that, while most low-income customers will elect to participate either in the WPP or in an alternative, Commission-approved shutoff protection

program, some will not. As the Commission noted in the Regulatory Impact Statement (RIS)⁹ prepared for these rules, the Commission received over 200 complaints last year regarding the difficulties that customers had in paying high utility deposits. While the Commission has proposed to lower the limit on deposits by approximately 25%, low-income customers who choose not to participate in a shutoff protection program may still have difficulty paying the equivalent of two-months of utility bills at one time as a deposit. Therefore, the Commission finds that MEGA's recommendations should be rejected.

MEGA suggests that "upon customer request" should be added to R 460.111(2), which calls for utilities that require an applicant or customer to make a deposit in the case of a delinquent account accrued in another household member's name, to provide notice of the reason for the deposit requirement, and the process for refuting the action. The Commission disagrees that this change is appropriate.

Finally, MEGA suggests that the interest rate paid on deposits should be reduced from the proposed 7% rate to 5%. MEGA argues that deposits are only collected from customers who have demonstrated a high risk of bad debt and thus there is no reason for utilities to pay above-market interest rates. MEGA observes that the 5% rate that it has proposed approximates the current 1-year rate paid on certificates of deposit. The Commission disagrees with MEGA's recommendation and notes that under the proposed rule, interest on deposits is already reduced from 9% to 7%. Although 7% is currently above market rates for certain long-term investments, the Commission finds that a 7% interest rate to be paid on deposits is nevertheless reasonable.

⁹The RIS for these rules is available at the SOAHR website at: <http://www.state.mi.us/orr/emi/rules.asp?type=Numeric&id=2006&subId=2006%2D014+LG&subCat=RIS>.

The CCJ recommends that the rule be amended to require that utilities provide customers with information on how to contest a guarantee or deposit requirement. The Commission finds that this is reasonable and adds to R 460.111(15)¹⁰, “A utility shall provide to any customer who objects to paying a deposit, information on the process to contest the deposit requirement.”

Finally, the Commission observes that R 460.111(12), which provides that unclaimed customer credits shall be deposited to the Commission Low Income Energy Efficiency Fund (LIEEF), if implemented, would violate MCL 567.222 *et seq.* MCL 567.222(n) defines “property” as “tangible or intangible personal property owned by a person.” MCL 567.222(j)(ii) defines “intangible property” as “Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.” MCL 567.229 provides that:

A deposit, including any interest on the deposit, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than 1 year after termination of the services for which the deposit or advance payment was made is presumed abandoned.

Finally, MCL 567.244 provides that this unclaimed property shall be deposited in the general funds of the State. Therefore, the Commission lacks the authority to assign unclaimed customer credits or deposits to the LIEEF program. In light of these considerations, the Commission finds that after, “A utility shall make reasonable efforts to locate customers with unclaimed deposits or credits,” the remainder of R 460.111(12) through R 460.111(14) should be stricken from the proposed rules.

¹⁰To comport with the changes discussed below, R 460.111(15) is renumbered R 460.111(13).

R 460.112

MEGA observes that various provisions of R 460.112, which addresses guarantee terms and conditions, are inconsistent. MEGA points out that R 460.112(2) provides that the utility shall release a guarantee after 12 months, although R 460.112(1) provides that a guarantee automatically expires after 12 months. Likewise, the provision in R 460.112(3) permits the retention of a guarantee for 36 months in cases of unauthorized use of utility service. MEGA suggests that the rule be amended to permit written guarantees effective for 12 to 36 months, depending on the circumstances. Alternatively, MEGA notes that guarantees are rarely used in practice and the rule could be eliminated.

The Commission disagrees that this rule should be eliminated completely on grounds that, even if rarely used, there are nevertheless circumstances where a guarantor may be desirable or necessary. However, the Commission agrees that the inconsistencies in the rule should be addressed. Therefore, the Commission amends R 460.112(1) by striking “12” months and replacing it with “36” months at the end of the first sentence. R 460.112(2) is amended by adding, “Notwithstanding the term stated in the guarantee, if longer than 12 months,” to the beginning of the subrule. R 460.112(3) is amended by striking “retain” and replacing it with “require” and by deleting the language after “36 months.”

R 460.113

R 460.113 is a substantial revision to the current R 460.2112, regarding the use of actual and estimated meter reads. Under the current rule, utilities are permitted to estimate bills for residential customers every other billing month and may estimate bills “more or less often upon a finding by the commission that those procedures assure reasonable billing accuracy.” Moreover, utilities may estimate bills in the event of “extreme weather conditions, emergencies, work stoppages, or

other circumstances beyond the control of the utilities.” The proposed rule requires that an actual meter reading be performed every month, with limited exceptions.¹¹

MEGA argues that while it is aware that some customers have raised the issue of estimated billing at Commission-sponsored Consumer Forums, this is not a statewide issue and does not overall generate customer complaints. Moreover, MEGA argues that the added cost of monthly meter reads would not result in customer benefits commensurate with the additional cost.¹²

MEGA suggests that problems associated with estimated billing should be addressed on a targeted basis and further notes that as automatic meter reading (AMR) technology becomes more prevalent problems with estimated meter reading will diminish.

As an initial matter, the Commission observes that several individuals took the time to submit comments commending the Commission for addressing the problem of estimated billing in the proposed rules. Moreover, contrary to MEGA’s claim, the issue of estimated meter reads has not only been raised in Consumer Forums. Indeed, in the RIS, the Commission stated, “The Commission typically receives 400-500 complaints per year from customers, many of whom are facing significant arrearages after receiving several months, or even years, of estimated bills that underestimated actual energy use.” While some utilities have significantly more problems associated with estimated billings, complaints about estimated billings have nevertheless been made about most Michigan utilities. Moreover, it is much more difficult for the Commission to undertake

¹¹Pursuant to R 460.102(a), an “actual meter reading” is defined as “a gas or electric meter reading that is based on the customer’s actual energy use during the period reported and that was performed by a utility representative, by the customer and communicated to the company by mail, telephone, fax, on a secure company website, or other reasonable means, or that was transmitted to the utility by an automated or remote meter reading device.”

¹²MEGA estimates that the additional annual cost of monthly meter reads would be approximately \$3.1 million for Consumers and \$4 million for DTE Energy. MEGA did not estimate customer benefits resulting from fewer billing problems that customers need to address as a result of limiting estimated meter reading.

“targeted” action, as MEGA suggests, in the absence of a violation of a Commission rule or company tariff.

Under the proposed rule, actual meter readings—which include having the customer read the meter and transmit the information to the utility—are required every month. However, the only ongoing penalty associated with using an estimate one month is that the customer is not required to pay a late fee if the customer is delinquent in paying the estimated bill. R 460.121(3) provides, “A utility may not charge a late payment fee for failure to pay an estimated bill by the due date unless the customer is subsequently delinquent on a bill using an actual read.” The rule nevertheless contains the limitation: “This rule shall not apply if the bill is estimated because the utility was unable to gain access to the meter, the utility’s lack of access is documented, and the customer refused to supply an actual meter reading.”

However, if the utility persists in providing only estimated readings, under R 460.113(4), “when an actual meter reading is obtained, the utility shall offer the customer the opportunity to pay the bill over the same number of months as consecutively estimated bills.” Like R 460.121(3), this rule only applies if the utility cannot gain access to the meter and the customer fails to provide an actual meter reading if requested to do so.

While there may be some accounting changes that need to be made by the utilities to implement this rule, the Commission nevertheless finds that the proposed rule is a reasonable solution to a significant problem.¹³ The Commission therefore rejects MEGA’s recommendation.

¹³MEGA also raises concerns about meter reading in inaccessible areas, such as Les Cheneaux Islands, where the meters are read only two times per year. In these unusual cases, the Commission encourages utilities to avail themselves of the waiver provision provided in R 460.169(3).

R 460.116

MEGA observes that the reference to having meter errors reviewed by a “billing specialist,” as provided in R 460.116(1) is unclear. MEGA recommends replacing the clause “If the billing specialist is unable to confirm accuracy, the utility shall visually read the meter a second time for accuracy, test the meter for accuracy, if necessary, and then repair or replace the meter based on the findings” with “investigated and, if necessary, the meter should be repaired or replaced.” The Commission agrees that the suggested revision provides a more concise statement of the utilities’ responsibility regarding malfunctioning meters. The Commission therefore adopts MEGA’s proposed revision to R 460.116(1).

R 460.117

MEGA suggests striking R 460.117(1) in its entirety and replacing it with:

A utility shall transmit a bill to its customers in accordance with approved rate schedules and in conformity with the provisions of R 460.123. A utility shall transmit bills to its customers by mail or electronic means. The customer may request that the utility transmit its bill by mail. A utility that is authorized to seasonally bill customers or to use a customer read system shall transmit a bill in accordance with the tariffs approved by the Commission. If the customer’s total bill for utility service is less than 4 times the monthly customer service fee, the utility may transmit a bill less often than every month with no longer than six months between billings; however, the customer may elect to continue monthly billing.

MEGA argues that this language will provide more flexibility and will permit utilities to bill less frequently for minor accounts to save on the cost of frequent billing.

One commenter complained that the utilities are “pushing” online billing, a payment system that she was reluctant to use because of frequent computer problems and security concerns.

The Commission agrees that additional flexibility, particularly in billing small accounts, is beneficial. The Commission also agrees that online billing and payment should be encouraged for

its potentially significant cost and resource savings for utilities and customers. Nevertheless, the Commission finds that monthly billing and payment by US mail should be the “default” and that it should be the customer’s option to use online billing or to request that bills be sent at less frequent intervals. The Commission therefore amends the rule by adding “unless the utility and the customer agree to another billing interval” after “rate schedules” in the first sentence of R 460.117(1).

As online billing and payment become more common, the Commission also finds it reasonable to add R 460.117(3) to provide, “Customers who request online billing and payment shall have the same rights and responsibilities as customers who request paper bills and payment by US mail.”

R 460.120

Under the current rules, customers are required to pay their bills within 17 days after the bill is sent. Under the proposed rules, a customer’s payment would not be due for 22 days after the bill is transmitted. MEGA argues that the 5 day change in the billing period will result in significant cost increases without providing equal or greater benefits to customers. The Commission disagrees and observes that the Commission Staff, using 2005 revenues from residential customers only, reasonable estimates for the average number of additional days that most customers will use to pay their bills, and current short-term borrowing rates, calculated a cost of implementation that was less than \$2 million each for DTE Energy and Consumers. The Commission stated in the RIS, the implementation of R 460.120(1) “is expected to cost \$.05/household/month due to the additional days of borrowed working capital. However, this cost to customers will be offset to some extent by the reduction in the cost of late fees and shutoffs.”

MEGA also points out that extending the bill payment period to 22 days will increase the likelihood that customers will receive “rollover” bills, which show the prior month’s account as remaining due, although the period for bill payment has not expired. MEGA asserts that these bills may cause confusion for some customers and may generate additional inquiries and complaints. The Commission agrees that this is a valid concern, but notes that the current rules for commercial and industrial customers, R 460. 3909 provides, “A bill shall be mailed or delivered to the customer not less than 21 days before the due date.” In the interest of consistency between the classes of utility customers, the Commission determines that the bill payment period be reduced from 22 days to 21 days.

One commenter pointed out that he had signed up with his utility to have his bills paid automatically with a credit card. The commenter noted that his credit card had been charged on the day after his bill had been sent via email, rather than on the bill due date. In response to this concern, the Commission adds to the end of R 460.120(1), “In cases where a customer uses an automatic bill payment plan, a utility shall not withdraw funds from a customer account before the due date for the bill, unless the customer specifically designates a different payment date.”

MEGA comments that R 460.120(2) contains an error and that “other person” should be replaced with “customer.” The Commission agrees. MEGA also points out that under the shutoff protection program they have proposed (see discussion under R 460.148), the provisions in R 460.120(5) and R 460.120(6), which allow customers to designate partial payments to gas or electric service or to enter into an extended payment plan to retain either gas or electric service, is unnecessary. The Commission disagrees. Although the alternative shutoff protection program proposed by MEGA will likely obviate much of the need for customers to make partial payments,

the Commission finds that it should nevertheless be an option available to customers who choose not to enter the WPP or an alternative shutoff protection program, if available.

Another commenter suggested that the Commission should adopt standards that consider customer protection against identity theft and fraud for payment agents authorized under R 460.120(4) and that the Commission should adopt rules that assure that utilities make available customer service centers in reasonably accessible locations. The Commission finds that the concerns regarding identity theft and fraud should be raised in a different proceeding designed to address protection of sensitive customer information and general cyber security issues. Regarding the second concern, the Commission finds that regulating the location of payment agents and customer service centers is unnecessary because it would not be cost-effective for the utilities to locate agents or service centers in places that are not convenient for customers.

R 460.122

The CCJ recommends that R 460.122(2) should be amended to add that late fees shall not be assessed on customer accounts in cases where payment is made by DHS. Likewise, MEGA notes that late payment fees should not be assessed against customers who are participating in any Commission-approved shutoff protection program. The Commission agrees with these recommendations and amends R 460.122 by adding “whose payments are made by DHS or” before “who” and by striking “the winter” and “plan” and replacing them with “a shutoff” and “program.”

R 460.126

MEGA takes exception to the proposed 7% interest charge that utilities are required to refund to customers who have been overcharged pursuant to R 460.126(1). MEGA argues that most providers have had few complaints about overcharges and further claims that the Commission has

received few complaints. MEGA asserts that if there is a problem with a particular utility, the Commission should address the problem on a targeted basis to encourage prompt resolution of customer complaints regarding overbilling. Alternatively, MEGA suggests that if the Commission does adopt the proposed rule, that the interest charge be reduced from 7% to 5% and that the interest charge should be applied on the 60th day following the paid overcharge.

The Commission declines to adopt this recommendation in part, finding that the proposed interest charge provides an additional incentive for utilities to provide more accurate billing information through actual meter reads and the prompt repair or replacement of malfunctioning meters. Nevertheless, the Commission agrees that it is reasonable to add the proposed language regarding the date of application of the interest charge. The Commission therefore adds, “The interest on an overcharge shall be applied on the 60th day following the paid overcharge” to the end of R 460.126(1).

The CCJ recommends that R 460.126 should also apply to customers who are undercharged because of estimated billing. The Commission finds this unnecessary in light of the provision in R 460.113(4), which provides that a customer whose bill is estimated for 2 or more months shall have the opportunity to pay the bill over the same number of months as consecutively estimated bills.

R 460.137

MEGA recommends that the time limit in R 460.137(h)(i), which permits shutoff in cases where another household member has a delinquent account with a utility that accrued during the time that the customer resided with the delinquent account holder, should be changed from 3 years to 6 years. As previously discussed, the Commission finds that the period over which utilities can

assess customers for delinquent bills incurred by another household member should be limited to 3 years.

disAbility Connections argues that a utility should not be permitted to shut off a customer who is current on their payments but who cannot pay a deposit as provided by R 460.137(b). The Commission disagrees and finds that lowering deposit limits and permitting low-income customers to pay deposits in installments will significantly reduce the possibility of a shutoff because a customer fails to pay a deposit.

R 460.139

MEGA suggests that R 460.139, which addresses the form of a shutoff notice, should be incorporated as part of R 460.138, which provides for the timing of the initial shutoff notice. The Commission disagrees and finds that a separate rule defining the information that must be contained in a notice of shutoff is preferable to a single rule that describes both the timing of the notice of shutoff and the contents of the notice.

disAbility Connections argues that utilities should have a duty to clearly inform disabled customers that, after signing a settlement agreement, they may be unable to receive assistance.¹⁴ disAbility Connections correctly points out that once the customer signs a settlement agreement, the customer no longer faces shutoff. However, many agencies that provide cash assistance for utility bill payments only do so if the applicant has an emergency, i.e., an impending shutoff.

The Commission is sympathetic and believes that the proposed rules address this issue. For example, R 460.139(j), which carries over from the current R 460.2164, provides that a shutoff notice must inform customers who believe they may be eligible for economic assistance to contact a social services agency immediately. R 460.139(k) was added in the proposed rules to require

¹⁴disAbility Connections raised the same concern regarding R 460.144.

that shutoff notices inform customers that if they do enter into a settlement agreement, they may be unable to receive assistance. This warning was likewise added to the required text of a settlement agreement in R 460.155(5).

MEGA points out that R 460.139(n) should be changed to refer to shutoff protection programs generally and not the WPP only. The Commission agrees and amends the rule accordingly.

R 460.140

MEGA observes that R 460.140(2) refers to the “winter protection plan” described in R 460.148 and suggests that this be changed to include all Commission-approved shutoff protection programs. The Commission agrees and strikes “winter protection program” from R 460.140(2) and replaces it with “shutoff protection program under Part 9 of these rules.”

R 460.141; R 460.142

MEGA supports the addition of R 460.142, a new rule addressing shutoff notice for utilities with remote shutoff capability. However, MEGA observes that the rule should be amended to clarify that mandatory customer contacts should be made the day before shutoff and not on the day of the shutoff. Accordingly, MEGA recommends that R 460.142(2) should be deleted and the reference to this subrule should be struck in R 460.142(4). The Commission agrees with MEGA’s recommendation and amends this rule accordingly.

disAbility Connections argues that telephone notification one day before shutoff does not provide sufficient notice for a disabled person to arrange transportation and pay the bill. The Commission observes that both the current and proposed rules require written notice to be sent to the customer’s residence at least 10 days before shutoff and that the utility must make at least 2

attempts to contact the customer by telephone the day before the shutoff is scheduled. For customers who do not have a telephone, or for whom a telephone number is unavailable, R 460.141(1) provides that notice of shutoff shall be left at the premises at least one day before the shutoff, or written notification must be sent, postmarked at least 5 days before the scheduled shutoff. Therefore, the Commission finds that customers receive adequate notice of shutoff and that additional notice is not required.

Mr. Rick Whitecotton, a representative of the Utility Workers of America Local 223, commented on implications for customer safety when utilities introduce advanced meter reading technologies with remote shutoff capability. Mr. Whitecotton expressed specific concerns over the fact that with these technologies, which do not require physical meter readings by company representatives, customers may not be aware of the signs of a gas leak near the meter. The Commission finds that this concern is addressed in the Commission's rules governing gas safety standards.

Mr. Whitecotton also recommends that R 460.141(4) be changed to require utility representatives to accept payment rather than the proposed language that states that utility representatives "may" be authorized to accept payment at the time the representative arrives to shut off service. The Commission disagrees. Under the current rules, utility representatives are required to be authorized to accept payment at the time that service is shut off. Because of concerns about the safety of utility representatives, the Commission revised the shutoff rule to provide that identification and acceptance of payment are discretionary.

R 460.146

MEGA observes that R 460.146(c) refers to "winter protection program" and should be amended to include all shutoff protection programs. The Commission agrees.

R 460.147

The CCJ recommends that there should be no limit on the number of days that a customer can continue to receive utility services during a medical emergency. Under the current rule, R 460.2153, the limit on postponement of shutoff in the case of a medical emergency was unclear. Proposed R 460.147 provides that shutoff may be postponed for up to 63 days in a 12-month period in case of a certified medical emergency at a household. The Commission finds that the CCJ's concerns have some validity but nevertheless believes that indefinite postponement of shutoff in cases of medical emergency may harm customers by preventing them from requesting or receiving economic assistance while utility arrearages continue to accrue. Moreover, a rule that permits indefinite postponement of shutoff could lead to abuse of the rule. Accordingly, the Commission amends the proposed rule by striking "at any residence" from the penultimate sentence and striking the last sentence and replacing it with, "Annually, a utility shall not be required to grant shutoff extensions for more than 126 days per household."

R 460.148

R 460.148 addresses the WPP for low-income and senior citizen customers. MEGA observes that the WPP, as currently implemented, is problematic. MEGA notes that there is a high rate of customer default, and the low payment requirements applied over the last two heating seasons has resulted in an increase in customer arrearages that are difficult to pay between heating seasons as required under the WPP. In response to the concerns with the WPP, MEGA proposes a program that it claims will provide greater customer protection for low-income customers.

Under the program proposed by MEGA and supported by THAW and others, the shutoff protection program would be available to low-income customers, at or below 200% of FPL, and to all senior citizens. Eligible customers could enroll year-round, with a down payment of 10% of

any arrearage and any reconnection fees are waived upon initial enrollment. Minimum monthly payments would include 1/12 of any arrearage balance plus 1/12 of the estimated annual bill. Arrearage payments could extend to 18 months at the option of the utility offering the program. Customers could not be shutoff while enrolled in the program and there would be no late fees or deposits charged to program participants. MEGA points out that under the WPP a customer is in default and dropped from the program after one missed payment; however, under the program proposed by MEGA, default consists of two missed payments in a 12-month period.

THAW recommended that the proposal presented by MEGA include a requirement that eligible participants apply for an energy education and efficiency program to help reduce the significant economic burden that high energy costs place on low-income and senior citizen customers. THAW also points out that, while it views the proposal as a significant improvement over the WPP, low-income and senior citizen customers will continue to face burdensome arrearages that ultimately must be paid in full. Therefore, THAW recommends that R 460.148 include a provision that allows low-income customers who enroll in the shutoff protection program and pay off their arrearages to have some portion of their current outstanding bill reduced by a matching payment from the utility. THAW highlights the New Jersey “Fresh Start” program as a model for breaking the cycle of increasing arrearages.¹⁵

ACORN recommends that the Commission adopt a Percentage of Income Payment Program (PIPP) like those adopted in New Jersey, Ohio, and Pennsylvania. While program details vary considerably, in general, PIPP programs operate through funds collected from all ratepayers through a universal service surcharge. These funds are then used to augment other assistance funding such as Low Income Home Energy Assistance Program (LIHEAP) funds and state

¹⁵See, New Jersey Board of Public Utilities Order in Docket No. EX00020091, issued March 4, 2002.

funding, such as LIEFF, so that eligible low-income customers are not required to pay more than a set percentage, typically 3 to 10%, of their annual income, for residential electric and gas service. Ideally, PIPP programs also provide that participants must enroll in an energy efficiency program to reduce their energy usage and in a program that assists low-income customers in household budgeting.

Rapidly escalating energy costs and their disproportionate effect on low-income and elderly customers are issues of great concern to the Commission. “Whereas the energy burden¹⁶ for families with median incomes across the United States is approximately four percent, for low-income families, it ranges from 12 to 26 percent.”¹⁷ In an analysis of 2006 energy prices, Michigan’s approximately 180,000 households at 50% of FPL had an average home energy burden of 51.6%. Even households with incomes between 50 and 150% of FPL were paying from 10% to 21% of their household incomes for electric and gas service, levels that are unaffordable for most families.¹⁸ As a result, low-income families faced with high utility bills are forced to go without power at times, to move, or to forgo other necessities such as food and medicine.

The energy burden faced by low-income households also imposes costs on other ratepayers and taxpayers. Ratepayers must bear the carrying costs for arrearages and the costs for collections,

¹⁶ “Energy burden” is defined as the amount a household spends on energy as a percent of total income.

¹⁷ Oppenheim and MacGregor, *Low Income Consumer Utility Issues: A National Perspective* (October, 2000) available at http://www.democracyandregulation.com/attachments/22/National_Survey_2d_ed.10-00.doc

¹⁸ Fisher, Sheehan & Coulton, *On the Brink, 2006 The Home Energy Affordability Gap* (April, 2007) available at http://www.homeenergyaffordabilitygap.com/downloads/2006_Released_Apr07/States/Michigan.pdf.

bad debt, service termination and reconnection, and complaint resolution. When the energy burden is too high, taxpayers must assume the costs associated with the need for additional healthcare for low-income household members;¹⁹ additional costs for public safety, which result when low-income households attempt to supplement central heating by using kitchen ovens or space heaters for heat leading to fires; and costs associated with homelessness for low-income families forced from their homes because electric or gas service has been shut off in the winter for nonpayment.

The Commission agrees that the WPP, as required by Section 10(t), has proven to be unmanageable for many low-income and senior citizen customers, especially in light of the dramatic increase in the cost of natural gas over the past five years and the decreased availability of economic assistance for energy costs. Under the WPP program, low-income and senior citizen customers are essentially placed on a budget plan in the winter, when energy costs are particularly high. Customers enrolled in the WPP are required to pay 7% of their estimated annual bill²⁰ and must demonstrate that they have enrolled in a heating assistance program within 14 days of enrollment. If the customer has an arrearage at the time he or she enters the program, the customer

¹⁹Weather-induced health problems are often exacerbated by attempts by low-income customers to reduce energy use in the winter. Furthermore, high energy bills limit available household funds for the purchase of food or preventative medical care. In a recent survey of LIHEAP participants, 19% of respondents reported keeping their home at a temperature that they felt was unhealthy or dangerous and 16% reported that they became ill in the past 5 years because their home was too cold. 18% reported leaving their home for all or part of the day because it was too cold or too hot. 20% of respondents reported going without food for at least one day in the past five years, and 35% reported forgoing necessary medical or dental care. See, National Energy Assistance Directors' Association, *The Low Income Home Energy Assistance Program: Providing Heating and Cooling Assistance to Low-Income Families during a Period of High Energy Prices* (January 29, 2005) available at http://www.neada.org/LIHEAP_Issue_Brief_03.pdf.

²⁰This amount was lowered to 6% of the estimated annual bill while emergency rules were in effect in 2005 and continued under the voluntary shutoff protection program in 2006.

is expected to pay the arrearage balance in equal monthly installments before the beginning of the next heating season.

By giving participants more time (12-18 months) to pay off any arrearage, the proposed program should provide more flexibility for some low-income customers. However, as THAW points out, the proposed program contains significant drawbacks because arrearages continue to build up under the program, and because participants are not required to enroll in an energy efficiency or weatherization program as a prerequisite for participation in the shutoff protection program. THAW therefore requests that the Commission include a mandatory arrearage forgiveness component and a requirement that participants enroll in an energy efficiency program to the MEGA shutoff protection proposal.

The Commission is aware that the utilities have provided some level of arrearage forgiveness in the past, and the Commission encourages companies to continue to do so. Moreover, the Commission may authorize utilities to recover costs incurred for arrearage forgiveness in rates. *See, Consumers Power v ABATE*, 205 Mich App 571, 575; 518 NW2d 514 (2004). In *Consumers Power*, 205 Mich App at 575, the Court of Appeals held that a rate surcharge for arrearage forgiveness was permissible under a specific statute providing for recovery of arrearage forgiveness as well as under the Commission's general authority to set utility rates: "We agree with the PSC that it had authority independent of 1989 PA 200 to approve the requested rate surcharges under MCL 460.6 and MCL 460.54. We find that the reasonably incurred uncollectible expenses are expenses the PSC can consider in determining and establishing reasonable rates." Likewise, many utilities have implemented outreach and education programs designed to assist customers in reducing their energy usage, and the costs of these programs are recoverable in rates pursuant to MCL 460.6c. The Commission agrees with THAW that utilities should be encouraged to provide

energy education and weatherization programs to customers enrolled in their shutoff protection programs. However, the Commission finds that a requirement that utilities offer a PIPP program, although a significant step in the direction of actually reducing the energy burden for low-income households, would require an alteration in ratemaking, which would be best addressed in a general rate case rather than in a rulemaking proceeding.

The Commission finds that companies should be encouraged to provide innovative solutions to the problem of high energy costs for low-income households. The Commission therefore amends R 460.148(1) by striking “A utility may provide shutoff protection to additional customers who do not meet the eligibility criteria under these rules” and replacing it with R 460.148(10):

Subject to prior commission approval, a utility may offer an optional shutoff protection program to its customers, provided that the optional shutoff protection program provides for eligibility and shutoff protection that meets or exceeds the eligibility criteria and customer protections contained in subrule (1) of this rule.

The Commission recommends utilities who propose the same program—or one substantially similar—as the one proposed by MEGA in this proceeding should submit their proposals requesting Commission approval. Likewise, utilities who utilize additional shutoff protection measures reflecting programs in adjoining states should submit proposed alternatives to WPP for Commission approval.

R 460.149

MEGA observes that the reference to “winter heating season” should be changed to “space heating season” to conform to the definition in R 460.102(qq). The Commission agrees and incorporates the recommended change.

R 460.152

The CCJ recommends that R 460.152(2)(a) should be amended to allow a customer 5 business days instead of 3 business days to accept a utility offer for an informal hearing as provided by R 460.152(1). The Commission agrees that the proposed extension of time is reasonable and therefore adopts this recommendation.

R 460.155

MEGA recommends that the \$50 limit on payments under settlement agreements entered into during the space heating season should be eliminated in R 460.155(6). MEGA notes that limiting monthly payments on arrearages to only \$50 for all customers (not just low-income customers) during the space heating season hurts customers by allowing an arrearage balance during the space heating season to build up making payment during the summer more difficult. MEGA further observes that the limitation could conflict with the payment arrangements under the alternative shutoff protection program proposed under R 460.148.

The Commission agrees that a \$50 cap on payments for settlement agreements during the space heating season is problematic and inevitably leads to burdensome arrearages that customers cannot pay off. The Commission observes that R 460.155(3) and (4) require that utilities “shall not require the customer to pay more than a reasonable amount of the outstanding bill” and further requires that utilities consider various factors in negotiating what is a “reasonable amount.” The Commission therefore agrees with MEGA’s recommendation and deletes R 460.155(6).

R 460.156

MEGA recommends that if R 460.155 is changed to eliminate the \$50 cap on settlement agreements entered into, or effective during, the space heating season, the Commission should also change R 460.156 to provide that customers who default on a settlement agreement may enter into

a new agreement in 1 year rather than 2 years as provided under the current and proposed rules. The Commission agrees.

The CCJ recommends that R 460.156 be amended to comport with the notice provision in R 460.155(5), which allows customers with changed economic circumstances to request a review and modification of a settlement agreement. The Commission agrees and adds to R 460.156(2) “unless the customer demonstrates a significant change in economic circumstances and requests a modification of the settlement agreement as provided by R 460.155(5).”

The CCJ also recommends that R 460.156(4), which provides that the notice of default provisions under R 460.156(1) do not apply if a customer defaults on a settlement within the first 60 days, should be eliminated. The Commission disagrees and observes that this subrule addresses situations where customers enter into settlement agreements in bad faith. Furthermore, R 460.156(1) provides the same 10-day advance shutoff notification that R 460.138 provides.

Other Proposals

MEGA requests additional time for implementation of non-shutoff related rule changes. The Commission notes that utilities that need additional time to implement certain rules may request a temporary waiver under proposed R 460.169(3). The Commission therefore directs any utility that cannot implement particular rules at the time the billing rules become effective to file with the Commission a request for a temporary waiver pursuant to R 460.169(3).

MEGA observes that the heading under Part 8 of the rules, “Procedures for Shutoff, Involuntary Termination, and Restoration of Service” is redundant and suggests that “Involuntary Termination” should be stricken from the heading. The Commission agrees and adopts the proposed change.

MEGA also requests that the Commission add a new rule which provides as follows:

Rule R 460.XXX Protection of utility-owned equipment on customer's premises.

(1) The customer shall use reasonable diligence to protect utility owned equipment on the customer's premise and to prevent unauthorized use of utility service. The utility may shut off service in accordance with applicable rules of the commission if the metering or wiring on the customer's premises has been tampered with or altered in any manner that allows unmetered or improperly metered energy to be used or to cause an unsafe condition.

(2) When a utility detects that its regulating, measuring equipment or other facilities have been tampered with or other unauthorized use of gas or electricity is occurring at a service location, the utility shall be permitted to bill the owner of the property for the unauthorized use that occurs. In the event the property owner contests such billings, the utility shall offer the billed party an informal hearing under Rule 460.152. A rebuttable presumption that the property owner benefited from the unauthorized use shall exist.

The Commission finds that the proposed subrule (1) is unnecessary in light of R 460.137, which permits service to be shut off for reasons of health or safety and in light of current R 460.3409, which contains the same language and applies to both residential and commercial and industrial customers. As for proposed subrule (2), the Commission finds that the implementation of this subrule would impermissibly shift the burden of proof for what is essentially a criminal act. Therefore, the Commission rejects these proposals.

Summary of Rule Changes

- R 460.102(b) now includes reference to emancipated minors and R 460.102(p)(iii) is stricken.
- R 460.104 is amended by striking "Form" from the heading of the rule and replacing it with "Conduct" as recommended by MEGA
- R 460.106 is amended by adding "requests" after "Service" in the rule heading as proposed by MEGA.
- R 460.106(2) is amended by striking "both of" as proposed by MEGA.
- R 460.106(2)(b) is amended by adding "The utility shall provide the applicant with information on the process to refute or contest the delinquent account" as recommended by the CCJ and by changing "3 years" to "6 years."

- The caption to rule R 460.107 is amended by deleting “Application for service” and inserting “Applicant information” as recommended by MEGA.
- R 460.107(2) is amended by adding “verified” before “signed copy of the lease” and by adding, “An applicant may verify a lease by submitting a lease agreement containing notarized signatures of the landlord and tenant or by providing the utility with contact information for the landlord” to the end of the rule
- R 460.108 is amended by adding “(m) disability” and changing the subsequent subrule from “(m)” to “(n)” in accordance with the concerns expressed by disAbility Connections.
- R 460.109(1)(g) is stricken and subsequent rules are renumbered accordingly.
- R 460.109(2) is amended by adding “Notwithstanding any of the provisions of subrule (1)” to the beginning of the subrule.
- R 460.109(2)(c) is deleted as recommended by MEGA and the subsequent subrule is renumbered to reflect the deletion.
- R 460.110(1)(g) is stricken and the subsequent subrules are renumbered.
- R 460.110(2) is amended by adding “Notwithstanding any of the provisions of subrule (1) to the beginning of the subrule.
- R 460.110(2)(c) is deleted as recommended by MEGA.
- R 460.111(12) is amended by striking the language after “A utility shall make reasonable efforts to locate customers with unclaimed deposits or credits.”
- R 460.111(13) and R 460.111(14) are stricken.
- R 460.111(15) is amended by adding “A utility shall provide to any customer who objects to paying a deposit information on the process to contest the deposit requirement” to the end of the rule as recommended by the CCJ. The subrule is also renumbered from “(15)” to “(13).”
- R 460.112(1) is amended by striking “12” months and replacing it with “36” months at the end of the first sentence.
- R 460.112(2) is amended by adding, “Notwithstanding the term stated in the guarantee, if longer than 12 months,” to the beginning of the subrule.
- R 460.112(3) is amended by striking “retain” and replacing it with “require” and by deleting the language after “36 months.”

- Rule 460.116(1) is amended by striking “If the billing specialist is unable to confirm accuracy, the utility shall visually read the meter a second time for accuracy, test the meter for accuracy, if necessary, and then repair or replace the meter based on the findings” and replacing it with “investigated and, if necessary, the meter shall be repaired or replaced” as recommended by MEGA.
- R 460.117(1) is amended by adding “unless the utility and the customer agree to another billing interval” after “rate schedules” in the first sentence of the rule.
- R 460.117(3) is added to provide, “Customers who request online billing and payment shall have the same rights and responsibilities as customers who request paper bills and payment by US mail.”
- R 460.120(1) is amended by changing “22 days” to “21 days” and adding “A utility shall not withdraw funds from a customer account before the due date in cases where a customer uses an automatic bill payment plan, unless the customer agrees in writing to a different period” to the end of the subrule.
- R 460.120(2) is amended by striking “other person” at the end of the first sentence and replacing it with “customer.”
- R 460.122(2) is amended by adding “whose payments are made by DHS or” before “who” and by striking “the winter” and “plan” adding “a shutoff” and “program” as recommended by MEGA and the CCJ.
- R 460.126(1) is amended by adding, “The interest on an overcharge shall be applied on the 60th day following the paid overcharge” to the end of the subrule.
- The caption for Part 8 is amended by deleting “INVOLUTARY TERMINATION” as suggested by MEGA.
- R 460.139(n) is amended by replacing “the winter” with “shutoff” and “plan” with “programs” and by striking the language after “programs” as recommended by MEGA.
- R 460.140(2) is amended by deleting “winter protection program” and substituting “shutoff protection program as provided under Part 9 of these rules” and deleting “as defined in these rules.”
- R 460.142(2) is stricken and the reference to this subrule in R 460.142(4) is likewise deleted. R 460.142(3) and R 460.142(4) are renumbered accordingly.
- R 460.146(c) is amended by striking “winter protection plan” and replacing it with “shutoff protection programs” as suggested by MEGA.

- R 460.147 is amended by deleting “at any residence” from the penultimate sentence, deleting the last sentence, and replacing it with “Annually, a utility shall not be required to grant shutoff extensions for more than 126 days per household.”
- R 460.148 is amended by striking “A utility may provide shut-off protection to additional customers who do not meet the eligibility criteria under these rules” from the end of subrule (1) and adding subrule (10): “Subject to prior commission approval, a utility may offer an optional shutoff protection program to its customers, provided that the optional shutoff protection program provides for eligibility and shutoff protection that meets or exceeds the eligibility criteria and customer protections contained in subrule (1) of this rule.”
- Rule 460.149(1) is amended by striking “winter” and substituting “space” before “heating season.”
- Rule 460.152(2)(a) is amended by changing “3 business days” to “5 business days” as recommended by the CCJ.
- R 460.155(6) is stricken.
- R 460.156(2) is amended by adding “unless the customer demonstrates a significant change in economic circumstances and requests a modification of the settlement agreement as provided by R 460.155(5)” to the end of the rule.
- R 460.156(3) is amended by replacing “2 years” with “12 months.”

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 *et seq.*; 1909 PA 300 as amended, MCL 462.2 *et seq.*; 1919 PA 419, as amended, MCL 460.51 *et seq.*; 1939 PA 3, as amended, MCL 460.1 *et seq.*; 1969 PA 306, as amended, MCL 24.201 *et seq.*; and the Commission’s Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq.*

b. Adequate notice and opportunity for participation by interested parties have been provided as required by Sections 41 and 42 of 1969 PA 306, as amended, MCL 24.241 and MCL 24.242.

c. The proposed Consumer Standards and Billing Practices for Electric and Gas Residential Service, as modified by this order and attached as Exhibit A, are reasonable and in the public interest and should be approved.

THEREFORE, IT IS ORDERED that:

A. The revised version of the Consumer Standards and Billing Practices for Electric and Gas Residential Service, attached to this order as Exhibit A, is approved and shall be submitted to the Legislative Service Bureau and the State Office of Administrative Hearings and Rules for their formal approvals.

B. Upon formal approval of the revised version of the Consumer Standards and Billing Practices for Electric and Gas Residential Service by the Legislative Service Bureau and the State Office of Administrative Hearings and Rules, that version shall be transmitted to the Joint Committee on Administrative Rules.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark

Chairman

(S E A L)

/s/ Monica Martinez

Commissioner

By its action of June 26, 2007.

/s/ Mary Jo Kunkle

Its Executive Secretary

THEREFORE, IT IS ORDERED that:

A. The revised version of the Consumer Standards and Billing Practices for Electric and Gas Residential Service, attached to this order as Exhibit A, is approved and shall be submitted to the Legislative Service Bureau and the State Office of Administrative Hearings and Rules for their formal approvals.

B. Upon formal approval of the revised version of the Consumer Standards and Billing Practices for Electric and Gas Residential Service by the Legislative Service Bureau and the State Office of Administrative Hearings and Rules, that version shall be transmitted to the Joint Committee on Administrative Rules.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

By its action of June 26, 2007.

Its Executive Secretary

DEPARTMENT OF LABOR & ECONOMIC GROWTH
PUBLIC SERVICE COMMISSION
CONSUMER STANDARDS AND BILLING PRACTICES
FOR ELECTRIC AND GAS RESIDENTIAL SERVICE

Filed with the Secretary of State on

These rules become effective immediately upon filing with Secretary of State unless adopted under sections 33, 44, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the public service commission by section 7 of 1909 PA 106, section 5 of 1919 PA 419, sections 4 and 6 of 1939 PA 3, and sections 3, 9, and 231 of 1965 PA 380, MCL 460.557, MCL 460.55, MCL 460.4, 460.6, MCL 16.103, MCL 16.109, and MCL 16.331)

R 460.2101, R 460.2102, R 460.2103, R 460.2104, R 460.2105, R 460.2111, R 460.2112, R 460.2113, R 460.2114, R 460.2115, R 460.2116, R 460.2117, R 460.2118, R 460.2119, R 460.2120, R 460.2121, R 460.2122, R 460.2123, R 460.2124, R 460.2125, R 460.2131, R 460.2132, R 460.2133, R 460.2134, R 460.2136, R 460.2141, R 460.2142, R 460.2143, R 460.2144, R 460.2145, R 460.2146, R 460.2147, R 460.2148, R 460.2149, R 460.2150, R 460.2151, R 460.2152, R 460.2153, R 460.2154, R 460.2155, R 460.2161, R 460.2162, R 460.2163, R 460.2164, R 460.2165, R 460.2166, R 460.2167, R 460.2168, R 460.2169, R 460.2170, R 460.2171, R 460.2172, R 460.2173, R 460.2174, R 460.2181, R 460.2182, R 460.2183, R 460.2184, R 460.2185, R 460.2186, R 460.2187, R 460.2188, R 460.2189, R 460.2190, R 460.2191, R 460.2192, and R 460.2199 are rescinded from the Michigan Administrative Code, and R 460.101, R 460.102, R 460.103, R 460.104, R 460.105, R 460.106, R 460.107, R 460.108, R 460.109, R 460.110, R 460.111, R 460.112, R 460.113, R 460.114, R 460.115, R 460.116, R 460.117, R 460.118, R 460.119, R 460.120, R 460.121, R 460.122, R 460.123, R 460.124, R 460.125, R 460.126, R 460.127, R 460.128, R 460.129, R 460.130, R 460.131, R 460.132, R 460.133, R 460.134, R 460.135, R 460.136, R 460.137, R 460.138, R 460.139, R 460.140, R 460.141, R 460.142, R 460.143, R 460.144, R 460.145, R 460.146, R 460.147, R 460.148, R 460.149, R 460.150, R 460.151, R 460.152, R 460.153, R 460.154, R 460.155, R 460.156, R 460.157, R 460.158, R 460.159, R 460.160, R 460.161, R 460.162, R 460.163, R 460.164, R 460.165, R 460.166, R 460.167, R 460.168, and R 460.169 are added to the Code as follows:

PART 1. GENERAL PROVISIONS

R 460.101 Application of rules.

Rule 1. These rules apply to residential utility service that is provided by electric and natural gas utilities that are subject to the jurisdiction of the public service commission.

R 460.102 Definitions.

Rule 2. As used in these rules:

(a) "Actual meter reading" means a gas or electric meter reading that is based on the customer's actual energy use during the period reported and that was performed by a utility representative, by the customer and communicated to the company by mail, telephone, fax, on a secure company website, or other reasonable means, or that was transmitted to the utility by an automated or remote meter reading device.

(b) "Applicant" means an emancipated minor or a person 18 years of age or older requesting residential utility service in person at the utility company office, in writing, by telephone or fax machine, through the internet, or any other form of communication that allows the applicant to provide the information required by the utility company.

(c) "Billing error" means an undercharge or overcharge that is caused by any of the following:

(i) An incorrect actual meter read by a company representative.

(ii) An incorrect remote meter read.

(iii) An incorrect meter constant.

(iv) An incorrect calculation of the applicable rate.

(v) A meter switched by the utility or a utility representative.

(vi) An incorrect application of the rate schedule.

(vii) Another similar act or omission by the utility in determining the amount of a customer's bill. An undercharge or overcharge that is caused by a non-registering meter, a meter error, or the use of an estimated meter read or a customer read is not a billing error.

(d) "Billing month" means a natural gas or electric consumption period of not less than 26 or more than 35 days.

(e) "Billing specialist" means a representative of a utility who investigates and resolves meter reading discrepancies or errors.

(f) "Charges for tariff service" means the rates for regulated electric and gas service and other charges approved by the commission.

(g) "Collection charge" means a commission approved charge assessed for the costs associated with sending an employee or agent to a residence to collect a past due payment in lieu of shutoff of service.

(h) "Commission" means the Michigan public service commission.

(i) "Complaint determination" means the written decision of a hearing officer after an informal hearing.

(j) "Critical care customer" means any customer who requires, or has a household member that requires home medical equipment or a life support system, and who has provided appropriate documentation from a physician or medical facility to the utility identifying the medical equipment or life support system and certifying that an interruption of service would be immediately life-threatening.

(k) "Customer" means a purchaser of electricity or natural gas that is supplied or

distributed by a utility for residential purposes.

(l) "Cycle billing" means a system that renders bills for utility service to various customers on different days of a calendar month.

(m) "Delinquent account" means an account with charges for utility service that remains unpaid at least 5 days after the due date.

(n) "Eligible low-income customer" means a utility customer whose household income does not exceed 150% of the federal poverty guidelines as published by the United States department of health and human services or who receives any of the following:

(i) Supplemental security income or low-income assistance through the department of human services or successor agency.

(ii) Food stamps.

(iii) Medicaid.

(o) "Eligible military customer" means a utility customer, spouse of a customer, or customer whose spouse is in the military who meets all of the following:

(i) Is on full-time active duty.

(ii) Is deployed overseas in response to a declared war or undeclared hostilities or is deployed within the United States in response to a declared national or state emergency and the household income is reduced as a result.

(iii) Notifies the utility of his or her eligibility.

(iv) Provides verification of eligibility if requested by the utility.

(p) "Eligible senior citizen customer" means a utility customer who meets all of the following criteria:

(i) Is 65 years of age or older.

(ii) Advises the utility of his or her eligibility.

(q) "Energy assistance program" means a program that provides financial assistance or assistance in improving residential energy efficiency and energy conservation.

(r) "Energy usage" means the consumption of electricity or natural gas.

(s) "Estimated bill" means a bill for service at the premises that is not based on an actual meter reading for the period being billed but that is based on calculations of how much gas or electricity a customer used during the billing period.

(t) "Formal hearing request" means a document describing how a regulated utility has violated a customer's rights or these rules that is presented in writing to the executive secretary of the commission to initiate an administrative process in accordance with the rules of practice and procedure before the commission, R 460.17101 et. seq.

(u) "Gas cost recovery" means the adjustment in rates to recognize the cost of purchased gas.

(v) "Hearing officer" means a notary public who is qualified to administer oaths to conduct informal customer complaint hearings against the utility company and who is on a list filed with the commission.

(w) "In dispute" means that a matter is the subject of an unresolved disagreement, claim, or complaint against a utility by a customer, or the customer's authorized agent.

(x) "Informal appeal" means an appeal of a complaint determination of a hearing officer to the commission staff.

(y) "Informal appeal decision" means the written decision of the regulation officer in regard to an informal appeal.

(z) "Informal complaint" means a matter that requires follow-up action or investigation

by the utility or the commission to resolve the matter without a formal hearing.

(aa) "Inquiry" means a question regarding a utility matter that is asked by the customer and answered by the utility or the commission.

(bb) "Late payment charge" means a finance, service, carrying, or penalty charge that is assessed by a utility because a bill or portion of a bill is delinquent.

(cc) "Medical emergency" means an existing medical condition of the customer or a member of the customer's household, as defined and certified by a physician or public health official on official stationary or company-provided form, that will be aggravated by the lack of utility service.

(dd) "Meter error" means a failure to accurately measure and record all of the natural gas or electrical quantities used that are required by the applicable rate or rates.

(ee) "New customer" means a customer who has not received the utility's service within the previous 6 years.

(ff) "Peak season" means the months of November, December, January, February and March for natural gas service or electric space heating and June, July and August for other electric service.

(gg) "Positive identification information" means a consistently used appropriate identification such as, but not limited to, a driver's license or ID card issued by a state, U.S. military card or military dependent's ID card, Native American tribal document, or passport.

(hh) "Power supply cost recovery" means the adjustment in rates to recognize the cost of purchased power and fuel for electric generation.

(ii) "Previous customer" means a customer who has received the utility's service within the previous 6 years but is not currently receiving service.

(jj) "Regulation officer" means a member of the commission staff who resolves complaints in accordance with these rules.

(kk) "Remote shutoff or restoration capability" means the ability to terminate or restore service to a premises from another location.

(ll) "Residential service or use" means the provision or use of electricity or natural gas for residential purposes.

(mm) "Satisfactory payment history" means that a customer's account was not delinquent more than 1 time in the past 12 months.

(nn) "Seasonally billed customer" means a customer who is billed on a seasonal basis in accordance with a utility tariff that is approved by the commission.

(oo) "Settlement agreement" means a documented agreement that is entered into by a customer and a utility and that resolves any matter in dispute or provides for the payment of amounts not in dispute over a reasonable period of time.

(pp) "Shutoff of service" means a discontinuance of utility service that is not requested by a customer.

(qq) "Space heating season" means the period between November 1 and March 31.

(rr) "Termination of service" means a discontinuance of utility service that is requested by a customer.

(ss) "Unauthorized use of utility service" means theft, fraud, interference, or diversion of service, including but not limited to meter tampering (any act which affects the proper registration of service through a meter), by-passing (unmetered service that flows through a device connected between a service line and customer-owned facilities), and service

restoration by anyone other than the utility or its representative.

(tt) "Utility" means a person, firm, corporation, cooperative, association, or other legal entity that is subject to the jurisdiction of the commission and that provides electric or gas service for residential use.

(uu) "Weather adjusted consumption data" means a customer's monthly energy usage divided by the number of heating or cooling degree days for that month.

R 460.103 Discrimination prohibited.

Rule 3. A utility shall not discriminate against or penalize a customer for exercising any right granted by these rules.

R 460.104 Conduct of proceedings.

Rule 4. The informal procedures required by these rules shall not constitute a contested case as defined by section 3 of 1969 PA 306, MCL 24.203.

R 460.105 Additional rules.

Rule 5. A utility may adopt additional rules governing relations with its customers that are reasonable and necessary and that are consistent with these rules. The utility's rules shall be an integral part of its tariffs and shall be subject to approval by the commission. If there is a conflict between these rules and a utility's rules or tariffs, these rules govern.

Part 2. APPLICATION FOR SERVICE

R 460.106 Service requests for new or previous customers.

Rule 6. (1) Applicants for service may become new customers by requesting service in person at the utility company office, in writing, by telephone, fax, or internet, or other means of communication. Using any of these methods, an applicant shall do both of the following:

- (a) Provide positive identification information as defined in R 460.102.
- (b) Pay a deposit, if required by R 460.109 or R 460.110.

(2) The utility may also require payment of a delinquent account as a condition of providing or continuing service if the following conditions apply:

- (a) The delinquent account is in the customer's or applicant's name.
- (b) The delinquent account is not in dispute, owed to the utility, and accrued within the last 6 years. The utility shall provide the applicant with information on the process to refute or contest the delinquent account.

R 460.107 Applicant information.

Rule 7. (1) A utility may request but shall not require anyone other than the applicant to assume responsibility for service. A utility shall permit more than 1 name on the application if requested by the customer and agreed to by the second party.

(2) If the applicant is renting the premises for which service is requested, a utility may require proof that the applicant is a tenant. Written or oral confirmation by the manager, landlord, or owner of the property, or a verified signed copy of the rental agreement is sufficient proof. An applicant may verify a lease by submitting a lease agreement containing notarized signatures of the landlord and tenant or by providing the utility with

contact information for the landlord.

PART 3. DEPOSITS AND GUARANTEE TERMS AND CONDITIONS

R 460.108 Prohibited practices.

Rule 8. A utility shall not require a deposit or other guarantee as a condition of new or continued utility service based upon any of the following:

(a) Consumer credit score, if the customer or applicant has prior utility service credit history with any electric or gas provider during the previous 6 years.

(b) Income.

(c) Home ownership.

(d) Residence location.

(e) Race.

(f) Color.

(g) Creed.

(h) Sex.

(i) Age.

(j) National origin.

(k) Marital status.

(l) Familial status.

(m) Disability

(n) Any other criteria not authorized by these rules.

R 460.109 Deposit for new customer.

Rule 9. (1) A utility may require a deposit as a condition of providing service to a new customer if any of the following provisions apply:

(a) At the time of the request for service, the applicant has a delinquent bill with any electric or gas provider that accrued within the last 6 years and that remains unpaid and is not in dispute.

(b) The applicant misrepresents his or her identity or credit standing.

(c) The applicant fails to provide positive identification information upon request at the time of applying for new service.

(d) The applicant requests service for a location at which he or she does not reside.

(e) The applicant engaged in unauthorized use of utility service within the last 6 years, provided that the finding of unauthorized use of utility service was made after notice and an opportunity for a hearing and is not in dispute.

(f) Within the past 3 years, the applicant lived in a residence with a person who accrued a delinquent account for electric or gas service to the shared residence, during the time the applicant lived there, which remains unpaid and is not in dispute, and the person with the delinquent account now resides with the applicant. The utility shall advise the applicant of the process by which the applicant can refute this claim.

(g) The applicant has sought relief under federal bankruptcy laws within the last 6 years.

(2) Notwithstanding any of the provisions of subrule (1), a utility shall not require a deposit as a condition of providing service to a new customer if any of the following provisions apply:

(a) The department of human services or its successor agency is responsible for making

payments to a utility on behalf of the applicant.

(b) The applicant secures a guarantor who is a customer in good standing with the utility.

(c) The applicant is 65 years of age or older and has a satisfactory payment history for the past 3 years with any gas or electric provider.

R 460.110 Deposit for a previous customer or for continued service.

Rule 10. (1) A utility may require a deposit as a condition of providing or restoring service to a previous customer or continuing service to a current customer if any of the following provisions apply:

(a) At the time of the request for service, the customer or applicant has a prior service account that is delinquent, that accrued within the last 6 years, and that remains unpaid and is not in dispute or if litigation was required to obtain full payment of a utility account that was not in dispute.

(b) The customer or applicant misrepresents his or her identity or credit standing.

(c) The customer or applicant fails to provide positive identification information upon request at the time of applying for service.

(d) The customer or applicant engaged in unauthorized use of utility service within the last 6 years, if the finding of unauthorized use of utility service was made after notice and an opportunity for a hearing under these rules and is not in dispute.

(e) The utility has shut off service to the customer for nonpayment of a delinquent account that is not in dispute.

(f) The utility has had 1 or more checks issued from the customer's account returned from a financial institution for insufficient funds or no account or has had 1 or more payments from the customer's debit or credit card or other form of payment denied within the last 12 months, excluding financial institution error.

(g) The applicant has sought relief under federal bankruptcy laws within the last 6 years.

(h) Within the past 3 years, the applicant lived in a residence with a person who accrued a delinquent account for electric or gas service to the shared residence, during the time the applicant lived there, which remains unpaid and is not in dispute, and the person with the delinquent account now resides with the applicant. The utility shall advise the applicant of the process by which the applicant can refute this claim.

(2) Notwithstanding any of the provisions of subrule (1), a utility shall not require a deposit as a condition of providing service to a previous customer or continuing service to a current customer if one of the following provisions applies:

(a) The department of human services or its successor agency is responsible for making payments to a utility on behalf of the applicant.

(b) The customer or applicant secures a guarantor who is a customer in good standing with the utility.

(c) The applicant is 65 years of age or older and has a satisfactory payment history with any gas or electric provider for the past 3 years.

R 460.111 General deposit conditions.

Rule 11. (1) All of the following apply to payment of deposits:

(a) For a primary residence, a deposit that is required under these rules due to a prior outstanding account that is not in dispute or a shutoff for nonpayment shall not be more

than twice the average monthly bill for the premises or, if the current customer's consumption history for the premises is unavailable, twice the utility's system average monthly bill for residential service.

(b) For seasonal properties, a deposit that is required under these rules due to a prior outstanding account that is not in dispute or a shutoff for nonpayment shall not be more than twice the average monthly bill for peak season usage.

(c) A utility shall offer an eligible low-income customer the option of paying a deposit required under these rules in 2 monthly installments.

(2) Whenever a utility requests a deposit because of an unpaid account incurred in another household member's name for a time when the customer and the other person shared a residence, as described in R 460.109(f) or R 460.110(i), the utility shall provide the customer with notice of the reason for the request, the commission rule that allows the utility to make the request, and the process for refuting the action.

(3)(a) A deposit that is required during the space heating season due to a disconnect for nonpayment within the past 12 months, shall not exceed the utility system average monthly gas bill for gas service or the utility system average monthly electric bill for electric service. If the customer receives gas and electric service from a combination utility, the deposit shall not exceed the total of the utility's combined system average monthly gas and electric bills.

(b) A deposit that is required as a condition of providing, restoring, or continuing service due to unauthorized use of utility service shall not be more than 4 times the average peak season monthly bill for the premises or 4 times the utility's system average peak season monthly bill for residential service if the customer's consumption history for the premises is unavailable. The utility may also require payment of the delinquent account and approved charges as a condition of providing, restoring, or continuing service if the account is in the customer's, or applicant's name, is delinquent, owed to the utility, and accrued within the last 6 years.

(4) Unless the applicant misrepresents his or her identity or credit standing or fails to provide positive identification information, if requested, at the time of applying for service, the utility shall not assess a deposit if the customer has been in service for 30 days or more.

(5) Except in the case of unauthorized use of utility service, if the utility shuts off service for nonpayment, the utility shall not require a deposit as a condition of restoring service unless the utility offered the customer, prior to shutoff for nonpayment, the opportunity to enter into a settlement agreement as provided in Part 10 of these rules.

(6) A utility shall pay interest at the rate of 7% per annum on all deposits. A utility shall credit interest semiannually to the service account of the customer or pay it upon the return of the deposit, whichever occurs first.

(7) The customer's credit shall be established and the utility shall return the deposit and accrued interest upon satisfactory payment by the customer of all proper charges for utility service for a period of 12 consecutive months. A utility may retain the deposit assessed because of unauthorized use of utility service for a period of 36 months and shall refund the deposit upon satisfactory payment of the final 12 months' charges.

(8) For purposes of this rule, payment is satisfactory if it is made before the issuance of a notice of shutoff of service for nonpayment that is not in dispute or within 5 days after the issuance of the next succeeding monthly bill, whichever is sooner.

(9) For customers terminating service, if the utility has not already returned the deposit, the utility shall credit the deposit, with accrued interest, to the final bill. For customers continuing to receive service, a utility may apply the deposit against an existing arrearage that is not in dispute. The utility shall promptly return the balance to the customer.

(10) A utility shall maintain a detailed record of all deposits received from customers. The record shall show all of the following information:

(a) The name of the residential customer.

(b) The location of the premises occupied by the customer at the time of making the deposit and each successive location while the deposit is retained.

(c) The date the customer made the deposit and the amount.

(d) The dates the utility paid interest and the amounts.

(e) Place of payment.

(f) Name of the utility employee who received the deposit.

(g) The terms and conditions governing the return of the deposit.

(11) A utility shall provide the customer with a written receipt for the deposit and instructions regarding how a customer who is entitled to the return of his or her deposit may obtain the deposit.

(12) A utility shall make reasonable efforts to locate customers with unclaimed deposits or credits.

(13) A utility shall apply deposit standards uniformly to all customers. A utility shall provide to any customer who objects to paying a deposit information on the process to contest the deposit requirement.

R 460.112 Guarantee terms and conditions.

Rule 12. (1) A guarantee that is accepted in accordance with these rules shall be in writing and shall be in effect for not more than 36 months. The written guarantee shall state all of the terms of the guarantee and the maximum amount guaranteed. The utility shall not hold the guarantor liable for a greater amount, unless agreed to in a separate written guarantee.

(2) Notwithstanding the stated term of the guarantee, if longer than 12 months, the customer's credit shall be established and the utility shall release the guarantor upon satisfactory payment by the customer of all proper charges for utility service for a period of 12 consecutive months, unless the guarantee was required due to unauthorized use of utility service.

(3) A utility may require a guarantee because of unauthorized use of utility service for 36 months.

(4) For purposes of this rule, payment is satisfactory if it is made before the issuance of a notice of shutoff of service for nonpayment that is not in dispute or within 5 days after the issuance of the next succeeding monthly bill, whichever is sooner.

(5) A utility may withhold the release of a guarantor pending the resolution of a shutoff for nonpayment that is in dispute in accordance with these rules.

PART 4. METER READING PROCEDURES, METER ACCURACY, METER ERRORS AND RELOCATION

Rule 460.113 Actual and estimated meter reading.

Rule 13. (1) Except as specified in this rule, a utility shall provide all residential customers with an actual monthly meter reading as defined in R 460.102. A utility may estimate a meter reading only if an actual meter reading cannot be obtained by any reasonable or applicable method described in R 460.102. If a utility cannot obtain an actual meter reading, then the utility shall maintain records of the efforts made to obtain an actual meter reading and its reasons for failure to obtain an actual meter reading.

(2) A utility may estimate customer bills only upon a finding by the commission that a utility's estimated bill procedures assure reasonable billing accuracy. A bill that is rendered on an estimated basis shall be clearly and conspicuously identified as such. Any substantive changes to a utility's billing estimation procedures shall be submitted to the commission.

(3) Notwithstanding the provisions of subrule (1) of this rule, a utility may render estimated bills to seasonally billed customers in accordance with tariffs approved by the commission.

(4) If a utility estimates a customer's bill for 2 or more consecutive months, when an actual meter read is obtained the utility shall offer the customer the opportunity to pay the bill over the same number of months as consecutively estimated bills. This subrule shall not apply if the utility cannot obtain access to the meter and the customer fails to provide a meter reading if requested by the utility.

(5) An estimated bill that is generated because the actual read is outside the range for the premises usage shall not be issued in consecutive months. If the utility is actively engaged in resolving the problem, an additional 30 days is permitted to correct the problem and obtain an actual meter reading.

(6) If a utility shuts off service due to non-payment, the utility must complete a final read or, if unable to obtain an actual read after reasonable attempts, the utility may estimate the bill.

Rule 460.114 Company representative identification.

Rule 14. Upon request, the utility representative reading the meter shall provide the customer or other household member with appropriate picture identification confirming the representative's employment with the company.

R 460.115 Customer meter reading.

Rule 15. A utility shall provide each customer with the opportunity to read and report energy usage provided the customer accurately reports energy usage on a regular basis. A utility shall provide postage-paid, pre-addressed postcards for this purpose upon request, or the utility may permit customers to report meter readings on a secure company website, by telephone, or other reasonable means. At least once every 12 months, a utility shall obtain an actual meter reading of energy usage to verify the accuracy of readings reported in this manner. Notwithstanding the provisions of this rule, a utility company representative may read meters on a regular basis.

R 460.116 Meter accuracy, meter errors, meter relocation.

Rule 16. (1) Meters with actual readings that are rejected by the utility billing system for 2 consecutive months because they are outside the expected range of the customer's usage for the premises shall be reviewed by a billing specialist, investigated, and, if

necessary, the meter shall be repaired or replaced.

(2) Meters recording usage inaccurately shall be repaired or replaced by the company. Any meter in service that remains broken as determined by a specific test of the meter or that does not correctly register customer usage for a period of 6 months or more shall be removed and customers will not be required to pay bills generated from these meter readings beyond the 6-month period from the date the meter malfunction occurred. This rule does not alter the provisions of R 460.3613 governing the testing and replacement of electric meters and R 460.2353 governing the replacement of gas meters.

(3) Overcharges and undercharges due to gas meter errors and electric meter errors shall be reconciled in accordance with the provisions of R 460.2364 of the technical standards for gas service and the provisions of R 460.3403 of the regulations governing technical standards for electric service, respectively.

(4) A utility may assess a meter relocation charge in any of the following situations:

(a) The utility shut off service by disconnection at the street or pole because the utility could not obtain access to the meter.

(b) The customer or another responsible adult refused to permit the utility access to the meter on 2 separate occasions, or on a single occasion if harm is threatened, and the utility can produce documentation of requests for access and/or requests for the customer to perform a meter reading that were refused.

(c) The utility shut off service due to unauthorized use of utility service or the customer acknowledges personal responsibility and the utility bills the customer for unauthorized use of utility service.

(d) The customer requests that the utility relocate the meter.

(5) If the utility moves the meter for reasons other than the reasons listed under subrule (4) of this rule, and the customer wants the meter placed in a different location than that selected by the utility, then the customer shall pay any additional costs.

PART 5. BILLING AND PAYMENT STANDARDS

R 460.117 Billing frequency; method of delivery.

Rule 17. (1) A utility shall send a bill each billing month to its customers in accordance with approved rate schedules unless the utility and the customer agree to another billing interval. A utility shall send a bill to customers by mail unless the utility and the customer agree to another method of delivery. A utility that is authorized to seasonally bill customers or to use a customer read system shall send a bill in accordance with the tariffs approved by the commission.

(2) The customer may designate a third party to receive bills, shutoff notices, or other communications from the utility on the customer's behalf if the customer submits a document signed by the customer and the designated third party to the utility. The receipt of bills by a third party does not make that party responsible for the bills unless the third-party recipient is a guarantor under R 460.112.

(3) Customers who use online billing and payment shall have the same rights and responsibilities as customers who use paper bills and payment by US mail.

R 460.118 Equal monthly billing.

Rule 18. Upon customer request, a utility shall bill a customer with a satisfactory

payment history under an equal monthly billing program, if the commission finds that the billing program assures reasonable billing accuracy. If a customer has a credit balance of more than \$10.00 at the end of the program year, upon the request of the customer, the utility shall either return the credit balance or credit it to the next month's bill. If the balance is less than \$10.00, the utility shall credit the amount to the customer's account.

R 460.119 Cycle billing.

Rule 19. A utility may use cycle billing if each customer receives a bill on or about the same day of each billing month. If a utility changes meter reading routes or schedules by more than 7 days, it shall provide notice to affected customers at least 10 days before making the change.

R 460.120 Payment of bill.

Rule 20. (1) A utility shall permit each customer a period of not less than 21 days from the date the bill was sent to pay in full, unless the customer agrees in writing to a different period. A utility shall not withdraw funds from a customer account before the due date in cases where a customer uses an automatic bill payment plan unless the customer specifically designates a different payment date.

(2) A utility shall not attempt to recover from any customer any outstanding bills or other charges due upon the account of any other person, unless that customer has entered into a lawful guarantee under R 460.112, or another lawful agreement to pay those bills and charges.

(3) The customer has the right to pay any delinquent bill at anytime prior to disconnection in order to preserve uninterrupted service. After proper notice of shutoff under R 460.138 and R 460.141 has been provided, it shall be the customer's responsibility to contact the utility and arrange payment before disconnection.

(4) The utility may authorize payment agents to accept payments on behalf of the utility. The authorized agents shall accept payment and provide payment verification, without request, that may be used by the customer to verify payment with the utility. The payment verification shall clearly state that the payment may not be credited to the customer's account for up to 2 business days. The payment verification shall also clearly state any charges or fees for use of the payment agent services. The agent shall remit payments to the utility every other business day, at minimum, and the company shall credit those payments to customer accounts within 1 business day of receiving them from the payment agent. Payment agent locations shall be clearly marked as "Authorized Payment Agent for [Company]". The utility shall provide information on bills every 6 months warning customers not to use unauthorized payment centers.

(5) A combination utility company shall permit eligible low-income customers, as defined by these rules, to designate how partial payments shall be applied to their account. In the event of disconnection or pending disconnection of both gas and electric services, the utility shall provide the eligible low-income customer with an accounting of the customer's current gas and electric charges and shall give the customer the option of restoring one or both services with the appropriate payment.

(6) Whenever an eligible low-income customer of a combination utility company receives a disconnect notice, the notice shall clearly show the customer has both of the following options:

- (a) An extended payment plan for both gas and electric service.
- (b) An extended payment plan to retain either gas or electric service as chosen by the customer.

R 460.121 Payment period.

Rule 21. (1) The date a bill is sent is the date the utility transmits the billing information to the customer. If the last day for payment falls on a Sunday, legal holiday, or other day when the offices the utility regularly uses for the payment of customers' bills are not open to the general public, the payment date shall be extended through the next business day.

(2) If a customer fails to make full payment by the due date, the utility may begin to implement its collection practices including the use of automated telephone calls reminding the customer or a third party designated under R 460.117(2) that the bill is past due. Neither the utility nor its agents shall make more than 1 call per day to a specific customer or third party in which contact is made with the customer or third party.

R 460.122 Allowable charges.

Rule 22. (1) Except as otherwise provided by statute, a utility shall bill each customer for the amount of natural gas or electricity consumed and any other approved charges in accordance with the rates and tariffs approved by the commission.

(2) A utility may assess a late payment charge that is not more than 2%, not compounded, of the portion of the bill, net of taxes, that is delinquent. A utility shall not assess a late payment charge against a customer whose payments are made by the Department of Human Services or who is participating in a shutoff protection program described in Part 9 of these rules.

(3) A utility may not charge a late payment fee for failure to pay an estimated bill by the due date unless the customer is subsequently delinquent on a bill using an actual read. This rule shall not apply if the bill is estimated because the utility was unable to gain access to the meter, the utility's lack of access is documented, and the customer refused to provide an actual meter reading.

R 460.123 Bill information.

Rule 23. (1) A bill that is transmitted by a utility shall state clearly all of the following information:

(a) The beginning and ending meter readings and dates for the billing period. A customer reading his or her own meter shall be encouraged, but not required, to provide this information. The provisions of this rule do not apply if the information is not provided by the customer.

(b) The units of energy consumed during the billing period and the units of energy consumed during the comparable period the prior year. Upon customer request, the utility shall provide weather-adjusted consumption data to the customer or to a third-party designated by the customer.

(c) A designation of the rate.

(d) The due date.

(e) Any previous balance.

(f) The amount due for energy usage.

- (g) The amount due for other authorized charges.
- (h) The amount of tax.
- (i) The total amount due.
- (j) That the rate schedules, the explanation of rate schedules, and the explanation of how to verify the accuracy of the bill will be provided by the company upon request.
- (k) That the customer should contact the company regarding an inquiry or complaint about the bill before the due date.
- (l) The address and telephone number of the utility at which the customer may initiate any inquiry or complaint regarding the bill or the service provided by the utility.
- (m) That the utility is regulated by the Michigan public service commission.
- (2) A commission-regulated utility proposing a new bill format shall submit its proposed bill format to the commission staff prior to introduction to its customers.
- (3) Any utility wishing to issue billing statements online shall comply with each of the following requirements:
 - (a) A customer shall not be required to use online billing.
 - (b) No enrollment or usage fees shall be assessed to a customer who chooses to receive bills or customer information online.
 - (c) The online billing statement shall include, at minimum, all information listed in subrule (1) of this rule.
 - (d) The company shall maintain a secure and encrypted site to be accessed by the customer of record after completing the secure registration process.
 - (e) The utility may require that the customer use a password or security question to access the online billing system. The company shall not require the customer to use his or her social security number to enroll in or access the billing system.
 - (f) Any fees to accept online payments shall be clearly displayed in the payment window.
 - (g) Any payment made online shall be treated as a payment to the company business office.
 - (h) Use of the online system shall not restrict the customer in using other payment methods. All other payment methods shall continue to be available to the customer.

R 460.124 Separate bills.

Rule 24. (1) A utility shall transmit a separate bill in conformity with the provisions of R 460.123 for service provided at each service location and shall not combine 2 or more accounts without written authorization of the customer.

(2) Notwithstanding the provisions of subrule (1) of this rule, if there is shutoff or termination of service at a separate residential metering point, residence, or location in accordance with these rules, then a utility may transfer an unpaid balance to any other residential service account of the customer. The utility must have valid identification data that shows the customer is the same at both residences and must present that data to the customer upon request.

(3) Whenever a utility consolidates accounts under subrule (2) of this rule, the utility shall provide the customer with a written notice for the consolidation, the commission rule that allows the consolidation, and the process for refuting the action.

R 460.125 Billing for non-tariff services.

Rule 25. A utility may include charges for unregulated services, such as appliance repair or appliance protection programs, together with charges for gas and electric service on the same monthly bill if the charges for the unregulated services are designated clearly and separately from the charges for the gas or electric service and it is noted that it is an unregulated service. Failure to pay for unregulated service charges may result in the termination of that service but not the termination of the gas or electric service. If partial payment is made, the utility shall first credit payment to the balance outstanding for gas or electric service in accordance with the provisions of R 460.120(5) and R 460.120(6) where applicable.

R 460.126 Billing error.

Rule 26. (1) If a utility overcharges a customer due to a billing error, the utility shall refund or credit the amount of the paid overcharge plus 7% APR interest on the bill immediately following the discovery of the error. Upon customer request, overcharges greater than \$10 shall be refunded within 30 days. A utility is not required to adjust, refund, or credit an overcharge plus 7% APR interest for more than the 3 years immediately preceding discovery of the billing error, unless the customer is able to establish an earlier date for commencement of the error. The interest on the overcharge shall be applied on the 60th day following the paid overcharge.

(2) If a utility undercharges a customer, the following provisions apply:

(a) In cases that involve unauthorized use of utility service the utility may backbill the customer for the amount of the undercharge using the commission-approved process for estimating the bill. The utility may charge fees for unauthorized use of utility service in accordance with commission-approved tariffs.

(b) In cases that do not involve unauthorized use of utility service, the utility may backbill the customer for the amount of the undercharge during the 12-month period immediately preceding discovery of the error, and the utility shall offer the customer reasonable payment arrangements for the amount of the backbill, which shall allow the customer to make installment payments over a period at least as long as the period of the undercharge. The utility shall take into account the customer's financial circumstances when setting payment amounts.

PART 6. VOLUNTARY TERMINATION OF SERVICE

R 460.127 Voluntary termination.

Rule 27. (1) Subject to the provisions of these rules, a utility customer or authorized representative shall do all of the following:

(a) Notify the utility in person, or by telephone, in writing, by fax or on the internet at least 10 business days prior to requested service termination.

(b) Allow access to the utility, if necessary, to perform a final meter read.

(c) Provide an address for final billing at the time of request for a final read.

(2) The utility shall do both of the following:

(a) Provide a final actual meter reading within 10 business days of the request for termination or estimate the final reading and offer the customer the option to provide an actual meter reading. If the meter is not read within the 10-day time frame the utility shall document the reason for no actual reading. An actual meter reading shall be obtained by

the next normal reading cycle.

(b) Schedule the customer's final reading within a 4-hour time frame if the utility cannot access the meter.

PART 7 UTILITY PROCEDURES

R 460.128 Applicability.

Rule 28. These procedures apply to all customer inquiries, service requests, and complaints that are made to a utility regarding residential utility service and charges.

R 460.129 Complaint procedures.

Rule 29. (1) A utility shall establish procedures that will ensure the prompt, efficient, and thorough receipt, investigation, and, where possible, resolution of all customer inquiries, service requests, and complaints and report the resolution of commission-referred complaints to the commission staff.

(2) A utility shall make reasonable attempts to contact the customer within 2 business days, after referral of a customer's complaint from the commission, and will develop and report to the commission within 10 days after referral its plan for resolution of the complaint.

(3) A utility shall provide customers who are not satisfied with the utility's resolution of a complaint or inquiry with the toll-free telephone number and internet address of the commission.

(4) A utility shall obtain commission approval of any substantive changes in its procedures.

R 460.130 Personnel procedures.

Rule 30. A utility shall establish personnel procedures that, at a minimum, ensure all of the following:

(a) That qualified personnel are available and prepared at all times during normal business hours to receive and respond to all customer inquiries, service requests, and complaints. A utility shall make the necessary arrangements to ensure that customers who are unable to communicate in the English language receive prompt and effective assistance.

(b) That qualified personnel who are responsible for, and authorized to enter into, written settlement agreements on behalf of the utility are available at all times during normal business hours to respond to customer inquiries and complaints.

(c) That qualified personnel are available at all times to receive and respond to customer contacts regarding any shutoff of service and emergency conditions that occur within the utility's service area.

(d) That the names, addresses, and telephone numbers of personnel who are designated and authorized to receive and respond to the requests and directives of the commission regarding customer inquiries, service requests, and complaints during business hours are current and on file with the commission. The utility shall also provide a contact for emergency situations that may arise after business hours.

R 460.131 Publication of procedures.

Rule 31. (1) A utility shall prepare a pamphlet that, in easily understood terms, summarizes the rights and responsibilities of its customers in accordance with these rules and other applicable provisions of statutes, rules, and tariffs.

(2) A utility shall display the pamphlet prominently at all utility office locations open to the general public and make it available to customers. A utility shall also make the information available on its website. A utility shall transmit the pamphlet to each new customer upon the commencement of service and shall provide it at all times upon request. Where substantial revisions to or new information required by the provisions of subrule (3) of this rule occur, the utility shall provide the changes to all current customers by a bill insert, revised pamphlet, or by publication in a periodical that is sent to all current customers of the utility and to the commission. The form of this transmittal shall be at the discretion of the utility.

(3) The pamphlet or other publication shall contain all of the following information:

- (a) Billing procedures and estimation standards.
- (b) Methods for customers to verify billing accuracy.
- (c) An explanation of the power supply cost recovery or gas cost recovery procedures.
- (d) Customer payment standards and procedures.
- (e) Security deposit and guarantee standards.
- (f) Shutoff and restoration of service procedures.
- (g) Inquiry, service, and complaint procedures.
- (h) Procedures for terminating service.

(4) Each pamphlet shall indicate conspicuously that the pamphlet is provided in accordance with the rules of the commission.

R 460.132 Access to rules and rates.

Rule 32. (1) A utility, except for a rural electric cooperative, shall provide to each customer, within 60 days of commencing service, within 60 days after issuance of a new rate case order, and at least once each year, the following information with a copy to the commission:

- (a) A clear and concise explanation of all rates for which that customer may be eligible.
- (b) A notice that complete rate schedules are available upon request.
- (c) A notice of the availability of company assistance in determining the most appropriate rate if the customer is eligible to receive service under more than 1 rate.

(2) A rural electric cooperative shall provide to each customer, at least annually, all of the following information:

- (a) A notice that complete rate schedules are available upon request.
- (b) A notice that a clear and concise explanation of all rates for which that customer may be eligible is available upon request.
- (c) A notice of the availability of company assistance in determining the most appropriate rate if the customer is eligible to receive service under more than 1 rate.

(3) A utility, except for a rural electric cooperative, shall provide to each customer, within 60 days after the utility has filed a general rate case application with the commission, all of the following information:

- (a) A notice that the utility has requested that the commission change its rates.
- (b) A notice that copies of the utility's application are available for inspection at all offices of the utility and on a website.

(c) A notice that an explanation of the proposed changes to the utility's rates is available from the utility upon request.

(4) A rural electric cooperative shall provide to each customer, within a reasonable time after it has filed a general rate case application or a times interest earned ratio ratemaking application, all of the following information:

(a) A notice that the cooperative has requested that the commission change its rates.

(b) A notice that copies of the cooperative's application are available for inspection at all offices of the cooperative.

(c) A notice that an explanation of the proposed changes to the cooperative's rates is available from the cooperative upon request.

(5) A utility, including a rural electric cooperative, shall provide the notice required by the provisions of this rule either through a publication that is transmitted to each of its customers, by a bill insert, or whatever transmission method is used to provide the customer's bill and on its website.

(6) A utility shall keep on file, at all offices of the utility, and shall provide public access to, all of the following documents:

(a) A copy of these rules.

(b) A copy of all other rules of the utility filed with the commission regarding customer service.

(c) Schedules of all residential rates and charges.

(d) Proposed rate schedules.

(e) Clear and concise explanations of both existing and proposed rate schedules.

(f) An explanation of its power supply cost recovery or gas cost recovery process.

(7) A utility shall post suitable signs in conspicuous locations at all bill payment offices that are operated by the utility or authorized agents calling attention to the fact that the rules, regulations, rate schedules, proposed rate schedules, explanations of rate schedules, and explanations of proposed rate schedules are on file and available for inspection. Upon request, a utility shall provide a copy of these rules, explanations, or schedules to a customer without charge.

R 460.133 Reporting requirements.

Rule 33. A utility shall file with the commission each year by October 1, a report that contains detailed information concerning all of the following:

(a) The payment performance of its customers in relation to established due and payable periods.

(b) The number and general description of all complaints registered with the utility.

(c) The number of shutoff notices issued by the utility and the reasons for the notices.

(d) The number of hearings held by the utility, the types of disputes involved, and the number of complaint determinations issued.

(e) The number of written settlement agreements entered into by the utility.

(f) The number of shutoffs of service and the number of reconnections.

(g) Any other customer service quality information requested by the commission staff.

R 460.134 Inspection.

Rule 34. A utility shall permit authorized staff of the commission to inspect all of the utility's operations that relate to customer service.

R 460.135 Customer access to consumption data.

Rule 35. A utility shall provide to each customer, upon request, a clear and concise statement of the customer's actual energy usage, and/or weather adjusted consumption data for each billing period during the last 12 months. A utility shall notify its customers at least once each year by whatever method is used to transmit the customers' bills, that a customer may request energy usage and weather adjusted consumption data.

PART 8. PROCEDURES FOR SHUTOFF AND RESTORATION OF SERVICE

R 460.136 Emergency shutoff.

Rule 36. Notwithstanding any other provision of these rules, a utility may shut off service temporarily for reasons of health or safety or in a state or national emergency. When a utility shuts off service for reasons of health or safety, the utility shall leave a notice at the premises in accordance with the provisions of R 460.139(a), (b), and (i).

R 460.137 Shutoff permitted.

Rule 37. Subject to the requirements of these rules, a utility may shut off or terminate service to a residential customer for any of the following reasons:

- (a) The customer has not paid a delinquent account that accrued within the last 6 years.
- (b) The customer has failed to provide a deposit or guarantee permitted by these rules.
- (c) The customer has engaged in unauthorized use of utility service.
- (d) The customer has failed to comply with the terms and conditions of a settlement agreement.
- (e) The customer has refused to arrange access at reasonable times for the purpose of inspection, meter reading, maintenance, or replacement of equipment that is installed upon the premises, or for the removal of a meter.
- (f) The customer misrepresented his or her identity for the purpose of obtaining utility service or put service in another person's name without permission of the other person.
- (g) The customer has violated any rules of the utility approved by the commission so as to adversely affect the safety of the customer or other persons or the integrity of the utility system.
- (h) A person living in the customer's residence is both of the following:
 - (i) Has a delinquent account for service with the utility within the past 3 years that remains unpaid and is not in dispute.
 - (ii) The customer lived in the person's residence when all or part of the debt was incurred. The utility may transfer a prorated amount of the debt to the customer's account, based upon the length of time that the customer resided at the person's residence. This provision does not apply if the customer was a minor while living in the person's residence.

R 460.138 Notice of shutoff.

Rule 38. (1) A utility shall not shut off service pursuant to the provisions of R 460.141 or R 460.142 unless it sends a notice to the customer by first-class mail or personally serves the notice not less than 10 days before the date of the proposed shut off. The utility shall send notice to the account name and address and to the address where service

is provided if the service address is different and the notice can be delivered at that address. A utility shall maintain a record of the date the notice was sent.

(2) A utility shall permit a customer to designate a consenting individual or agency to receive a copy of a notice of shutoff.

(3) Not less than 30 days before the proposed shutoff of service to a single-metered dwelling that is used as a residence for 3 or more separate households, a utility shall transmit a notice to each dwelling unit that indicates that the customer of record, the landlord, has failed to pay an outstanding bill and is subject to shutoff of service on or after a specified date.

R 460.139 Form of notice.

Rule 39. A notice of shutoff of service shall contain all of the following information:

(a) The name and address of the customer, and the address at which service is provided, if different.

(b) A clear and concise statement of the reason for the proposed shutoff of service.

(c) The date on or after which the utility may shut off service, unless the customer takes appropriate action.

(d) That the customer has the right to enter into a settlement agreement with the utility if the claim is for an amount that is not in dispute and the customer is presently unable to pay in full.

(e) That the customer has the right to file a complaint disputing the claim of the utility before the proposed date of the shutoff of service.

(f) That the customer has the right to request a hearing before a hearing officer if the customer disputes the reasonableness of the settlement agreement offered by the utility or if the complaint cannot be otherwise resolved and that the customer must pay to the utility that portion of the bill that is not in dispute within 10 business days of the date that the customer requests a hearing.

(g) That the customer has the right to represent himself or herself, to be represented by counsel, or to be assisted by other persons of his or her choice in the complaint process.

(h) That the utility will not shut off service pending the resolution of a complaint that is filed with the utility or the commission in accordance with these rules.

(i) The telephone number and address of the utility where the customer may make inquiry, enter into a settlement agreement, or file a complaint.

(j) That the customer should contact a social services agency immediately if the customer believes he or she might be eligible for an energy assistance program or other emergency economic assistance and should inform the utility of any efforts being made to obtain payment assistance.

(k) That customers who believe they may be eligible for assistance from an energy assistance program should determine if assistance is available before signing a settlement agreement because many agencies will not provide assistance if shutoff is avoided by signing a settlement agreement.

(l) That the utility will postpone the shutoff of service if a certified medical emergency exists at the customer's residence or the customer is an eligible low-income customer who is actively seeking emergency assistance from an energy assistance program.

(m) That the utility may require a deposit and restoration charge if the utility shuts off service for nonpayment of a delinquent account or for unauthorized use of utility service.

(n) That the customer should contact the utility for information about a shutoff protection program.

R 460.140 Time of shutoff.

Rule 40. (1) Subject to the requirements of these rules, a utility may shut off service to a customer on the date specified in the notice of shutoff or at a reasonable time following that date. If a utility does not shut off service and mails a subsequent notice, then the utility shall not shut off service before the date specified in the subsequent notice. Shutoff shall occur only between the hours of 8 a.m. and 4 p.m.

(2) A utility shall not shut off service on a day, or a day immediately preceding a day, when the services of the utility are not available to the general public for the purpose of restoring service and shall not shut off service on a Friday during the space heating season to a customer who has defaulted on a shutoff protection program under Part 9 of these rules.

R 460.141 Manner of shutoff.

Rule 41. (1) For an involuntary shutoff, at least 1 day before shutoff of service, the utility shall make not less than 2 attempts to contact the customer by telephone, if a telephone number is available to the utility, to advise the customer of the shutoff and what steps the customer must take to avoid shutoff. If the utility uses an automated notification system, it shall document the process for ensuring that at least 2 attempts are made to notify the customer of the pending shutoff. If the telephone number is not available, the customer has no telephone, or the telephone contacts are not made, the utility shall either leave a notice at the premises advising the customer that service will be shutoff on or after the next business day or send notice by first-class mail postmarked at least 5 business days before shutoff of service is scheduled. The utility shall document all attempts to contact the customer.

(2) Immediately preceding the shutoff of service, an employee of the utility who is designated to perform that function may identify himself or herself to the customer or another responsible person at the premises and may announce the purpose of his or her presence.

(3) The employee shall have in his or her possession a copy of the delinquent account of the customer and request any available verification that the outstanding claims have been satisfied or are currently in dispute. Unless the customer presents evidence that reasonably indicates that the claim has been satisfied or is currently in dispute, the employee may shut off service.

(4) The employee may be authorized to accept payment and shall not shut off service if the customer offers payment in full, together with a commission-approved collection charge for sending the employee to the premises, if provided in the utility's schedule of rates and tariffs.

(5) The customer may pay in any reasonable manner, including by personal check or by credit or debit card. Payment by personal check, credit or debit card is not reasonable if the customer has paid with a personal check, credit or debit card within the last 12 months and at least 1 check has been returned for insufficient funds or no account, or at least 1 credit or debit card payment has been denied excluding financial institution error.

(6) After notice has been provided in accordance with subrule (1) of this rule, and if the

customer does not respond, the employee may shut off service.

(7) When the utility employee shuts off service, the employee shall leave a notice in a conspicuous place upon the premises. For all forms printed after the effective date of these rules, the notice shall state that service has been shut off, the address and telephone number of the utility where the customer may arrange to have service restored, and that any efforts by the customer to restore his or her own service are unlawful and dangerous.

R 460.142 Manner of shutoff for service provided with remote shutoff and restoration capability.

Rule 42. (1) For an involuntary shutoff, at least 1 day before shutoff of service, the utility shall make at least 2 attempts to contact the customer by telephone, if a telephone number is available to the utility, to advise the customer of the pending shutoff and what steps the customer must take to avoid shutoff. If the utility uses an automated notification system, it shall document the process for ensuring that at least 2 attempts are made to notify the customer of the pending shutoff. If the telephone number is not available, the customer has no telephone, or the telephone contacts are not made, the utility shall either leave a notice at the premises advising the customer that service will be shutoff on or after the next business day or send notice by first-class mail postmarked at least 5 business days before shutoff of service is scheduled. The notice shall conspicuously state that the disconnection of service will be done remotely and that a utility representative will not return to the premises before disconnection. The utility shall document all attempts to contact the customer.

(2) If the utility contacts the customer or other responsible person in the customer's household by telephone on the day service is to be shutoff, the utility shall inform the customer or other responsible person that shutoff of service is imminent and the steps necessary to avoid shutoff. Unless the customer presents evidence that reasonably demonstrates that the claim is satisfied or is in dispute, or the customer makes payment, the employee may shutoff service.

(3) If the utility mailed the notice of shutoff to the customer as provided in subrule (1) of this rule, and if telephone contact with the customer cannot be made or if the customer did not respond to the notice provided in accordance with subrules (1) of this rule, no further customer contact is required on the day service is to be shutoff and the utility may shutoff service.

R 460.143 Shutoff prohibited.

Rule 43. A utility shall not shut off service for any of the following reasons:

(a) The customer has not paid for items, such as merchandise, appliances, or services that are not approved by the commission as an integral part of the utility service that is provided by the utility.

(b) The customer has not paid for concurrent service received at a separate metering point, residence, or location.

(c) The customer has not paid for a different class of service received at the same or a different location. The placing of more than 1 meter at the same location for the purpose of billing the usage of specific residential energy-using devices under optional rate schedules or provisions is not a different class of service for the purposes of this rule.

(d) The customer, such as a landlord, has not paid for service used by another person,

such as a tenant. A utility may shutoff service, however, in any of the following circumstances where proper notice has been given:

- (i) If the customer supplies a written, notarized statement that the premises are unoccupied.
- (ii) If the premises are occupied and the occupant agrees, in writing, to the shutoff of service.
- (iii) If it is not feasible to provide service to the occupant as a customer without a major revision of existing distribution facilities. Where it is feasible to provide service, the utility shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant refuses, the utility may shut off service pursuant to these rules.
- (e) A customer, the spouse of a customer or a customer with a spouse who is called to full-time active military service by the president of the United States or the governor of Michigan during a time of declared national or state emergency or war, except as otherwise provided in R 460.150.

R 460.144 Restoration of service.

Rule 44. (1) After a utility has shut off service, it shall restore service promptly upon the customer's request when the cause has been cured or credit arrangements satisfactory to the utility have been made.

(2) When a utility is required to restore service at the customer's meter manually, the utility shall make every effort to restore service on the day the customer requests restoration. Except for reasons beyond its control, the utility shall restore service not later than the first working day after the customer's request.

(3) For utilities using meter technology with remote shutoff and restoration capability, service shall be restored on the day the customer requests restoration, except in the case of documented equipment failure.

(4) The utility may assess the customer a charge, including reasonable costs, for restoring service and relocating the customer's meter as specified in the utility's approved schedule of rates and tariffs.

PART 9. ENERGY ASSISTANCE AND SHUTOFF PROTECTION PROGRAMS

R 460.145 Listing of energy assistance programs.

Rule 45. The commission shall provide a listing of all federal and state energy assistance programs and the eligibility requirements of each program to all utilities.

R 460.146 Notice of energy assistance programs.

Rule 46. (1) A utility shall annually inform each customer of the following information:

- (a) The federal and state energy assistance programs that are available and the eligibility requirements of the programs, as provided to the utility by the commission.
 - (b) The medical emergency provisions of R 460.147.
 - (c) The shutoff protection programs described in the provisions of R 460.148 and R 460.149.
 - (d) The military shutoff protections of R 460.150.
- (2) The utility shall provide the information required by the provisions of subrule (1) of

this rule to residential customers. The information in subrule (1) of this rule may be explained on the customer's bill, or provided as a bill insert, or other transmittal. This information shall also be posted on the company's website. If the utility does not print an explanation on the customer's bill, then the utility shall, on the customer's bill, direct the customer to the bill insert or other transmittal.

(3) If additional information regarding energy assistance programs becomes available after the utility's initial notice to customers, the commission shall provide that information to all utilities. Within 60 days of receiving the information, the utility shall provide the new eligibility requirements or benefits levels for energy assistance programs to all of its customers and the new benefit levels to all customers currently enrolled in the programs.

(4) When a customer receives a past-due notice from the utility, the utility shall provide the customer access to information about energy assistance programs referenced in subrules (1) and (3) of this rule, which shall, at minimum, include a telephone number of a utility representative able to provide this information.

R 460.147 Medical emergency.

Rule 47. Notwithstanding any other provision of these rules, a utility shall postpone the shutoff of service for not more than 21 days if the customer or a member of the customer's household is a critical care customer or has a certified medical emergency as defined in R 460.102. The certificate shall identify the medical condition, any medical or life supporting equipment being used, and the specific time period during which the shutoff of service will aggravate the medical emergency. The utility shall extend the postponement for further periods of not more than 21 days, not to exceed a total postponement of shutoff of service of 63 days, only if the customer provides additional certificates. If shutoff of service has occurred without any postponement being obtained, the utility shall unconditionally restore service for not more than 21 days, and shall continue the restoration for further periods of not more than 21 days, not to exceed a total restoration of service of 63 days in any 12-month period per household member. Annually, a utility shall not be required to grant shutoff extensions totaling more than 126 days per household.

R 460.148 Winter protection plan for low-income customers.

Rule 48. (1) Except where unauthorized use of utility service has occurred, a utility shall not shut off service to an eligible low-income customer during the space heating season for nonpayment of a delinquent account if the customer pays to the utility a monthly amount equal to 7% of the estimated annual bill for the eligible customer and the eligible customer demonstrates, within 14 days of requesting shutoff protection, that he or she has made application for state or federal heating assistance. If an arrearage exists at the time an eligible low-income customer applies for protection from shutoff of service during the space heating season, the utility shall permit the customer to pay the arrearage in equal monthly installments between the date of application and the start of the subsequent space heating season.

(2) A utility may shut off service to an eligible low-income customer who does not pay the monthly amounts referred to in subrule (1) of this rule after giving notice in the manner required by these rules. The utility is not required to offer a settlement agreement

to an eligible low-income customer who fails to make the monthly payments referred to in subrule (1) of this rule.

(3) If an eligible low-income customer fails to comply with the terms and conditions of this rule, a utility may shut off service after giving the customer notice, by personal service or first-class mail, which contains all of the following information:

- (a) The eligible low-income customer has defaulted on the winter protection plan.
- (b) The nature of the default.
- (c) That unless the customer makes the payments that are past due under this rule within 10 days of the date of mailing, the utility may shut off service.
- (d) The date on or after which the utility may shut off service, unless the customer takes appropriate action.
- (e) That the customer has the right to file a complaint disputing the claim of the utility before the date of the proposed shutoff of service by calling the company.
- (f) That the customer has the right to request a hearing before a hearing officer if the complaint cannot be otherwise resolved and that the customer must pay to the utility that portion of the bill that is not in dispute within 7 business days of the date that the customer requests a hearing.
- (g) That the customer has the right to represent himself or herself, to be represented by counsel, or to be assisted by other persons of his or her choice in the complaint process.
- (h) That the utility will not shut off service pending the resolution of a complaint that is filed with the utility or the commission in accordance with these rules.
- (i) The telephone number and address of the utility where the customer may make inquiry, enter into a settlement agreement, or file a complaint.
- (j) That the customer should contact a social services agency immediately if the customer believes he or she might be eligible for emergency economic assistance.
- (k) That the utility will postpone shutoff of service if a medical emergency exists at the customer's residence and the customer provides the documentation as specified in R 460.147.
- (l) That the utility may require a deposit and restoration charge if the utility shuts off service for nonpayment of winter protection monthly amounts.
- (m) That the utility will not shut off service if the customer or the spouse of the customer is on active military duty.

(4) At the conclusion of the space heating season, the utility shall reconcile the accounts of eligible low-income customers and permit customers to pay any amounts owing in equal monthly installments between April 1 and October 31. A utility may shut off service to eligible customers who fail to make installment payments on a timely basis in the manner required by these rules.

(5) Except where unauthorized use of utility service has occurred at a customer's premises within the past 2 years and the bill remains unpaid, during the space heating season a utility shall not require an eligible low-income customer, whose utility service has been shut off, to pay a fee for restoring service or a security deposit pursuant to the provisions of R 460.109 or R 460.110, before applying for protection under this rule.

(6) Except where unauthorized use of utility service has occurred within the past 2 years at the premises where the customer has resided and the bill remains unpaid or safety is a concern, a utility may not require an amount greater than 1/12 of an arrearage owed in order to restore service or initiate participation in the winter protection plan

(7) Winter protection provisions of these rules do not apply to customers who have been shut off or who have a pending shutoff for unauthorized use of utility service within the past 2 years at the customer's current premises until all charges are paid in accordance with these rules or satisfactory payment arrangements are made with the utility.

(8) Upon request, the utility shall provide customers who enroll in the winter protection program with documentation that they are participating in the program.

(9) Bills issued to customers participating in the winter protection program shall clearly identify the minimum amount that the customer must pay to prevent shutoff of service. Utilities may bill at higher amounts to recover past due amounts and the utility may encourage customers to pay amounts in excess of the minimum provided that the minimum payment is clearly designated on the bill.

(10) Subject to prior commission approval, a utility may offer an optional shutoff protection program to its customers, provided that the optional shutoff protection program offers eligibility and shutoff protection that meets or exceeds the eligibility criteria and customer protections contained in subrule (1) of this rule.

R 460.149 Winter protection plan for senior citizens.

Rule 49. (1) A utility shall not shutoff service to an eligible senior citizen customer during the space heating season.

(2) At the customer's request, a utility shall restore service to an eligible senior citizen customer during the space heating season without payment of the amount due, deposits, reconnection fees, or other charges.

(3) At the conclusion of the space heating season, the utility shall reconcile the accounts of eligible senior citizen customers and permit them to pay any amounts owing in equal monthly installments between April 1 and October 31.

R 460.150 Military protections.

Rule 50. (1) The utility shall not shutoff service to an eligible military customer for a period of 90 days. The utility shall continue to provide shutoff protection for at least one additional 90-day period as long as the customer meets all of the conditions for an eligible military customer and requests the utility to do so. After the close of the last 90-day period, the utility shall require the customer to pay any past due amounts in equal monthly payments over a period of up to 12 months.

(2) The utility shall provide the eligible military customer with information on payment assistance programs.

PART 10. DISPUTED CLAIM, HEARING AND SETTLEMENT AGREEMENT

R 460.151 Disputed claim.

Rule 51. (1) If a customer advises a utility, or if the utility is notified by a regulation officer on behalf of a customer, before the date of the proposed shutoff of service that all or part of a bill is in dispute, then the utility shall do all of the following:

(a) Immediately record the date, time, and place the customer made the complaint and transmit verification to the customer.

- (b) Investigate the dispute promptly and completely.
 - (c) Advise the customer of the results of the investigation.
 - (d) Attempt to resolve the dispute informally in a manner that is satisfactory to both parties.
 - (e) Provide the opportunity for the customer to settle the disputed claim or to satisfy any liability that is not in dispute.
- (2) A customer may advise a utility that a claim is in dispute in any reasonable manner, such as by written notice, in person, by a telephone call directed to the utility, or through a regulation officer.
- (3) A utility, in attempting to resolve the dispute, may employ telephone communication, personal meetings, on-site visits, or any other method that is reasonably conducive to obtaining a settlement.

R 460.152 Utility hearing and hearing officers.

- Rule 52. (1) If the parties are unable to resolve the dispute, the utility shall offer the customer the opportunity for an informal hearing before a hearing officer selected from a list of hearing officers filed with the commission.
- (2) If the customer chooses to have an informal hearing, the customer shall do both of the following:
- (a) Notify the utility within 5 business days of the utility offer for a hearing.
 - (b) Pay the amount not in dispute or if the utility and customer cannot agree, pay 50% of the disputed amount not to exceed \$100.
- (3) If the customer notifies the utility of the intent to pursue an informal hearing, then the utility shall do both of the following:
- (a) Complete the necessary investigation.
 - (b) Schedule the hearing within 10 business days.
 - (c) Hold the hearing within 30 business days of the customer's request for a hearing.
 - (4) If the customer fails to pay the part of the bill that is determined under subrule (2)(b) of this rule within 10 business days of the date that the utility sends the hearing notice, the utility may exercise its right to shut off service pursuant to these rules.
- (5) A utility shall select hearing officers on the basis of all of the following:
- (a) They are on the list of hearing officers on file with the commission.
 - (b) They shall be notaries public qualified to administer oaths.
 - (c) They shall not be engaged in any other activities for or on behalf of the utility.
 - (d) They shall comply with part 10 of these rules.
- (7) If the dispute is ultimately resolved in favor of the customer, in whole or in part, the utility shall return promptly any excess amount paid by the customer, with interest at the rate specified pursuant to the provisions of R 460.111(6).

R 460.153 Notice of hearing.

- Rule 53. (1) The utility shall send or personally serve the customer with written notice of the time, date, and place of the hearing on the day scheduling is determined.
- (2) The notice shall describe the hearing procedures as contained in these rules.
- (3) Notice shall include amount of required payment and due date of 10 business days from the date of notice.

R 460.154 Hearing procedures.

Rule 54. (1) A utility shall establish hearing procedures that, at a minimum, shall be subject to investigation and review by the commission to ensure the impartiality and integrity of the hearing process and that provide the customer and the utility with all of the following rights:

(a) The right to represent themselves, to be represented by counsel, or to be assisted by persons of their choice.

(b) The right to examine, not less than 2 business days before a scheduled hearing, a list of all witnesses who will testify and all documents, records, files, account data, and similar material that may be relevant to the issues to be raised at the hearing.

(c) The right to present evidence, testimony, and oral and written argument.

(d) The right to question witnesses appearing on behalf of the other party.

(2) A hearing shall be held during normal business hours. A utility shall take reasonable steps to ensure that a customer who is unable to attend a hearing due to physical incapacity is not denied the right to a hearing. Failure of the customer, or the utility, to attend the hearing without a good reason, or without having requested an adjournment, constitutes a waiver of the right of that party to the hearing.

(3) The utility has the burden of proof by a preponderance of the evidence.

(4) All witnesses who appear for either party shall testify under oath.

(5) A hearing shall be informal and the proceedings need not be recorded or transcribed. All relevant evidence shall be received and the formal rules of evidence shall not apply.

(6) For each hearing, the hearing officer shall compile a record that contains all of the following:

(a) A concise statement, in writing, of the position of the utility.

(b) A concise statement, in writing, of the position of the customer. If the customer has not put his or her position in writing, then the hearing process shall provide a method for accomplishing this writing with the opportunity for proper acknowledgment by the customer.

(c) Copies of all evidence submitted by the parties.

(7) At the conclusion of the hearing, the hearing officer may orally state his or her findings, the decision, or adjourn the hearing and inform the parties that the decision will be transmitted within 7 business days. At the request of the customer, the hearing officer shall adjourn the hearing and transmit the decision within 7 business days. In all cases, the hearing officer shall issue a complaint determination in a form that is approved by the commission. The complaint determination shall contain both of the following:

(a) A concise summary of the evidence and arguments presented by the parties.

(b) The decision, and the reasons for the decision, of the hearing officer based solely upon the evidence received.

(8) At the conclusion of the hearing and again upon issuance of the complaint determination, the hearing officer shall advise the customer and the utility of all of the following:

(a) That each party has a right to make an informal appeal to the commission staff, by mail, telephone, internet, fax, or in person, within 7 business days of issuance of the complaint determination.

(b) That, if appealed, the decision of the hearing officer, including a finding that service may be shut off, cannot be implemented until a review by the commission staff is

completed.

(c) The address and telephone number where the customer or the utility may make an informal appeal to the commission staff.

(9) Before issuance of a complaint determination, the hearing officer may propose a settlement to the parties. If both parties accept the settlement, it shall be put in writing and signed by both parties.

(10) Within 7 business days of the conclusion of the hearing, the hearing officer shall serve the parties with all of the following:

- (a) A copy of the complaint determination.
- (b) Appeal information as provided in subrule (8) of this rule.
- (c) If applicable, a copy of the signed settlement agreement.

(11) The complaint determination and a copy of the signed settlement agreement, if any, shall be made part of the hearing record. The hearing officer shall certify the hearing record.

(12) The complaint determination is binding upon the parties, unless appealed, as provided in these rules.

R 460.155 Settlement agreement.

Rule 55. (1) If the utility and the customer arrive at a mutually satisfactory settlement of a claim in dispute or if the customer does not dispute liability to the utility, but claims the inability to pay the outstanding bill in full, then a utility shall offer the customer the opportunity to enter into a settlement agreement.

(2) The utility shall confirm the terms of the settlement agreement with the customer and shall send a signed copy of the settlement to the customer or the customer's authorized representative. The utility shall retain documentation of the original settlement agreement for 2 years. In case of a dispute over the terms of a settlement agreement, the utility shall have the burden of proving that the customer understood and accepted the terms of the settlement agreement.

(3) In negotiating a settlement agreement due to the customer's inability to pay an outstanding bill in full, the utility shall not require the customer to pay more than a reasonable amount of the outstanding bill upon signing the agreement and not more than reasonable installments until the remaining balance is paid.

(4) For purposes of determining reasonableness, the parties shall consider all of the following factors:

- (a) The size of the delinquent account.
- (b) The customer's ability to pay.
- (c) The time that the debt has been outstanding.
- (d) The reasons that the customer has not paid the bill.
- (e) The customer's payment history.
- (f) Any other relevant factors concerning the circumstances of the customer.

(5) A settlement agreement that is offered by a utility shall state, immediately preceding the space provided for the customer's signature and in bold print that is not less than 2 sizes larger than any other print that is used on the form:

"IF YOU ARE SEEKING PAYMENT ASSISTANCE FROM A SOCIAL SERVICE AGENCY, SIGNING THIS AGREEMENT MAY PREVENT YOU FROM GETTING EMERGENCY ASSISTANCE. LET US KNOW IF YOU ARE WORKING WITH AN

AGENCY. IF YOU ARE NOT SATISFIED WITH THIS AGREEMENT, DO NOT SIGN. YOU MAY FILE AN INFORMAL COMPLAINT AND HAVE A HEARING BEFORE A HEARING OFFICER BEFORE YOUR SERVICE MAY BE SHUT OFF. IF YOU DO SIGN THIS AGREEMENT, YOU GIVE UP YOUR RIGHT TO AN INFORMAL HEARING BEFORE A HEARING OFFICER ON ANY MATTER INVOLVED IN THIS DISPUTE EXCEPT THE UTILITY'S FAILURE OR REFUSAL TO FOLLOW THE TERMS OF THIS AGREEMENT. IF YOU HAVE AN UNEXPECTED LOSS OR REDUCTION OF INCOME AFTER THIS AGREEMENT IS SIGNED, YOU MAY REQUEST A REVIEW AND MODIFICATION OF THIS AGREEMENT"

R 460.156 Default of settlement agreement.

Rule 56.(1) If a customer fails to comply with the terms and conditions of a settlement agreement, a utility may shut off service after giving the customer a notice, by personal service or first-class mail, that contains all of the following information:

- (a) That the customer is in default of the settlement agreement.
- (b) The nature of the default.
- (c) That unless the customer pays in full within 10 business days of the date of mailing, the utility may shut off service.
- (d) The date on or after which the utility may shut off service.
- (e) That the customer has a right to request a hearing before a hearing officer selected from a list on file with the commission, only if the customer alleges that the utility has failed or refused to follow the terms of the settlement agreement.
- (f) The address and telephone number where the customer may file the request for a hearing with the utility.

(2) A utility is not required to enter into a subsequent settlement agreement with a customer until he or she has complied fully with the terms of a previous settlement agreement, unless the customer demonstrates a significant change in economic circumstances and requests a modification of the settlement agreement as provided by R 460.155(5).

(3) A utility is not required to enter into a subsequent settlement agreement with a customer who defaulted on the terms and conditions of an agreement within the last 12 months.

(4) If the customer and utility reach a settlement agreement following a notice of shutoff, the failure of the customer to abide by the terms of the settlement agreement during the first 60 days of the agreement constitutes a waiver of the notice required by subrule (1) of this rule. The utility may shut off service after notice as described in the provisions of R 460.138, R 460.139, or R 460.142, if applicable.

R 460.157 Same dispute.

Rule 57. A utility may choose not to respond to a customer complaint or dispute that involves the same question or issue based upon the same facts, and is not required to comply with these rules more than once before shutoff of service. The utility shall provide notice to the customer that the complaint has been dismissed under this rule.

PART 11. COMMISSION APPEAL PROCEDURES

R 460.158 Informal appeal.

Rule 58. Within 7 business days after a hearing officer issues a written complaint determination, either party may make an informal appeal to the commission staff.

R 460.159 Filing procedures.

Rule 59. (1) A party may make an informal appeal in any reasonable manner. The informal appeal need not be in writing and may be initiated by telephone, by internet, by mail, by fax, or in person at the offices of the commission.

(2) The appealing party shall provide all of the following information:

- (a) Name and address of the customer.
- (b) Name of the utility involved.
- (c) The nature of the original complaint in a clear and concise manner.
- (d) The hearing officer's decision.
- (e) The relief requested.

R 460.160 Informal appeal procedures.

Rule 60. (1) The commission staff shall assign the informal appeal to a regulation officer. The officer shall have all of the following responsibilities:

(a) Advising the appealing party of the procedures of the commission by telephone or in writing.

(b) Advising the other party that an informal appeal has been filed.

(c) Issuing interim determinations as necessary.

(d) Reviewing or investigating the appeal as provided in these rules.

(e) Issuing an informal appeal decision.

(2) Upon notification by the commission staff that an informal appeal has been made, the utility shall promptly file, with the commission staff, the certified hearing record. The parties shall be bound by the evidence presented at the hearing and contained in the hearing record. In arriving at the informal appeal decision, the regulation officer shall not be required to receive or consider any additional evidence or information.

(3) In all informal appeals, the utility has the burden of proof by a preponderance of the evidence.

R 460.161 Interim determination.

Rule 61. (1) After receiving the hearing record and pending the final resolution of an informal appeal, the regulation officer may issue an interim determination with appropriate terms and conditions. In the case of an appeal regarding a bill or deposit, the regulation officer may require a customer to pay the undisputed portion of a claim in order to continue the prohibition against the shutoff of service as provided in these rules. The regulation officer may consider the amounts that reasonably appear to reflect the cost of utility service in determining the undisputed portion of a claim.

(2) If a customer fails to abide by the terms and conditions of an interim determination within 10 days of the date of personal service or mailing of the interim determination by first-class mail, then the utility may shut off service as provided in these rules.

R 460.162 Appeal review.

Rule 62. The regulation officer shall review the informal appeal thoroughly and, when necessary, conduct further investigation. A party may offer new evidence if the regulation officer determines that it is relevant. When further investigation is necessary, the regulation officer may request additional evidence or, at his or her own initiative, may hold an informal appeal conference with the parties or their representatives at a time and place designated by the officer. If either party fails to appear at the informal conference without a good reason or without having requested an adjournment, the right of the absent party to appear at the conference shall be waived. At an informal appeal conference, the parties may do all of the following:

(a) Represent themselves, be represented by counsel, or be assisted by other persons of their choice.

(b) Offer oral and documentary evidence, which may be considered at the discretion of the regulation officer.

(c) Refute, in a reasonable manner, the evidence of the other party.

(d) Submit an oral or written statement of position.

R 460.163 Shutoff pending decision.

Rule 63. A utility shall not shut off service or issue a notice of shutoff related to the matter in dispute pending the decision of the commission staff, except pursuant to the terms of an interim determination.

R 460.164 Informal appeal decision.

Rule 64. The regulation officer shall, within 30 days after the utility files the certified record, issue a written informal appeal decision affirming, modifying, or reversing the informal hearing determination. In reversing or modifying the informal hearing determination, the decision shall set forth the terms and conditions for continued service, shutoff, or a proposed settlement agreement as required by the facts and circumstances. The decision shall state the relevant findings of fact, the reasons for the decision, and remedies for failure to comply with the informal appeal decision. A copy of the informal appeal decision shall be served personally, or by first-class mail, on the parties.

R 460.165 Failure to comply with informal appeal decision.

Rule 65. Failure of either party to comply with the decision within 10 days from the date of service by mailing shall permit implementation of the action or remedy provided by the decision.

R 460.166 Same dispute.

Rule 66. The commission staff may dismiss a subsequent informal appeal that involves the same question or issue based upon the same facts without following every procedure set forth in these rules.

R 460.167 Formal appeal.

Rule 67. Either party may appeal the decision of the regulation officer by filing a formal hearing request in accordance with the rules of practice and procedure before the commission. If a formal hearing request is filed, the terms of the informal appeal decision shall be held in abeyance unless otherwise ordered by the commission or the presiding

officer who is assigned to the formal complaint.

R 460.168 Other remedies.

Rule 68. Nothing in these provisions shall be construed to prevent a party from pursuing appropriate legal and equitable remedies at any time.

R 460.169 Scope of rules.

Rule 69. (1) Nothing contained in these rules covering consumer standards and billing practices shall be implemented in a manner that circumvents or is inconsistent with utility rules, orders, or tariffs approved by the commission to ensure the safe and reliable delivery of energy service.

(2) After notice and an opportunity to be heard, utilities determined by the commission to be in violation of these rules shall be subject to all damages and fines contained within the statutes under which these rules are promulgated.

(3) Upon written request of a person, utility, or on its own motion, the commission may temporarily waive any requirements of these rules when it determines the waiver will further the effective and efficient administration of these rules and is in the public interest.