

Minnesota Attorney General: Administrative Rules Proceedings

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MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the PSC Public Service Comm.
(Agency or Board)

Regulation No. Chapter Eleven: PSC 279-336

Subject: Gas and Electric Utilities Customer Service Rules + Standards

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
FEB 10 1976
BY Eda Flaudenmaier
AUTH. SIGNATURE P.S

Stamped and filed with the Secretary of State 2-10-76 4:00pm 4:25pm

Rev. 9-72

192

Rodney A. Wilson
Special Assistant
Attorney General

February 12, 1976

- PSC 279-336

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE

PUBLIC SERVICE COMMISSION

Karl F. Rolvaag	Chairman
Ronald L. Anderson	Commissioner
Arlen I. Erdahl	Commissioner
Katherine E. Sasseville	Commissioner
Richard W. Session	Commissioner

In the Matter of Proposed Rules, Amendments and Additions to Existing Rules of the Minnesota Public Service Commission Relating to the Rules of Practice and to the Rules of Gas and Electric Regulation in the Public Utilities Division under the Jurisdiction of the Department of Public Service.

STATEMENT OF NEED

PSC Docket No. A-8117-10

The above captioned matter relates to the promulgation of new rules of the Minnesota Public Service Commission (hereinafter the "Commission").

The impetus for these rules stems from the Minnesota Public Utilities Act, Chapter 216B, Minnesota Statutes. The rules and the act are a response to public concern over the consumption of natural gas and electric service, the need for reliable service, the need for reliable service at reasonable rates, and the financial and economic ability of public utilities to continue providing such services at a reasonable rate.

The proposed rules are needed to enable the Commission to comply with Chapter 216B, the Minnesota Public Utilities Act, Minnesota Statutes.

Section 216B.08 vests the Commission the authority to provide these rules:

> The Commission is hereby vested with the powers, right, functions, and jurisdiction to regulate in accordance with the provisions of Laws 1974, Chapter 429, every public utility . . .

This power is not discretionary. It is mandatory. Section 216B.08, Minnesota Statutes, continues:

> The exercise of such powers, rights, functions, and jurisdiction is prescribed as a duty of the commission.

The Commission finds that the need for these proposed rules is found in Section 216B.08:

> The commission is authorized to make rules and regulations in furtherance of the purposes of this act.

Other sections of the Minnesota Public Utilities Act also relate to the need and authority of the Commission to promulgate these rules. Section 216B.01 of the

Minnesota Public Utilities Act, Minnesota Statutes, states:

> It is hereby declared to be in the public interest that public utilities be regulated as hereinafter provided in order to provide the retail consumers of natural gas and electric service in this state with adequate and reliable services at reasonable rates, consistent with the financial and economic requirements of public utilities and their need to construct facilities to provide such services or to otherwise obtain energy supplies, to avoid unnecessary duplication of facilities which increase the cost of service to the consumer and to minimize disputes between public utilities which may result in inconvenience or diminish efficiency in service to the consumers . . .

Thus, Section 216B.01 restricts the regulation of "service" to anything consistent with "reliability and reasonableness" within the economic requirements of the utility. Since no utility can meet its economic requirements and provide free service, the utilities must be able to regulate and withhold, if necessary, service to those patrons who refuse payment of the authorized rates. The Commission finds the need to determine the boundaries within which "reason" permits service to be disconnected, extended, and restored. Therefore, the Commission proposes Public Service Commission rules (hereinafter the "PSC rules") 295-303, Service Extension, Disconnection and Restoration.

The Commission finds that reasonable service cannot be provided without adequate and defined billing procedures which insure that billing procedures will be fair and reliable. In response to this need, the Commission proposes PSC rules 310-315, Service Billing.

The Commission finds that it is common practice among utilities to require deposits and guarantees as means of assuring payment. The Commission finds that a burdensome deposit requirement may in fact deny service to some consumers. Therefore, the Commission finds that the regulation of deposits is needed to insure that service is not unreasonably refused through deposit mechanisms. The Commission proposes PSC rules 325-328, Deposit Guarantee Requirements.

The Commission finds that public, customer, and the Commission access to utility records and information is a keystone to providing reasonable service. The Commission finds that every consumer is his own watchdog over the service provided and without access to the information concerning that service, the customer could lose the guarantee provided by the Public Utilities Act which states in Section 216B.01 that it is in the public interest that public utilities "be regulated . . . in order to provide the retail consumers. . . with adequate and

reliable services . . . ." In response to this need, the Commission proposes PSC rules 280-287, Customer Complaints, and PSC rules 335-336, Public Record Access.

The Minnesota Public Utilities Act contains further requirements for these proposed regulations. Section 216B.09 Standards; Classifications; Regulations; Practices.

> The commission . . . may ascertain and fix just and reasonable standards, classifications, regulations, or practices to be observed and followed by any or all public utilities with respect to the service to be furnished . . . establish or approve reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters, instruments and equipment used for the measurement of any service of any public utility . . . .

The Commission finds that these regulations of service must not only be reasonable but that the Public Utilities Act presents a need to prohibit discrimination by a utility through its service policy. Section 216B.07, Rate Preference Prohibited.

> No public utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

The Commission finds that "providing consumers with adequate and reliable services" is one of the purposes of the Act. The Commission further finds that Section 216B.08 of the Public Utilities Act requires promulgation of regulations in furtherance of the purposes of the Act and further finds that Section 216B.08 requires the Commission to enact such regulations as a duty. The Commission finds that regulations governing customer complaints; service extensions, disconnections, and restorations; service billings; deposit and guarantee requirements; and public record access, is consistent with the purposes of the Public Utilities Act and that regulation of these areas bears a direct relationship to the maintenance of reasonable service. Additionally, the Commission finds that the failure to regulate such areas may permit unreasonable service or discriminatory service which would be in violation of Section 216B.07.

The Commission was guided in its choice of areas regulated and in the extent of that regulation by the judicial interpretations of similar rules made in other states.

The Commission finds that the proposed regulations are based upon ample judicial authority. The Commission finds that although customer complaints, service extension, disconnection and restoration; service billing; deposit and guarantee

requirements; and public record access may not be specifically required by the Public Utilities Act, they nevertheless are within the intent and purpose of the Public Utilities Act. In similar circumstances other jurisdictions have ruled that such areas are within the area of regulation intended by enacting legislation. The Wisconsin Public Service Commission has held that rules of construction do not require that a regulatory act given such narrow interpretation as to preclude the exercise of any power which is not literally and expressly enumerated in the statute.

> The statute is entitled to a liberal construction in the light of its entire plan and purpose and within its four corners are included not only those powers which are expressly defined but also those which are raised by necessary implication. Re: Revision of Service Rules for Electric Utilities, 40 P.U.R. (n. s.) 99 (WI. Pub. Serv. Com. 1941).

The Commission finds that applicability of this decision especially relevant when comparing the enabling clause of the Wisconsin statute with Section 8 of the Minnesota Public Utilities Act. The above decision also held that the Wisconsin Public Service Commission was given jurisdiction by the statute to prescribe general rules and regulations with respect to such subjects as denial of service, obligations of utilities upon changing type of service, provisions covering guarantees and deposits to assure payment of bills, requirements as to billing customers, and provisions pertaining to service of meters. The Wisconsin Public Service Commission ruled that these items were within its jurisdiction to regulate, although they were not included among the subjects for which specific authority to prescribe regulations was granted by the statute.

The Iowa Supreme Court has held that broad discretion is permitted to administrative officials as the complexity of governmental and economic conditions increases and that the standards need not be exact or precise general policy is defined. Elk Run Telephone Company vs. General Telephone Company of Iowa, 160 N. W. 2d,311, 76 P.U.R. 3d 127 (Iowa Sup. Ct. 1968). The court in the Elk Run decision dealt with service rules very similar to the rules here before the Commission. The Iowa statute, Chapter 490A, Section 8, required every public utility to furnish reasonably adequate service and facilities. The court held that this standard was sufficient to permit the Commission to determine what "reasonably adequate service and facilities" were. The court also held:

> The general purpose and policy of Chapter 490A is to vest in the Iowa Commerce Commission broad control and supervision over those who furnish what is frequently referred to as public services. Elk Run Tel. Co. vs. General Tel. Co. of Iowa (Supra).

In short, the Commission finds that the experience of similar rules in other states supports the authority of the Minnesota Public Service Commission to prescribe the customer service standard rules governing customer complaints; service extensions, disconnections, and restorations; service billing; deposit and guarantee requirements; and public record access.

/s/ Lawrence J. Anderson

Lawrence J. Anderson
Secretary, MINNESOTA PUBLIC
SERVICE COMMISSION

Dated: January 19, 1976

ADMIN. 1000

STATE OF MINNESOTA

DEPARTMENT Public Service

Office Memorandum

TO : Michael B. Miller
Special Assistant Attorney General
Attorney General's Office

DATE: 1/19/76

FROM : Rodney A. Wilson RW
Special Assistant Attorney General

SUBJECT: Adoption of rules and regulations pertaining to the Minnesota Public Service Commission Gas and Electric Utilities Customer Service Rules and Standards.

Enclosed herewith for filing are the rules and regulations pertaining to the Minnesota Public Service Commission Gas and Electric Utilities Customer Service Rules and Standards, which were approved by the Commission on January 19, 1976, as follows:

1. Five copies of the rules as adopted (original & 4 xerox)

2. Three copies of the rules as proposed

3. One xerox copy of transcript of the public hearing on the proposed rules (Vols. I - IV)

4. Exhibits to transcript:

   a. PSC Exhibit 1 - Order for Hearing
   b. PSC Exhibit 2 - Notice of Hearing
   c. PSC Exhibit 3 - Certificate of Secretary of State, Mailing List, and Affidavit of Mailing
   d. PSC Exhibit 4 - Legislative Mailing List
   e. PSC Exhibit 5 - Affidavit of Mailing
   f. PSC Exhibit 6 - Rules of Practice Effective on Date of Hearing
   g. PSC Exhibit 7 - Proposed Rules of Practice
   h. PSC Exhibit 8 - Copy of Atty Gen 401-425
   i. PSC Exhibit 9 - Public Utilities Commission of the State of California Rules of Practice and Procedure
   j. PSC Exhibit 10 - Wisconsin Administrative Code, Rules of Public Service Commission
   k. PSC Exhibit 11 - Minnesota Pollution Control Agency Rules of Procedure
   l. PSC Exhibit 12 - Rules of Practice and Procedure Listed in Iowa Departmental Rules
   m. PSC Exhibit 13 - Staff-Sponsored Corrections and Modifications to Proposed Rules of Practice, PSC 500-517
   n. City of St. Paul Exhibit 14 - Council Resolution
   o. PSC Exhibit #15 - North Dakota Public Service Commission rules and regulations
   p. PSC Exhibit #16 - Washington Utilities and Transportation Commission Rules relating to electric companies
   q. PSC Exhibit 17 - Michigan Public Service Commission Consumer Standards and Billing Practices, Electrical and Gas Residential Service

r. PSC Exhibit 18 - Wisconsin Public Service Commission staff brief
s. PSC Exhibit 19 - Iowa Commerce Commission regulations governing service supplied by electric utilities (Chapter 20)
t. PSC Exhibit 20 - Iowa Commerce Commission regulations governing service supplied by electric utilities (Chapter 19)
u. PSC Exhibit 21 - NARUC suggested regulations governing service supplied by electric companies
v. Otter Tail Power Company Exhibit 23 - American Standard Code for Electricity Metering

5. Three sets of the following:

a. Certificate of Commission's Authorizing Resolution (original & 2 xerox)
b. Order for Hearing (original & 2 xerox)
c. Notice of Hearing (original & 2 xerox)
d. Affidavit of Acquisition of Mailing List (original & 2 xerox)
e. Secretary of State's Certificate (original & 2 xerox)
f. Mailing List. Since this list is unusually large, only one copy is enclosed which is attached to the original Affidavit of Mailing
g. Affidavit of Mailing (original & 2 xerox)
h. Statement of Need (original & 2 xerox)
i. Findings of Fact (original & 2 xerox)
j. Certificate of Commission's Adoption of Rules Resolution (original & 2 xerox)
k. Resolution Approving Rules
l. Order Adopting Rules (original & 2 xerox)
m. Statement of Compliance with the Attorney General's Rulemaking Procedure (original & 2 xerox)

6. Three copies of Syllabus with Addendum

7. Three copies of the written comments from the following: (Original & 2 xerox)

a. City of St. Paul
b. Traverse Co-op
c. PSC Staff
d. Agralite Cooperative
e. Minnesota Association of Electric Cooperatives
f. Minnegasco
g. Minnesota Power & Light Company
h. Minnesota Public Interest Research Group (MPIRG)
i. North Central Public Service Co.
j. The Northeast Minneapolis Senior Citizen Resource and Information Center
k. Northern States Power Company
l. Otter Tail Power Company
m. People's Natural Gas Co.
n. Catholic Charities of the Archdiocese of St. Paul and Minneapolis
o. Greeley Gas Company

p. Interstate Power Company
q. Itasca-Mantrap Co-op. Electrical Ass'n.
r. Jewish Family and Children's Service of Minneapolis
s. R. Haydock, William Mitchell Law School
t. Kandiyohi Cooperative Electric Power Association
u. Lyon-Lincoln Electric Co-op, Inc.
v. Greater Metropolitan Federation

It is my understanding that all bluebacked and original documents, including the exhibits, enclosed with this filing will be returned to the Department of Public Service after your review.

RAW:ss

Enclosures

CERTIFICATION OF COMMISSION'S
AUTHORIZING RESOLUTION

I, Lawrence J. Anderson, do hereby certify that I am the duly appointed and acting Secretary of the Minnesota Public Service Commission, an agency authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a motion made and passed at a meeting of the Commission duly and properly called and held on the 12th day of November, 1974; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the Minutes of said meeting and that it has not been rescinded or modified:

Item 942. It was moved and approved that a public hearing be convened on Tuesday, December 17, 1974, at 10:00 A.M., in Room 83 of the State Office Building, St. Paul, Minnesota, for the purpose of making revisions, amendments and additions to the Commission Rules of Practice and to submit for hearing the new proposed rules of customer service standards for the regulation of gas and electric utilities, pursuant to the provisions of M.S.A. Section 15.0412.

IN WITNESS WHEREOF, I have hereunto set my hand and cause to be affixed the seal of the Minnesota Public Service Commission.

Dated this 19th day of January, 1976.

Lawrence J. Anderson

(S E A L)

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE PUBLIC SERVICE COMMISSION

Karl F. Rolvaag, Chairman
Ronald L. Anderson, Commissioner
Robert W. Carlson, Commissioner

In the Matter of Proposed Rules, Amendments and Additions to Existing Rules of the Minnesota Public Service Commission Relating to the Rules of Practice and to the Rules of Gas and Electric Regulation in the Public Utilities Division under the Jurisdiction of the Department of Public Service.

ORDER FOR HEARING

PSC Docket No. A-8117-10

IT APPEARING that the Rules of Practice of the Minnesota Public Service Commission, hereinafter Commission, have not been significantly revised since 1961 and that changes in methods of operation in regulated industries require that the Commission staff be permitted to recommend and suggest revisions in these rules; and

IT FURTHER APPEARING that under the provisions of Chapter 429 of Minnesota Laws of 1974, the Commission is required to regulate the gas and electric utility companies in the state of Minnesota and, therefore, must adopt rules and regulations in relation thereto with regard to Customer Service Standards:

IT IS THEREFORE ORDERED:

O R D E R

That a public hearing on rules relating to the above be held in Room 83 of the State Office Building, St. Paul, Minnesota 55155, on Tuesday, December 17 through Friday, December 20, 1974, commencing at 10:00 a.m. (CST) each day and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard; and

IT IS FURTHER ORDERED that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and to all persons who are presently members of the Minnesota Legislature.

BY ORDER OF THE COMMISSION

Lawrence J. Anderson
Secretary

Dated at Saint Paul, Minnesota,
this 12th day of November, 1974.

(S E A L)

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE PUBLIC SERVICE COMMISSION

Karl F. Rolvaag, Chairman
Ronald L. Anderson, Commissioner
Robert W. Carlson, Commissioner

In the Matter of Proposed Rules, Amendments and Additions to Existing Rules of the Minnesota Public Service Commission Relating to the Rules of Practice and to the Rules of Gas and Electric Regulation in the Public Utilities Division under the Jurisdiction of the Department of Public Service.

NOTICE OF HEARING

PSC Docket No. A-8117-10

Notice is hereby given that a public hearing pursuant to Minn. Stat. Sec. 15.0412(4) (1971), will be held in St. Paul, Minnesota, Room 83 of the State Office Building on Tuesday, December 17th through Friday, December 20th, 1974, commencing each day at 10:00 a.m. (CST), and continuing until all representatives or other interested groups of persons have had an opportunity to be heard concerning adoption of the proposed rules above-captioned by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing. In addition, the record of the hearing will remain open for twenty (20) days following adjournment and written comments may also be submitted during this period.

The matters to be resolved at this hearing are:

I. AMENDMENT OF PUBLIC SERVICE COMMISSION RULES 500-517 (RULES OF PRACTICE.

New rules and amendments to existing rules will be proposed as definitions, participation in hearings by Department of Public Service Staff, notices of intent to protest, formal and informal complaint procedures, petitions to intervene, role of intervenor, service of documents, hearing notices, utility public notice of proposed rate change, prehearing conferences.

These proposed amendments are to be heard on Tuesday, December 17, 1974, commencing at 10:00 a.m.

II. ADOPTION OF PROPOSED GAS AND ELECTRIC UTILITY REGULATIONS REGARDING CUSTOMER SERVICE STANDARDS.

The following proposed regulations, which will not apply to municipal gas and electric utilities, will be heard on December 18, 19 and 20, 1974, commencing at 10:00 a.m.:

A. Utility Customer Complaint Procedures: Customer information, personnel procedures, complaint records, reporting requirements, inspection by Public Service Department staff.

B. Extension, Discontinuation and Restoration of Service: Definition of terms; extension of service--rates, service justifications, load specifications, non-service areas; temporary service--costs, rate classification, advance payments; discontinuation of service--permissible reasons; suspension of service--permissible reasons; non-permissible reasons to discontinue or suspend service; cold weather conditions; notice requirements; manner of disconnection and suspension; reconnection of service and dispute proceedings for service discontinuation (disconnection).

C. Service Billing: Billing basis, meter reading and billing periods; estimated billing, billing content, adjustment of bills--electric, adjustment of bills--gas.

D. Deposits: Assurance of payment; permissible means of assuring payment; impermissible means of assuring payment.

E. Public Record Access: Records open to public.

Copies of the Proposed Rules and Amendments will also be available at the door on the date of the hearing.

BY ORDER OF THE COMMISSION

/s/ LAWRENCE J. ANDERSON

Secretary

SERVICE DATE NOV 15 1974

(S E A L)

STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT

Jane A. Turnquist, being first duly sworn, upon oath deposes and says:

1) That she is an employee of the Minnesota Public Service Commission of the State of Minnesota.

2) That on the 14th day of November, 1974, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 1971, Section 15.0412.

3) That on the 14th day of November, 1974, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Jane A. Turnquist

Subscribed and sworn to
before me this 18th day of November,
1974.

Sharon A. Schmidt

Notary Public, Hennepin County,
Minnesota

My commission expires

SHARON A. SCHMIDT
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sept. 29, 1977

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

CERTIFICATE

In the Matter of Proposed Rules, Amendments and Additions to Existing Rules of the Minnesota Public Service Commission relating to the Rules of Practice and to the Rules of Gas and Electric Regulation in the Public Utilities Division under the jurisdiction of the Department of Public Service.

Docket No. A-8117-10

I hereby certify that the attached 391 Cards & one sheets constitute the complete list of persons, associations, and other interested groups who as of 4:00 o'clock, P.m. this 14th day of November, 1974, have requested pursuant to M.S. 1971, Section 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Arlen I. Erdahl

ARLEN I. ERDAHL
SECRETARY OF STATE

By Cecil Dixon

State of Minnesota)
(SS
County of Ramsey)

AFFIDAVIT
OF MAILING

Docket No. A-8117-10

Jane A. Turnquist, being first duly sworn, deposes and says:

That on the 15th day of November, 1974, at the City of St. Paul, County of Ramsey, State of Minnesota, (s)he served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons at the addresses shown on the attached mailing list.

Jane A. Turnquist

Subscribed and sworn to before me
this 15th day of November, 1974.

Notary Public _____ County, Minn.
My Commission expires _____

SHARON A. SCHMIDT
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sept. 29, 1977

PROPOSED MINNESOTA RULES AND REGULATIONS
RELATIVE TO THE CUSTOMER SERVICE RULES AND STANDARDS
FOR GAS AND ELECTRIC REGULATION

CHAPTER ELEVEN - PSC 279

MINNESOTA PUBLIC SERVICE COMMISSION

DEPARTMENT OF PUBLIC SERVICE

PSC 279 Effective Date

Within three months of the effective date of these rules, each utility shall file their revised rules which shall be in compliance with PSC Rules 280 to 336.

PROPOSED MINNESOTA RULES AND REGULATIONS
RELATIVE TO THE CUSTOMER SERVICE RULES AND STANDARDS
FOR GAS AND ELECTRIC REGULATION

CHAPTER ELEVEN - PSC 280-287

MINNESOTA PUBLIC SERVICE COMMISSION

DEPARTMENT OF PUBLIC SERVICE

CUSTOMER COMPLAINTS

PSC 280 Complaint Procedures.

Each utility shall establish procedures which will insure prompt, efficient and thorough recording, investigation and disposition of all customer inquiries, service requests and complaints regarding utility service, charges or other matters.

PSC 281 Customer Information.

The utility is responsible for informing its customers of certain required information in the matters as prescribed by the following provisions:

(a) A sign or notice posted prominently and conspicuously at all utility office locations open to the general public, explaining where, when and to whom a complaint is to be directed, and notice of the mediation availability of the Public Service Department with its address.

(b) The utility shall, at its expense, publish a "customer handbook," that will be distributed to each new customer, and upon the request of any customer. This "customer handbook" must, as a minimum, include this information:

1. The utility's own customer rules.

2. The rate schedule pertaining to the customers of that area.

3. The names, addresses and phone numbers of the personnel of the utility to whom complaints should be directed.

4. The rules and regulations of the Public Service Department concerning complaints, and customer relations of the utilities.

5. The deposit and guarantee standards of the utility.

6. The notice of the Public Service Department's regulation of utilities and of the mediation availability of it.

(c) The utility's billing statements to its customers must contain this information:

1. This statement: "Register any inquiry or complaint at . . . ." (and list the address and telephone number of the utility, designating where the customer may initiate an inquiry or a complaint).

2. A telephone number for customers to call in emergency situations during non-business hours.

PSC 281 (Continued)

3. A notice to customers of the availability upon request of the "customer handbook."

PSC 282 Personnel Procedures Required.

The utility shall establish personnel procedures, which as a minimum insure that qualified personnel shall be available during all regular business hours for the receiving of customer telephone calls and customer office visits, and shall be properly instructed to either act upon the inquiry, request or complaint, or to be able to refer the customer to the proper department or personnel of the utility who is able to handle the problem effectively.

The utility shall obviate the necessity of the customer's repetition of the entire complaint to employees lacking in ability and authority to take appropriate action.

PSC 283 Complaint Records.

Each utility shall keep a record of complaints received by it from its customers in regard to safety, service, billings, rates and other matters.

(a) The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date thereof.

(b) The utility shall keep records of customer complaints in such a manner that will enable it to review and analyze its procedures and actions.

(c) The complaint records of the utility shall be available for inspection by staff of the Public Service Department at all times.

PSC 284 Reporting Requirement.

Each utility shall file an annual report within 30 days after the end of each calendar year with the Public Utilities Division, which in detail contains this required information:

(a) The utility shall report by class of service and type of complaint, the total numbers of resolved and unresolved complaints, and the average time period to resolve each type of complaint.

(b) The utility shall report the total number of customers in each class of service and the total number of customers who initiated service during the past year.

(c) The utility shall list in this report the names, addresses, and telephone numbers of personnel designated and authorized to receive and respond to the requests and directives of the Public Service Department regarding customer inquiries, service requests and complaints. The utility shall keep this information current and if changes occur, the utility must inform the Department immediately of these changes.

(d) This report will be an "official" document and all information must be verifiable and is liable for inspection and investigation by Department staff.

(e) The utility must provide upon notice of the Commission, an up-to-date report of this type prior to any hearing before the Commission, or upon any official request of the Commission.

(f) A copy of the type of form to be used for this report shall be available at the main office of the Public Service Department.

PSC 285 Inspection.

The utility shall permit authorized Public Service Department staff to inspect all of the utility's operations and records relating to customer service upon reasonable notice.

PSC 286 Required Response Time.

If the complaint cannot be immediately resolved, the utility shall make contact with the complainant every five days and give notice to him about the present status of their investigation, until the complaint is mutually resolved, or until a higher mediating body such as the Commission or the courts have been brought in to help.

PSC 287 Notice to Public Service Department.

When the utility is notified by the Public Service Department about a complaint, it must respond back to the Department within five days, to give notice of disposition, and the manner in which it was resolved.

PROPOSED MINNESOTA RULES AND REGULATIONS
RELATIVE TO THE CUSTOMER SERVICE RULES AND STANDARDS
FOR GAS AND ELECTRIC REGULATION

CHAPTER ELEVEN - PSC 295-303

MINNESOTA PUBLIC SERVICE COMMISSION

DEPARTMENT OF PUBLIC SERVICE

SERVICE EXTENSION, DISCONNECTION
AND RESTORATION

PSC 295 Definitions

(a) Disconnection of Service means a cessation of utility service in which deposit of customer is returned or extinquished.

(b) Suspension of Service means a temporary cessation of utility service in which the deposit of customer is not returned.

(c) Customer means any person, firm, association or corporation, or any agency of the Federal, State or local governent, being supplied, subject to the jurisdiction of this Commission, with service by a utility.

PSC 296 Extension of Service

(a) Each utility shall file a plan in its tariff application for the installation of extensions to main and service lines where such facilities are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the costs.

(b) Within 90 days after a person requests service or upon application by the utility and for good cause shown, the Commission may extend the period another 90 days, the utility shall make all extensions within its service area.

(c) This extension shall be given with due consideration to the public need for adequate, efficient, and reasonable service; to the need of the utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its property, and to earn a fair and reasonable return upon its investment in such property; and to any other factors or evidence material and relevant thereto.

(d) No utility shall extend service beyond its service area to customers who require a connected load less than 2,000 kilowatts. Extension of service outside of a utility's service area shall in all cases be governed by Sections 39-44, Chapter 429 Laws of Minnesota 1974.

(e) Extension of any service outside of a utility's service area but which does not extend into another utility's service area, shall be as directed by the Commission.

PSC 297 Temporary Service

(a) When a utility renders a temporary service to a customer, it may require that the customer bear the cost of installing and removing the service in excess of any salvage realized.

(b) A customer taking temporary service shall pay the regular rates applicable to the class of service rendered. The rates charged shall provide a reasonable rate of return for the utility.

(c) The utility may require the customer to make an advance payment sufficient to cover the estimated cost of service as is used in (a) above.

PSC 298 Disconnection or Suspension of Service

(a) Disconnection of service - permissible reasons.

A utility may disconnect service to any customer for any reason stated below. The utility shall apply the customer's deposit plus accrued interest to any liability of the customer. Any remaining balance of the deposit plus interest which is not in liability to the utility shall be returned to the customer immediately upon disconnection. Wherever required, notice must comply with the requirements of PSC 300.

1. With notice a utility may disconnect service for nonpayment of bill only when the amount of the deposit plus accrued interest is not greater than the amount of the stated bill.

2. With notice a utility may disconnect or refuse service for failure of the customer to meet the deposit and credit requirements contained herein.

3. With notice a utility may disconnect service to a customer who has violated the utility's rules on file with the Commission.

4. With notice a utility may disconnect service to a customer who is in breach of the contract for service between the utility and the customer.

5. Without notice a utility may disconnect service to a customer: in the event of unauthorized use of utility equipment by the customer or in the event of tampering with the utility's equipment.

(b) Suspension of service - permissible reasons.

A utility may suspend service for any reason stated below. Suspension of service does not require refund or forfeiture of deposit nor interruption of interest. No re-connect fee shall be charged by a utility to return service which has only been suspended.

1. Without notice in the event of a condition determined to be hazardous to the customer, to other customers of the utility, to the utility's equipment, or to the public.

2. Without notice in the event of customer use of equipment in such a manner as would adversely affect the utility's equipment or the utility's service to others. Failure of the customer to cure such adverse use within two weeks of date of notice shall terminate the suspension, and constitute a disconnection of service.

3. With notice for failure of the customer to provide the utility reasonable access to its equipment. Failure of a customer to provide access within a two-week period from date of notice of suspension shall constitute a disconnection of service.

4. With notice for failure of a customer to furnish such service, equipment and/or rights of way necessary to serve said customer as shall have been specified by the utility as a condition of obtaining service. Such suspension shall remain until the defective condition is cured or within a reasonable time for compliance the suspension shall terminate and service may be disconnected.

5. Upon written request by the customer providing the utility is not entitled to disconnect service. Such suspension shall not be for a period less than 30 days. The utility may charge the re-connect fee as provided by these rules for this service.

6. When determined by the Commission as prescribed by relevant state or other applicable standards or after individual hearing upon application of any person that the customer is willfully wasting service through improper equipment. The suspension shall remain in effect as directed by the Commission.

(c) Non-Permissible Reasons to Disconnect or Suspend Service:

1. Delinquency in payment for services rendered to previous occupants.

2. Failure to pay for merchandise, appliances or services not approved by the Commission as an integral part of the utility service.

3. Failure to pay for a different class of service.

4. Failure to pay a charge billed because of an inaccurate meter.

5. Failure to pay an estimated bill for past services unless the customer upon request of the utility refuses to permit reading of the meter during reasonable hours.

6. Failure to pay for a bill based on charges from another meter.

7. Failure to pay for bill to correct previous underbilling due to misapplication of rates, if the customer agrees to payment over a reasonable period of time.

(d) Landlord-tenant rule in situations where the service is rendered at an address different from the mailing address of the bill, or where the utility has reason to know that a landlord-tenant relationship exists and that the landlord is the customer of the utility; where the landlord as customer would otherwise be subject to disconnection of service; the utility may not disconnect service until the following actions have been taken:

1. Where it is feasible to so provide service the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in her or his own name. If the occupant then declines to so subscribe, the utility may discontinue service pursuant to the rules.

2. A utility shall not attempt to recover, or condition service with the payment of, any outstanding bills or other charges due upon the outstanding account of any other person.

PSC 299 Cold Weather Rule:

(a) If a residential service has been disconnected and not restored to service by the close of business on the disconnect date, during a period when the low temperature within a 24-hour period as reported by the national weather bureau or some other acceptable source falls below 32 degrees fahrenheit, the utility shall inform the local law enforcement department and the appropriate county welfare department.

(b) The information provided shall be:

1. The billing name and service address
2. That a threat to health and life might exist to persons occupying the premises.

(c) Failure to comply with this rule shall not constitute negligence per se, if the utility makes a good faith effort to meet its requirements.

PSC 300 Notice: Other Time Requirements

(a) Where required, all notices of impending action by the utility shall be by 1st class mail, except notice of disconnection must be by registered mail to the address where service is rendered and to the address where the bill is sent if different from the address where service is rendered.

(b) All notices must precede the action to be taken by at least 5 days excluding Sundays and Holidays. No notice may be given until the condition of which it informs, presently exists.

(c) In lieu of mailing, or if unable to reach by registered mail where required, notices may be delivered by a representative of the utility. They must be in writing and receipt of them must be signed by the customer, if present.

(d) A copy of all notices must be kept on file by the utility and must be made available to the Commission.

(e) Disconnection notices shall contain the date of disconnection, reason for disconnection, and methods of avoiding disconnection.

(f) A utility shall compensate a customer for any damages suffered which result from the action taken, if notice was required and it was incorrectly given.

PSC 301 Manner of Disconnection and Suspension

(a) Service may not be disconnected if personal contact or contact by registered mail with the customer has not been obtained unless the utility has attempted on at least 3 separate occasions in good faith to obtain personal contact.

(b) Service may be disconnected only in conjunction with a personal visit by a representative of the utility to the address where the service is rendered.

The representative of the utility shall at all times be capable of receiving payment, if non-payment is the cause of the disconnection of service or the representative shall be able to certify that the cause of disconnection or suspension has been remedied by the customer.

PSC 302 Reconnection of Service

In the event service has been disconnected for valid cause by the utility, the customer shall, in addition to any new deposit requirements pay a reconnect fee based on cost of reconnect as filed with tariff in addition to making a satisfactory settlement of the outstanding bill, before service is restored.

PSC 303 Disputes

Whenever the customer advises the utility's designated officer prior to the disconnection (discontinuation) of service that any part of the billing as rendered or any part of the service is in dispute, the utility shall:

(a) Investigate the dispute promptly.

(b) Advise customer of investigation and its result.

(c) Attempt to resolve dispute.

(d) Withhold discontinuation of service until the investigation is completed and the customer is informed of the findings in writing.

(e) Upon the findings of the utility, the customer must submit payment in full of any bill which is due. The customer may submit payment in escrow to the utility if it has filed for review procedures with the Commission.

Any payment to the utility of a disputed bill by the customer may be applied by the utility as any normal payment received by the utility. However, upon settlement of the dispute, any sums found to be entitled to be refunded to the customer shall be supplemented by a 10% interest charge from date of payment to date of return by the utility.

(f) If the dispute is not resolved to the satisfaction of the customer he or she may request review by the Commission, after the bill noted above has been paid.

(g) Review procedures by the Commission must insure the opportunity to be heard by all parties to the dispute.

(h) If the customer is unable to make payment of the disputed claim, into an escrow payment, she or he may apply to the utility to waive its right to disconnect. If the utility with reasonable grounds refuses to waive its right to disconnect, the customer may apply to the Commission for emergency status.

If the Commission determines the customer has a colorable claim in the dispute and that hardship may result in the event of discontinuation of service, it may declare an emergency status to exist and order the utility to continue service for a period not to exceed 30 days.

PROPOSED MINNESOTA RULES AND REGULATIONS
RELATIVE TO THE CUSTOMER SERVICE RULES AND STANDARDS
FOR GAS AND ELECTRIC REGULATION

CHAPTER ELEVEN - PSC 310-315

MINNESOTA PUBLIC SERVICE COMMISSION

DEPARTMENT OF PUBLIC SERVICE

SERVICE BILLING

PSC 310 Billing Basis

(a) Bills for service will be based on meter readings and computed in accordance with applicable rate schedules on file with the Commission.

(b) Where a customer is eligible to take service under more than one rate, the utility shall advise the customer in the selection of rate or rates which result in the lowest cost of service, based on 12 months' service and on the information at hand.

(c) Each utility shall with the first billing each year and at the time of any change in the applicable rate schedule deliver to each customer the schedule of rates applicable to his type of service.

PSC 311 Meter Reading and Billing Periods

(a) Readings of all meters used for determining charges to customers shall be made each month unless otherwise authorized by the Commission upon petition by the utility. The term "month" for meter reading and billing purposes is the period between successive meter reading dates which shall be as nearly as practicable at thirty day intervals. When a utility is unable to gain access to meter, it shall leave a meter reading form for the customer.

(b) A utility may permit the customer to supply meter readings on a form supplied by the utility, providing a utility representative reads the meter at least once each 6 months and when there is a change in customers and when requested by the customer.

(c) If the billing period is longer or shorter than the normal billing period by more than 5 days, the bill shall be pro-rated on a daily basis.

PSC 312 Estimated Billing

(a) When access to a meter cannot be gained and the customer fails to supply a meter-reading form in time for the billing operation, a minimum or estimated bill may be rendered. In cases of emergency, the utility may render minimum or estimated bills without reading meters or supplying meter-reading forms to customers. When a customer fails to return a meter-reading form under the customer meter-reading plan, a minimum or estimated bill may be rendered. Estimated bills shall be based on the customer's normal consumption for a corresponding period during the preceding year, or on his average consumption during the three preceding months.

(b) Only in unusual cases or when approval is obtained from the customer, shall more than 2 consecutive estimated bills be rendered, unless customer fails to supply meter reading as provided in PSC 311(b) above.

(c) If an estimated bill appears to be abnormal when a subsequent reading is obtained, the bill for the entire period shall be computed at a rate which contemplates the use of service during the entire period and the estimated bill shall be deducted. If there is reasonable evidence that the use occurred during only one billing period, the bill shall be so computed.

PSC 313 Billing Content

The utility shall bill each customer as promptly as possible following the reading of his meter. Each bill, including the customer's receipt, shall show the present and last preceding meter readings, the date of the present reading, the number and kinds of units metered, the class of service, the amount due, the date when the bill is due, the amount of state and local taxes, and the information required by customer complaint rule PSC 2?1(c) . Where applicable, bills shall show the net and gross amount of the bill and the date after which gross amount must be paid. Bills rendered at rates requiring the measurement of a number of different factors, including but not limited to demand charges and energy charges, shall show all data necessary for the customer to check the computation of the bill. Minimum and estimated bills shall be distinctly marked as such.

PSC 314 Adjustment of Bills: Electric

(a) Whenever a meter creeps or whenever a var meter or watthour meter installation is found upon test to have an average error of more than 2% from 100%, or a demand metering installation more than 1.5%, a recalculation of bills for service shall be made for the period of inaccuracy. The recalculation shall be made on the basis that the service meter should be 100% accurate with respect to the working test standard.

(b) If the period of inaccuracy cannot be determined, it shall be assumed that the metering equipment has become inaccurate at a uniform rate since it was installed or last tested except as otherwise provided in the following sentences. Recalculation of bills shall be on the basis of actual bills except that if the monthly consumption has been reasonably uniform, averaged less than 500 kw.-hrs. per month, and involves no billings other than kw.-hrs., the recalculation of bills may be based on the average monthly consumption and the inaccuracy may be assumed to have existed for a period equal to one-half the time elapsed since the meter was installed or since the last previous test, whichever is later. Adjustments due to slow meters shall be limited to the preceding 6 months except that a longer period may be authorized by the Commission. The error in registration due to "creep" shall be calculated by timing the rate of "creeping" and assuming that this creeping affected the registration of the meter for 25% of the time since the last test or since the meter was installed.

(c) When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data.

(d) If the recalculated bills indicate that more than $1 is due an existing customer or $2 is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit on a bill. If a refund is due a person no longer a customer of the utility, a notice shall be

mailed to the last known address and the utility shall upon demand made within 3 months thereafter refund the amount due.

(e) If the recalculated bills indicate that the amount due the utility exceeds $10, the utility may bill the customer for the amount due. The amount must be billed separately on a form different than the normal bill form and a complete explanation of the billing must be given. Any amounts paid by a customer which are not specifically paid on such a bill must be applied to the customer's last regular bill for service. The charge shall not show as arrears on any bill for service.

(f) When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the overcharge shall be refunded or credited to the customer. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be shown separately and identified.

(g) When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the undercharge may be billed to the customer. The original billing rendered because of meter inaccuracy, or errors in billing, shall be separated from the regular bill and the charges explained in detail. Subsequent to the first billing the amount can be shown as a separate item on the regular bill.

PSC 315 Adjustment of Bills: Gas

(a) Whenever a meter is found to have an error of more than 2% fast, a recalculation of bills for service shall be made for the period of inaccuracy assuming an inaccuracy equal to the maximum fast percentage. The recalculation shall be made on the basis that the service meter should be 100% accurate.

(b) If the period of inaccuracy cannot be determined, it shall be assumed that the full amount of inaccuracy existed during the last half of the period since the meter was last tested. If the recalculated bills indicate that more than $1 is due an existing customer or $2 is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit on a bill. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address and the utility shall, upon request made within 3 months thereafter, refund the amount due.

(c) Whenever a meter is found to be more than 2% slow, the utility may bill the customer for the amount the test indicates has been undercharged for the period of inaccuracy which period shall not exceed the last 6 months the meter was in service unless otherwise ordered by the Commission. For the purpose of this billing adjustment, the meter error shall be one-half of the algebraic sum of the error at full-rated flow plus the error at check flow. No back billing will be sanctioned if the customer has called to the utility's attention his doubts as to the meter's accuracy and the utility has failed within a reasonable time to check it.

(d) Whenever a meter in service is found not to register, the utility may render an estimated bill, if the utility is not at fault, allowing the nonregistering meter to be in service.

(e) When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be shown separately and identified.

(f) When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the undercharge may be billed to the customer. The original billing rendered because of meter inaccuracy, or errors in billing, shall be separated from the regular bill and the charges explained in detail. Subsequent to the first billing the amount can be shown as a separate item on the regular bill.

PROPOSED MINNESOTA RULES AND REGULATIONS
RELATIVE TO THE CUSTOMER SERVICE RULES AND STANDARDS
FOR GAS AND ELECTRIC REGULATION

CHAPTER ELEVEN - PSC 325-329

MINNESOTA PUBLIC SERVICE COMMISSION

DEPARTMENT OF PUBLIC SERVICE

DEPOSIT AND GUARANTEE REQUIREMENTS

PSC 325 Assurance of Payment.

The utility shall not require deposit or guarantee of any customer who has established good credit. Deposit or guarantee of payment requirements as prescribed by the utility must be based upon standards which bear a reasonable relationship to the assurance of payment.

(a) New Service.

A utility shall not require a cash deposit or other guarantee of payment as a condition of obtaining new service unless a customer has an unsatisfactory credit or service standing with the utility due to either of the following:

1. The customer has outstanding a prior utility service account with the utility which at the time of request for service remains unpaid and not in dispute.

2. The service of a customer has previously been disconnected for any permissible reason which is not in dispute.

3. The credit history as provided in these rules demonstrates that payment cannot be assured. The determination of an adequate credit history must be determined by objective criteria as are filed with the Commission in the utility's tariff. Such criteria must bear a reasonable relationship to the assurance of payment.

(b) Existing Service.

A utility shall not require a cash deposit or other guarantee of payment as a condition of continuing existing service unless a customer has an unsatisfactory credit or service standing with the utility due to either of the following:

1. The service of the customer has been disconnected for nonpayment of a bill which is not in dispute.

2. The service of a customer has been disconnected for any permissible reason which is not in dispute.

PSC 326 Permissible Means of Assuring Payment.

(a) Deposit: Where required, a customer may assure payment by submitting a deposit.

1. A deposit shall not exceed an estimated two-months' gross bill or existing two-months' bill where applicable.

2. As a condition of obtaining service all deposits shall be in addition to payment of an outstanding bill or a part of such bill as has been resolved to the satisfaction of the utility.

3. Deposits shall bear an interest rate of not less than 6% interest compounded annually unless otherwise determined by the Commission. Interest on deposits shall be payable from the date of deposit to the date of refund or disconnection.

4. Continuance of funds on deposit for a period of 12 months shall constitute good credit and the deposit shall be refunded unless a further condition exists which would require continuing the necessity of assuring payment.

5. Any deposit of a customer may be applied by the utility to a bill when the bill has been determined by the utility to be delinquent. A utility may not disconnect service or shall not be entitled to demand an additional deposit until the deposit has been refunded or until the balance has been entirely used to pay an outstanding bill of the customer.

6. Upon termination of service, the deposit, with accrued interest shall be credited to the final bill and the balance shall be returned within 10 days to the customer.

7. A utility shall not require a deposit of any customer or a guarantee of payment without explaining in writing why that deposit is being required. Each utility shall issue a receipt of deposit to each customer from whom a deposit is received and shall provide means whereby a depositor may establish claim if the receipt is unavailable.

(b) Guarantee of Payment.

1. The utility may accept, in lieu of a deposit a contract signed by a guarantor satisfactory to the utility, whereby payment of a specified sum not exceeding the deposit requirement is guaranteed. The term of such contract shall be for no longer than 12 months, but shall automatically terminate after the customer has closed his or her account with the utility, or at the guarantor's request upon 60 days' written notice to the utility.

2. Upon termination of a guarantee contract or whenever the utility deems same insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required upon reasonable written notice to the customer. The service of any customer who fails to comply with these requirements may be disconnected upon notice as prescribed in PSC 300.

3. The utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account he or she has guaranteed unless the guarantor waives such notice in writing.

(c) Credit History.

In lieu of deposit or guarantee, a customer may provide a sufficient assurance of payment where required, by submission of an adequate credit history. The utility may determine whether an adequate credit history has been shown, except that the

PSC 326 (Continued)

customer's credit history at the same or similar utility that would otherwise demonstrate good credit pursuant to these rules, shall be considered good credit before the utility.

PSC 327 Impermissible Means of Assuring Payment.

(a) Deposit and Guarantee of Payment.

As a condition of new or existing service, a utility shall not require a deposit or a guarantee of payment based upon income, home ownership, residential location, employment tenure, nature of occupation, race, color, creed, sex, age, national origin or any other criteria which does not bear a reasonable relationship to the assurance of payment or which is not authorized by these rules.

(b) Credit History.

1. No utility shall use any credit rating or credit service other than that of the utility to determine the adequacy of a customer's credit history, without the permission in writing of a customer. Any credit history so used shall be mailed to the customer in order to provide the customer an opportunity to review the data.

2. Refusal of a customer to permit use of a credit rating or credit service other than that of the utility shall not affect the determination of the utility as to that customer's credit history.

PSC 328 Definitions: Dispute and Disconnect.

The terms dispute and disconnect are defined in PSC 303 and PSC 295.

PROPOSED MINNESOTA RULES AND REGULATIONS
RELATIVE TO THE CUSTOMER SERVICE RULES AND STANDARDS
FOR GAS AND ELECTRIC REGULATION

CHAPTER ELEVEN - PSC 335-336

MINNESOTA PUBLIC SERVICE COMMISSION

DEPARTMENT OF PUBLIC SERVICE

PUBLIC RECORD ACCESS

PSC 335 Information Available to Customers and the Public

(a) The current customer handbook as prescribed in PSC 281 and all other information considered applicable by the Commission shall be kept on file in every station, office of the utility and where customer payments are received.

(b) Suitable signs shall be posted conspicuously at each such location calling attention to the public that the rules, regulations and rate schedules are so filed and available for inspection.

(c) The utility shall retain customer billing, payment and deposit records for the length of time necessary to permit the utility to comply with the Commission's regulations; provided the utility shall retain these records for not less than three years. These records shall be available to the customer.

(d) Each utility shall have available for existing customers and applicants for service such information as is needed to obtain and maintain adequate, timely, and efficient service.

(e) Where a customer is eligible to take service under any one or more of two or more rates, the company shall advise the customer in the selection of the rate or rates which result in the lowest cost of service, based on the information at hand.

(f) Whenever there is a change of rates and whenever it is reasonable to do so, the customer shall be notified if any permissible change in classification will result in a lower cost of service.

(g) Each utility shall furnish additional information as the customer may reasonably request.

PSC 336 Emergency Information

Each utility, for every municipality in which it serves, shall provide in the respective telephone directories a telephone listing by which the utility can be notified during a 24-hour day of any utility service deficiency or emergency which may exist.

STATEMENT OF COMPLIANCE WITH
MANUAL OF RULE MAKING PROCEDURES

I, Rodney A. Wilson, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

/s/ Rodney A. Wilson
Special Assistant Attorney General
Minnesota Department of Public Service

Dated: January 19, 1976

RESOLUTION

RESOLVED that the rules and regulations pertaining to the Minnesota Public Service Commission Gas and Electric Utilities Customer Service Rules and Standards, as presented, be and the same hereby are approved and adopted pursuant to authority vested in the Minnesota Public Service Commission under the provisions of M.S.A. Section 15.0412; and that the Secretary of the Commission be and he hereby is authorized and directed to transmit the aforesaid rules to the office of the Attorney General for approval.

Approved of Record
1-19- 1976
Secretary

CERTIFICATE OF COMMISSION'S ADOPTION
OF RULES RESOLUTION

I, Lawrence J. Anderson, do hereby certify that I am the duly appointed qualified and acting Secretary of the Minnesota Public Service Commission, an agency authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a motion made and passed at a meeting of the Commission duly and properly called and held on the 19th day of January, 1976; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the Minutes of said meeting and that it has not been rescinded or modified:

Item 68. RESOLVED that the rules and regulations pertaining to the Minnesota Public Service Commission Gas and Electric Utilities Customer Service Rules and Standards, as presented, be and the same hereby are approved and adopted pursuant to authority vested in the Minnesota Public Service Commission under the provisions of M.S.A. Section 15.0412; and that the Secretary of the Commission be and he hereby is authorized and directed to transmit the aforesaid rules to the office of the Attorney General for approval.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the seal of the Minnesota Public Service Commission.

Dated this 19th day of January, 1976.

Lawrence J. Anderson

(S E A L)

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE

PUBLIC SERVICE COMMISSION

Karl F. Rolvaag	Chairman
Ronald L. Anderson	Commissioner
Arlen I. Erdahl	Commissioner
Richard W. Session	Commissioner
Katherine Sasseville	Commissioner

In the Matter of Proposed Rules, Amendments and Additions to Existing Rules of the Minnesota Public Service Commission Relating to the Rules of Practice and to the Rules of Gas and Electric Regulation in the Public Utilities Division under the Jurisdiction of the Department of Public Service.

ORDER ADOPTING RULES

PSC Docket No. A-8117-10

The above-entitled matter came on for hearing before the Public Service Commission of the State of Minnesota in Room 83 of the State Office Building, Saint Paul, Minnesota, on December 17, 1974, commencing at 10:00 a.m. after proper notice required by Minn. Stat. 1971, Section 15.0412, Subd. 4, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files, and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules:

NOW, THEREFORE, IT IS ORDERED that the attached Gas and Electric Utilities Customer Service Rules and Standards are adopted this 19th day of January, 1976, pursuant to authority vested in this Commission by Minn. Stat. 1971, Section 15.0412.

BY ORDER OF THE COMMISSION

/s/ Lawrence J. Anderson
Lawrence J. Anderson

Secretary

(S E A L)

MINNESOTA RULES AND REGULATIONS
RELATING TO THE
PUBLIC SERVICE COMMISSION

CHAPTER ELEVEN - PSC 279-336

GAS AND ELECTRIC UTILITIES

Customer Service Rules and Standards

PSC 279 Effective Date

Within three (3) months of the effective date of these rules, each utility shall file their revised rules which shall be in compliance with PSC Rules 280 to 336.

CUSTOMER COMPLAINTS

PSC 280 Complaint Procedures

Each utility shall establish procedures which will insure prompt, efficient and thorough recording, investigation and disposition of all customer inquiries, service requests and complaints regarding utility service, charges or other matters.

PSC 281 Customer Information

The utility is responsible for informing its customers of certain required information in the matters as prescribed by the following provisions:

(a) A sign or notice, which shall be approved by the Commission, posted prominently and conspicuously at all utility office locations open to the general public, explaining where, when and to whom a complaint is directed, and notice of the mediation availability of the Public Service Commission with its address.

(b) The utility shall, at its expense, publish "customer information," that will be offered to each new customer, and upon request, to any existing customer. This "customer information" must be submitted to the Com-

mission for approval. This "customer information" must, at a minimum, include the following:

(1) The utility's own customer rules.

(2) The rate schedule pertaining to the customers of that area. The current rate schedule as required by PSC 310(c) may be attached to the "information" to meet this requirement.

(3) The title, addresses and phone numbers of the department(s) of the utility to which complaints should be directed, including a telephone number for customers to call in emergency situations.

(4) The rules and regulations of the Public Service Commission concerning complaints and customer relations of the utilities.

(5) The deposit and guarantee standards of the utility.

(6) The notice of the Public Service Commission's regulation of utilities and of its available mediation process as prescribed in PSC 303.

(c) The utility's billing statements to its customers must contain this information:

(1) This statement: "Register any inquiry or complaint at . . ." (and list the address and telephone number of the utility, designating where the customer may initiate an inquiry or a complaint).

(2) A notice to customers of the availability upon request of the "customer information."

PSC 282 Personnel Procedures Required

The utility shall establish personnel procedures, which as a minimum, insure that qualified personnel shall be available during all regular business hours for the receiving of customer telephone calls and customer office visits;

and shall be properly instructed to either act upon the inquiry, request or complaint, or to be able to refer the customer to the proper department or personnel of the utility who is able to handle the problem effectively. The utility shall obviate the necessity of the customer's repetition of the entire complaint, inquiry or request to employees lacking in ability and authority to take appropriate action.

PSC 283 Complaint Records

Each utility shall keep a record of complaints received by it from its customers which shall be classified as directed by the Public Service Commission:

(a) The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date thereof.

(b) The utility shall keep records of customer complaints in such a manner that will enable it to review and analyze its procedures and actions.

PSC 284 Reporting Requirement

Each utility shall file an annual report within sixty (60) days after the end of each calendar year with the Public Utilities Division of the Public Service Commission, which in detail contains this required information:

(a) The utility shall report by class of service and type of complaint, the total numbers of resolved and unresolved complaints, and the average time period to resolve each type of complaint.

(b) The utility shall report the total number of customers in each class of service and the total number of customers who initiated service during the past year.

(c) The utility shall list in this report the names, addresses, and telephone numbers of personnel designated and authorized to receive and respond to the requests and directives of the Public Service Commission regarding

customer inquiries, service requests and complaints. The utility shall keep this information current and if changes occur, the utility must inform the Commission immediately of these changes.

(d) This report will be an "official" document and all information must be verifiable and available for inspection and investigation by Commission staff.

(e) The utility must provide upon notice of the Commission, an up-to-date report of this type prior to any hearing before the Commission, or upon any official request of the Commission.

(f) The Commission shall initially mail copies of the type of form to be used for this report to all utilities regulated hereunder.

PSC 285 Inspection

The utility shall permit authorized Public Service Commission staff to inspect, during regular business hours, all of the utility's operations and records relating to customer service.

PSC 286 Required Response Time

If the complaint cannot be immediately resolved, the utility shall make contact with the complainant within five (5) business days and periodically thereafter and give notice to him or her about the present status of their investigation, until the complaint is resolved or until a higher mediating body such as the Commission or the courts becomes involved.

PSC 287 Notice to Public Service Commission

When the utility is notified by the Public Service Commission about a complaint, it must respond back to the Commission within five (5) days to give notice of disposition and the manner in which it was resolved, or the status of the complaint in process.

SERVICE EXTENSION, DISCONNECTION AND RESTORATION

PSC 295 Definitions

(a) "Disconnection of Service" means an involuntary cessation of utility service to a customer.

(b) "Temporary Disconnection" means a voluntary cessation of utility service and applies specifically to PSC 298(a)(9). This is not a permanent termination of service.

(c) "Customer" means any person, firm, association or corporation, or any agency of the Federal, State or local government, being supplied with service by a utility, subject to the jurisdiction of this Commission.

PSC 296 Extension of Service

(a) Each utility shall file a plan in its tariff application for the installation of extensions to main and service lines where such facilities are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the costs.

(b) The utility shall make all extensions within its service area within ninety (90) days after a person requests service or upon application by the utility; and for good cause shown, the Commission may extend the period for not to exceed another ninety (90) days.

(c) This extension shall be given with the consideration to the public need for adequate, efficient, and reasonable service; to the need of the utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its property, and to earn a fair and reasonable return upon its investment in such property; and to any other factors or evidence material and relevant thereto.

(d) No electric utility shall extend service beyond its service area to customers who require a connected load less than two thousand (2,000) kilowatts. Extension of service outside of a utility's service area shall in all cases be governed by Sections 39-44, Chapter 429, Laws of Minnesota 1974.

(e) Extension of any electric service outside of a utility's service area but which does not extend into another utility's service area, shall be as directed by the Commission.

PSC 297 Temporary Service

(a) When a utility renders a temporary service to a customer, it may require that the customer bear the cost of installing and removing the service in excess of any salvage realized.

(b) A customer taking temporary service shall pay the regular rates applicable to the class of service rendered. The rates charged shall provide a reasonable rate of return for the utility.

(c) The utility may require the customer to make an advance payment sufficient to cover the estimated cost of service as is used in (a) above.

PSC 298 Disconnection of Service

(a) Disconnection of service - permissible reasons

A utility may disconnect service to any customer for any reason stated below, (1) thru (10). The utility shall apply the customer's deposit plus accrued interest to any liability of the customer. Any remaining balance of the deposit plus interest which is not in liability to the utility shall be returned to the customer within ten (10) days of disconnection. Wherever required, notice must comply with the requirements of PSC 300.

(1) With notice a utility may disconnect service for nonpayment of bill

only when the amount of the deposit plus accrued interest has been used to satisfy the incurred obligations.

(2) With notice a utility may disconnect or refuse service for failure of the customer to meet the deposit and credit requirements contained herein. This rule is subject to the requirements of PSC 298(a)(1).

(3) With notice a utility may disconnect service to a customer who has violated the utility's rules on file with the Commission.

(4) With notice a utility may disconnect service to a customer who is in breach of the contract for service between the utility and the customer.

(5) Without notice a utility may disconnect service to a customer in the event of unauthorized use of utility equipment by the customer, or in the event of tampering with the utility's equipment.

(6) Without notice a utility may disconnect service to a customer in the event of a condition determined to be hazardous to the customer, to other customers of the utility, to the utility's equipment, or to the public. Disconnection for this reason does not require refund or forfeiture of deposit nor interruption of interest. No reconnect fee shall be charged by a utility to restore service which has been disconnected under this rule.

(7) With notice a utility may disconnect service to a customer for failure of the customer to provide the utility reasonable access to its equipment.

(8) With notice a utility may disconnect service to a customer for failure of a customer to furnish such service, equipment and/or rights of way necessary to serve said customer as shall have been specified by the utility as a condition of obtaining service.

(9) Upon written request by the customer, a utility may disconnect service to the customer entitled to otherwise disconnect service. Temporary disconnection of service for this reason does not require refund or forfeiture of deposit nor interruption of interest. A reconnect fee may be charged by a utility to restore service which has been disconnected for this reason.

(10) When determined by the Commission as prescribed by relevant state or other applicable standards or after individual hearing upon application of any person that the customer is willfully wasting service through improper equipment, a utility may disconnect service to a customer. The disconnection shall remain in effect as directed by the Commission.

(b) Non-Permissible Reasons to Disconnect Service

(1) A utility may not disconnect service to a customer for delinquency in payment for services rendered to previous customer who occupied the premises unless said customer continues to occupy the premises.

(2) A utility may not disconnect service to a customer for failure to pay for merchandise, appliances or services not approved by the Commission as an integral part of the utility service.

(3) A utility may not disconnect service to a customer for failure to pay for a different class of service.

(4) A utility may not disconnect service to a customer for failure to pay a charge billed because of an inaccurate meter, unless the customer and utility have agreed upon the amount due, or the amount due has been determined by these regulations, the Public Service Commission or the courts.

(5) A utility may not disconnect service to a customer for failure to pay an estimated bill for past services unless the customer, upon request of the utility, refuses to permit reading of the meter during reasonable hours.

(6) A utility may not disconnect service to a customer for failure to pay for a bill based on concurrent charges from another meter.

(7) A utility may not disconnect service to a customer for failure to pay for a bill to correct previous underbilling due to misapplication of rates, if the customer agrees to payment over a reasonable period of time.

(c) Landlord-Tenant Rule

In situations where the service is rendered at an address different from the mailing address of the bill, or where the utility has reason to know that a landlord-tenant relationship exists and that the landlord is the customer of the utility; and where the landlord as customer would otherwise be subject to disconnection of service; the utility may not disconnect service until the following actions have been taken:

(1) Where it is feasible to so provide service the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in her or his own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.

(2) A utility shall not attempt to recover from a tenant, or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

PSC 299 Cold Weather Rule

(a) Notwithstanding the provisions of PSC 298(a), no utility shall disconnect residential service:

(1) on a day when the low temperature within the previous day as reported by the National Weather Service at its First Order Station nearest the residence fell below zero degrees fahrenheit, nor

(2) on a Friday or day before a legal holiday if the low temperature during the previous day as reported by the National Weather Service at its First Order Station nearest the residence fell below 32 degrees fahrenheit.

(b) If a residential service has been disconnected and not restored to service by the close of business on the disconnect date when the low temperature during the previous day as reported by the National Weather Service at its First Order Station nearest the residence fell below 32 degrees fahrenheit, the utility shall inform the local law enforcement department and the appropriate county welfare department by the close of business on the same date. The information provided shall be: (1) the billing name and service address at which the service was disconnected; and (2) that a threat to health and life might exist to persons occupying the premises.

PSC 300 Notice: Other Time Requirements

(a) Where required, all notices required by these rules of impending action by the utility shall be by first class mail, except notice of disconnection must be by certified mail to the address where service is rendered and to the address where the bill is sent if different from the address where service is rendered.

(b) All notices required by these rules must precede the action to be taken by at least five (5) days excluding Sundays and Holidays. No notice may be given until the condition of which it informs, presently exists.

(c) In lieu of mailing, or if unable to reach by certified mail where required, notices may be delivered by a representative of the utility. They must be in writing and receipt of them must be signed by the customer, if present, or some other member of the customer's family of a responsible age or affirmed in writing by the representative of the utility that delivery was attempted in good faith.

(d) A record of all notices required by these rules must be kept on file by the utility and must be made available to the Commission.

(e) Disconnection notices shall contain the date of disconnection, reason for disconnection, and methods of avoiding disconnection in normal easy to understand language.

(f) A utility shall compensate a customer for any reasonable damages suffered which result from the action taken, if notice was required and it was incorrectly given.

PSC 301 Manner of Disconnection

(a) Service may not be disconnected if personal contact or contact by certified mail with the customer has not been obtained unless the utility has attempted on at least three (3) separate occasions in good faith to obtain personal contact.

(b) Service may be disconnected only in conjunction with a personal visit by a representative of the utility to the address where the service is rendered. The representative of the utility shall at all times be capable of receiving payment, if nonpayment is the cause of the dis-

connection of service, or the representative shall be able to certify that the cause of disconnection has been remedied by the customer.

PSC 302 Reconnection of Service

In the event service has been disconnected for valid cause by the utility, the customer shall, in addition to any new deposit requirements, pay a reconnect fee based on cost of reconnect as filed with tariff in addition to making a settlement satisfactory to the utility of the outstanding bill, before service is restored.

PSC 303 Disputes

Whenever the customer advises the utility's designated person prior to the disconnection of service that any part of the billing as rendered or any part of the service is in dispute, the utility shall:

(a) Investigate the dispute promptly.

(b) Advise customer of investigation and its result.

(c) Attempt to resolve dispute.

(d) Withhold disconnection of service until the investigation is completed and the customer is informed of the findings in writing.

(e) Upon the findings of the utility, the customer must submit payment in full of any bill which is due.

(f) If the dispute is not resolved to the satisfaction of the customer, he or she must submit the entire payment and may designate the disputed portion to be placed in escrow to the utility. Such payment shall be called an "escrow payment."

(g) Escrow payments

(1) To submit a payment in escrow, the customer must make payment of the amount due as shown on the bill through an "escrow payment form," clearly marked and provided by the utility.

(2) The "escrow payment form" must provide space for the customer to explain why the utility's resolution of the dispute is unsatisfactory to the customer. The form must be in three (3) copies, one of which will be retained by the customer.

(3) A copy of the "escrow payment form" must be forwarded by the customer to the Public Service Commission.

(4) Any escrow payment to the utility may be applied by the utility as any normal payment received by the utility.

(5) After escrow payment has been made, the customer and the utility may still resolve the dispute to their mutual satisfaction.

(6) By submitting the "escrow payment form" to the Commission, a customer is requesting review of the dispute by the Commission.

(7) Procedures by the Commission must insure the opportunity of a review by all parties to the dispute.

(8) Upon settlement of the dispute, any sums found to be entitled to be refunded to the customer shall be supplemented by a payment by the utility of a fee of ten (10%) percent of the amount found in error, which was paid to the utility through escrow payment.

(h) The customer may apply to the utility to waive its right to disconnect. If the utility with reasonable grounds refuses to waive its right to disconnect, the customer may apply to the Commission for emergency status.

If the Commission determines the customer has a probable claim in the dispute and that hardship may result in the event of disconnection

of service it may declare an emergency status to exist and order the utility to continue service for a period not to exceed thirty (30) days.

SERVICE BILLING

PSC 310 Billing Basis

(a) Bills for service will be based on meter readings or estimated usage and computed in accordance with applicable rate schedules on file with the Commission.

(b) Where a customer is eligible to take service under more than one rate, the utility shall advise the customer in the selection of rate or rates which in its judgment result in the lowest cost of projected consumption, based on twelve (12) months' service and on the information at hand.

(c) Each utility shall, at the time of any change in the applicable rate schedule, deliver to each customer the schedule of rates applicable to his or her type of service.

PSC 311 Meter Reading and Billing Periods

(a) Readings of all meters used for determining charges to customers shall be made each month unless otherwise authorized by the Commission upon petition by the utility. The term "month" for meter reading and billing purposes is the period between successive meter reading dates which shall be as nearly as practicable to thirty (30) day intervals. When a utility is unable to gain access to a meter, it shall leave a meter reading form for the customer.

(b) A utility may permit the customer to supply meter readings on a form supplied by the utility, providing a utility representative reads the meter at least once every twelve (12) months or at an interval

determined upon petition to the Commission and when there is a change in customers and when requested by the customer. This form should advise the customer of the utility's responsibilities to read the meter.

(c) If the billing period is longer or shorter than the normal billing period by more than five (5) days, the bill shall be prorated on a daily basis.

PSC 312 Estimated Billing

(a) When access to a meter cannot be gained and the customer fails to supply a meter-reading form in time for the billing operation, an estimated bill may be rendered. In cases of emergency, the utility may render estimated bills without reading meters or supplying meter-reading forms to customers. When a customer fails to return a meter-reading form under the customer meter-reading plan, an estimated bill may be rendered. Estimated bills shall be based on the customer's normal consumption for a corresponding period during the preceding months or any other method specifically authorized by the Commission.

(b) Only in unusual cases or when approval is obtained from the customer, shall more than two (2) consecutive estimated bills be rendered, unless the customer fails to supply meter readings as provided in PSC 311(b) above.

(c) If an estimated bill appears to be abnormal when a subsequent reading is obtained, the bill for the entire period shall be computed at a rate which contemplates the use of service during the entire period and the estimated bill shall be deducted. If there is reasonable evidence that the use occurred during only one billing period, the bill shall be so computed.

PSC 313 Billing Content

The utility shall bill each customer as promptly as possible following the reading of his or her meter. Each bill, including the customer's receipt, shall show the present and last preceding meter readings, the date of the present reading, the number and kinds of units metered, the class of service, the amount due, the date when the bill is due, the amount of state and local taxes, and the information required by customer complaint rule PSC 281(c). Where applicable, bills shall show the net and gross amount of the bill and the date after which gross amount must be paid. Bills rendered at rates requiring the measurement of a number of different factors, including but not limited to, demand charges and energy charges, shall show all data necessary for the customer to check the computation of the bill. Estimated bills shall be distinctly marked as such.

PSC 314 Adjustment of Bills - Electric

(a) Inaccurate Meters

(1) Whenever a meter creeps or whenever a var meter or watthour meter installation is found upon test to have an average error of more than two (2%) percent from one hundred (100%) percent or a demand metering installation more than one and one-half (1.5%) percent from one hundred (100%) percent, a recalculation of bills for service shall be made for the period of inaccuracy. The recalculation shall be made on the basis that the service meter should be one hundred (100%) percent accurate with respect to the working test standard.

(2) If the period of inaccuracy cannot be determined, it shall be assumed that the metering equipment has become inaccurate at a

uniform rate since it was installed or last tested except as otherwise provided herein. Recalculation of bills shall be on the basis of actual bills except if the monthly consumption has been reasonably uniform, averaged less than five hundred (500) kilowatt-hour per month, and involved no billings other than kilowatt-hours, then the recalculation of bills may be based on the average monthly consumption and the inaccuracy may be assumed to have existed for a period equal to one-half the time elapsed since th meter was installed or since the last previous test, whichever is later. Adjustments due to slow meters shall be limited to the preceding six (6) months except that a longer period may be authorized by the Commission. The error in registration due to "creep" shall be calculated by timing the rate of "creeping" and assuming that this "creeping" affected the registration of the meter for twenty-five (25%) percent of the time since the last test or since the meter was installed.

(3) When the average error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy consumed based on available data.

(4) If the recalculated bills indicate that more than one ($1) dollar is due an existing customer or two ($2) dollars is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer

may be in cash or as credit on a bill. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address and the utility, upon demand made within three (3) months thereafter shall refund the amount due.

(5) If the recalculated bills indicate that the amount due the utility exceeds ten ($10) dollars, the utility may bill the customer for the amount due. The amount must be billed separately on a form different than the normal bill form and a complete explanation of the billing must be given. Any amounts paid by a customer which are not specifically paid on such a bill must be applied to the customer's last regular bill for service. The charge shall not show as arrears on any bill for service.

(6) No back billing from the time of notification by the customer will be sanctioned if the customer has called to the utility's attention his or her doubts as to the meter's accuracy and the utility has failed within a reasonable time to check it.

(b) Billing Errors

(1) When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, such as but not limited to: improper voltage, improper frequency or waveform, improper power factor, or errors due to temperature variation; the amount of the overcharge shall be refunded or credited to the customer. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be shown separately and identified.

(2) When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, such as but not limited to: improper voltage, improper frequency or waveform, improper power factor, or errors due to temperature variation; the amount of the undercharge may be billed to the customer. The utility may not bill for the amount of the undercharge which occurred more than six (6) months prior to adjustment. The original billing rendered because of meter inaccuracy, or errors in billing, shall be separated from the regular bill and the charges explained in detail. Subsequent to the first billing the amount can be shown as a separate item on the regular bill.

PSC 315 Adjustment of Bills - Gas

(a) Inaccurate Meters

(1) Whenever a meter is found to have an error of more then two (2%) percent fast, a recalculation of bills for service shall be made for the period of inaccuracy assuming an inaccuracy equal to the maximum fast percentage. The recalculation shall be made on the basis that the service meter should be one hundred (100%) percent accurate.

(2) If the period of inaccuracy cannot be determined, it shall be assumed that the full amount of inaccuracy existed during the last half of the period since the meter was last tested. If the recalculated bills indicate that more than one ($1) dollar is due an existing customer or two ($2) dollars is due a person no longer a customer of the utility, the full amount of the calculated difference between the amount paid and the recalculated amount shall be refunded to the customer. The refund to an existing customer may be in cash or as credit

on a bill. If a refund is due a person no longer a customer of the utility, a notice shall be mailed to the last known address and the utility shall, upon request made within three (3) months thereafter, refund the amount due.

(3) Whenever a meter is found to be more than two (2%) percent slow, the utility may bill the customer for the amount that the test indicates has been undercharged for the period of inaccuracy, which period shall not exceed the last six (6) months the meter was in service unless otherwise ordered by the Commission. For the purpose of this billing adjustment, the meter error shall be one-half of the algebraic sum of the error at full-rated flow plus the error at check flow. No back billing from the time of notification by the customer will be sanctioned if the customer has called to the utility's attention his doubts as to the meter's accuracy and the utility has failed within a reasonable time to check it.

(4) Whenever a meter in service is found not to register, the utility may render an estimated bill, if the utility is not at fault in allowing the non-registering meter to be in service.

(b) Billing Errors

(1) When a customer has been overcharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the overcharge shall be adjusted, refunded, or credited to the customer. Credits due a customer because of meter inaccuracies, errors in billing, or misapplication of rates shall be shown separately and identified.

(2) When a customer has been undercharged as a result of incorrect

reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons, the amount of the undercharge may be billed to the customer. The utility may not bill the customer for the amount of the undercharge which occurred more than six (6) months prior to the adjustment. The original billing rendered because of meter inaccuracy, or errors in billing, shall be separated from the regular bill and the charges explained in detail. Subsequent to the first billing, the amount can be shown as a separate item on the regular bill.

PSC 316 Technical Terms

For the purposes of these rules the following terms will be those as defined in the Technical Standards, Public Service Commission:

(1) Average Error

(2) Creeps and/or creeping

(3) Improper Voltage

(4) 100% Accuracy

(5) Test

(6) Working Test Standard

DEPOSIT AND GUARANTEE REQUIREMENTS

PSC 325 Assurance of Payment

The utility shall not require deposit or guarantee of any customer or applicant for service who has established good credit. Deposit or guarantee of payment requirements as prescribed by the utility must be based upon standards which bear a reasonable relationship to the assurance of payment.

(a) "New Service" means service extended to or requested by any customer who has not received service as a customer for the preceding six (6) months. A utility shall not require a cash deposit or other guarantee of payment

as a condition of obtaining new service unless a customer has an unsatisfactory credit or service standing with the utility due to any of the following:

(1) The customer or applicant has outstanding a prior utility service account with the utility which at the time of request for service remains unpaid and not in dispute.

(2) The service of a customer or applicant has previously been disconnected for any permissible reason which is not in dispute.

(3) The credit history as provided in these rules demonstrates that payment cannot be assured. The determination of an adequate credit history must be determined by objective criteria which shall be filed with the Commission in the utility's tariff. Such criteria must bear a reasonable relationship to the assurance of payment.

(b) "Existing Service" means service presently being extended to a customer or which has been extended to a customer within the past six (6) months. A utility shall not require a cash deposit or other guarantee of payment as a condition of continuing existing service unless a customer has an unsatisfactory credit or service standing with the utility due to either of the following:

(1) The service of the customer has been disconnected or has been liable for disconnect for nonpayment of a bill which is not in dispute.

(2) The service of a customer has been disconnected or has been liable for disconnect for any permissible reason which is not in dispute.

PSC 326 Permissible Means of Assuring Payment

(a) Deposit. Where required, a customer may assure payment by submitting a deposit.

(1) A deposit shall not exceed an estimated two-months' gross bill or existing two-months' bill where applicable.

(2) As a condition of obtaining service all deposits shall be in addition to payment of an outstanding bill or a part of such bill as has been resolved to the satisfaction of the utility.

(3) Deposits shall bear an interest rate of not less than six (6%) percent interest compounded annually unless otherwise determined by the Commission. Interest on deposits shall be payable from the date of deposit to the date of refund or disconnection.

(4) Continuance of funds on deposit for a period of twelve (12) months shall constitute good credit and the deposit shall be refunded unless a further condition exists which would require continuing the necessity of assuring payment.

(5) With notice any deposit of a customer may be applied by the utility to a bill when the bill has been determined by the utility to be delinquent. A utility may not disconnect service or shall not be entitled to demand an additional deposit until the deposit has been refunded or until the balance has been entirely used to pay an outstanding bill of the customer.

(6) Upon termination of service, the deposit with accrued interest shall be credited to the final bill and the balance shall be returned within ten (10) days to the customer.

(7) A utility shall not require a deposit or a guarantee of payment of any customer without explaining in writing why that deposit or guarantee is being required. Each utility shall issue a receipt

of deposit to each customer from whom a deposit is received and shall provide means whereby a depositor may establish claim if the receipt is unavailable.

(b) Guarantee of Payment

(1) The utility may accept, in lieu of a deposit, a contract signed by a guarantor satisfactory to the utility whereby payment of a specified sum not exceeding the deposit requirement is guaranteed. The term of such contract shall be for no longer than twelve (12) months, but shall automatically terminate after the customer has closed and paid his or her account with the utility, or at the guarantor's request upon sixty (60) days' written notice to the utility.

(2) Upon termination of a guarantee contract or whenever the utility deems same insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice to the customer. The service of any customer who fails to comply with these requirements may be disconnected upon notice as prescribed in PSC 300.

(3) The utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account he or she has guaranteed unless the guarantor waives such notice in writing.

PSC 327 Credit History and Impermissible Means of Assuring Payment

The utility may determine whether an adequate credit history has been shown, except as herein restricted:

(a) The customers credit history at the same or similar utility which would otherwise demonstrate good credit pursuant to these rules, shall be considered good credit before the utility.

(b) Impermissible means of assuring payment

(1) As a condition of new or existing service, or in determination of credit history, a utility shall not require a deposit or a guarantee of payment based upon income, home ownership, residential location, employment tenure, nature of occupation, race, color, creed, sex, age, national origin, or any other criteria which does not bear a reasonable relationship to the assurance of payment or which is not authorized by these rules.

(2) Credit History. No utility shall use any credit reports other than those reflecting the purchase of utility services to determine the adequacy of a customer's credit history without the permission in writing of a customer. Any credit history so used shall be mailed to the customer in order to provide the customer an opportunity to review the data. Refusal of a customer to permit use of a credit rating or credit service other than that of a utility shall not affect the determination of the utility as to that customer's credit history.

PSC 328 Definitions: Dispute and Disconnect

The terms dispute and disconnect are defined in PSC 303 and PSC 295.

PUBLIC RECORD ACCESS

PSC 335 Information Available to Customers and the Public

(a) The current "customer information" as prescribed in PSC 281 and all other information considered applicable by the Commission shall be kept on file in every station, office of the utility and where customer payments are received.

(b) Suitable signs shall be posted conspicuously at each such location call-

ing attention to the public that the rules, regulations and rate schedules are so filed and available for inspection.

(c) The utility shall retain customer billing, complaint, payment and deposit records for the length of time necessary to permit the utility to comply with the Commission's regulations; provided the utility shall retain these records for not less than three (3) years. A customer's own billing, complaint, payment and deposit records shall be available to that customer.

(d) Each utility shall have available for existing customers and applicants for service such information as is needed to obtain and maintain adequate, timely, and efficient service.

(e) Where a customer is eligible to take service under any one or more of two or more rates, the company shall advise the customer in the selection of the rate or rates which result in the lowest cost of service, based on the information at hand.

(f) Whenever there is a change of rates and whenever it is reasonable to do so, the customer shall be notified if any permissible change in classification will result in a lower cost of service.

(g) Each utility shall furnish additional information as the customer may reasonably request.

PSC 336 Emergency Information

Each utility, for every municipality in which it serves, shall provide in the respective telephone directories a telephone listing by which the utility can be notified during a 24-hour day of any utility service deficiency or emergency which may exist.

APPROVED AS TO FORM AND LEGALITY
FEB 0 1976 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY /s/ Michael B. Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 10 1976 4:00 pm
Joan Anderson Growe
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
FEB 10 1976
BY Eda Standenmaier
AUTH. SIGNATURE
R-5
4:25 pm

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE

PUBLIC SERVICE COMMISSION

Karl F. Rolvaag	Chairman
Ronald L. Anderson	Commissioner
Arlen I. Erdahl	Commissioner
Katherine E. Sasseville	Commissioner
Richard W. Session	Commissioner

In the Matter of Proposed Rules, Amendments and Additions to Existing Rules of the Minnesota Public Service Commission Relating to the Rules of Practice and to the Rules of Gas and Electric Regulation in the Public Utilities Division under the Jurisdiction of the Department of Public Service.

FINDINGS OF FACT

PSC Docket No. A-8117-10

The above-captioned matter as it relates to the Minnesota Rules and Regulations relative to the Customer Service Rules and Standards for Gas and Electric Regulation came for hearing before the full Commission, Karl F. Rolvaag, Chairman, Ronald L. Anderson, Commissioner, and Robert W. Carlson, Commissioner, presiding on the 18th, 19th and 20th day of December, 1974, at 10:00 A.M. respectively, in the State Office Building Auditorium (Room 83), St. Paul, Minnesota, after proper notice as required by Minnesota Statutes, Section 15.0412 (1971) had been served upon all persons registered with the Secretary of State for that purpose.

After affording interested persons opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, the Commission finds the following facts in support of the Customer Rules and Standards for Gas and Electric Regulation as adopted.

I

GENERAL

The Minnesota Public Service Commission's (hereinafter "Commission") Customer Service Rules (Minn. Regs. PSC 279-336), which relate to matters of Customer Service Standards are new regulations and do not amend or supersede any existing regulations.

Minn. Laws 1974, ch. 216B, known as the Minnesota Public Utilities Act of 1974, and specifically Section 8, confers authority upon the Commission to adopt "rules and regulations in furtherance of the purposes (of the Act))." The Customer Service Standards as promulgated are required by the Public Utilities Act.

Certain changes have been made to the proposed rules to improve grammatical or syntax problems with the original proposed rules. These changes are not substantive and, therefore, are not discussed below.

II.

Discussion of Rules and Relevant Facts Pertaining to Each

Customer Service Standards

PSC 279-Effective Date

The purpose of this rule is to allow each utility three months to file their rules which shall be in compliance with the Customer Service Standards promulgated by this Commission. This rule received substantially no comments or objections by various participants.

A.

Customer Complaints

PSC 280-Complaint Procedures

The purpose of this rule is to establish utility complaint procedures. This section remains the same as proposed. By requiring certain complaint procedures, the Commission is better able to determine whether reasonable service has been provided for consumers of electric or gas energy. This rule was received generally without comment from the participants.

It was suggested by Mr. Jay Myster, representing Otter Tail Power Company, that it is difficult to determine at what point a conversation becomes a complaint (Transcript, p. 331). The concern about a definition of a complaint was voiced by several other participants in the hearing. In response to these concerns, the Commission requested submission of written comments containing a suggested definition of "complaint."

By a letter dated January 17, 1975, Otter Tail Power Company submitted a suggested definition of complaint which read, "a complaint shall be defined, for purposes of these rules, as an informal accusation or charge of a customer expressing dissatisfaction." The Commission finds that this definition is not explicit. The boundaries of an "informal accusation" or a "customer expressing dissatisfaction" are just as ambiguous as the word complaint may be.

By written comments received by this Commission on January 20, 1975, Peoples Natural Gas Company suggested that a complaint be defined as "a written communication, signed by the complainant and describing the problem in sufficient detail to allow it to be understood and identified." The Commission finds that in many cases re-

stricting communication to writing is too burdensome. The Commission finds that no suggested definition of a "complaint" was received which improves the reasonable understanding of the word "complaint" itself. The Commission finds that the language of original proposed PSC 280 is sufficient to meet the needs and requirements of the Public Utilities Act.

PSC 281-Customer Information

The purpose of this rule is to notify the public and customers of complaint procedures through posting of signs in utility offices, distribution of "customer information," and information required on utilities' billing statements to its customers. This rule is suggested by similar regulations in Iowa and Michigan. This rule lays out the information that a utility must provide its customers in complaint procedures. This rule does not direct the utility in how it should resolve complaints, but rather it does direct the utility to make each customer aware that the right to complain does exist and that the utility, by virtue of its public trust, must attempt to resolve the complaint rather than ignore it.

PSC 281(a) requires a sign to be posted in all utility office locations directing where and to whom a complaint should be made. During the course of the hearing on this proposed rule, it was suggested by Mr. Ed Tiemann, representing the Minnesota Association of Electrical Cooperatives, that the utilities would have difficulties in enforcing this rule at pay stations such as banks or grocery stores (Transcript, p. 339). This concern was expressed by other utilities during the course of the hearings and in written comments submitted to the Commission. The Commission finds that a utility has a responsibility to expect its bill-collecting agents to post signs. Since there exists some incentive for these agents to collect bills, the Commission finds no excessive burden in placing upon these agents through the utilities the responsibility of providing information to its customers. This requirement is especially relevant in situations where many customer's only contact with a utility is through these bill-collecting agents.

By a letter dated January 8, 1975, Richard H. Zehring, representing the Greater Metropolitan Federation and Legal Assistance of Ramsey County, Inc., suggested that the signs required by this rule must appear in English and Spanish. The Commission notes that no documentation of the number of Spanish speaking customers in the State of Minnesota was presented. The Commission finds that this is not a significant enough problem to place such a requirement upon the rules at this time.

By comments received from Peoples Natural Gas Company on January 20, 1975, the suggestion was made that the sign required by this rule direct all complaints to be sent directly to the Commission. The Commission finds that the primary responsibility for resolving customer complaints rests with the utility and that the Commission's responsibility lies in resolution of complaints which cannot be solved by the customer and the utility. Peoples Natural Gas Company did not supply any rationale for the change in this rule. The Commission finds that such suggested change should not be made.

PSC 281(b) delineates the information to be made available by the utility to the customer. The provision of information to customers is already a common practice in many utilities. Both Michigan and Iowa regulations require the utility to make information available in varying degrees. The "customer information" required by this rule is intended to be adequate but not extensive. The rate schedule provided in 281(b)2 should be in explanatory language which the customer can understand. The regulations of the Commission required by 281(b)4 will be those regulations concerning Customer Service Standards. (PSC 280-336) The notice provision in 281(b)6 is to apprise the customer of the mediation by the Commission and shall inform the customer of the dispute procedures under PSC-303, "Disputes."

The Commission finds that the "customer information" will not only benefit the customer but will also benefit the utility by increasing positive public relations and by reducing the number of individual inquiries concerning rules, rates, deposit procedures, and other information which is required by this rule.

In general, the reaction to 281(b) at the hearings was that the idea of a customer "handbook" or "information" was valid but that the cost might outweigh the benefit to the customer. This concern was expressed by Mr. Bisanz representing People's Natural Gas (Transcript, p. 352).

Another concern expressed at the hearing, was that of Mr. David McGannon, representing Northern States Power, when he pointed out the difficulty in determining who would receive the "customer information." The original proposed Rule 281(b) required the customer information to be provided to each new customer and upon request to any existing customer. Mr. McGannon pointed out that one out of every three customers moved in one year's time. (Transcript, p. 364).

In response to both of these concerns, the final Rule, PSC 281(b), requires the distribution of the "customer information" to be offered to each new customer instead of provided, and to be provided each existing customer upon request. This change should reduce some of the costs of printing this information and should also aleviate the definitional problem in distinquishing "new customer" from "existing customer.

The participants were not unanimous in their concern about reducing the requirements of PSC 281(b). Gerald T. Henrickson, representing the Consumer Affairs Office of the City of St. Paul stated that the availability of the "customer information" is very important and questioned whether having it available at the office would really be of any use in itself. (Transcript, p. 392) Mr. Henrickson also encouraged putting the rates in the"Customer Information". (Transcript, p. 393)

The Commission has balanced all of these concerns in its promulgation of the final rule, 281(b).

In the written comments received by the Commission stronger objection was expressed. In a letter dated January 10, 1975, Axel H. Johnson, representing Kandiyohi Cooperative Electric Power Association, expressed concern over the higher costs especially in view of the changing rates, and questioned how often the "information" would need to be printed. By written comments received by this Commission on January 20, 1975, People's Natural Gas Company suggested that the "information" required by PSC 281(b) would be too expensive, would require interpretation by a person knowledgeable in utility operations, and would be obsolete in a relatively short time. They suggested further that the "information" be available for customer inspection at office locations.

By a letter dated January 3, 1975, William D. Carstedt, representing Interstate Power Company, and by letter dated January 7, 1975, David McGannon, representing Northern States Power Company, indicated that is would be preferable to inform customers of the availability of information at utility offices rather than provide them with printed information as required under Rule PSC 281(b). The concerns over the printing costs of the "Customer Information" and the inclusion of the rate schedule were repeated by various other participants both at the hearings and by written comments received by the Commission.

The Commission finds that the word "customer handbook" as originally proposed in PSC 281(b) is a poor choice of words to describe the requirements of this Rule.

Therefore, the change has been made to insert the word "information" in place of "handbook" wherever used in these rules and regulations. The Commission finds that utilities which devote their property to a public use may not pick and choose, serving only the portions of the territory or the portions of service which it is presently profitable for them to serve, and restricting the development of other portions by ignoring their inhabitants and refusing them the service which they alone can render. New York & Queens Gas Co. v. McCall, 245 U.S. 345,351 (1917). If a customer of a utility has a complaint which is not satisfied, there is no competing utility to which he or she can go. While the Commission cannot as a practical matter serve as an intermediary between every complainant and the utility, it can enact a forceful rule which can create a common ground upon which both the utility and the customer can rely. By having an objective standard provided, the customer and the utility can resolve their dispute on an equal basis.

Customer "handbooks" or "information" are already common practices in many utilities. Both regulations of the State of Michigan and the State of Iowa require utilities to make these available. The Commission realizes that many utilities in Minnesota will be required to reprint handbooks that are already available and others will have to undergo the printing cost to provide this "information." To lessen this load, PSC 281(b) requires distribution of the "information" to be by request or offer only. The Commission is mindful of the cost of operation which utilities must pass on to the rate payers. With this consideration the Commission finds that reducing the costs required by PSC 281(b) will benefit the rate payers, while at the same time will not preclude customers from either access or knowledge of the "customer information." Other rules contained in the Customer Service Standards require the bill to be adequately marked indicating that the "information" is available. In addition, these rules provide that a sign be posted at the paying stations of the utility informing the customer of the availability of the "customer information."

The Commission finds that the "customer information" is intended to be adequate but not extensive. The length of the utility's own rules should not be too broad. It should be remembered that if the customer cannot find the answer, the utility will have to handle the complaint over the telephone or through office personnel, which will result in a higher cost.

The Commission is aware that the requirement of PSC 281(b)(2), requiring the rate schedule pertaining to the customers to be included in this information, could become a

high cost factor if every rate change necessitated reprinting of the entire "customer information." In response to the concerns expressed by the participants, the requirements of PSC 281(b)(2) have been modified to allow the current rate schedule as required by PSC 310(c) to be attached to the "customer information." This procedure would allow the balance of the "customer information" to remain as it existed without necessitating reprinting of the entire "information." The Commission finds that the inclusion of the rate schedule is necessary to permit a customer to compute his or her bill and to determine whether the charge was correct and reasonable.

By letter dated January 20, 1975, Mr. A. L. Pooler, representing Minnesota Gas Company, suggested that PSC 281(b)(3) be amended to insert in the "information," the title, addresses, and phone numbers of the departments of the utility to which complaints should be directed rather than to the personnel of the utility. The Commission concurs with this suggestion in that frequent changes of personnel would necessitate frequent changes of the printing of the "customer information." In addition, the Commission finds that among the telephone numbers listed, the number to call in emergency situations should also be included.

In a letter dated January 17,1975, Connie Green, representing the City of St. Paul, Office of Consumer Affairs, suggested that the "customer information" should be printed in Spanish language as well as English. The Commission finds that no data was presented showing the number of persons that would benefit or that would require the "customer information" be printed in the Spanish language. Upon investigation by the Public Service Department, the Commission finds that this suggested change is unwarranted at this time.

The Commission finds that the benefits of the "customer information" will not only exist for the customer, but also for the utility. The utility will benefit from it by increased positive public relations and by a reduced number of inquiries concerning rules, rates, deposit procedures, and other information.

The purpose of PSC 281(c) is to provide complaint and emergency information on billing statements sent to customers. This rule assures the customer that someone will be able to adequately deal with complaints and inquiries made through the telephone. The Commission finds that most utilities are probably in compliance with this regulation already.

During the course of the hearing, it was suggested by Mr. D. H. Buswell, representing Interstate Power Company, that there is a limit to what information can be put on the bill and that with the requirements of PSC 281(c), that limitation is reached. (Transcript, p. 319). The Commission finds that it did not receive any representative copies of billing forms produced by Interstate Power Company, or by any other participant to the hearings, which would indicate a space problem with these bills, and that therefore this concern has not been substantiated by those participants voicing such objections.

By written comments received by this Commission on January 9, 1975, from David McGannon, representing Northern States Power Company, and by further comments received January 22, 1975 from Jay D. Myster, representing Otter Tail Power Company, and comments received by the Commission on January 20, 1975 from People's Natural Gas Company, the suggestion was made that the requirements of PSC 281(c) could be met with an annual "bill stuffer" rather than providing this information on each bill. The Commission finds that no documentation in support of this suggestion was offered, and further that the purpose to provide this information on each bill where a customer could easily respond would not be met by an annual "billing stuffer." This concern is especially pertinent in light of the fact that a "billing stuffer" received in January is likely to be lost in later months when a problem arises with later bills.

By written comments from Mr. A. L. Pooler, representing Minnesota Gas Company, dated January 20, 1975, and similar comments from Mr. James R. Habicht, representing Minnesota Power & Light Company, dated January 17, 1975, the suggestion was made that the telephone number for emergency situations originally required in PSC 281(c)(2) was unnecessary in the bill in that a telephone directory is the place where people would look for emergency numbers. The Commission finds that this concern is well founded. The Commission further finds that the emergency number is adequately provided in the telephone book as required by PSC 336 and is further adequately provided as required in PSC 281(b)(3)(see Findings of Fact, p. 7) and that therefore the emergency telephone number has accordingly been deleted from the requirements of PSC 281(c) and the numbering of PSC 281(c) has correspondingly been changed.

Further comments to proposed PSC 281 were not of a substantial nature and the Commission finds that the remainder of PSC 281 should stand as proposed.

PSC 282 - Personnel Procedures Required

The purpose of PSC 282 is to assure that capable personnel will be available to adequately deal with complaints and inquiries registered at the utility. The Commission finds that this requirement is similarly provided in other regulations studied.

The Commission finds that during the course of the hearing, comments on this rule were of a general nature and specific changes were not discussed. Mr. D. H. Buswell, representing Interstate Power Company, expressed concern over the wording which required the utility personnel receiving inquiries or complaints through the telephone to be able to refer the customer to the proper department or personnel able to handle the problem effectively. Mr. Buswell expressed concern over what is meant by "authority to take appropriate action" (Transcript, p. 322).

In response to Mr. Buswell's concern, Mr. Lawrence Anderson, Director, Public Service Department, responded that the intent of PSC 282 was to avoid the situation where a person may be calling in to a utility and given the so called run-around and that this rule would give the utility personnel the duty to respond rather than to avoid the inquiry (Transcript, p. 322). The Commission finds that Mr. Anderson's statement is the intent of PSC 282.

In a letter dated January 3, 1975, William D. Carstedt, representing Interstate Power Company, suggested the insertion of the clause "whenever practicable" after "shall" in the first line, second paragraph of PSC 282. Mr. Carstedt stated that with this phrase the rule would recognize that higher authority may sometimes be necessary. The Commission finds that PSC 282 already adequately provides for referring a complaint to the proper department or personnel and that no further change is necessary.

In written comments received by the Commission January 20, 1975, People's Natural Gas Company suggested that the words "inquiry or request" be added after the word "complaint" in the second paragraph of PSC 282. The Commission concurs that this addition would make PSC 282 broader in application and the suggested change has been made.

In written comments received by the Commission January 9, 1975, Mr. David McGannon, representing Northern States Power Company, suggested a substantial change in PSC 282

which would state that, "during all business hours all customer inquiries, requests, or complaints registered by telephone or office visit should be expeditiously received, recorded, and if possible, resolved." The rationale given by Mr. McGannon is that this rule is less ambiguous than the proposed PSC 282. The Commission finds that this proposed change deletes the requirements for qualified personnel to be available to handle complaints and places little responsibility upon the utility to assure customers that their complaints will not be ignored. The Commission finds that such a change in PSC 282 is inconsistent with the statutory requirements of "reasonable service" of the public utilities act.

The Commission finds that reasonable service cannot be provided without adequate communication between a customer and his or her utility. The Commission further finds that PSC 282 facilitates this communication.

PSC 283 - Complaint Records

The Commission finds that PSC 283 which describes the records to be kept, is required in similar form by all state regulations which were studied. The Commission finds that such record keeping is a necessary requisite to enable the utility, the customer, and the Commission to resolve disputes, and to enable reasonable service to be provided.

By written comments received by this Commission on January 9, 1975, Mr. David McGannon, representing Northern States Power Company, recommended that PSC 283 be amended to provide a time limit on record keeping.

This Commission finds that such a time limit need not be established at this time beyond the time limit requirements contained in PSC 335(c).

In a letter dated January 3, 1975, William D. Carstedt, representing Interstate Power Company, suggested that "complaints" should be limited to written complaints. He stated that to do otherwise, any employee or field man would have to fill out a complaint form every time they are confronted by a customer.

The Commission finds that this problem could be overcome by a simple procedure by having a utility instruct field men to inform complaining customers to call the office to register a complaint. The Commission finds that to accept the above suggestion could work to the detriment of a customer who has an urgent complaint and is unable either due to time or other factors, to put it in writing.

By written comments received January 20, 1975, People's Natural Gas Company suggests that complaints as used in PSC 283 be restricted to those "that request or require some specific action." This suggestion is made to clarify which records must be kept.

The Commission finds that the intent of keeping complaint records and their review by the Commission serves a necessary function in determining the adequacy of service. The Commission's interest extends beyond complaints made requiring specific action. For instance, complaints about poor service or interrupted service often do not necessarily require specific action. These complaints should nevertheless be available to this Commission for use in rate proceedings and similar actions.

In a letter dated January 22, 1975, Richard Gill, representing North Central Public Service Company, suggests the deletion in PSC 283(c) of the availability of inspection at all times and replace with inspection during normal business hours. The Commission finds this change to be reasonable. (See discussion below).

In a letter dated January 2, 1975, Timothy McKeown, representing Minnesota Public Interest Research Group (MPIRG), suggests opening these complaint records to the public as well.

The Commission finds that no change is required by this suggestion as a similar requirement is provided in PSC 335.

The Commission finds that it is its duty to survey the history of a utility's complaint record, and various other information covered by PSC 283. The Commission finds that the complaint history of a utility is a necessary item for review during any rate proceeding.

PSC 284 - Reporting Requirements

This regulation specifies the information to be reported by the utilities in the complaint and service areas. As the Commission must review the quality of service provided to Minnesota consumers, this reporting requirement is essential. Through subdivision (a) and (b), the Commission will be able to check critical areas of poor service, curb reoccurring problems, speed up complaint resolution times, make suggestions to utilities to update or upgrade service and generally keep itself aware of the condition of utility service. PSC 284 (c) will assist the Commission in directing communication it receives with customers, to the proper personnel within the utility.

During the course of the hearing, Mr. D. H. Buswell, representing Interstate Power Company, stated that he doubted whether the customer would be benefited by the requirements of PSC 284 and suggested that it be deleted entirely (Transcript, p. 323).

Further comments of a general nature on PSC 284 were provided during the course of the hearings by Mr. Gerald Hendrickson, representing City of St. Paul, Office of Consumer Affairs, in which he stated that this reporting rule is important in helping the customer. (Transcript, p. 399). The Commission finds that PSC 284 is within the requirements of the Public Utilities Act and is consistent with the

provision of reasonable service by a utility and that therefore it should not be deleted.

During the course of the hearings, Mr. Ed Tiemann, representing the Minnesota Association of Electric Cooperatives, questioned the reporting requirement of 30 days after the end of each calendar year (Transcript, p. 342). This view was similarly expressed by Mr. Richard Gill, representing North Central Public Service Company, (Transcript, p. 350) and by Mr. Dick Bisanz, representing People's Natural Gas Company, (Transcript, p. 353).

In response to these concerns as to the filing time limit, the Commission has changed the reporting deadline from 30 days to 60 days after the end of each calendar year.

The Commission finds that many of the comments received on PSC 284 involve the implementation of the rule rather than its content. For instance, Willard Anderson, General Manager, Agralite Cooperative, in a letter dated December 24, 1974, suggested that the form required by 284 be in a standard form. This was the intent of PSC 284 and the Commission finds that no change is needed in the rule. Other comments of a similar nature do not require comment nor do they require change in PSC 284.

By a letter dated Jnauary 17, 1975, Jay D. Myster, representing Otter Tail Power Company, suggests that PSC 284(b) use the words "new service" to clear up the problems with the word "initiate". The Commission finds that this change is not needed as new service is the intent of 284(b).

By letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, suggested deletion of 284(f) and replacing with a requirement which requires the Commission to mail copies of the type of form to be used in the report required by PSC 284. The Commission finds that 284(f) should be amended as suggested and that the Commission shall initially mail copies of the type of form to be used for this report to all utilities. Other changes made in PSC 284 are of a grammatical nature or to improve the wording.

The Commission finds that although some participants suggested deletion of this rule, it is a necessary and proper regulation in order to provide the Commission with sufficient knowledge of the activities and relationship between the utilities and rate payers. Without such information, the Commission finds that is would be unable to determine the adequacy or reasonableness of service provided, and the Commission further finds that PSC 284 is necessary for the purpose of these regulations.

PSC 285 - Inspection

The Commission finds that the purpose of PSC 285 is to insure the right to have the utility's customer service record available. The Commission further finds that this requirement is common to most other regulations studied.

During the course of the hearings, only one comment was elicited on this rule. Mr. Ed Tiemann, representing the Minnesota Association of Electrical Cooperatives, stated that PSC 285 met no objections (Transcript, p. 341).

The Commission has made two minor changes in the wording of PSC 285. First, the Commission has inserted the words "during regular business hours" in determining the time that the Commission can inspect the utility's operations. This change was suggested in a letter dated January 17, 1975, by James R. Habicht, representing Minnesota Power & Light Company.

The second change made in this rule is the deletion of the words at the end of the rule "upon reasonable notice." The Commission finds that such wording is unnecessary in light of the close working relationship between the Commission and utilities and would be a cumbersome and perfunctory requirement.

In a letter dated January 17, 1975, Jay D. Myster, representing Otter Tail Power Company, suggests that the requirements of PSC 285 overlap the requirements of PSC 283(c) and 284(d). The Commission finds that although these provisions may overlap, the requirements of PSC 285 are broader than the other two rules and further finds that PSC 285 speaks to the investigatory powers of the Commission, whereas PSC 284 speaks to the reporting responsibilities of the utility and PSC 283(c), as originally proposed, has been omitted.

PSC 286 - Required Response Time

The Commission finds that PSC 286 which governs the time in which a utility must respond to a complaint will assure that prompt attention is given to all complaints and that these complaints are not lost in the utility's own procedure. The Commission recognizes that a utility cannot always resolve complaints within a certain time period. However, the Commission also finds that it is neither impossible nor cumbersome to respond back to a complainant periodically to report current progress. The Commission finds that the initial five day period is fair to the customer and the utility. The Commission finds that most complaints should be able to be resolved within five days or at least the utility should be able to make some progress within the initial five day period. Whatever the status of a complaint, the Commission finds that consistent with reasonable service, the complainant has a right to know that the utility is still working on it.

During the course of the hearing, concern was raised by a number of participants about the determination of when a complaint is resolved, whether a complaint must be resolved to the satisfaction of the utility to the satisfaction of the complainant, to the satisfaction of both the utility and the complainant, or to the satisfaction of a higher body such as the Commission or courts. The Commission finds that the intent of this regulation is that the complaint resolution should be to the satisfaction of the utility as further procedures are provided in PSC 303 "Disputes," for situations when the customer has not been satisfied with the resolution of the complaint. The Commission finds the working of PSC 286 to be clear and that no change is necessary.

The written comments received by the Commission concerning PSC 286 dealt with the period of time to respond back to the customer. In a written comment received January 20, 1975, People's Natural Gas Company suggested extending the response time to ten days.

In a letter dated January 8, 1975, Mr. Patrick Leary, representing Lyon-Lincoln Electric Cooperative, suggested that the response time period of five days should not include Saturdays, Sundays, and holidays. In a letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, also suggested that the five day response time not include Saturdays, Sundays, and holidays.

The Commission finds that the determination of an adequate response time should be extended as suggested by the representatives of Lyon-Lincoln Cooperative and North Central Public Service and accordingly amends PSC 286 to provide that contact be made with the complainant within five business days.

By a letter dated January 17, 1975, Mr. James R. Habicht, representing Minnesota Power & Light, suggests replacing the definition of resolved to "until the investigation is completed." The Commission finds that in light of the above discussion that this change is unnecessary, as the resolution of the dispute depends upon the utility's determination.

The Commission finds that the required response time provided in PSC 286 is consistent with the Commission's concern and the requirements of the Public Utilities Act to insure that reasonable service is provided to Minnesota rate payers.

PSC 287 - Notice to Public Service Commission

PSC 287 is a companion section with PSC 286. When the Commission becomes involved in a complaint between a customer and a utility, PSC 287 insures the Commission the same response time and directs to the utility the same requirements as contained in PSC 286.

During the course of the hearing, Mr. Jay D. Myster, representing Otter Tail Power Company, suggested that the response time begin tolling the five-day period from the day the notification of the complaint was received by the utility rather than the day the complaint was received by the Public Service Commission. (Transcript, p. 336). The Commission finds that the language of PSC 287 is clear and that the five day response time begins upon notification of the utilty by the Public Service Commission.

During the course of the hearings Mr. David McGannon, representing Northern States Power Company, suggested that the five day response time was too short. He stated that because of the difficulty of resolving some complaints, the wording of PSC 287 which required notice of disposition and the manner in which the complaint was resolved, was unworkable (Transcript, pp. 374-375). In response to this suggestion, the Commission requested an alternative number of days and language be submitted for PSC 287. By a letter received by this Commission on January 9, 1975, Mr. David McGannon submitted the recommendation that the utility be given 14 days to reply as to the status of the complaint. Similar comments from various participants were provided during the course of the hearing and also by written comments received by the Commission.

The Commission finds that a response time of 14 days may be a hardship upon a customer, especially in consideration of situations where the electricity or gas may be completely shut off. The Commission further finds that the five day turn-around period

is not overly burdensome in light of the fact that PSC 287 does not require the problem to be solved but only requires that a response be made to the Commission in PSC 287 (or to the customer in PSC 286) within a reasonable time as to what is the status of the complaint PSC 287 does not require the complaint to be resolved within five days.

By written comments received by this Commission, January 20, 1975, People's Natural Gas Company suggests that an addition be made to PSC 287 which would allow the utility to respond by explaining its position with respect to the complaint if the utility does not view the complaint as justified or reasonably subject to satisfaction. The Commission finds that such response would be permitted by present PSC 287 and that no change in language is needed.

By letter dated January 8, 1975, Richard H. Zehring, representing the Greater Metropolitan Federation, suggests that with the response to the Commission required in PSC 287, the utility also send a carbon copy of the response to the complainant at his home address. The Commission finds that such procedure is not necessary as once a complainant has come to the Commission, the Commission owes the obligation to inform the customer and that this suggested change is an additional cost which will have no benefit to the customer.

In response to the various and numerous suggestions regarding changes in the response time, the Commission finds the intent of these suggested changes is better satisfied by keeping the response time at five days and instead, adding the phrase at the end of PSC 287, "or the status of the complaint in process." This addition clarifies the intent of PSC 287 in that the utility knows the complaint does not have to be resolved but merely it must maintain communication with the Commission within this five day period.

The Commission finds that PSC 287 as amended in its final form insures reasonable service to the complaining customer while at the same time does not place a cumbersome burden upon the utility.

B

SERVICE EXTENSION, DISCONNECTION, & RESTORATION

As noted above, the Commission finds that the Minnesota Public Utilities Act, Minnesota Statutes Chapter 216B, directs the Commission to prescribe regulations governing reasonable service. The Commission finds that these regulations must entail the regulation of service extension, service disconnection, and service restoration. The Commission further finds that authority to regulate in these areas has been prescribed and outlined by the United States Supreme Court when it ruled on the authority of the

New York Public Service Commission to enact regulations governing a utility's extension of service policy. The court ruled.

> Corporations which devote their property to a public use may not pick and choose, serving only the portions of the territory covered by their franchises which it is presently profitable for them to serve and restricting the development of the remaining portions by leaving their inhabitants in discomfort without the service which they alone can render. To correct this disposition to serve where it is profitable and to neglect where it is not, is one of the important purposes for which these administrative (Public Service) Commissions, with large powers, were called into existence, with unorganization and with duties which peculiarly fit them for dealing with problems such as this case present . . . . New York and Queen's Gas Company v. McCall, 245 U.S. 345,351 (1917)

Upon review of comments made at the hearing and upon written comments submitted to the Commission, the Commission finds that a change in the format of the disconnection rules is required. The original intent of the disconnection rules as embodied in PSC 295 Definitions, and PSC 298 Disconnection or Suspension of Service, was to distinguish between disconnections in which the customer was to some degree at fault, and disconnections in which the customer was not responsible. The original intent of these rules was to apply a reconnection charge and a deposit burden in cases where the customer was at fault for the disconnection, and to prohibit a reconnection charge and reduce the deposit burden in situations where the customer was without fault. The implementation of that intent was originally proposed by the use of the terms "disconnection of service in cases of customer fault," and "suspension of service" in cases where the customer was not at fault. This was accomplished by division of PSC 298 into Sections (a) and (b) and by defining in PSC 295 the terms "disconnect and suspension."

During the course of the hearings and upon review of written comments submitted to the Commission, it was demonstrated that the intent of the disconnection rules could better be implemented by deleting the use of the terms "disconnection" and "suspension," and signifying all permissible reasons for termination of service under a title of "disconnection of service." Thereafter each permissible reason could signify whether the reconnect charge and the deposit application would apply or would not apply to the various causes of disconnect. Thus each permissible reason would contain the determination of whether a customer was at fault.

Although the intent of original proposed PSC 298 remains the same, this change in approach has caused a major revision of the format of PSC 298 and subsequently PSC 295. Those changes are discussed in further detail below (See Page 28 et. seq.)

PSC 295 - Definitions

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, suggested that the distinction in the original definitions between disconnection and suspension of service was of no practical difference to his utilities because the difference depended upon the requiring of a continuation of the tolling period for deposits, and as some of his utilities did not require deposits, it was of little matter whether the termination of service was a "disconnection" or a "suspension" (Transcript, p. 185, 187, 189)

The Commission finds that the distinction between suspension and disconnection can better be achieved under each rule of PSC 298 and therefore finds that a definition of a suspension of service may be deleted in PSC 295. (See discussion p. 28 et. seq.)

By a letter dated January 17, 1975, Mr. James R. Habicht, representing Minnesota Power & Light Company, questioned whether the practical application of the definitions expressed in PSC 295 facilitate the actual decision-making process in considering whether an individual's electric or gas service should be discontinued. By a letter dated January 3, 1975, Mr. William D. Carstedt, representing Interstate Power Company, suggested that the distinction by definition between disconnection and suspension on the basis of whether or not a deposit of a customer is returned, is meaningless in practice and is not even wholly consistent with the intention of provisions contained in section PSC 298.

By a letter dated January 17, 1975, Mr. Jay D. Myster, representing Otter Tail Power Company, stated that the definition of disconnection is based upon the return of a customer deposit and that this definition is unrealistic in light of the fact that most services extended to customers are provided without requiring a deposit. Such a distinction would have no application to a disconnection where there is no deposit. By a letter received by this Commission January 9, 1975, Mr. David McGannon, representing Northern States Power Company, suggested that "disconnection" and "suspension" of service are distinguished on the basis of the treatment of the customer's deposit. He stated that N.S.P. was of the opinion that such distinction is unwarranted. Mr. McGannon continued that, as is reflected by the numerous subdivisions of PSC 298(a) and (b), termination of service can occur for numerous reasons, all of which, except for one, are totally unrelated to the purpose for which deposits are secured. Various other utility participants at the hearing submitted written comments which urged the deletion or amendment of the definitons contained in PSC 295(a) and (b),

all of which addressed themselves to substantially the same concern, that is, the lack of a distinction between a "suspension" and "disconnection" of service where deposit requirements are not involved.

The Commission finds that while the distinction between these definitions may be of a minor nature, the retention of the intent of the definitions will have no adverse effect upon those utilities who do not require deposits. The Commission finds that as the participants urging deletion of such distinctions based their rationale upon the fact that they had no deposits, the retention of the distinction would not adversely affect these participants. The Commission finds that no participant demonstrated or asserted that the distinctions would adversely affect the service provided by those participants, nor would the retention of this distinction increase operating costs.

The Commission does find that the distinction between "disconnection" and "suspension" can better be implemented in PSC 298 and accordingly deletes the distinction as contained in PSC 295. The Commission also finds that reference to the deposits of customers and their return is unnecessary in the definition of "disconnection."

The Commission finds that the original intent of PSC 298(b)(5) as originally proposed was to allow a customer of a utility to terminate service for a period of time without allowing the utility to adversely affect the charges made against the customer. The situation envisioned by this rule was that of a customer leaving for a temporary time such as a vacation. The Commission finds that understanding of this provision to allow temporary termination of service upon request of a customer can better be understood by the addition of a definition of "temporary disconnection." Therefore, the Commission has added such a definition, PSC 295(b). The Commission finds that the addition of such a definition is consistent with the original wording of proposed PSC 298(b)(5), which has been renumbered with the appropriate changes discussed below to 298(a)(9).

By a letter dated January 22, 1975, Richard Gill, representing North Central Public Service Company, suggested a change in definition, PSC 295(c) to include as a customer a person who has been accepted as a customer for service. The rationale provided was that a person could commence using the utility's service without notification to, or permission from the utility. Such a person should not be given the status or privileges of a customer.

The Commission finds that as control of service to customers or noncustomers in this situation is entirely within the utility's hands, that such a distinction need not be made in these rules. If a utility extends service to a person before it accepts him as a "customer", it is a problem of the utility and not this Commission.

The Commission finds that no other comments, written or oral, were received concerning the definition of a "customer" and that therefore the definition should remain as proposed.

The Commission finds these definitions to be a necessary and proper regulation in order to adequately determine the existence of reasonable service and to adequately delineate the terms used to permit disconnection of energy service to Minnesota rate payers.

PSC 296 - Extension of Service

PSC 296 governs extensions of service. It must be emphasized that this regulation governs those areas of extraordinary service requests. PSC 296(a) amply describes these extensions as those:

> in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the costs.

For example, connecting service to a new dwelling where the nearest terminal is conveniently placed on the same block would not be governed by PSC 296. This service will be governed in the utility's tariff. However, a request to provide service which is not provided on an existing line or to extend service to a new customer who is, for example, five miles from the nearest terminal is controlled by PSC 296.

The Commission finds that PSC 296(a) is a basic restatement of similar regulations in other states, notably Iowa. The Commission further finds that PSC 296(b) is suggested by a similar regulation in North Dakota, but is modified to the extent required by the Minnesota Public Utilities Act, Minn. Stat., Ch. 216(B). Because the Minnesota Public Utilities Act prescribes that the regulation of a utility should be consistent with the utility's financial requirements, the Commission finds that PSC 296(c) is needed as a "yardstick" by which utilities may create their extension policies. The Commission finds that PSC 296(c) places this regulation in conformity with Minn. Stat., Ch. 216B.01 and 216B.16, subd. 6 (1974.

PSC 296(d) is included to explicitly demonstrate that those provisions of the Minnesota Public Utilities Act, Minn. Stat.Ch.216B (1974) which deal with municipal utilities are not compromised by these regulations which do not apply to municipal utilities.

The Commission finds that PSC 296 leaves a wide degree of discretion with the Commission to accept individual utility extension policies. This is necessary to accommodate varying customer requirements and utility capabilities. This assures the utilities a reasonable compensation for their extra effort by tying the extension of service to cost factors involved in construction of necessary equipment.

Because the extension of service involves a cost which is additional to the regular rates, the Commission finds that a potential problem may exist concerning time to make the extension and deposit requirements of the utility.

The ninety day time requirement contained in PSC 296(b) is in conformity with the Public Utilities Act, Minn. Stat. Ch. 216B (1974). This provision in the Public Utilities Act prescribes a ninety day time limit upon utilities with a possible ninety day extension for furnishing service. The Commission recognizes that cases may exist in which a total of 180 days is too short to enable a utility to complete an extension of service. However, the Commission finds that the above section of the Public Utilities Act is very explicit. This provision requires every customer request for service to be provided within 180 days without exception. The Commission finds that it would be in excess of its regulatory authority to extend this time period within this regulation, PSC 296.

The deposit regulations, PSC 325-328, require, where applicable, a deposit equal to the estimated two-month's bill. In consideration of PSC 296(a) which allows the utility to charge the customer for all or part of the costs of installation, the Commission finds that although the cost of extension of service may be high, the deposit requirements do not need to be broadened as the utility has an alternative means of recovering these increased costs through its tariff filing with this Commission. Therefore, no additional deposit need be required by this regulation.

The Commission finds that the Public Utilities Act, Minn. Stat., Ch.216B.37 (1974) provides that the State of Minnesota shall be divided into geographical areas within which a specified electric utility shall provide electric service to customers on an exclusive basis. The Commission finds that there should not be any area of the State of Minnesota which is not within one utility's service responsibility. The Commission finds that therefore the whole state must be in one service area or another, which would eliminate the need for a provision addressing the extension of service into an area which is not within a service area as provided in PSC 296(e). However, the Commission finds that this provision may be required in the event of dispute as to a service area or mistake in the allocations of a service area.

During the course of the hearings, the suggestion was made by Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, that PSC 296(b) should clarify the situation where a customer requests service but doesn't actually want the service hooked up for a period of time after the request is made and suggested that the 90 day time limit run not from the date service is requested but from the date the customer wants service in fact to be hooked up (Transcript, p. 192).

The Commission finds that determination of the difference between the date service should be connected and the date the request is made is a matter which can best be resolved between the customer and the utility: Further, the Commission finds that upon request of service many customers want the service on the date that they specify and do not want the date that they specify to just begin the grace period for the utility to avoid installation of service. For instance, if a customer requests service on January 1 because he intended to use a summer home beginning June 1, he would hardly benefit by the utility considering June 1 the starting date and then taking 180 days to install service which would mean the customer would not get the benefit of his summer residence until well into the winter. The Commission finds, therefore, that the suggested change should not be made and that the date of request for service should be the starting point for the 90 day period supplied in this regulation.

Further comment during the course of the hearing was elicited from Mr. LeVander upon the problem with PSC 296(e) as to whether or not the entire state would be divided into a service area. As the Commission has subsequently divided the entire state into service areas, this concern has now been met.

During the course of the hearing, Mr. Elmer Trousdale, representing People's Natural Gas Company, suggested an interpretation of PSC 296(b) and (c) which would read the requirements of (b) on the conditions provided in (c). (Transcript p. 278). This interpretation would say in effect that the requirement that all service requests must be made within 180 days be conditioned to allow some requests for service to be denied upon failure to meet the requirements of PSC 296(c). In other words, this extension of service shall be given with due consideration to the public need for adequate service which is being accorded to existing customers and further to any other factors or evidence material or relevant thereto. Mr. Trousdale suggested that if the above was not the intent of PSC 296(b) and (c), that PSC 296(b) be amended to add that the extension would be subject in the case of gas utilities,

to available gas supply.

The Commission finds that the limited availability of some regulated energy sources may be a serious consideration to extending service to new customers in that a serious detriment may result in the service being supplied to present customers. The Commission finds that the present requirements of the Public Utilities Act, Minn. Stat., Ch. 216B.04 (1974), is very explicit in requiring service to be extended to every customer upon request within 180 days.

During the course of the hearings, Dr. D. H. Buswell commented on the applicability of PSC 296(b) and stated that as this rule implements a requirement in the Public Utilities Act that the Commission has misconstrued the statute in that the statute deals with adequacy of service rather than time of service exclusively. Mr. Buswell submitted that there was no need for a time limit in the service rules and that the problem could better be handled on a case to case basis. He stated that if a utility is not providing adequate and timely service to a customer when it can be done, then that matter should come before the Commission rather than to have a rule which would apply to everyone. He commented that it is physically impossible to supply service when the gas is unavailable and that such a requirement in the regulations is therefore impractical and unworkable. (Transcript, p. 293).

The Commission recognizes as noted above the problem with PSC 296(b). However, the Commission finds that in the absence of such an objective standard it would be difficult for the Commission to determine, and for the customer and utility to predict, when the provision of service has been timely made and adequately made and when it has not. The inclusion of the time period in PSC 296(b) provides a much needed objective standard. The Commission finds that in consideration of the time requirements posed in the Minnesota Public Utilities Act, Minn. Stat., Ch. 216B.04 (1974), that it has no choice but to require the same time limit in application of extensions of service in PSC 296.

By letter dated January 8, 1975, Mr. Richard H. Zehring, representing the Greater Metropolitan Federation, suggested that the words "to meet the cost of furnishing the service, including adequate provision for depreciation of its property, and . . ." should be deleted from PSC 296(c). Mr. Zehring commented that these words are unnecessary and add nothing in view of other sections of this regulation.

The Commission finds that PSC 296(c) is included to place the rules in conformity with the Public Utilities Act, Minn. Stat., Ch. 216B.01 and Ch. 216B.16, Subd. 6. Therefore, the Commission finds that such wording should not be deleted and that such wording is necessary and proper for the thorough understanding of the regulation and the conditions which should be given consideration for the extension of service.

By letter dated December 24, 1974, Willard Anderson, representing Agralite Cooperative, suggests redrafting of PSC 296(b) and (c) to make the extension of service conditional upon those factors stated in (c). Mr. Anderson questioned whether the utilities should be obligated to serve everybody within the service area. Mr. Anderson also suggests that a provision should be made to permit a utility to require an advance payment to cover the estimated cost of service or permit a certain minimum charge per year.

The Commission finds as noted above that the Public Utilities Act explicitly requires service to be extended to everyone who requests it. As stated above, the Commission finds that Chapter 216B.01 of the Public Utilities Act provides the standards by which utilities may be regulated but does not make extension of service in Chapter 216B.04 conditioned upon these standards.

The Commission finds that a requirement of advance payment is unnecessary in PSC 296 as it is already provided that the customer may be required to pay all or part of the installation costs in PSC 296(a). The Commission finds that no further wording is necessary to cover installation costs and that as installation costs will be covered, no further need for advance payment to cover this service is necessary.

In a letter dated January 8, 1975, Mr. Patrick Leary, representing Lyon-Lincoln Electric Cooperative, suggests that the 90 day requirement of PSC 296(b) should be from the time the customer requires the service and not from the time the customer requests the service, as the customer can request service three or four months before actually needing it.

The Commission, as discussed above, notes that the Public Utilities Act, Ch. 216B.04 from which PSC 296(b) is derived, explicitly places the time limit upon the "request" for service rather than the time that service is required. The Commission finds that no change in PSC 296(b) is therefore warranted. (See discussion above, p.22).

Similar suggestions concerning the 90 day time period for extension of service and the impossibility of some utilities to provide service when requested by customers in situations where the supply is limited were made by various other participants. These suggestions were substantially identical to the suggestions discussed above.

The Commission finds that no change is warranted in the wording of PSC 296(b) and (c). The Commission further finds that under the dictates of the Public Utilities Act it is compelled to promulgate such regulation.

PSC 297 - Temporary Service

PSC 297 governs temporary service and enforces the responsibility of the utility to provide that service. The Commission finds that PSC 297(a) is a substantial restatement of a gas and electric utility regulation used by the Iowa Commerce Commission and a model regulation proposed by the National Association of Regulatory Commissions (NARUC). The Commission finds that the Iowa regulation (Iowa Departmental Rules Section 20.4(22)) requires the customer to bear all the cost. The Commission finds that the use of the word "may" gives the utility discretion to charge for only partial costs of installation and allows the utility flexibility in dealing with temporary service.

The Commission finds that PSC 297(b) and (c) is found in similar form in the North Dakota Regulation Rule 9, Standards of Electric Service. The Commission finds that while it is a heavier burden on the utility to provide temporary service, the burden comes from the cost of installation of equipment to deliver this service and not necessarily in the cost of energy consumed. Therefore, the Commission finds that some method of assurance is needed to avoid the consumer sustaining a double charge; that is, the consumer will not be exacted a charge for a higher rate, the reason being a classification of "temporary service" and also being charged for the cost of installation of the equipment. The Commission finds that if a higher rate is allowed because of the installation costs, the utility should not at the same time be allowed to recover those costs as a condition of receiving temporary service.

The Commission finds that in light of PSC 297(b) that a companion section 297(c), the advance payment clause, is needed to correspondingly protect the utility against the higher risk involved in providing temporary service.

The Commission finds valid policy considerations for the inclusion of a regulation of temporary service. The Commission finds one important factor is that such a regulation gives the element of predictability in this area. The consumer can determine his costs before embarking on the temporary service. In this manner, cheaper alternatives can be considered before the cost is incurred. In addition, the Commission finds the necessity of this provision, and in that it recognizes the use of temporary service, and insures against arbitrary denial of such service by a utility.

During the course of the hearing, discussion of PSC 297 elicited little comment. Most participants stated that the rule as proposed was satisfactory (Transcript, p. 193).

By a letter dated January 8, 1975, Mr. Richard H. Zehring, representing the Greater Metropolitan Federation, suggested that within PSC 297(c) provisions be made for review of the amount of the advance payment required in this subsection and suggested that the section read, "The utility may require the customer to make an advance payment sufficient to cover the estimated cost of service as is used in PSC 297(a) above, which deposit amount shall be subject to review pursuant to PSC 280.

The Commission finds that such language is not needed in PSC 297(c) as PSC Sections 280, 282, 286 and 303 all permit the customer to dispute and resolve the amount of the advance payment or permit the Commission to investigate the amount of the advance payment. Restatement of those provisions in PSC 297(c) is unnecessary.

By written comments received January 22, 1975, Richard Gill, representing North Central Public Service Company, suggested that PSC 297(a) be amended to allow the utility to require the customer to bear the cost of removing any facilities necessary to render service in excess of any salvage realized. The reason suggested for this addition was to clarify the intent of PSC 297(a).

The Commission finds that such language may be implied within the phrase of PSC 297(a), especially the term "cost of service." The Commission finds that further delineation of the meaning of "cost of service" is unnecessary within this rule.

Mr. Gill further suggests that PSC 297(c) accommodate the meaning of the word "cost of service" by substituting a requirement that the utility may require a customer to make advance payment to cover the cost of any facilities necessary to render this service in excess of any salvage realized. The only rationale provided is that such words clarify the meaning of PSC 297(c).

The Commission finds that as with the similar change in PSC 297(a) suggested by Mr. Gill above, this change is not necessary. The facilities necessary to render service may reasonably be implied and included in the term "cost of service."

By letter dated January 17, 1975, James R. Habicht, representing Minnesota Power and Light Company, suggests that PSC 297(b) should be deleted and that the charges for temporary service could better be handled in the Commission's acceptance of rate schedules which account for those incremental costs of supplying power to temporary users. Mr. Habicht states that PSC 297(b) does not reflect the economics

of power generation for temporary users and that there are other substantial factors involved in providing temporary electrical service that are not accurately reflected when PSC 297 is the sole provision available for adjusting the necessary revenue that can be obtained from a temporary user in relationship to a regular customer.

The Commission finds that Mr. Habicht's suggestion may be adequately provided within the provisions of PSC 297 without change of language. The Commission finds that the purpose of PSC 297(a) and (b), when read together, is to avoid a double charge that utilities may make upon temporary users by providing special high rates which quickly recoup the high installation costs on the one hand, and then turning around and charging large deposits and advance payments to cover these same costs. Beyond the avoidance of such a double charge, the enforcement of PSC 297 will not force a utility to lose the substantial costs involved in providing temporary electrical service. The rates charged for temporary service will be adequately accounted for in a utility's tariff filing and will only be subject to this condition contained in PSC 297 that a utility cannot recover the costs of installation with both an advance payment and a higher rate charged. The Commission finds that the suggested change should not be made in PSC 297.

By letter dated January 20, 1975, Mr. A. L. Pooler, representing Minnesota Gas Company, suggests that PSC 297(b) be written to allow the rates charged to a customer to provide a reasonable rate of return for the utility. Mr. Pooler's rationale for such change is that Minnesota Gas Company believes that the rate charged for a commodity should be adequate to warrant the installation which may be in excess of the "regular rates applicable to the class of service rendered

The Commission finds, as noted above, that the cost of installation can more adequately be covered in the advance payment charge rather than in a necessary increase of the regular rates. The Commission finds that in the event temporary service is demonstrated by a utility to necessitate a higher charge, that matter can eventually be determined in a rate application.

The Commission finds that "temporary service" is also subject to the Public Utilities Act, Ch. 216B.04, Minn. Stat. and that, therefore, extensions of such service come within the 180 day requirement of the act and that such extensions may not be denied.

The Commission finds that a provision regulating the charges and provisions of temporary service is a necessary regulation in the determination of reasonable and adequate services to Minnesota rate payers.

PSC 298 - Disconnection or Suspension of Service

The Commission finds that regulations governing the permissible and impermissible reasons for a disconnection of service are common to every state which regulates gas and electric utilities. The regulation of disconnection of service is essential to a public utility's determination of the standard of service furnished both to customers who are disconnected and to customers who remain connected for service but who must pay the cost of disconnecting service to others through increased rates. The Commission finds that regulation of disconnection of service is a necessary regulation and within the requirements of Minnesota Public Utilities Act, Minn. Stat., Ch. 216B.09,(1974) Minnesota Statutes, which states:

> The Commission . . . may ascertain and fix just and reasonable standards, classifications, regulations or practice to be observed and followed . . . with respect to the service to be furnished.

Within the provisions of the Minnesota Public Utilities Act, Minn. Stat., Ch. 216B.07 (1974) states:

> No public utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

The Commission finds that in absence of regulation governing the permissible and impermissible reasons to disconnect service, that a utility would be able to prejudice customers and discriminate against certain rate payers through its arbitrary decisions to provide service and discontinue service at its own discretion. Such actions would not only be in violation of the Public Utilities Act, but if allowed by this Commission, would be in derogation of its statutory responsibility.

As noted above, under discussion of PSC 295, the intent of PSC 298, as originally discussed during the course of the hearings, was to apply a reconnect charge in the event of "disconnection" and not make such a charge with a "suspension" to similarly control the tolling period of the deposit as provided in PSC 325-328. The difference was to be made upon the distinction of customer fault or lack thereof in the causes of disconnection. Upon review of testimony provided at the oral hearings and written comments submitted to this Commission, the Commission finds that the intent of this regulation can better be implemented through a change in format. The Commission finds that rather than differentiating between "disconnection" and "suspension" of service, each permissible reason for disconnection can, within its own provision, refer to the existence, or lack thereof, of customer fault in the cause of the disconnection. Accordingly, the Commission finds that PSC 298(a) as it relates to "disconnection" of service and as it deletes discussion of "suspension"

of service (PSC 298(b)), should be deleted. In place thereof, PSC 298(a) should discuss all permissible reasons for termination of service regardless of fault of the customer. The Commission further finds that the provisions of originally proposed PSC 298(b) should be incorporated in PSC 298(a) and that PSC 298(c) should be renumbered PSC 298(b) and that PSC 298(d) should be renumbered PSC 298(c). The Commission further finds that PSC 298(d) is unneeded in the numbering sequence of this regulation.

During the course of the hearings, numerous participants suggested that the distinction between "suspension" and "disconnection" should be eliminated. As the Commission has accepted the intention of these remarks and as these remarks were met with no basic objection by any participants at the hearing, nor as these remarks were met with no objection by any of the written comments received, the individual response to these comments is unnecessary. (See Transcript, p. 185 et. seq.)

PSC 298(a) lists ten permissible reasons which will allow disconnection of service. Disconnection for nonpayment of bill, PSC 298(a)(1), is the most common provision found in other state regulations. The Commission finds that continuation of service for nonpayment of bill is a detriment to those customers who must bear the cost of such "free" service and would not be adequate to meet the financial requirements of the utility.

The Commission finds that disconnection for nonpayment of bill, only when the amount of the deposit plus accrued interest has been used to satisfy the incurred obligation, is a necessary provision for the protection of customers who have paid deposits. The Commission finds that for many consumers a deposit of two months' estimated bill as provided in PSC 326(a)(1) may be a heavy burden. The Commission also finds that a deposit interest of only six (6%) percent is more disadvantageous to the customer. The Commission finds that the purpose of a deposit is to assure payment. In periods where the customer is in arrears, the deposit should be used in accordance with its purpose to cover a customer's arrears before the utility should have the right to disconnect service. The Commission finds that for those customers forced to deposit a two months' estimated bill and receive only six (6%) percent interest on this forced deposit, that it is only proper as a bare minimum the deposit should be to the advantage of the customer rather than the utility when payment is in arrears and the customer is subject to disconnection.

Therefore, the Commission finds that the deposit is to be applied to the bill when in arrears and the remainder plus interest (where the disconnection is for some purpose other than nonpayment should remain guaranteed to be returned to the customer. This procedure should be followed before service is disconnected. The Commission also finds that this enables the deposit, which is in the hands of the utility, to act as a buffer for the customer to assure that customer of continued service until the deposit, the customer's own funds, has been depleted to pay the arrearages.

The Commission finds that this regulation exists in similar form as used by the Public Service Commission of the State of North Dakota, which is stated in Rule 17 - Discontinuance of Service, Standards for Gas Service Section 57:

> (a) No utility shall discontinue its service to any customer until the amount of the meter deposit, if any, equals the bill.

The Commission finds that use of a customer deposit, where required, to offset arrearage by the customer, is consistent with reasonable service. As the use of this deposit is to use the customer's funds which were placed with the utility to assure payment, it is consistent with the purposes of the Public Utilities Act that such deposit should be applied to a past due bill before the utility is entitled to disconnect service for nonpayment of bill.

PSC 298(a)(2) permits a utility to disconnect service to a customer who has failed to meet the deposit and credit requirements as outlined in PSC 325-328. Provisions similar to these are found in other state regulations. The Commission finds that this provision is additionally needed to offset the requirements of the deposit rules contained herein, as without being able to disconnect service for refusal to comply with the deposit rule leaves the deposit rule largely without any force. This rule is also especially important in light of PSC 298(a)(1) which requires the use of the deposit to offset a bill before disconnection is permitted. The Commission finds that the second requirement within this section, that this rule is subject to requirements of PSC 298(a)(1), is necessary to insure that no circumvention of the deposit and disconnection rules will be possible. The Commission finds that without this addition it would be technically possible for a utility to disconnect service for nonpayment of bill once the utility has begun to use the deposit fund, as it could be interpreted that once the deposit fund has been

reduced below the estimated two months' bill, but not yet completely used, that a failure to meet the deposit requirements existed and that the utility could disconnect right away. The Commission emphasizes that such circumvention should not be allowed and that the use of the deposit to meet the past due bills should be available to the deposit paying customer. The Commission finds that the addition of this statement to PSC 298(a)(2) is for the purpose of clarity in understanding the relationship between this section and PSC 298(a)(1) and is also consistent with the total intent of the regulation.

PSC 298(a)(3) permits disconnection of service to a customer who has violated the utility's rules on file with the Commission. The Commission finds that this regulation is a standard regulation found in other states. The Commission finds that the rules subject to this disconnection should be those accepted and on file with the Commission to enable both the Commission and the customer to obtain an objective standard by which to judge their actions rather than a subjective standard at the discretion of the utility under which capricious disconnections of service could be possible. The Commission finds that once a customer is aware of the approved utility rules and through his contract for service has accepted those rules, that the customer is bound in consideration to the utility's ability to serve other customers and in consideration to the cost which necessarily results from violation of these rules. Accordingly, if such rules are violated, the customer should not expect continuation of service.

PSC 298(a)(4) contains wording which has a similar effect as that found in PSC 298(a)(3). The Commission finds that this regulation covers those situations between the utility and the customer where additional requirements are needed in order for service to be provided. This regulation would apply to circumstances such as extraordinary energy use by commercial or industrial customers. This regulation is found in similar form in other states. The Commission finds that this provision allows the utility the freedom to contract with a customer for service which may not be governed directly by these regulations; and further, that this freedom to contract may include the right to disconnect service in the event of breach by the customer.

The Commission finds that PSC 298(a)(1) thru PSC 298(a)(4) contains situations where the customer has evidenced a cause or some degree of fault for the condition leading to disconnection of service. In such situations, the Commission finds that the customer should not be able to continue the tolling period of his deposit, if

any, and that if reconnected to service, should be required to begin the deposit conditions, if they are required, rather than continue them as if the customer had been receiving service during the period of disconnection. The Commission further finds that because of the degree of customer fault involved with these provisions, that the utility should be permitted to recover its cost of reconnection of service through the charge of a reconnect fee.

The Commission finds that in the causes of disconnection discussed above, that service to other customers will not immediately be jeopardized and that the operation of the utility as a whole will not be directly affected. Therefore, the Commission finds that a notice of these disconnections should be given to the customer in compliance with PSC 300.

PSC 298(a)(5) permits disconnection of service in the event of unauthorized use of utility equipment by the customer or in the event that the customer is tampering with such equipment. It will be noted that this section permits disconnection without compliance to the notice provision contained in PSC 300. This regulation is found in similar form in regulations of other states. The Commission finds that its purpose is to deter customers from tapping a gas main or electric service before being metered or to stop customers from tampering with the metering equipment.

PSC 298(a)(6) permits disconnection of service in hazardous conditions in which the danger exists to the customer, to other customers, to the utility's equipment, or to the public. The Commission finds that this condition would exist in emergencies such as a storm or where there is an equipment malfunction. The Commission finds that in such situations the customer is not responsible and should not be held to the point of paying a penalty in the form of a reconnect fee or sustaining the adversity of beginning the deposit tolling period over again, in the event the customer has a deposit on file. The Commission finds that because of the immediacy of this type of situation and because reconnection or disconnection of service will not further penalize a customer, that the notice provision may be waived.

PSC 298(a)(7) permits disconnection of service when a customer has failed to provide the utility reasonable access to the utility's equipment. The Commission finds this regulation is found in similar form in other state regulations. The Commission finds that the central focus of this provision is to encourage access by the utility to its equipment which happens to be on the property of the customer.

The Commission finds that such a requirement is necessary for the efficient operation of utility service and refusal to grant such access may be a detriment to other customers and the utility as well. The Commission recognizes that such access to utility equipment cannot be arbitrarily demanded by the utility and, therefore, such requests should be of a reasonable nature.

PSC 298(a)(8) allows disconnection when a customer refuses to furnish service, equipment, or right of way which is necessary for that customer to be served by the utility providing that such conditions were required as a prerequisite to obtaining service by the utility. The Commission finds that this regulation is similar to regulations of other states. This provision differs from PSC 298(a)**(7) that** here the customer's own equipment is involved rather than the utility's equipment. The Commission finds that the customer will have already agreed to furnishing such equipment as it will be specified as a condition that the customer must meet before service can be provided. This provision envisions the situation such as in the case of an electrical consumer whose equipment may demand too heavy a load requirement upon the service provided by the utility which, therefore, endangers the quality of service provided to other customers.

PSC 298(a)(9) allows a temporary disconnection of service when requested by the customer. This provision should be read in conjunction with PSC 295(b). The Commission finds that there does not appear to be any reason why a customer should not be able to interrupt his own service at any time the need arises. In most situations, for residential customers, this interruption of service is a relatively inexpensive task for the utility. This provision envisions the customer desiring to interrupt service in cases of vacation dwellings or seasonal use. The Commission finds that since the customer is the cause of the disconnection that a reconnect fee should be allowed. The Commission also finds, however, that because no additional detriment is incurred by either the customer or the utility, that the time period under the deposit rules should not be interrupted and the utility should not be able to require a new deposit when service is reconnected. This will enable a customer to continue building a good credit rating and will avoid the requirement of continual deposits in situations where service is never received during an annual 12 month period. (See PSC 326(a)(4).)

The Commission recognizes that all reconnect fees provided in PSC 302 will be based upon the cost of reconnection as filed with the Commission. Accordingly, the Commission recognizes that a higher frequency of disconnections and reconnections will necessarily raise the cost of a reconnection. Therefore, the

Commission finds that the thirty day period as originally provided in PSC 298(a)(5) which this provision replaces, is an unnecessary requirement. The original regulation did not apply to disconnections for periods less than 30 days. Accordingly, the Commission finds that it should be deleted as the utility is still insured that the costs of such disconnection will be borne by the customer causing the disconnection whenever that customer requests reconnection and will not be sustained by the utility or by other customers.

PSC 298(a)(10) allows disconnection of service in the circumstance where a customer has been determined by this Commission, or by other applicable state standard or agency having appropriate jurisdiction, to be willfully wasting service through improper equipment. Through this provision, the Commission recognized the importance of energy conservation and the role that it will play in the regulation of gas and electric utilities. Because of the changing circumstances of the availability of energy supplies, the Commission recognizes that the determination of "wasting energy" will be a relative standard and is not conducive to static determination within a regulation. Therefore, the Commission finds that the determination of "wasting energy" and the determination of "willful action" by a customer should be left to individual circumstances, determined by an objective agency such as the Commission. This provision is found in similar form by those regulations of the State of Washington. (Chapter 480-100-071 Discontinuance of Service(4) Washington Annotated Code). The Commission finds that regulations such as these are receiving increased attention in other states as the role of regulatory agencies in relation to the consumption of energy and energy conservation is receiving increasing consideration. The Commisssion finds that this regulation does not necessarily require immediate controls, but rather it serves as notice to both the consumer and the utility that the Commission will not neglect its responsibilities in this area.

PSC 298(b) discusses the nonpermissible reasons to disconnect service. PSC 298(b)(1) disallows disconnection of service for delinquency in payment for services rendered to a previous customer who occupied the premises occupied now by the present customer unless the previous customer continues to occupy the premises. The Commission finds that the purpose of this regulation is to apply to instances, for example, where a new tenant moves into premises where the previous tenant has left owing a bill. The new tenant should not be forced to pay for arrearages upon his meter in which he was not involved. The Commission finds that this regulation recognizes that situations arise where individuals avoid bills by remaining at the premises and switching

names in the application for service from one to another. In order to avoid this problem, the Commission allows disconnection of service where a former customer continues to occupy the premises. The Commission finds that this regulation enables the utility to follow the customer for past due bills, but prohibits the liability from remaining with a meter when "ownership" of the meter changes hands. The Commission finds that this provision is found in similar form in other regulations of other states.

PSC 298(b)(2) disallows disconnection of service in the situation where a customer has failed to pay for merchandise or appliances not directly related to the utility's function as supplier of energy. This provision recognizes that many utilities are not only in the business of supplying energy, but are also in the business of sales of appliances such as stoves and refrigerators. The Commission finds this regulation in similar form in all other states reviewed which regulate gas and electric utilities. The Commission finds that it should remain at the Commission's discretion to determine what constitutes appliance and merchandise.

PSC 298(b)(3)disallows disconnection of service in those situations where one individual may be receiving service under two different classes. This situation exists where, for instance, an individual may be receiving service under a commercial class and under separate billing may be receiving service for a residential class. This provision is found in similar form in other state regulations. The Commission finds that if the utility takes the benefit of charging one individual customer two different classes, which differential in the class could result in higher revenue to the utility, then the utility should also take the burden of treating these individuals receiving two classes of service as two separate customers. Accordingly, the Commission finds that the utility should not be able to disconnect service to a customer for instance under a residential class when the customer has made prompt payment of the residential service but has come into arrears in the payment of his commercial service.

PSC 298(b((4) disallows disconnection in the situation where a customer has been charged for an inaccurate meter and has refused to pay such charge. This provision allows disconnection for such refusal of payment only when the customer and the utility have agreed upon the amount due to correct the inaccurate meter or the amount due has been determined through these regulations, the Public Service Commission or the courts. (See discussion of this rule info pp. 73 and 74.)

The Commission finds that this regulation is substantially the same as most

other state regulations. In addition, the Commission finds that this provision provides the best incentive for the utilities to keep meters accurate. Accurate meters are an essential part of the providing of reasonable service and are, therefore, a necessary concern of this Commission. Once the amount of inaccuracy has been determined, the customer no longer has the protection of this provision and must pay the bill as required and would be additionally subject to disconnection of service for nonpayment of bill as provided under PSC 298(a)(1).

PSC 298(b)(5) disallows disconnection of service when a customer has failed to pay an estimated bill unless the customer has refused to permit the reading of the meter during reasonable hours. This regulation is substantially the same as Wisconsin's regulation (Wisconsin §PSC 134.062(5)h). The Commission recognizes the need for accurate bills and the determination of reasonable and adequate service. However, the Commission finds that the estimated bill should never take precedence over the actual bill and that the burden should be on the utility to read and obtain actual readings when the customer refuses to pay an estimated bill because the customer may believe the bill to be in error. Therefore, this provision permits the customer to refuse to pay an estimated bill as long as the customer has allowed the utility access to read the meter in order to obtain an actual bill.

PSC 298(b)(6) is similar in nature to PSC 298(b)(3). This provision disallows disconnection of service on one meter when the individual responsible for payment of that meter happens to be in arrears for charges incurred on a separate meter. This situation, for instance, would apply where the individual has a grocery store on one meter and his home on another, or where a customer has two distinct businesses and the utility has chosen to have separate meters for each business. In such situation, each service should be treated as an individual customer and the utility should not be able to double up by threatening disconnection of every meter when the service to only one of the meters is in arrears. This provision is found in similar form in other states. The Commission finds that this provision should not be made to apply in the situation where a person has received service at one meter and has left and then commences to receive service from a second meter. Therefore, the Commission has provided that this disconnection will be allowed only when the charges from more than one meter are <u>concurrent</u>. This is an addition to the original wording of this regulation.

PSC 298(b)(7) disallows disconnection of service when a customer has refused to pay a bill which was to correct previous underbilling due to a misapplication of rates as long as the customer has agreed to payment over a reasonable period of time. This provision is included to avoid the situation where an underbilling has occurred over a long period of time, and upon discovery the utility attempts to correct such underbilling in the next billing period. The Commission finds that the customer has little control over misapplication of rates and, therefore, cannot be held responsible in a situation where the billing error has occurred. Although the customer should pay for service obtained, the payment period should be reasonable and usually should cover the same period of time in which the underbilling occurred.

The Commission finds that this provision balances the interests of the customer who must be able to predict the cost of service and also must be able to know that bills will be consistent, with the interests of the utility to receive adequate compensation for service delivered although inaccurately charged. If the customer is allowed to avoid paying for service which has been received, but inaccurately charged, then other customers will have to bear the burden for this error and this should not be allowed to happen.

To avoid this problem, the utility may not disconnect or suspend service for nonpayment of bill when rates have been misapplied unless the customer has refused to make a payment which has been extended over a reasonable period of time. The Commission finds that it must be remembered that the utility is the responsible party for this error in the first place and under no circumstances should the customer be made to suffer unduly.

PSC 298(c) is a special regulation which applies to situations where the individual residing at the premises is not the customer who incurred the obligation to pay for the bill. This normally occurs in a "landlord-tenant relationship" and is, therefore, entitled Landlord-Tenant Rule. The Commission finds that this rule insures tenants that they will not be disconnected for their landlord's failure to pay the bill without having first received from the utility the opportunity to obtain service in their own right. The Commission finds that this provision is particularly applicable to urban areas as the percentage of tenant-consumers increases. The intent of this regulation is not to provide a means by which landlords and tenants can avoid payment of a utility bill, but rather to provide a means by

which the disconnection of service will not harm an innocent party. As in the case of PSC 298(b)(1), this rule applies the threat of disconnection of service only upon the customer who incurred the obligation. Beyond the above stated rule, the Landlord-Tenant Rule also insures to a tenant that the utility will attempt to give the tenant the opportunity to subscribe for the service before the service will be disconnected.

The Commission recognizes the difficulty that a utility may have in determining when a landlord-tenant relationship exists and therefore allows within this rule some degree of flexibility where uncertainty may be present. The Commission further recognizes the difficulty in providing individual service to groups of tenants where the metering or energy distribution system may be adaptable only to one customer or one person responsible for the bill. Therefore, the Commission has also inserted in this rule a degree of flexibility and requires the utility to offer service to the tenants only where feasible. Within these requirements, the Commission finds that this provision is necessary to the supply of reasonable and adequate service to customers existing in a landlord-tenant relationship.

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, while referring to PSC 298(a) suggested that as the original proposed rule stated a deposit must be returned "immediately" upon disconnection of service, that the cooperatives would have a good deal of trouble under the operating procedures to refund a deposit that quickly (Transcript, p. 194). Mr. LeVander continued by stating that it was his opinion that ch. 424 (Section 325.637 Minn. Stat. (1974)) would control the law governing deposits. He stated that the statute says that when service is terminated, the deposit plus interest must be returned within 45 days after the termination of service. He continued to state that where there is a specific statute stating that there is a deposit limit or deposit time limit of 45 days in which to return deposits, that that statute was controlling. He stated that these regulations herein adopted could not conflict with another statute. Mr. LeVander stated that in place of the word "immediately," that the word "promptly" or "expeditiously" would be more appropriate, and also that such wording would take cognizance of the fact there is a statute which allows 45 days to refund deposits.

In response to the concern over Ch. 424, Minn. Stat., the Commission adopts the opinion provided at the hearing by Mr. Rod Wilson (Transcript pp. 195-196), Special Assistant Attorney General, and counsel to the Public Service Commission. Mr. Wilson responded to Mr. LeVander's statement citing the Public Utilities Act, Section 216B.66, Construction, Minn. Stat. (1974), which states:

> (The Public Utilities Act) is complete in itself and other Minnesota statutes are not to be construed as applicable to the supervision or regulation of public utilities by the Commission. All acts and parts of acts in conflict with (The Public Utilities Act) are repealed insofar as they pertain to the regulation of public utilities as defined herein.

Mr. Wilson continued to note that the Commission was aware of Chapter 424 and is of the opinion that under Section 66, any acts pertaining to the regulation of public utilities are considered repealed.

In response to Mr. Wilson, Mr. LeVander stated, "Our conception is that there is nothing in the Public Utilities Act which is in conflict with Ch. 424 (Deposits) because there is nothing in the Public Utilities Act that sets time limits, amounts, or anything else regarding deposits; and, therefore, there is no conflict between 424 and the provisions of the Public Utilities Act." Accordingly, Mr. LeVander continued, "You cannot, by rule, develop such a conflict. The rule cannot be promulgated except it be consistent with the Act and you cannot boot-strap yourself along by adopting a rule that conflicts with the law." (Transcript p. 196)

Mr. LeVander continued, that the real concern was with the word "immediately" in that as a practical matter it is simply unenforceable or inappropriate because the return of a deposit cannot be done "immediately."

The Commission finds that it is within its duty and authority to regulate public utilities with respect to the service to be furnished. The Commission is reminded of its duty as prescribed in the Minnesota Public Utilities Act, Section 216B.08, Minn. Stat. (1974), to make rules and regulations in furtherance of the purposes of this Act. The Commission finds that the regulation of deposits is a necessary ingredient to the determination of reasonable service. The Commission finds that in the event deposits were not regulated by the Commission, that the possibility of inadequate service could exist. The Commission finds that within the "purposes of the Public Utilities Act" to which it must make rule and regulations, is included Section 216B.07 which provides:

> No public utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

The Commission finds that in absence of controlling regulation and under the present conditions as they exist in Minnesota, that deposits may be required of some customers and waived as to other customers without any rational basis as to the distinctions between each. As it pertains to the return of deposits in PSC 298(a), the Commission finds that absent any return provision, a deposit may be held for an unreasonable length of time after service has been terminated and, in fact, may never be returned to the customer entitled to have the deposit returned. The Commission finds that such procedures, absent any regulation, would result in prejudice or discrimination. The Commission finds that in situations where customers leave a community and terminate service, that by the end of 45 days the utility is unable to reach the customer and if a 45-day time limit was required, the utility would be able to avoid deposit returns and the customer would thus be out of his deposit. Such discrimination and prejudice demands that the Commission further regulate deposits as they are obligated to do under the Public Utilities Act.

The Commission is aware of the procedural difficulties in the requirement of PSC 298(a) which, as originally proposed, required return of the deposit "immediately" upon disconnection. Accordingly, the Commission finds that the time limit to return a deposit should be reasonable. The Commission finds that a period of ten days is reasonable and consistent with the purposes of the Act.

In discussion of PSC 298(a), Mr. LeVander continued with discussion of subsection (1). Mr. LeVander's concern with disconnections for nonpayment of bill was that the requirement to not disconnect for nonpayment until the amount of the deposit had been used to satisfy the amount of the bill was not realistic (transcript, p. 201). Mr. LeVander stated in most cases a customer is 60 to 70 days in arrears before the disconnect point is reached. At that point in time, he stated, residential deposits are normally simply insufficient to cover the amount of the bill and suggested that this would be the case in most situations (transcript, p. 202).

The Commission finds that the circumstances outlined by Mr. LeVander do not pose a problem to this regulation. In the situation where a bill exceeds a deposit or the "incurred obligations" exceed the deposit, the utility is free to disconnect and may use all of the deposit to meet those obligations. The Commission is concerned

with the situation where a customer is disconnected before the deposit has been used up and finds that the regulation, PSC 298(a)(1), addresses itself to that circumstance.

Mr. LeVander stated that if the Commission does continue the intent of the rule of PSC 298(a)(1), that rather than relate the deposit to the amount of the stated bill, the deposit should be related to the total accummulated amount (of energy) used or some similar method (Transcript, p. 203).

In response to this concern, the Commission finds that the stated bill may often not include the total amount of obligations for which the customer has become liable and that the deposit should allow disconnection for service when the deposit has been used to meet all of these obligations and not just the stated bill. The Commission finds that the change in the language should be made and has amended PSC 298(a)(1) accordingly.

During the course of the hearing, Mr. LeVander expressed concern over the distinction between "disconnection" of service and "suspension" of service as expressed in PSC 298(a) and (b) (Transcript, p. 206).

As the Commission finds that the format and organization of PSC 298, as originally proposed, is cumbersome and difficult to apply. It has proceeded to amend PSC 298(a) and (b) which improves the regulation and retains its original intent. Therefore, the Commission finds that Mr. LeVander's concerns in this area have been met.

Mr. LeVander stated that if the customer is himself creating a problem by which his service is disconnected, it is unreasonable not to charge him a reconnect fee for a condition that he himself created. In cases where he (the customer) has no responsibility or liability, Mr. LeVander stated that he agreed that a reconnect fee should be waived. The Commission finds that PSC 298(a)(6), in situations of hazardous conditions, is the only regulation which waives the reconnect fee. As such, the concerns of Mr. LeVander have been met.

Mr. LeVander stated that the remaining portions of originally proposed PSC 298(a) and (b) were acceptable with one exception (Transcript, pp. 205, 208). Mr. LeVander's remaining concern was over originally proposed PSC 298(b)(5). This provision permits a customer to disconnect service upon written request to the utility. The regulation also provides that a reconnect fee may be charged but the deposit will not be refunded or forfeited nor will the tolling period of the deposit be interrupted by such a temporary disconnection. As outlined in PSC 295(b), this

regulation does not apply to a permanent termination service.

Mr. LeVander's concern concentrated on whether or not a written request for temporary disconnection of service would prohibit a utility from charging some minimum charge during the suspension or disconnection period (Transcript, p. 209). (This concern was similarly discussed by Mr. Marvin Johnson, representing Rural Electric Cooperative, Jackson, Minnesota, Transcript, p. 308).

In response to Mr. LeVander, Dennis Larson, representing the Public Service Department staff, stated that the purpose of this regulation was to stop the use of excessive minimum charges which continue when service is not being used. Mr. Larson stated that it is possible to cover the costs of reconnection because this provision does allow for a reconnect fee and by the reconnect rules, the cost of that service is covered in the reconnect provisions (PSC 302) (Transcript, pp. 209-210).

The Commission finds that this regulation, PSC 298(a)(9), does not interfere with the charge of a minimum fee, but does permit the customer the option of continuing service under a "minimum charge arrangement" or disconnecting service and paying a reconnect fee as provided in PSC 302. While the option is provided the customer, under each procedure the cost is adequately covered and the utility will not be forced by these regulations to distribute such costs on to other customers.

By written comments dated January 20, 1975, Mr. LeVander, representing the Minnesota Association of Electrical Cooperatives, suggested that PSC 298(b)(5), which the Commission has renumbered PSC 298(a)(9), should be amended to provide that the utility may make a minimum charge during the period of temporary suspension and also provide that the utility may continue to charge the reconnect fee as provided. The Commission finds that such amendment is beyond the intention of the regulation and is, in fact, allowing a utility to exact a "double charge" from the customer. The Commission finds that, if adopted, such suggested regulation would allow a utility to charge a minimum charge during the period of temporary disconnection and, in addition, would allow the utility to charge a reconnect fee which, as provided in PSC 302, would cover the costs of reconnection. The Commission finds that no substantiation has been provided by any of the participants either during the course of the hearing or by written comments received as to why a utility should be allowed to charge a minimum fee when the customer is receiving no service. The Commission further finds that as Mr. LeVander stated during the course of the hearings, that it should not make a difference to the utility how the cost is re-

covered as long as it is covered in one way or another (Transcript, p. 212). The Commission finds that the provision PSC 298(a)(9) does not prohibit a utility from recovering the cost of temporary disconnection.

During the course of the hearings, Mr. LeVander expressed further general observations concerning the non-permissible reasons to disconnect service. The Commission finds that these concerns were over the general interpretation and application of the provisions rather than over suggested changes in the regulations. As such, the Commission finds that no changes were suggested.

Mr. LeVander expressed concern in the interpretation given the landlord-tenant rule, PSC 298(d). He addressed to the Commission a question concerning the definition of "where the utility has reason to know that a landlord-tenant relationship exists and that the landlord is the customer of the utility" (Transcript, pp. 221-222). Mr. LeVander was concerned about how the utility is to know when a landlord-tenant relationship exists and when it does not.

In response to Mr. LeVander's concern, Mr. Larson, representing the Public Service Department staff, stated that the utility is not required to get involved in any landlord-tenant disputes, but rather is only required to notify the occupant, the tenant, and give the tenant a chance to subscribe to the service before disconnection.

The Commission finds that under such circumstances, the concern of Mr. LeVander has been met and that no change in the regulation is required. The Commission finds that once notice and an opportunity to subscribe to service has been provided the tenant, that the disconnection procedures may continue without further obligation upon the utility.

During the course of the hearings, Mr. D. H. Buswell, representing Interstate Power Company, stated that the regulation, PSC 298, introduced a lot of problems with the manner of differentiating between disconnection and suspension as they relate to deposits (Transcript, p. 265).

As discussed above, the Commission has alleviated this definitional problem between the interpretation of "disconnection" and "suspension" and has put the intent of the regulation in individual subsections of PSC 298(a).

In reference to PSC 298(c)(6), renumbered by the Commission PSC 298(b)(6), which deals with failure to pay a bill based upon concurrent charges from another meter, Mr. Buswell stated that if there was some intent of the customer to use this regulation to

preclude a utility from collecting an overdue bill because he had moved from one location to another, then this would be an undue discrimination between customers because the utility would be allowing a customer to make use of some rules to get, in effect, free service by just moving from one location to another. (Transcript, pp. 265-266).

The Commission finds that this was not the intent of the regulation and has accordingly added the word "concurrent" to avoid misinterpretation of the regulation. The Commission finds that free service is a burden upon the other customers served by a utility and in no way implies that a customer may avoid payment by moving from one location to another and making use of a wording of a regulation. The Commission finds that the intent, and the only intent, of this regulation was to prohibit a utility from disconnecting service to a meter because an individual had subscribed service and had failed to pay service at another meter for which he was receiving service at the same time.

The Commission finds that it has received numerous written comments and letters concerning suggested changes in PSC 298(a)-(d). For sake of clarity, these comments are classed below according to the utility which has suggested them. The Commission has responded to each suggestion in detail as presented and has further responded in discussion of the general changes made which follows the whole discussion of this regulation.

By letter dated January 20, 1975, Mr. A. L. Pooler, representing Minnesota Gas Company, submitted the following suggestions and discussion relative to PSC 298(a) through (c). Mr. Pooler's discussion follows:

Mr. Pooler suggests that PSC 298(a) be rewritten to provide that the disconnection for nonpayment of bill and the following return of deposit should be within a time limit of 45 days from the date of disconnection rather than "immediately." He states that although Minnesota Gas Company has relatively few residential customer deposits, it believes that requiring a return of the customer's deposit "immediately upon disconnection" would be extremely burdensome to the utility. He suggests that the time limit be introduced which would eliminate the greater portion of applying deposits and interests, refunding and collecting the unpaid balance and collecting a new deposit.

The Commission finds that some definite time limit should be imposed for the return of customer deposit rather than providing the imprecise term "immediately." The Commission further finds that the time limit stated in PSC 298(a) should not be in conflict with PSC 326(a)(6). Accordingly, the Commission amends PSC 298(a) to delete the word "immediately" and to amend "within ten days of disconnection" in place thereof. The Commission finds that the time limit of 45 days is too long a time limit and that the addition of 45 days would therefore cause a conflict with the ten day requirement of PSC 326(a)(6).

Mr. Pooler suggests substantial changes in PSC 298. He suggests change of PSC 298(a)(1) to allow disconnection for unpaid balance if the customer or applicant owes a past due and unpaid balance for service supplied to such customer, or if the premises is occupied by a person owing a past due and unpaid balance for services supplied to the same premises. Also suggested is additional refusals of service or disconnection of service to an applicant who owes a past due and unpaid balance for service supplied at a former address or for an applicant or a customer who owes a past due and unpaid balance for services supplied at a separate address. He states that although Minnesota Gas Company has relatively few residential deposits, it does have a substantial number of deposits on commercial accounts. If the suggested change is not accepted, then Minnesota Gas Company would additionally recommend that the application of PSC 298(a)(1) apply only to residential accounts and not commercial accounts and that a provision be made allowing discontinuation of service to a commercial account in arrears, irregardless of size or balance of that account's deposit.

The Commission finds that adoption of Minnesota Gas Company's suggested changes would lead to a situation where the utility could refuse or disconnect service on almost any grounds when an account is currently in arrears, although a deposit would cover such amounts due, when an applicant or customer has a past due bill at a former residence, or where an applicant or customer has a past due bill at a separate address. The Commission finds that this is too broad a regulation and that if enacted as Minnesota Gas Company suggests, the regulation could permit prejudice and discrimination against customers. As stated above, the Commission finds that the purpose of a deposit is to assure payment and that a deposit should at the minimum be used to apply to a bill before service is disconnected. Minnesota

Gas Company's suggested change does not allow for this eventuality.

The suggestion by Minnesota Gas Company that service may be disconnected where an applicant or a customer has a past due account at a separate address, is in direct conflict with PSC 298(b)(3) and (6). The Commission finds that the decision to have two classes of billing upon the same individual or the decision to have two meters lies entirely with the utility. While the threat of disconnection should always be available to the utility when that particular meter is in arrears, the utility should not have at its disposal additional leverage by having an ability to cut off all of a customer's service. A customer who has continued paying on his residential account and has for whatever reason failed to continue payment on a commercial account, while he should be subject to disconnection at his commercial meter, he should not be made to suffer through the additional liability of disconnection at his residential meter. Minnesota Gas Company's suggested change does not enforce this rule and intent of PSC 298.

The Commission finds that the additional changes suggested by Minnesota Gas Company are all implemented in the current rules. PSC 298(b)(1) allows for the situation of where a customer owing a past due bill continues to occupy the premises. In such situations, disconnection is allowed and thus, circumvention of the regulations is avoided.

Minnesota Gas Company suggests the addition of a new rule which would allow disconnection without notice to any customer or applicant using an assumed, false, or fictitious name, or if the acts of the applicant or customer or the conditions of the premises are such to indicate to the utility an intent to defraud the utility. Mr. Pooler suggests that the purpose of this new rule is to allow discontinuation of service to a customer who is attempting to defraud the utility.

The Commission finds that this suggested regulation is already adequately covered by PSC 298(a)(5) or PSC 298(a)(3). The first regulation mentioned authorizes disconnection in the event of unauthorized use of utility equipment or tampering with utility equipment by the customer and the second above regulation allows disconnection if a customer has violated the utility's rules on file with the Commission. The second regulation would apply as a permissible means to disconnect only if Minnesota Gas Company has such a rule on file with the Commission. The Commission finds that

it would be more appropriate for Minnesota Gas Company's suggested change in the regulation to merely be implemented into Minnesota Gas Company's own rules and submitted to the Commission for approval. The Commission finds that beyond the requirements of the above two regulations, there is no further need to make a separate provision for fraud, as fraud can adequately be covered under these above mentioned regulations.

Mr. Pooler suggests another new regulation, such that would allow disconnection of service by the utility for the purpose of making permanent or temporary repairs, changes, or improvements in any part of its system.

Although the Commission finds that no rationale was provided for this rule, it nevertheless can restate that this suggested change could be part and parcel to the utility's own rules and, therefore, could be covered under PSC 298(a)(3), if approved.

Additionally, Mr. Pooler suggests that discontinuation of service be allowed if the utility is notified by public authority having appropriate jurisdiction that continued service to a customer is in violation of applicable laws, ordinances, rules or regulations of public authorities.

The Commission finds that no supporting information was provided to indicate in what situations this suggested regulation would be needed. The Commission finds that at present it has ample authority to order such disconnections and that in the absence of a demonstrated need to disconnect service without involving the Commission under these situations, the Commission sees no requirement at this time to enact such a regulation.

Mr. Pooler finally suggests that another new section be added which would allow disconnection of service if the customer provides utility service to others without the utility's approval.

The Commission finds that this problem is already covered by PSC 298(a)(5) and a further regulation to that effect is unnecessary.

Mr. Pooler suggests that PSC 298(b)(1), which has been renumbered by the Commission to 298(a)(6), should be rewritten to add the phrase "if the customer created the hazardous condition, the utility may charge a reconnect charge." Mr. Pooler states that Minnegasco takes the position that the customer is obligated to maintain its equipment in a nonhazardous condition. If curtailing of service is necessary because of the customer's failure to maintain his equipment properly, it is only logical that the customer should bear the cost of disconnection and reconnection.

However, Mr. Pooler continues that if the hazard is not caused by the customer, then there should be no disconnect or reconnect charge.

The Commission finds that the distinction between a customer causing the hazardous condition and a customer being unrelated to the hazardous condition exists in the distinction between PSC 298(a)(5) and (6). In the former regulation, the customer is involved in the unauthorized use of utility equipment, and therefore, in the situation where the customer caused the hazardous condition, PSC 298(a)(5) would apply. On the other hand, in the latter regulation, the customer is not the cause and a disconnect fee or a reconnect fee will not be allowed to be charged. The Commission finds that such distinctions written into the regulation as Mr. Pooler suggests is unnecessary as the intent of that suggestion is already covered under the current regulation.

Mr. Pooler suggests that PSC 298(b)(2), which has not been renumbered by the Commission, should be changed to allow the utility to charge the customer with a disconnect fee if the customer's use of his equipment caused the adverse affect of the utility's equipment or the utility's service to others.

The Commission finds that the provisions of originally proposed PSC 298(b)(2) address a situation where the customer's use of equipment would adversely affect the utility's equipment or the utility's service to others. The Commission finds that the intent of this regulation sufficiently overlaps the application of other regulations, and may therefore be deleted entirely. The Commission finds that if a customer's use of equipment adversely affects the utility's equipment, then it would be an "unauthorized use of utility equipment" and would, therefore, be applicable to PSC 298(a)(5). Furthermore, the Commission finds that if a customer's use of equipment adversely affects the utility's service to others, it would be considered a "hazardous condition to other customers of the utility or to the public." Therefore, such application would be governed by PSC 298(a)(6).

Mr. Pooler suggests amendment of PSC 298(b)(3), which has been renumbered by the Commission, PSC 298(a)(7), to allow for a reconnect charge to be made to the customer when the customer has failed to meet the requirements of this regulation.

The Commission finds that the customer should be expected to pay the cost of reconnection if the reason for the disconnection of service was an act or an omission to act by the customer. The Commission agrees with the suggestion made by Minnesota Gas Company and amends PSC 298(a)(7) to allow for a reconnect fee to be

charged. The Commission finds that the purpose of charging a reconnect fee is to correspond with the element of customer causation in the reason for disconnection. The Commission finds that, consistent with this intent, is the fact that if a customer has failed to provide a utility access to its equipment, that the cause of the disconnection lies with the customer and that, therefore, the customer should pay the burden of reconnection.

Mr. Pooler makes substantially the same suggestions that the customer be required to pay the reconnect fee where the customer has failed to furnish service, equipment, and rights of way necessary to serve the customer as specified by the utility as a condition of obtaining service and when the Commission has determined that the customer is willfully wasting energy through improper equipment.

The Commission agrees with the suggested change in that the suggestion by Mr. Pooler is consistent with the Commission's intent to charge the reconnect fee to the customer when the customer has been the cause of the reason for disconnection. The Commission finds that failure to furnish service, equipment, or right of way necessary to obtain service after the customer has been notified and after the customer has agreed to such conditions as a condition of obtaining service, that such failures must rest with the customer and that, therefore, the utility should be allowed to charge a reconnect fee in the event that such failures were the reason for disconnection of service.

The Commission finds that in the situation where a customer is willfully wasting energy, the cause of the reason for disconnection in most cases will lie with the customer. However, the Commission finds that it is within its discretion under this regulation to order the reconnect fee to be waived upon individual circumstances as PSC 298(a)(10) is applicable only upon hearing and upon direction of the Commission.

Mr. Pooler suggests that PSC 298(c)(3), which has been renumbered by the Commission PSC 298(b)(3), be deleted. For similar reasons, Mr. Pooler suggests also deletion of renumbered PSC 298(b)(6). Mr. Pooler states that if a customer owes a bill to the utility, regardless of location of the meter, class of service, or address, that customer should be denied service until the bill is paid.

The Commission finds that part of Minnesota Gas Company's concern is covered by PSC 326(a)(2) in that a deposit plus additional payment of any outstanding bill may be required as a condition of obtaining service when a previous customer re-

applies for service. The Commission finds that PSC 326(a)(2) adequately covers the problem with a customer applying for service at a new address having an outstanding bill. The Commission further finds that the regulations suggested by Minnesota Gas Company to be deleted are intended to protect an entirely different circumstance than that suggested by Minnesota Gas Company. As outlined above, the intent of PSC 298(b)(3) and (6) is to protect the customer being charged as two different classes or being charged from two different meters. The customer should not be subjected to the threat of disconnection beyond the meter for which the bill is due. The Commission finds that these regulations exist in similar forms in other states and that these regulations do not place a burden upon the utilities. The Commission finds that the decision to charge two different classes of rates or to charge one individual with two different meters is a decision which rests on the utility's shoulders. After having made such a decision, the utility should bear the responsibility of its choice, and while disconnection of one meter for failure to pay a bill should always be permitted, disconnection of additional meters whose bills are not in arrears should not be allowed simply on the happenstance that one individual has incurred the liability for both meters or classes of service.

Mr. Pooler suggests that PSC 298(c)(5), renumbered by the Commission PSC 298 (b)(5), be deleted in that the service of a customer should be subject to disconnection if the customer fails or refuses to pay billings whether the billings are computed from actual meter readings or estimated meter readings. The Commission finds that such regulation should not be deleted. The Commission notes that this regulation does not prohibit a utility from disconnecting service for failure of a customer to pay an estimated utility bill, but rather prohibits a utility from disconnecting until the utility has obtained an actual meter reading. The intent of this regulation is not to forestall disconnection but rather to encourage the utilities to obtain actual meter readings when requested by customers. The Commission finds that without this regulation a customer would have no means to force a utility to actually read the meter when a customer feels that the estimated bill has been in error. If the customer refuses to permit actual meter reading by the utility upon request by the utility and during reasonable hours, then disconnection is permitted as it is with an actual bill.

Mr. Pooler suggests that PSC 298(c)(7), which has been renumbered by the Commission PSC 298(b)(7), be amended to restrict the reasonable period of time for

payment of bill to correct previous underbilling to a period not to exceed the period of underbilling. Mr. Pooler notes that the term "reasonable period of time" is ambiguous. Mr. Pooler suggests that it is difficult to determine whether the utility, the customer, or the Public Service Commission will be the determining factor of what is a reasonable time.

The Commission finds that the situation of underbilling due to misapplication of rates first vests responsibility with the utility and that, therefore, the utility should not be allowed to unreasonably burden the customer for the utility's own error. The Commission also realizes, especially in the situation of customer-read meters, that various factors may be involved in the cause of the underbilling and the Commission further recognizes that in the situation of long underbillings, the amount due may be very large. The Commission finds that such circumstances must play a role in the determination of the time payment allowed for a customer to pay such underbilling and that, therefore, a static time limit is inappropriate due to the various considerations applicable to this regulation. The restriction of a reasonable period of time not to exceed the period of the underbilling may cause an undue burden upon many customers or upon the utility. The Commission finds that it is preferred to keep the term "reasonable" as it gives the Commission flexibility to deal with the individual characteristics found in each case. The Commission finds that the determination of a reasonable period may be determined by agreement between the utility and the customer or if agreement is impossible, the Commission may set the time for a reasonable period of payment through the customer's use of the dispute procedures found in PSC 303.

The Commission finds that in many situations a reasonable period of time may be the period of the underbilling, but it does not find that such would be the case in all circumstances.

Mr. Pooler suggests that the regulation PSC 298(d), which has been renumbered by the Commission, PSC 298(c), the Landlord-Tenant Rule, should be amended to provide a procedure similar to Minneapolis Ordinance 72-100. Mr. Pooler suggests that this would eliminate the need to determine whether or not a landlord-tenant relationship exists and would allow tenants to take over payment of the utility service charges by allowing a deduction from their rental payments to the landlord. Mr. Pooler cites the situation where a multiple dwelling has one meter serving all of

the tenants and the consumption is billed to the landlord, that it would be impossible to offer individual occupants the opportunity to subscribe for service in their own name unless the building was replumbed to provide for separate service and a separate meter for each unit.

The Commission finds that the purpose of the Landlord-Tenant Rule is different from the various city ordinances which exist in the State of Minnesota and that to attempt to amend this regulation to conform with one city ordinance would necessarily result in a conflict with the remaining city ordinances. The Commission finds that consistent with the purpose of uniformity, that the present regulation should remain as proposed. The Commission emphasizes that PSC 298(c) places upon the utility only the burden of offering service to a tenant before disconnection procedures begin. PSC 298(c)(1) provides that this offer of service to the tenant or occupant shall only be where it is feasible to do so. Consistent with the requirements of PSC 298 (b)(1), the regulations do not permit a utility to burden a tenant with the arrearages created by the landlord, but rather the regulations look to future payments for the responsibilities which the tenant has taken upon himself.

This regulation would not necessarily conflict with the Minneapolis Ordinance 72-100 in that the ability of the tenant to use rent payments to pay arrearages of a landlord is not denied by the regulation but rather is not available as a lever of the utility to force tenants to pay the landlords bill. In the case of a master meter, as suggested by Minnesota Gas Company, where it possibly would not be feasible to provide individual service to the tenants, the applicability of the Minneapolis ordinance would still permit a tenant to continue to receive service, whereas the same might not be possible under PSC 298(c), by itself.

Where a city ordinance does conflict with this regulation, this regulation should prevail. For example, the Commission finds that the St. Paul rent ordinance does not apply to duplexes (the Minneapolis ordinance does). In PSC 298(c), the application of the rule applies wherever the utility has reason to know that a landlord-tenant relationship exists and where the landlord is the customer of the utility. This could include application to duplexes. The Minneapolis ordinance permits up to three months for the tenant to pay off the landlord's arrears whereas PSC 298(c) would not permit a utility to force a tenant to pay off the landlord's arrears in order to receive service in his own name, but would allow the tenant to subscribe for service as a new customer and at the same time, would not affect the tenant's liability to pay rent to the landlord.

The Commission finds that the suggested change in the Landlord-Tenant Rule made by Minnesota Gas Company is beyond the scope of the rule and may perhaps be beyond the jurisdiction of the Public Service Commission. The Commission finds that the suggested change should not be made.

By written comments received January 20, 1975, from Mr. Elmer B. Trousdale, representing Peoples Natural Gas Company, the following changes to PSC 298 were suggested:

Mr. Trousdale first suggests that the word "discontinuance" should be substituted for the word "disconnection" and the words "if any" should be inserted after the word "deposit" in PSC 298(a) which would cause PSC 298(a) to read "any remaining balance of the deposit, if any, plus interest which is not in liability to the utility shall be returned to the customer within ten (10) days of disconnection."

The Commission finds that no supporting rationale was given for the necessity of either of these changes. The Commission further finds that for purposes of this regulation, "discontinuance" of service does not add any substance to the meaning of "disconnection" of service and, therefore, this change is unnecessary. The Commission finds that the other additions have a negligible effect upon the intent and meaning of PSC 298(a) and should not be made.

Mr. Trousdale suggests in regard to PSC 298(a)(1) that due to the fact that normally a customer has continued to receive service between the date of bill has been rendered and until the notice of disconnection of service is issued, that a customer may have incurred a liability greater than what is reflected by the unpaid bill. He suggests that this regulation needs to reflect this additional liability.

The Commission recognizes that such situations, as outlined by Mr. Trousdale, may exist but finds that the responsibility for the existence of a liability greater than the amount of the deposit rests with the utility and not with the Commission. However, as outlined above, the Commission has amended originally proposed PSC 298 (a)(1) to correlate the amount of the deposit with the total amount of the incurred obligations rather than just the amount of the stated bill. As such, the Commission finds that this concern has been met and that no further change is warranted.

Mr. Trousdale suggests that PSC 298(b), which the Commission has incorporated into PSC 298(a), should be stricken.

The Commission finds, that with one exception, the intent of Mr. Trousdale's

exception has been implemented into the regulations. The Commission finds that no reconnect fee should be charged a customer when the customer is without fault in the cause of the disconnection. The Commission finds that in the situation of a hazardous condition, such as a storm or an emergency, disconnection of service is not the fault of the customer and no reconnect charge should be made. A reconnect fee is permitted under all other permissible reasons to disconnect with the discretionary exception under PSC 298(a)(10).

Mr. Trousdale suggests that PSC 298(c)(5) which has been renumbered by the Commission, PSC 298(b)(5), should be amended to read: "Failure to pay an estimated bill for past service unless the customer, upon attempt by the utility to call or make contact with him, does not respond to the call or contact or refuses to permit reading of the meter at an agreed time during regular business hours."

Mr. Trousdale suggests that a customer who locks out the meter reader and refuses to answer the phone or come to the door during business hours should not be allowed to refuse to pay an estimated bill. The Commission finds that the concern expressed by Mr. Trousdale is adequately met by the current proposed rule. The current regulation provides that a customer need not pay an estimated bill unless, upon request by the utility, the customer refuses to permit an actual reading of the meter during reasonable hours. The additional phrase suggested by Mr. Trousdale, that is, "an attempt by the utility to call or make contact in which the customer does not respond to the call or the contract," could be determined to be a "refusal to permit the reading of the meter during reasonable hours." The Commission finds that if a dispute arises as to whether a customer did refuse or did not refuse to permit the reading of the meter, the dispute may be solved upon the individual circumstances through the dispute procedure provided in PSC 303. The Commission finds that further change in PSC 298(b)(5) is unneeded.

Mr. Trousdale suggests amendment of PSC 298(c)(6) which has been renumbered by the Commission, PSC 298(b)(6), to read "Failure to pay for a bill based on charges from another meter if such other meter measured a different class of service or measured service for a different consumer in fact." Mr. Trousdale notes that the current regulation is unclear as to its intent and feels that the utility must be protected from a poor paying customer who changes addresses to avoid bill payment.

The Commission finds that the problem indicated by Mr. Trousdale is adequately protected under the current rule. As noted above, the Commission has changed PSC 298(b)(6) to add the word "concurrent" so that the rule reads "For failure to pay for a bill based on concurrent charges from another meter." The addition of this term avoids the use of the rule by a poor-paying customer who changes addresses only as a means of avoiding payment of the bill. The Commission finds that the suggested language by Mr. Trousdale would add nothing further than what the change already has provided.

By a letter dated January 3, 1975, Mr. William D. Carstedt, representing Interstate Power Company, suggests the following comments and changes to PSC 298:

Mr. Carstedt suggests that the regulations delete the differentiation between "disconnection" and "suspension" of service.

To the extent that there is duplication between the intended meaning of "disconnection" and "suspension," the Commission is in agreement. The Commission emphasizes, as stated above, that the relationship between "disconnection" and "suspension" as it pertains to the fault or causation of the reason for disconnection by the customer has been implemented into one subrule, that is PSC 298(a) and the existence or non-existence of fault by the customer is addressed in each listed reason for disconnection and, accordingly, the reconnect fee has or has not been allowed by this regulation.

Mr. Carstedt suggests that PSC 298(a)(3) be amended to read "With notice for violation of the utility's rules on file with the Commission, unless the violation of such rules constitutes a cause for disconnection without notice as otherwise provided herein."

The Commission finds that the concern expressed in this suggested change is whether when two causes of disconnection exists, which one would take precedence and addresses itself to the requirement of notice to be given a customer before disconnection. The Commission finds that if two reasons for disconnection were available to a utility, the utility would have the option of choosing either one. The Commission finds that as long as a utility is in compliance with one rule, the utility would not necessarily be held to compliance with another rule which perhaps would require notice. The Commission finds that as no rationale was provided for this suggested change, that further comment is unnecessary.

Mr. Carstedt suggests amendment of PSC 298(a)(6) to provide that a reconnect fee may be charged by a utility where the hazardous condition resulted from the customer's improper use of equipment.

As discussed above, the Commission finds that when a customer is at fault in the hazardous condition, that the utility would be able to disconnect within the guidelines of PSC 298(a)(5) as this would be an unauthorized use of the utility's equipment, or could perhaps be disconnected within the guidelines of PSC 298(a)(3) if the utility has such a rule on file with the Commission. The Commission finds that such change in PSC 298(a)(6) is not needed and further finds that as no rationale was given for this change, further comment is unnecessary.

Mr. Carstedt suggests other changes in PSC 298(a) the thrust of which charges the reconnect fee to the customer when the customer is the cause of the disconnection.

The Commission finds that as no rationale was given and that as these changes have substantially been discussed above, that no further comment is necessary.

Mr. Carstedt suggests the addition of PSC 298(a)(11) which would allow disconnection of service when otherwise determined by the Commission.

The Commission finds that such a change is too broad and vests the Commission with such a rule that would render permission for a utility to disconnect as unpredictable. A utility should not face the possibility that its disconnection of service could be determined later to be in error upon appeal by a customer to the Commission. The Commission finds that the purpose of these regulations is to provide an objective and predictable standard by which the consumer, the utility, and the public as a whole will know when service must be provided and when service may be discontinued. Such regulations need to be exact in order to insure that reasonable service is provided. The Commission finds that no rationale was given for this regulation by Mr. Carstedt and that this regulation is not needed at this time.

Mr. Carstedt suggests that PSC 298(c)(1), which has been renumbered by the Commission PSC 298(b)(1), be amended to read "Delinquency in payment for service by previous occupant of the premises to be served, if no present occupant of said premises resided there during the period of service for which payment is delinquent."

The Commission finds that the proposed rule PSC 298(b)(1) is in substantial compliance with the intent of Interstate Power Company's suggested change. However,

the Commission finds that the regulation must be more precise to draw a distinct line between the customer using the procedures to avoid payment of the bill and a customer facing a bill from an unrelated previous occupant. The Commission finds that the statement that, "disconnection is not permitted because of delinquency in payment for services rendered to a previous customer who occupied the premises, unless that customer continues to occupy the premises," is more appropriate.

Mr. Carstedt suggests change of PSC 298(b)(4) to add the provision that failure to pay a bill corrected in accordance with these rules shall constitute a permissible reason to disconnect.

The Commission finds that as the original wording of this provision provided failure to pay a bill charged because of an inaccurate meter was incomplete in meeting the intent of this regulation. Accordingly, the Commission has amended PSC 298(b)(4) to provide that the utility and the customer must agree upon the amount due, or, as determined by the regulations, the Public Service Commission or the courts. This additional phrase upon the problem of the inaccurate meter and the problem with disconnect substantially follows the intent of Mr. Carstedt's suggested change.

Mr. Carstedt suggests that a new provision within PSC 298 be added to provide that in the event a utility holds a customer's deposit following any disconnection of service, the utility shall apply the customer's deposit plus accrued interest, to any liability of the customer, and shall return any remaining balance of the deposit, plus interest, to the customer on the first working day after service has been disconnected for 14 days, or on the first working day following the customer's prior request for refund of deposit.

The Commission finds that this regulation is either unneeded as it overlaps with other regulations which have a similar intent or is beyond the scope of the relationship between deposits and disconnections provided in these rules. The Commission finds that the purpose of the deposit is to assure payment, and as stated above, that at a minimum this deposit should be available to a customer who is in arrears before the customer should be subjected to disconnection. Therefore, the Commission finds that it is only right to apply the deposit to the amount in arrears or the incurred obligations before disconnection should be allowed. The suggested change by Mr. Carstedt would disregard this right of a customer and as such, cannot be permitted.

The Commission finds, that as required by PSC 327(a)(6), the balance of a deposit upon termination of service should be returned within ten days to the customer and further finds that the same requirement is provided in PSC 298(a). The Commission finds that no rationale was given by Mr. Carstedt for the inclusion of fourteen days rather than ten days, and therefore such a change is unnecessary.

Mr. Carstedt suggests that the Landlord-Tenant Rule, PSC 298(d), delete the phrases: "where the utility has reason to know a landlord-tenant relationship exists," and "where the service is rendered to an address different from the mailing address of the bill."

The Commission finds that with these two deletions, the utility would be able to avoid most landlord-tenant relationships and that the burden of knowledge of a landlord-tenant relationship would rest with the landlord and not the utility. The Commission finds that in light of the small affirmative responsibility that this rule places upon the utility, that the utility should hold the burden of inquiring whether a landlord-tenant relationship exists. The Commission finds that in situations where a landlord will fail to pay the utility bill for service delivered to tenants, that those same customers are more likely to fail to inform the utility that a landlord-tenant relationship exists. The Commission finds that as this regulation only requires the utility to offer service to a tenant and only where it is feasible to provide service, that under such circumstances the utility should make a reasonable effort to determine on its own whether a landlord-tenant relationship exists. The Commission finds that as no further rationale for this change was provided by Interstate Power Company, that this change should not be made and that no further comment is necessary.

By letter dated January 17, 1975, Mr. James R. Habicht, representing Minnesota Power and Light Company, suggested the following changes and comments regarding PSC 298:

In regard to PSC 298(a)(1), Mr. Habicht commented that the provision does not account for the amount of service on the meter at the time of disconnection. He continues, that the unbilled portion of a customer's electric service would require more expensive collection efforts as a result of the unavailability of the security deposit. He states that the section as originally proposed offers the potential for growing abuse among persons who change addresses on a regular basis after they

understand the very small potential ability of the utility to collect for the unbilled service. Mr. Habicht suggests that a phrase be added to allow disconnection when the deposit plus interest has been used to satisfy the stated bill plus the amount of an estimated bill based upon the previous month's usage or kilowatt-hours.

The Commission recognizes the problem with permitting disconnection for non-payment when the deposit is tied to the stated bill in that the utility would not be secured for the period of usage subsequent to the bill. Accordingly, the Commission has adjusted the regulation to provide that disconnection will be permitted for non-payment of bill when the deposit plus interest has been used to satisfy the incurred obligations. The total amount of the incurred obligations may be more than the stated bill and the Commission has allowed for the determination of such obligations within PSC 312(a) which provides that in cases of emergency, the utility may render estimated bills without reading meters. The Commission finds that in the situation where a customer has not paid the bill and the utility has determined through the amount of the stated bill plus the estimated usage during the period between the time the bill is rendered and the present time equals the amount of the deposit, then disconnection for service would be permitted. The Commission finds that such circumstance described above would be an emergency in which estimated billing would be allowed.

As the Commission finds that the problem outlined by Mr. Habicht has been met within the current regulations, the Commission finds no reason to accept the changes suggested by Mr. Habicht.

Mr. Habicht suggests amendment of PSC 298(c)(1), which has been renumbered by the Commission PSC 298(b)(1), to add the phrase, "if no present occupant of the premises resided there during the period of service for which payment is delinquent." His rationale for this is to close the loophole for those who seek methods of circumventing the payment of their bills.

The Commission finds that such concerns have been met by the change in PSC 298 (b)(1) from the rule as originally proposed. The Commission notes that if a customer continues to occupy the premises, that disconnection for nonpayment of bill rendered to a previous customer is permitted.

Mr. Habicht suggests that PSC 298(c)(5), which has been renumbered PSC 298(b)(5), be amended to provide: that a customer must first submit the nonpayment of an estimated bill into the dispute procedures as provided in PSC 303 before the provisions of

PSC 298(b)(5) would apply. In other words, the regulation would provide that disconnection for failure to pay an estimated bill for past service would be disallowed when the customer has placed the issue in dispute, and if the utility has requested to actually read the meter and the customer has not refused the reading of the meter Mr. Habicht suggests that this suggestion should be qualified to make it clear that the customer cannot arbitrarily refuse to pay an estimated bill without at least notifying the utility that the estimated bill is disputed.

The Commission finds that the rationale for such change in the rule is valid and that the rule has accordingly been amended to provide that a customer will be protected only when the utility has refused to actually read the meter. As stated above, the Commission notes that the purpose of this regulation is to permit the customer to force the utility to obtain an actual meter reading before threatening disconnection of service for failure to pay an estimated bill. The change made by the Commission meets the problem raised by Mr. Habicht and further elements of change suggested by Mr. Habicht adds no further substance to the implementation of the regulation.

Mr. Habicht raises the problem with PSC 298(c)(6), which has been renumbered PSC 298(b)(6), that the section raises a literal anomaly when applied to a situation where the previous meter had to be replaced because of its destruction in that no bill could be rendered for the service used but previously unbilled. He suggests that at a minimum it should be made clear that a mere change in meters at the source point of distribution to the same customer does not result in the customer receiving free service.

The Commission finds that the amendment made from the previously proposed rule, by adding the word "concurrent" to the regulation which would then read, "Failure to pay for a bill based upon concurrent charges from another meter," adequately meets the concerns raised by Mr. Habicht and that no further change is necessary.

By letter dated January 22, 1975, Richard Gill, representing North Central Public Service Company, submitted the following comments and suggested changes to PSC 298:

Mr. Gill suggests that PSC 298(a) delete the phrase "immediately upon disconnection" and substitute words which would allow the return of the deposit within

ten working days from the date of the final bill settlement. Mr. Gill suggests that the amount of any remaining deposit balance owed by the utility to the customer will not be known until the final billing due to meter reading and bill processing requirements.

The Commission finds that, with the exception of the word "working" and the words "final bill settlement," that the suggested change has been implemented. The Commission finds that in compliance with PSC 326(a)(6), that the requirement for return of the deposit should be ten days rather than ten working days.

The Commission finds the term "final bill settlement" to be imprecise and the term "date of disconnection" to be a better term to determine the time limit for the return of the deposit.

The Commission finds that in most circumstances disconnection of service is for nonpayment of bill and, as such, there will be no problem with the return of the deposit as nonpayment will be disallowed until the deposit has been used to meet the incurred obligations. However, the Commission recognizes that other causes of disconnection do exist in which the deposit may not be used and there will be an amount to be returned. Therefore, the Commission has promulgated the ten day time limit for return of the deposit upon disconnection. The Commission finds that such time limit is a reasonable time limit and is more precise than the original wording which required return of the deposit "immediately" upon disconnection.

Mr. Gill suggests that PSC 298(a)(1) allow for a reasonable estimate of the value of unbilled service at the date of disconnection to relate the deposit to the total amount of obligations rather than just the amount of the "stated bill." Mr. Gill states that if the disconnection process could not be commenced until the customer's stated bill exceeded the amount of deposit plus accrued interest, a customer could, in an extreme example, owe two months of unsecured service before disconnection was actually affected.

As stated above, the Commission finds that relating the amount of the deposit to the stated bill could work as a detriment to the utility in that the obligation for service between the time of the stated bill and the time of disconnection would be unsecured. Accordinaly, as stated above, the Commission has amended PSC 298(a)(1) to relate the amount of the deposit to the total amount of the incurred obligations which may include the estimated amount for service rendered between the time of the stated bill and the time of disconnection as provided in PSC 312(a).

Mr. Gill suggests an addition to PSC 298(a) as a permissible reason for disconnection: that the utility be allowed to disconnect with notice for failure of a customer to pay for a different class of service at the same location.

The Commission finds that this suggested change is directly opposed to the intent of PSC 298(b)(3) and to the objectives of the Commission. As stated above, the Commission finds that the burden of receiving one or two classes of service is a decision made first by the utility and that as the utility has chosen to treat one individual as two separate classes of customer, or as receiving service under two separate meters, the utility should not get the extra enforcement ability by threatening disconnection of service to all meters for which one customer is liable by the existence of nonpayment of bill for only one meter. The Commission finds that as no rationale was given for this suggested change and that as no other state regulation contains a requirement similar to this, that this suggestion should not be adopted.

Mr. Gill suggests that PSC 298(a) be amended to add a permissible reason of disconnection where a customer has failed to pay a bill to correct a previously erroneous billing when such charge has been billed in compliance with PSC 314 and PSC 315.

The Commission finds that such circumstances are adequately governed by PSC 298 (b)(4) or (7). In the situation where a bill has been erroneously rendered, the utility is not stopped from disconnecting for nonpayment of such bill provided that the amount and the period allowed for payment has been reached and agreed upon by the customer and the utility or in the alternative, has been determined by these regulations, the Public Service Commission or the courts. These regulations meet all of the concerns expressed by Mr. Gill and the suggested changes in PSC 298(a) is therefore not needed.

Mr. Gill submits that the distinction between "suspension" and "disconnection" be alleviated and that the sections in originally proposed PSC 298(b) which refer to situations where the customer was not at fault for the disconnection of service, be incorporated into PSC 298(a).

Mr. Gill's suggestions which revolve around this distinction have substantially been met by the Commission's change in originally proposed PSC 298 which has amply been discussed above.

Mr. Gill suggests a change in PSC 298(b)(9) which would hold the customer responsible for all service furnished to the premises at which the temporary disconnection is desired until notice is received by the company, and until the company has had a reasonable time in which to discontinue service.

The Commission finds that such additions to these regulations are unnecessary as the implication is contained within these regulations that liability for service rendered between the time that a customer requests disconnection of service and the time that actual disconnection is effected is a period during which a customer would be charged for service received. In the event that a utility takes an inordinate amount of time to make such temporary disconnection, the matter could be individually resolved through the dispute procedures contained in PSC 303 and need not be addressed by this regulation. Accordingly, the Commission finds no need to so amend PSC 298 (a)(9).

Mr. Gill suggests the deletion of PSC 298(a)(10) which refers to the willful wasting of service through improper equipment and suggests that in lieu thereof the phrase "when ordered by the Commission pursuant to Law" be imposed.

The Commission finds that as discussed above, this change is too broad for the control of wasting energy and that as no rationale was provided for the broadening of this regulation, that no change is necessary.

Mr. Gill suggests that the Landlord-Tenant Rule, PSC 298(c), be deleted and the following language be substituted therefore: "Where existing physical conditions make it feasible to provide service, the utility shall provide notice to the tenant by first class mail, addressed to 'occupant,' or the tenant's name if known to the utility, at the same time disconnect or suspension notice is provided to the landlord. If the tenant then elects to subscribe for service in his or her own name, and if subscriber meets the utility's requirements for service before the proposed disconnection or suspension date, then service will not be discontinued." Mr. Gill suggests that this procedure would advise the tenant of his landlord's delinquency, and would allow the tenant to avoid the consequences. Mr. Gill suggests no further rationale for the change of the rule.

The Commission finds that the proposed change does not substantially alter the essence of PSC 298(c) other than that the notice to the tenant be addressed to the "occupant" rather than to the tenant. The Commission finds that as no rationale

for such minor changes in the application of the rule was provided, that the regulation does not warrant change and no change should be made.

Mr. Gill suggests that PSC 298(d)(2), which has been renumbered by the Commission PSC 298(c)(2), should be amended to insert the words "from the tenant" and delete the words "any other person" and substitute "the landlord" so that the clause would be made to read: "a utility shall not attempt to recover from a tenant, or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord."

Mr. Gill suggests that in today's society, occupancy of a single dwelling by two or more unrelated persons is common. Abuses as to financial responsibility may well result until the utility has some flexibility dealing with delinquent bills in such situations, Mr. Gill suggests.

The Commission finds that the original wording of PSC 298(d)(2) was imprecise and accepts the changes suggested by Mr. Gill to reflect more accurately the intent of the regulation. Accordingly, PSC 298(c)(2) has been amended to restrict a utility from recovering the obligations of the landlord from the tenant who has subsequently subscribed for service. The Commission finds that the insertion of the phrase "the landlord" in place of the phrase "any other person" restricts the prohibition contained in this regulation to only that of a landlord-tenant relationship and does not permit circumvention of the rule by two individuals occupying the same dwelling who may be unrelated.

By letter dated January 10, 1975, Mr. Axel H. Johnson, representing Kandiyohi Cooperative Electric Power Association, suggests that if the suspension of service as provided in PSC 298 was a "legitimate one," the charge for reconnection should be passed on to the individual disconnected in order to be equitable and fair with the rest of the members of the Cooperative. Mr. Johnson states that other subscribers should not have to pay for the reconnection of suspended service.

The Commission finds that the concern expressed by Mr. Johnson relates to the degree of fault involved in the various causes of suspension or disconnection. As stated above, the originally proposed provisions, PSC 298(a) and (b), have been merged. The distinction between suspension and disconnection of service in regard to the fault of the customer has been incorporated into each individual

permissible reason for disconnection. Those permissible reasons where the customer was not at fault have provisions within them which waives the reconnect fee as it is charged to the customer. As such, the other rate payers do not bear the burden of the cost of reconnect where the customer has been at fault for the disconnection.

By letter dated December 23, 1974, Mr. L. M. Stardig, representing Itasca-Mantrap Cooperative Electrical Association, comments that PSC 298(b)(5), which has been renumbered by the Commission PSC 298(a)(9), should not be restricted to written request of the customer for temporary disconnection. Mr. Stardig suggests that there are many other instances where a responsible party requests the disconnection and frequently the requests are received by telephone. He states that in such situations the experience of Itasca-Mantrap is that the disconnect orders are clearly marked as to the origin of the request; for instance, telephone from the customer. Mr. Stardig questions whether or not such procedures may be continued under the present PSC 298(a)(9).

The Commission finds that this regulation governing only "temporary disconnection" should be distinguished from permanent termination of service which is not regulated by this rule (But see PSC 295(b)). The Commission finds that under the limited circumstances of temporary disconnection, that the written request is more reliable for both the customer and the utility and that under such circumstances a written request should be provided in the event that a dispute arises regarding the terms of the temporary disconnection. The Commission finds that no change in the proposed regulation is warranted by the comments provided by Mr. Stardig.

By letter dated January 8, 1975, Mr. Richard H. Zehring, representing the Greater Metropolitan Federation, submitted the following comments in regards to PSC 298:

Mr. Zehring suggests amendment of PSC 298(a)(1) to add the word "delinquent" in describing the bill so that the disconnection would be allowed only when the bill has been termed delinquent.

The Commission finds that this addition is unnecessary as the terms concerning the billing basis, billing periods, time when a bill is due, and other related matters are adequately described in PSC 310-316. Accordingly, a utility may not determine a bill to be due until the requirements of the above regulations are met,

and at the time when a bill is due the utility may determine when a customer is in arrears.

As no rationale was given for why the word "bill" should be described by the word "delinquent," the Commission finds no further reason to support such a change.

Mr. Zehring suggests that PSC 298(a)(5) should be redrafted to read as follows: "With notice a utility may disconnect service to a customer: in the event of unauthorized use of utility equipment by the customer or in the event of tampering with the utility's equipment. However, if such unauthorized use or tampering constitutes, in the opinion of the utility, a threat to the safety of persons or property, such disconnect shall be without notice, and shall remain disconnected only so long as a hazardous condition exists."

Mr. Zehring comments that the purpose of the change suggested is to protect customers from involuntary summary termination or disconnection of service based on a mere belief of an agent or employee of the utility that unauthorized use or tampering has occurred. An exception, of course, is made in a situation where such tampering or unauthorized use, where even suspected, might pose a threat to the safety of persons or property.

The Commission finds that if Mr. Zehring's amendment were accepted, that the regulation would have a substantial overlap with PSC 298(a)(6) (Disconnection for hazardous conditions). The Commission finds that the distinction between these two regulations is in regard to the customer's cause of the condition or lack thereof. While Mr. Zehring's comment about the arbitrary discretion of a utility employee determining whether or not the cause of disconnect has been by unauthorized use of the utility equipment or by hazardous condition is with merit, the discretion to distinguish between the two should be left to the utility in consideration of the immediacy of the problem. If the customer feels that the condition was without his fault, the customer has an alternative provided in PSC 303 to dispute the finding of the utility and bring the problem to the attention of the Commission. Because of the variance of situations involved and the distinction between these two regulations, the Commission feels that it is more appropriate to individually solve these problems rather than to further delinate the distinction in the rules. Therefore, the Commission finds no change as proposed is necessary.

Mr. Zehring suggests that PSC 298(b)(3), which has been renumbered by the Commission PSC 298(a)(7), should be amended to substitute the word "refusal" for the word "failure" so that the rule would require some customer contact on behalf of the utility prior to a decision to suspend service. Mr. Zehring suggests that it is felt that once notice is transmitted to the customer, after that point, a failure to comply with the reasonable request of a utility could perhaps constitute a disconnection of service. It is felt, by the Greater Metropolitan Federation, that the word "failure" operates to put the onus of reasonable access on a customer even in a situation where such access is not known to be desired by the customer on the part of the utility.

The Commission finds that the problem raised by the Greater Metropolitan Federation has been adequately answered in the rule as it exists. The Commission finds that with the requirement of that regulation, which states "with notice," that the utility may not disconnect a customer until it has provided the proper notice to the customer that he should provide access to the utility equipment. The Commission finds that the notice provisions required by this rule, PSC 300, require the notice to precede the action (disconnection of service) to be taken by a period of at least five days. Therefore, the Commission finds that the "onus" of reasonable access is first placed upon the utility with the notice provision. As no further rationale was presented by the Greater Metropolitan Federation for change in the wording of the regulation, the Commission feels that no such change is needed.

Mr. Zehring suggests the addition of the phrase "and without extenuating circumstances or good cause" should be added to PSC 298(b)(6), which has been renumbered by the Commission PSC 298(a)(10). This change would allow disconnection of service when a customer is willfully wasting service through improper conditions unless extenuating circumstances or good cause prevent such disconnection. Mr. Zehring suggests that the Public Service Commission must recognize that there are certain situations in urban environments, particularly in the cities of St. Paul and Minneapolis, where poor persons have been relegated to grossly substandard housing, in which the electrical systems are outdated.

It is precisely because of such situations in substandard housing, as described by Mr. Zehring, that the Commission has provided for broad discretion in the appli-

cation of this regulation. The Commission finds that there is already within the provision two requirements which would rule out disconnection of service in the situation presented by Mr. Zehring. First, the Commission finds that the customer must be willfully wasting service rather than just be the object of an outdated system. Secondly, the Commission finds that the final determination of "wasting service" rests in the determination by the Commission and the Commission is able to recognize the inequities that exist in the urban environment where poor persons have been forced to live beyond their "will" under outdated energy systems. Therefore, the Commission finds that as the concern of Mr. Zehring can as easily be recognized in the current regulation as it can in Mr. Zehring's proposed changes and absent further rationale, no change is necessary.

Mr. Zehring suggests amendment of PSC 298(c)(4), which has been renumbered by the Commission PSC 298(b)(4), to provide within the nonpermissible reasons to disconnect, that the rule allow for other company or equipment errors than just an error of an inaccurate meter. Mr. Zehring suggests that under those circumstances something as common as a computer error resulting in an overcharge would be accepted as a nonpermissible reason for disconnection of service whereas under the current reglations, such error would not be covered.

The Commission finds that the regulations should be read in their entirety rather than just the application of individual sections. The concern of Mr. Zehring over the possibility of other company equipment errors, such as computer errors, is adequately reflected in PSC 298(a)(7) in which that regulation anticipates the misapplication of rates due to computer error or other equipment error. The Commission finds that the determination of billing errors and meter errors are adequately described in PSC 310-316 and that their application to the impermissible reasons for disconnection may be served through either PSC 298(b)(4) or (7). Absent any demonstration of a problem which would not be covered by one of these sections, the Commission finds no need to amend this regulation as suggested by Mr. Zehring.

Mr. Zehring suggests that PSC 298(c)(5), which has been renumbered by the Commission PSC 298(b)(5), should be redrafted to reflect the intent of the usage of

the word "refuses" and also that the term "reasonable hours" should be defined for the protection of the utility as well as the customer.

Mr. Zehring suggests that in place of "refuse" the Commission should adopt the language: "that it will be impermissible for a utility to disconnect service for failure of a **customer** to pay an estimated bill for past services unless the customer, upon request of the utility, **consistently**, actually refuses, or fails for a period of 60 days to permit reading of the meter during the hours of 8:00 a.m. to 6:00 p.m., Monday through Saturday."

The Commission finds that this suggested change, while prompted by valid considerations, would provide two loopholes. The first problem presented by the suggested change would be disadvantageous to the customer. By providing a precise time limit, many working customers may never be home when the meter may be tested, without losing working time. Most metropolitan utilities, the Commission finds, have meter readers avaiable during "non-working hours." The Commission finds that use of the term "reasonable" although more imprecise, is nevertheless more adaptable to this problem and, therefore, is more practical. In the event that there is a dispute as to the times that a customer refused to allow a meter reader to read the meter, the problem can always be resolved under the dispute procedures, PSC 303.

The second problem presented by Mr. Zehring's suggestion, that is, providing a 60 day grace period after an estimated reading when added to the original month's usage may be a period of three months or longer. This could eventually lead to as much as a six month bill. Such a large bill works to both the utility's and the customer's detriment. The Commission finds that once a customer has determined that an estimated bill is incorrect and requests the utility to provide an actual meter reading, that as nearly as practicable, the customer should allow the utility to make such reading as soon as possible. By connecting the definition of "refuse" to a grace period of 60 days, a means is provided by which a customer may avoid payment of a bill for a long period of time. The Commission finds that the problem presented by Mr. Zehring does not warrant such an extreme remedy as he suggests. Again, the dispute procedures may individually decide the extent that a customer needs to go in order to "refuse" the request of a utility to read the meter. The Commission finds no similar definition

of refusal in any other state regulation reviewed.

By letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company, suggests the following comments and changes in PSC 298:

Mr. McGannon comments that drawing the distinction that "disconnection of service means cessation of utility service" and "suspension of service means a temporary cessation of utility service" is unnecessary. He relates that experience at Northern States Power Company dictates that all terminations are usually temporary in nature regardless of the underlying reasons for termination. Customers attempt to have service restored as soon as possible.

Mr. McGannon suggests that the distinction between disconnection of service should be based upon those disconnections with notice and those disconnections without notice. He suggests that the permissible reasons, therefore, be renumbered PSC 298(a) Disconnection of Service with Notice, and under this provision list all of the permissible reasons under originally proposed PSC 298(a) and (b) which contained a notice provision. He continues and suggests that PSC 298(b) should be relabeled "Disconnection of Service Without Notice" and thereunder list all of the permissible reasons to disconnect service as originally provided in PSC 298(a) and (b) which allow disconnection without notice.

The Commission accepts the rationale given by Mr. McGannon for abandoning the distinction between "disconnecting" and "suspending" service. Accordingly, the Commission has renumbered all of the provisions contained in originally proposed PSC 298(a) and (b) and placed them all under PSC 298(a) outlining the distinction originally intended in the rule, that is, whether or not the customer caused the reason for disconnect in each individual permissible reason. The Commission finds that whether the permissible reasons to disconnect service are organized as those without or with notice or are merely delineated according to each permissible reason on the basis of whether notice is required, is merely a choice of organization and does not change the substance of the regulation either way. Accordingly, the Commission rejects the suggestion to organize PSC 298 based upon whether or not a notice is required and instead will describe each permissible reason by whether a notice is required.

Mr. McGannon addresses the definitional distinction between "disconnection" and "suspension" as to the disposition of deposits and states that this creates confusion with other provisions of these regulations. He states, for example,

that PSC 298(a)(2) allows disconnection or refusal of utility service for failure to "meet the deposit and credit requirements contained herein." He states that presumably the reference to "refuse" relates to new service as in PSC 325(a) and the reference to "disconnect" relates to PSC 325(b) in that you can only disconnect an existing service.

The Commission finds that these concerns really relate to the interrelationship between PSC 298 and PSC 325 through 327 (Deposit Rules). Accordingly, this problem is discussed below.

Mr. McGannon suggests an addition to the permissible reasons to disconnect by requiring with notice a utility may disconnect a service when necessary for the utility to comply with an order or request of any governmental authority having jurisdiction.

The Commission was not given any example of where an order or request of another governmental authority which had jurisdiction would create a problem with permitting disconnection of service. No situation is suggested in which a request of a governmental agency would not fall under one of the already existing permissible reasons, such as hazardous conditions, which would enable the utility to disconnect service. The Commission finds that the determination of another governmental agency's jurisdiction may be a problem which could only be resolved by the Commission and, therefore, sees no necessity of placing this in a regulation but rather feels that the situation should be left to the discretion of the Commission and brought to the Commission's attention as the need arises. Absent any rationale for this suggested regulation, the Commission finds no reason for its inclusion.

Mr. McGannon states that PSC 298(a) and 326(a) contemplate that utility service should not be disconnected for nonpayment of bill until the deposit held by the utility has been applied to the liability and extinguished. He states that it is the opinion of Northern States Power Company that such limitation should not be placed upon the right to terminate service.

As stated above, the Commission finds that as the deposit is a means of assurance of payment and that as the deposit consists of funds in addition to regular payment of bills and funds which are paid a relatively small amount of interest, that the purposes of a deposit should be to the benefit of the depositor, that is,

the customer. If a customer is required to deposit funds in order to assure his payment of a utility bill, then when a utility bill is in arrears the customer should have the right to have his deposit applied to the bill before the disconnection is commenced. Although the Commission recognizes that there are problems in determining exactly when a deposit has been used to satisfy the obligations and thus allow a utility to disconnect service, these problems have been resolved by the changes from the original proposed rules. The Commission finds that the rationale is insufficient for deleting the above discussed requirement from the regulation.

Mr. McGannon suggests that an additional permissible reason to disconnect service be added to the proposed regulations. He suggests that service may be disconnected "to prevent fraud in obtaining or using utility service."

The Commission finds that the fraud problem presented by Mr. McGannon is governed by PSC 298(a)(5) or possibly PSC 298(a)(3) if fraud was an impermissible act under the utility's own rules. Therefore, the Commission finds that there is no need to make a separate provision for fraud as it is already adequately covered.

Mr. McGannon suggests the addition of a new regulation under PSC 298 which would be entitled "Refusal of Service - Permissible Reasons." He suggests that a utility should be allowed to refuse service to any person, firm, association or corporation, or any agency of the federal, state, or local government for any reason stated below:

1. For failure or refusal to make proper application for service.
2. For failure to meet the deposit and credit requirements contained herein.

The Commission finds that this proposal must be rejected as it is not needed within the parameters of the regulations. "Proper application for service" is a subjective standard which could be used to circumvent the intention of the deposit rules as well as particular sections of the Public Utilities Act which require extension of service to anyone upon request consistent with the financial requirements of the utility.

The second suggested reason to refuse service, that is for failure to meet the deposit and credit requirements, is already substantially stated in PSC 298(a)(2); and, adds nothing further to the already existing regulation.

Mr. McGannon suggests amendment of PSC 298(c)(4), renumbered PSC 298(b)(4) by the Commission. He suggests amendment of the regulation to provide that a utility may not disconnect service if a customer has failed to pay a bill charged because of an inaccurate meter, unless the customer and the utility have agreed upon the amount due or the amount due has been determined by these regulations, the Public Service Commission, or the Courts.

The Commission finds that such clause was within the intent of the originally proposed regulation. The Commission finds that the purpose of PSC 298(b)(4) is to force the utility to come to an agreement with a customer as to the amount of the inaccuracy or, in the alternative, to have the Public Service Commission, the courts, or these regulations determine the amount due.

The Commission finds that if the regulation were to remain as originally proposed, a customer could avoid payment of a bill for service rendered but inaccurately charged simply by the happenstance of this rule. The result would be that the rest of the customers of the utility would be forced to bear the burden of this free service provided because of an inaccurate meter. The Commission recognizes that it is impossible for a customer of a utility to insure that his meter is accurate and the responsibility for meters rests with the utility. However, the Commission recognizes that this responsibility for inaccurate meters should not go to the point of providing free service. Therefore, a compromise must be reached by the regulation between both interests involved. With the suggested change made by Mr. McGannon and accepted by the Commission, the amount of the inaccurate meter must be agreed upon by the customer and the utility before a customer will be forced to pay the bill. If the utility attempts to charge the customer based upon its singular determination of the amount of the inaccuracy, the customer has the right under this regulation to refuse to pay the bill and the utility cannot force disconnection for nonpayment. If the customer and the utility have not agreed upon the amount due, the parties must go to an objective determinant as provided in the regulations, specifically the Public Service Commission or possibly the courts. This procedure insures that the customer will not be burdened in any way by the inaccurate meter but will only be responsible to pay for the amount of service received as nearly as practicably determined by the customer and utility in concert, or by the Commission or courts.

The Commission finds that the amendment suggested by Mr. McGannon is within the intent of the regulation and accordingly, has implemented it into the final rule.

Northern States Power Company, by Mr. McGannon, suggests amendment of PSC 298 (b)(5) to allow a customer to refuse to pay an estimated bill unless the customer upon request of the utility has refused to permit a meter reading or unless the estimated bill has been verified by a meter reading prior to termination. The last phrase "or unless the estimated bill has been verified by a meter reading prior to termination" is the additional clause suggested by Mr. McGannon.

Mr. McGannon states that it is Northern States Power Company's practice to verify the accuracy of estimated bills whenever possible prior to determination. If the meter is accessible, the field collector obtains a reading and compares the same with the estimated bill. He states that Northern States Power feels that the results of this section, unless amended, are discriminatory as to non-moving customers and unreasonable. He states that the minority who do not pay their prior accounts, and are generally those who do not intend to pay them, are the only ones who would benefit from the proposed section as originally written.

The Commission recognizes the problem presented by Mr. McGannon; however, the Commission finds that the situation would not be applicable to this section of the regulations. The Commission finds that PSC 312 adequately describes what an "estimated billing" is. When an actual meter reading has been obtained, the Commission finds that an "estimated meter reading" no longer exists and in the situation described by Mr. McGannon, the refusal of the customer to pay the bill based upon this actual meter reading would not fall under the protection of PSC 298(b)(5) as that bill would no longer be based upon an estimated meter reading, but would be based upon an actual meter reading and the utility would be free to disconnect subject to the other requirements of this regulation. (For example, 298(a)(1).)

The Commission finds that the suggested change by Northern States Power Company would duplicate the other provisions of the regulations and that it is unnecessary.

Mr. McGannon suggests that in relationship to PSC 298(d)(2), the Landlord-Tenant Rule, as renumbered by the Commission PSC 298(c)(2), be limited in scope so that it clearly applies only to a "landlord-tenant relationship" and proposes language which would result in that change. Mr. McGannon states that Northern States Power Company

strongly recommends that the Commission explore the possibility of adopting a rule incorporating the concept of the Minneapolis and St. Paul posting ordinances.

As discussed above, the Commission finds that the more precise language relating to specific landlord-tenant relationships suggested by Northern States Power, and suggested earlier by other utilities, is within the intent of the originally proposed rule and, therefore, has amended PSC 298(c)(2) to apply strictly to landlord-tenant relationships. (See discussion of the Landlord-Tenant Rule above, p. 51, 52).

While the Commission is aware of the various ordinances of the metropolitan areas of the State of Minnesota as regards to rent escrow techniques to enable tenants to use rent payments to pay outstanding utility bills of the landlord, the Landlord-Tenant Rule as implemented in these regulations addresses only the responsibility of the utility to offer to tenants the possibility of subscribing to service in their own name. The Commission finds that the relationship between the utility and the landlord should not be applied to the tenant so that the tenant would be forced to inherit the landlord's liabilities. The Commission finds that in many cases the object of this rule would not conflict with the various ordinances involved and that the tenants would have access to both this regulation and to the city ordinances. The Commission finds no further rationale presented by Northern States Power Company as to why the change should be made and, accordingly, adopts none of the proposed changes made by Mr. McGannon in regards to PSC 298(c).

The Commission recognizes the importance of PSC 298 as it applies to customers and utilities alike. The Commission finds that the subject matter of PSC 298 encompasses the area of conflict most visible between customers and the utility. The Commission has promulgated this regulation keeping in mind the financial requirements of the utility as well as the right of a customer to receive reasonable service. When a customer is deprived of service upon grounds which are unjustified, the customer has been denied reasonable service. On the other hand, when a customer is able to achieve free service or continued service under a heavy cost to the utility, the utility has no alternative but to pass that cost on to other customers which in turn becomes an unreasonable burden for other customers to carry. The result must be a thin line which is reasonable to both the needs of the individual customers, the

customers as a whole, and to the utility. Therefore, the Commission provides further comment below upon the subject of PSC 298:

The original intent of distinguishing between "suspension" and "disconnection" was, as stated above, to separate the situations where a customer is at fault and when the customer is not at fault.

The response of the participants at the hearings indicated that such distinctions may be better obtained in a different framework. The Commission has substantially restated all the causes of disconnection of service as permissible means of disconnection and has deleted the section relating to suspension of service. Those sections relating to suspension of service have been incorporated into additional sections under PSC 298(a), Disconnection of Service. When the joining of these two former sections was achieved, the Commission realized that a substantial amount of overlap resulted and, accordingly, some of the permissible causes for disconnection were dropped and merged into one section. The Commission submits that this change in organization will provide a more workable format and the Commission finds that the substance of the original proposed rules remains the same.

In those cases of disconnection at which the customer is not at fault (hazardous conditions, PSC 298(a)(6)), the customer does not have to pay a reconnect fee nor does the disconnection affect the status of the deposit, that is the 12 month period for holding the deposit continues to run during this interruption of service.

Although the customer would be causing the disconnection under PSC 298(a)(9), that is, under a temporary disconnection, the true element of fault is absent. Therefore, the customer request of temporary disconnection does not interrupt the deposit time period although it will permit the utility to charge a reconnection fee.

In all other causes of disconnection, some which do have and some which do not have a notice provision (which in turn depends upon the immediacy of the problem), the customer will lose the tolling period under the deposit rules and will be required to pay a reconnect fee. It is with these remaining permissible reasons that most of the commenting utilities were concerned with the reconnect fee. Accordingly, the Commission finds that those concerns have now been met.

PSC 299 - Cold Weather Rule

Because a utility is placed with a public trust, its policies must be reasonable in providing energy service. With this responsibility, a utility should not be allowed to disconnect service arbitrarily in situations where the individuals disconnected could be harmed thereby. The Commission believes that because of the "public trust" nature of a utility, it should be a utility's responsibility to do as much as reasonably possible to insure that harm to life and health of its customers is not proximately caused by its disconnection of service.

To that end, the Commission implements the following cold weather rule. This rule is important in addition to other considerations in the fact that the climatic conditions of Minnesota require it.

The Commission finds that a regulation in the State of Wisconsin provides that a utility must notify the local law enforcement department if residential service has been disconnected and not restored within a 24 hour period. The Commission further finds that in the Wisconsin regulation the utility is charged with a duty to inform the law enforcement department that a threat to life and health might exist. (Wisconsin Regulation, PSC 134.062, Disconnection and Refusal of Service, Section 93).

The Commission finds that many utilities on their own do not disconnect service when the temperature goes below a certain level. As reported by a survey in the Washington Law Review, the utilities do not necessarily have such a rule for humanitarian purposes. Some utilities are required to have such rules by their union contracts. (46 Washington Law Review 745 (1971)).

During the course of the hearings, Mrs. Sherry Chenoweth, representing Consumer Services in the Department of Commerce, provided substantial testimony concerning this rule (Transcript, pp. 226-233).

Mrs. Chenoweth noted the tragic situations where elderly persons had frozen to death in their homes after a utility disconnection. She also relayed to the Commission the results of a survey her department conducted among the 12 privately-owned utility companies furnishing natural gas to consumers throughout the state. The survey showed a wide degree of variation

concerning utility disconnect policy during the winter months. The survey indicated that the time length between delinquency of accounts and disconnection varied from one to two months. Some companies indicated that they did not disconnect service at all during the winter months. Mrs. Chenoweth indicated that these wide variations pointed to the need for a uniform rule throughout the State of Minnesota.

Mrs. Chenoweth also indicated that the degree of personal contact between the utilities and the customer varied widely.

As a result of this survey, Mrs. Chenoweth recommended that the ideal rule would be to prohibit cold weather disconnections entirely. She stated that she did not believe that the postponing of a disconnection until spring would impose a severe financial hardship on the other utility companies, especially when such a policy could conceivably prevent needless deaths during the winter. In the alternative, she recommended that the time element in the rule be amended, as contacting a welfare department at the end of the day gives the welfare agency very little time to allocate money for payment of the bill or to establish contact with the customer as to other possible sources of finanacial assistance. She stated that contact at the close of the business day assures a customer of at least one Minnesota night without heat, which she said could be a real disaster.

Mrs. Chenoweth urged this Commission to adopt rules and regulations which provide additional protection during the winter months. She suggested that PSC 299 be amended to **require** the appropriate agencies to be contacted by the utility prior to disconnection of service during the winter. She suggested that the appropriate agencies to be contacted include not only the local law enforcement department and the county welfare department as proposed in the rule, but also the landlord and/or the mortgage holder, and the water department.

The Commission shares Mrs. Chenoweth's concern that cold weather disconnection might lead to a serious health problem or even death. On the basis of the record herein, the Commission finds that the provision in PSC 299 requiring notification of the appropriate welfare and law enforcement authorities is the best workable safeguard against the occurrence of such tragedies.

The Commission finds that most situations of disconnection of service result in a speedy payment of the bill and reconnection usually within the same day. The Commission finds that notification of local law enforcement and county welfare agencies prior to every disconnection would increase substantially the number of calls to these agencies. As the number of calls increases, the number of "false alarms" would also increase as in by far the majority of these situations the service is restored by the customer within the same time period. The Commission finds that such procedures may result in the agencies' disregard of these contacts and thus, the intent of the requirement of notification prior to disconnection would be frustrated. The Commission believes that the underlying intent of Mrs. Chenoweth's suggestion that notification be made prior to disconnection was to give the appropriate agencies proper time in order to resolve the problem. Accordingly, the Commission has amended PSC 299(a) by requiring notification of the local law enforcement department and the appropriate county welfare department by the close of business on the same date. While this does not give these agencies as much time as Mrs. Chenoweth's proposal would, it nevertheless requires that notification will be sufficiently prompt to enable corrective measures to be taken the same day. The Commission finds that the addition of this phrase allows the customer, who it must be remembered holds the primary responsibility for the disconnection, enough time in order to meet the payment requirements before the outside agencies are contacted, and that it is not unreasonable to expect the appropriate authorities to respond almost immediately when disconnection has actually occurred.

Despite the requirement that the appropriate law enforcement and welfare authorities be notified on the date of disconnection, the Commission believes that instances will occur in which the utility neglects to make the proper notification or in which the appropriate agency fails to make a prompt investigation. It believes that such failure may well lead to the death of an elderly person who failed to understand the necessity of paying a bill or of an infant whose parents for whatever reason failed to pay. One safeguard against the occurrence of such a tragedy would be to adopt Mrs. Chenoweth's suggestion that

cold weather disconnections be flatly prohibited. Her suggestion was not challenged by the utilities, either in the hearing or by written comment thereafter. Although Mrs. Chenoweth thought that such a rule would not work an undue hardship on the utilities, the record is silent concerning the financial implications of such a rule. It is obvious, however, that a complete prohibition of cold weather disconnections would mean that service could not be disconnected for extended periods of time in many areas of this state. For example, the records of the National Weather Service show that on the average the thermometer dips below 32 degrees every day between October 26 and April 14 in International Falls and between October 27 and April 13 in Minneapolis and St. Paul - a period of more than 6 months. If a substantial number of a utility's customers decided to take advantage of the rule to obtain free utility service for a 6-month period, the results to the utilty might well be disastrous. In view of the meager state of the record, the commission adopts Mrs. Chenoweth's suggestion in a more limited form. The rule adopted herewith prohibits utilities from disconnecting service when the temperature falls below 0 (Zero) degrees fahrenheit (rather than 32 degrees fahreneit as suggested by Mrs. Chenoweth). The Commission finds of the National Weather Service forecast office show that during the base period from 1931 through 1960, the average minimum temperature at its First Order Stations in or near Minnesota fell below 0 on the following days:

Duluth - January 12 through February 15;
International Falls - December 15 through February 7;
Fargo - January 4 through February 19.

While some customers may take advantage of this rule, we do not think that the impact on the affected utilities will be **inordinately** great. Experience may show that the temperature threshold of 0 degrees should be revised.

We have also adopted Mrs. Chenoweth's suggestion that no service be disconnected during the cold weather months on a Friday or on a day before a legal holiday. We find that this is a reasonable precaution to minimize the likelihood of delays in investigations by the proper agencies.

In accordance with these changes, PSC 299(a) and (b) as originally proposed have been re-numbered and incorporated into PSC 299(b). The additions suggested by Mrs. Chenoweth have been numbered PSC 299(a). As discussed below PSC 299(c) as originally proposed has been deleted.

The Commission finds that no substantiation was given as to why the landlord, mortgage holder or water department should become involved in the immediate problem of a source of a threat to life and health. The Commission finds that the responsibilities between the landlord and the tenant are addressed by PSC 298(c) and that in a situation where the landlord has failed to pay for the utility service, the utility is under an obligation to notify the tenant and to offer the tenant an opportunity to subscribe to the service. Although there may be situations where the mortgage holder and the water department should be notified, the Commission finds that these notifications can be channelled through the county welfare department and the local law enforcement agencies as the need arises.

Because of the importance of this rule and the public trust responsibility undertaken by each utility, the Commission has underscored such responsibility by deletion of PSC 299(c) which stated that failure to comply with this rule would not constitute negligence per se if the utility had made a good faith effort to meet these requirements. The Commission finds that the utility is under a duty of good faith to comply with the letter and the spirit of this regulation and finds that further delineation of the requirements of this rule would not necessarily be in the interests of the Minnesota rate payers. The Commission also finds that such further restrictions as to the time of disconnection and the hours that an office should remain open is not found in other regulations of other states.

Mrs. Chenoweth suggested that it is important for the utility to make personal contact with the customer prior to disconnection. She noted that although the regulations state that a utility must make three good faith attempts to contact the customer, and that service can be disconnected only in conjunction with a personal visit, that the regulations do not guarantee actual contact with the customer. She stated that the policy of hanging a "doorknob tag" in conjunction with a disconnection should be discontinued.

The Commission finds that the regulations strongly emphasize that a personal visit is necessary, and a personal notification is essential to the disconnection procedures. While the Commission, throughout its regulations,

has shared Mrs. Chenoweth's concern, the Commission finds that a "guarantee" of a personal visit is very difficult to obtain especially in the situation where a customer refuses to answer the door or to communicate because he is attempting to avoid payment of the bill.

Under the proposed regulation the utility must make three good faith attempts at personal contact before disconnection may be accomplished. One of these attempts outlined in the disconnection procedures, PSC 300, Notice, is by certified mail which, upon receipt, strongly indicates personal contact. In addition, the regulations provide that disconnection must be made by a personal visit to the customer's premises and it may not be done by simply turning a switch at the utility office. The Commission finds that the procedure of hanging a doorknob notice would not be a good faith attempt at personal contact and emphasizes that these regulations require a more concerted effort to be made by the utilities.

The Commission finds that alternative language, which would guarantee personal contact, was not provided by Mrs. Chenoweth and that in absence of further rationale, that the changes made in PSC 299 are sufficient.

Within the structure of the cold weather rule, Mrs. Chenoweth suggested that a uniform billing policy be followed whereby all consumers would be allowed 21 days in which to pay their bills.

The Commission finds that the purpose of PSC 299 is to insure notification that a customer has been disconnected in order to prevent a danger to health and life. The Commission finds that delaying disconnection for any period of time will not alter the fact that when a disconnection occurs, the danger nevertheless may exist and that it is at the time of disconnection that a utility has the responsibility of notifying the proper agencies and not that the time of disconnection should be delayed. The Commission notes that the period in which a customer may pay a bill before disconnection begins is controlled by the notice provision which requires all action to be preceded by at least five days notice to the customer.

By letter dated December 31, 1974, Mr. Timothy McKeown, representing the Minnesota Public Interest Research Group (MPIRG), suggested that PSC 299 (c)

should be amended to read: "failure to comply with this rule shall constitute negligence." He stated that the whole point of the regulation is to ensure that the health or lives of customers are not endangered simply because of their difficulty in meeting utility payments. He stated that MPIRG views the requirement that utilities must notify the law enforcement and welfare agencies as a minimal requirement and would prefer that disconnection of service during a cold weather period be prohibited. Under the circumstances, he stated, the simple requirement that the utility merely make a "good faith attempt" is but another case of the regulatory structure in effect condoning sloppy, inefficient, and dangerous practices by the utility companies.

While the Commission does not accept this rationale, it has recognized the seriousness of the issues by deleting any reference, one way or another, to the utility's negligence. Should a tragic situation occur which this regulation attempts to avoid, the determination of a utility's negligence can better be determined by a more appropriate body.

As to Mr. McKeown's comments concerning the minimum nature of this regulation as it was originally proposed, the Commission notes the additions to the rule which prohibits disconnections during periods of extremely cold weather. The Commission finds that Mr. McKeown's comments suggest no alternative language and as such, further comment is unnecessary.

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, commented that the only problem that he had with the proposed regulation was that it did not address itself to the distinction between "suspension" and "disconnection." (Transcript, p. 225) This problem has been alleviated by the fact that PSC 298 has merged the disconnection and suspension provisions into one and, therefore, all references now are to disconnection. Therefore, the Commission finds that the reference in this regulation, PSC 299, is to any disconnection of service which exists under the prior rule.

By letter dated January 20, 1975, Mr. A. L. Pooler, representing Minnesota Gas Company, suggests that PSC 299 be rewritten to allow the determination of the low temperature to be during the previous 24 hour period

and to change the tense of the verb "falls" to "fell." He pointed out that the rule is ambiguous in that the 24 hour period as originally defined appears to be 24 hours subsequent to the time of termination. This would require reliance on future weather forecasts.

Minnesota Gas Company correctly believes that the intent of the rule was to consider the temperature for the 24 hour period prior to the shutoff. The Commission also notes that the words "previous 24 hour period" could be construed as running up to the very second that disconnection takes place. It is obviously impossible and impractical to charge service personnel with the duty of being aware of the minimum temperature at every second when they are in the field. Accordingly, the rule adopted substitutes the word "day" for "24 hour period." Thus the relevant period will be the 24 hour period which terminates at midnight on the day preceding disconnection rather than the period which runs to the actual time of disconnection.

The Commission notes that PSC 299 in its present form does not contain any instruction as to where the utility is to look to determine if the temperature has fallen below 32 degrees. The Commission notes that the National Weather Forecasting Office maintains seven "First Order Stations" at various locations throughout Minnesota which furnish daily minimum temperature information to the public. It would be a simple matter for a utility which wishes to disconnect a customer's service to check the minimum temperature at the Weather Forecast Office's First Order Station nearest the address where service is to be disconnected. Accordingly, the Commission has revised the rule to incorporate this procedure.

Mr. Pooler additionally suggests that it is superfluous to require the notice to contain the statement that "a threat to life and health exists" and that it should accordingly be deleted from PSC 299(b)(2).

The Commission finds that the statement should be retained and in many instances a threat to life and health does exist when utility service is disconnected, especially during the winter periods. The Commission finds that inclusion of the words "that a threat to life and health exists" pose no additional burden upon the utility. However, it does force the utility to bear in mind the seriousness of the consequence of its disconnection of service.

Mr. Pooler also suggests that the information provided should include the billing name and service address at which the service was disconnected rather than the billing address and service address, as originally proposed in the regulations.

The Commission finds that in the situation where service is provided at a different address than where the bill is sent, that the address provided to the appropriate agency should be the address at which the service was disconnected. Accordingly, the Commission has amended PSC 299 to reflect the correct address which should be relayed in the information provided to the appropriate agency.

By letter dated January 22, 1975, Richard Gill, representing North Central Public Service Company, suggests that the distinction between "suspension" and "disconnection" should be continued in PSC 299.

As discussed above, the distinction no longer exists and, therefore, the words "disconnection of service" as used in PSC 299 are sufficient to cover all instances of disconnection covered by PSC 298. The Commission finds no further need for this change and therefore the change has not been made.

By comments received January 20, 1975, Mr. Elmer Trousdale, representing Peoples Natural Gas Company, suggests that the Commission clarify the meaning of what constitutes notice to local law enforcement department and appropriate county welfare department.

The Commission emphasizes that the purpose of PSC 299 is to get the information of the disconnection to an agency which is able to forestall the disastrous consequences which may arise should the disconnection occur during a period of low temperature. By delineating the notice requirement further, the Commission finds that the purpose of the rule would be frustrated rather than expedited. The notice shall be sufficient if it informs the appropriate agency that the disconnection existed. The Commission finds that the utility is under a good faith obligation to comply with this rule and that such obligation should be sufficient to insure that the notice is received. The Commission notes that no suggested language was provided by Mr. Trousdale and, absent any rationale provided, no suggested change is necessary.

By letter dated January 8, 1975, Mr. Richard Zehring, representing the Greater Metropolitan Federation, suggests that the degrees in PSC 299 at which time the

notification should be sent to the appropriate agency should be equivalent to that degree set as safe, decent, and sanitary by the City Housing Code. Mr. Zehring suggests that the rule be amended and to substitute the figure "60 degrees" rather than "32 degrees."

The Commission finds that the determination of the inside temperature of dwellings would be a very difficult procedure for the utility to determine and that if the temperature were only to be estimated, the requirement would be too imprecise to adequately enforce. The Commission finds that the determination of a 32 degree temperature as determined by the National Weather Service is the most appropriate temperature to determine when this regulation should come into effect. Absent any rationale provided by the Greater Metropolitan Federation, the Commission finds that no change in the degrees is warranted.

PSC 300 - Notice: Other Time Requirements

PSC 300, the Notice regulation, governs all the uses of notice contained within these regulations. It governs all notices required by these regulations to precede any actions taken by the utility. As a general rule, this provision will be most visible in the area of service disconnections.

The Commission finds that this regulation achieves two goals. First, the regulation assures the customer that no action may be taken by the utility without his or her knowledge. This gives the customer an opportunity to avoid the anticipated action by removing its cause. The Commission believes that every effort should be made to insure that the customer is well aware of the utility's action. The Commission finds that this, in turn, will enable more problems to be resolved without the necessity of disconnection or some other unfavorable action.

The second goal achieved through this notice regulation is that it is a yardstick by which the utility may judge the propriety of its actions. If the notice procedures have been properly followed, the utility may proceed without later facing charges of improper notice by a customer.

The Commission finds that the regulation of notice has been upheld in favor of regulatory commissions. The Ohio Public Utilities Commission has held that a notice of disconnection and reasons for such disconnections should be rendered to a customer prior to disconnection and that a utility which did not provide for proper notice

was in violation as to such a requirement and that the utility's service rules were, therefore, unreasonable. Re Valley Utility Company, 73 P.U.R. 3d 41 (Ohio Pub. Util. Comm. 1968). The Vermont Public Service Board has held that any discontinuance of service is objectionable if it denies a customer the opportunity to protest a wrongful discontinuance through the absence of proper notice. Re Emco Catv, 95 P.U.R. 3d 373 (Vermont Pub. Svc. Bd.). The Commission finds that the requirements of PSC 300 do constitute proper and reasonable notice.

PSC 300(a) provides that all notices required by these rules shall be by first class mail, except notice of disconnection must be by certified mail. This requirement of certified mail has been amended from the requirement of registered mail as originally proposed in these regulations. This change is discussed below. The higher requirement of certified mail may be subject to the criticism that many people refuse to accept such mail and it remains undelivered. The Commission finds that the alternative of first class mail does not insure the utility that the customer ever received a personal notice. Without personal notice, the utility can never be sure that the customer has had a chance to respond before the action is taken. By virtue of its status as a monopoly, the utility has a responsibility to adequately serve the public. It is a public trust. The burden of assurance of an adequate return on its investment carries with it the burden of public protection. The liability for a proper notice should not be on a customer and the customer should not have to prove that there was no opportunity to resist a utility action because he or she was unaware of it. Rather, the utility should have to prove that every attempt was made to apprise the customer of its impending action. The higher standard of notice guaranteed by certified mail should be preferred over the difficulty of delivering such mail.

If a utility is unable to reach a customer by certified mail, it has the alternative under PSC 300(c) which provides for personal delivery of the notice of disconnection by a representative of a utility. Once again, the Commission finds that the emphasis of this regulation is upon making sure that a customer is personally aware of an action before the utility may act. The Commission recognizes the fact that occasionally customers may try to avoid action by refusing to receive certified mail or in addition, refusing to answer the door when a utility representative calls.

In this case, personal notice may be impossible. Under such circumstances, the utility should not be held to an absolute standard of personal notification. Therefore, PSC 301(a), a Manner of Disconnection, allows disconnection when the utility has made three good-faith efforts to give the customer a personal notice of an impending action.

The Commission finds that PSC 300(b) requiring a five-day notice before any impending action, is suggested by a similar regulation in Iowa. The Commission finds that the number of days notice varies from state to state. The Commission finds that the variance is from five calendar days to ten days excluding Sundays and holidays. The Commission finds that the median notice is five days excluding Sundays and holidays which is what is provided in PSC 300(b).

The Commission finds that PSC 300(f) provides an additional incentive to the utility to give proper notice by insuring to the customer that compensation will be provided for any damages resulting from a notice which does not comply with this regulation.

During the course of the hearings and by written comments received by this Commission, the Commission finds that the largest amount of concern over the requirements of PSC 300 was centered in the mailing requirements for notice of disconnection. Many participants commented that the requirements as originally proposed of registered mail were too restrictive upon the utility in that (1) registered mail would seldom be answered by those customers intending to avoid the notice requirements and (2) that the use of registered mail would substantially increase the costs of the utility which the utility must then pass on to the other customers. In the alternative, many participants and commentators on the rules suggested that if the Commission could not change the requirement to first class mail, then in the alternative it should change the requirement to certified mail which is at a substantially lower cost than registered mail.

The Commission finds that the requirement of certified mail is a compromise between the intent of the rule to achieve personal notice with the concern of the utilities over the cost of providing such notice. Although this rule is discussed further in response to each utility's consideration, the Commission finds that the change to certified mail is justified and has accordingly amended PSC 300.

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, stated that the originally proposed requirement of registered mail was too costly in light of the benefit. Mr. LeVander stated that if anything more than first class mail is ultimately going to be provided for in this regulation, that he would hope that certified mail would be allowed which would be less expensive (Transcript, page 234). He stated that the preference of the electrical ccoperatives would still be that all the notices be by first class mail. Mr. LeVander indicates that there are cooperatives which send out disconnect notices to ten (10%) percent of their members, emphasizing the cost which these cooperatives would have to sustain were these notices required to be by registered or certified mail.

As noted above, in consideration of the goal of these regulations to provide as nearly as possible personal notice of an impending disconnection, the Commission accepts the compromise suggested by Mr. LeVander and inserts the requirement that disconnection notices be by certified mail rather than registered mail.

Mr. LeVander stated that the provisions provided in PSC 300(c), that of allowing notices to be personally delivered by a representative of the utility in lieu of mailing by (certified) mail, were largely impractical. He stated that they were impractical because if people wanted to avoid the notice, they simply would not answer the door. He stated that as such, again, the intent of the rule to achieve personal notification of a discontinuation of service would be thwarted. He suggested that in the alternative, if a utility representative attempts personal delivery and is unable to achieve it, that some sort of arrangement be provided where he could sign an affidavit to the effect of attempted delivery.

The Commission finds the suggestion made by Mr. LeVander to be well taken and has amended originally proposed PSC 300(c) by providing that if the attempt to personally notify the customer or a member of the customer's family of responsible age has been unsuccessful, that the representative of the utility may affirm in writing that attempted delivery of this personal notice was made in good faith. The Commission finds that such amendment to the notice requirements still adequately assures that personal notice will be achieved, while at the same time recognizes the practical difficulties that may arise in some circumstances. The Commission emphasizes the fact

that the affidavit signed by the representative of the utility must still be made in good faith.

Mr. LeVander commented that the requirement as originally proposed in PSC 300(d) that a copy of all notices sent must be kept on file by the utility, would place an undue burden upon the filing systems of the utilities in that during a three year period, the storage of all copies of all notices would reach such proportions that utilities would have to add to their office space. He stated that if the intent of the rule, rather, was to keep a file of the copy of the form notice, then compliance would not be difficult by the utility.

The Commission finds that the intent of PSC 300(d) was that a record of the notices sent be kept by the utility rather than a copy of each notice and that the utility should also keep a copy of the form of each notice that it sent out. Accordingly, the Commission has amended PSC 300(d) to reflect the accurate intent of the regulation.

During the course of the hearing, Mr. Richard Gill, representing North Central Public Service Company, commented that the requirement of notice of disconnection which required registered mail was too costly for the benefits derived and that the requirement of certified mail would be sufficient (Transcript page 272). The same concern was substantially expressed by Mr. Patrick Leary, representing Lyon-Lincoln Electric Cooperative, (Transcript page 286).

As discussed above, the Commission accepts the suggested change and accordingly has amended PSC 300(a) to require certified mail rather than registered mail to notify a customer of disconnection.

By letter dated January 8, 1975, Mr. Richard Zehring, representing the Greater Metropolitan Federation, suggests that the notice of impending action as required by PSC 300(a) should be bilingual in both the Spanish and English language.

The Commission finds that this change is unnecessary in that the Commission staff has been unable to report any significant class of customers that are unable to understand notices printed in the English language. In absence of any supporting rationaleor contrary data provided by Greater Metropolitan Federation or any other participant, the Commission finds that the suggested change would be too costly and would provide no substantial benefit to any class of customers in the State of Minnesota.

Mr. Zehring also suggests changes in PSC 300(a) which would reflect the difference between "disconnection" and "suspension."

As the Commission has discussed above, the distinctions between "disconnection" and "suspension" have been merged and, therefore, distinction within the notice regulations are unnecessary.

Mr. Zehring suggests that PSC 300(b) be amended to require the action precede five days excluding Saturdays, as well as Sundays and holidays.

The Commission finds that many utilities have crews working on Saturdays and that, therefore, the Saturdays should be included as a working day as well as any other day, Monday through Friday. As no additional reason was presented by Metropolitan Federation as to why Saturdays should be excluded, the Commission finds that the suggested change is not warranted.

Mr. Zehring suggests that PSC 300(c) be amended to allow that receipt of a personally delivered notice may not only be signed by the customer if present, but that also some member of the customer's family of responsible age should also be allowed to sign receipt of the personally delivered notice.

Although no rationale was provided for such change, the Commission finds that the addition would be within the intent of the originally proposed regulation and would provide no additional burden upon the utility. Therefore, the Commission finds that such amendment should be made. Accordingly, the Commission has amended PSC 300(c) to provide that a member of the customer's family of responsible age may sign the receipt of the personally delivered notice.

Mr. Zehring suggests that PSC 300(e) provide that in addition to the requirements already contained therein, that the notices be in normal, easy to understand language. Mr. Zehring makes this suggestion in view of the complexity, or apparent complexity, of the regulations.

The Commission finds that the expectation of this regulation is that the language of the notices is presumed to be easily understandable. However, the Commission finds that the addition of the suggested language does not frustrate the intention or application of the proposed regulation and should be added. Accordingly, PSC 300(e) has been amended to provide that the notices will be in normal, easy to understand language.

By letter dated December 24, 1974, Mr. Willard Anderson, representing Agralite Cooperative, suggests that the intent of PSC 300 could be adequately protected by the provision of certified mail in lieu of registered mail while at the same time lowering the costs to the utility.

This consideration has been substantially repeated in similar form by written comments submitted by representatives of Lyon-Lincoln Electrical Cooperative, Northern States Power Company, Interstate Power Company, Otter Tail Power Company, Minnesota Power and Light Company, Peoples Natural Gas Company, North Central Public Service Company, and Minnesota Gas Company.

As discussed above, this Commission finds that the change of the requirement for notice of disconnection contained in PSC 300(a) should be made. All references contained in these regulations to the notice of disconnection has been amended to require notice by certified mail where it had previously been proposed to require registered mail.

By letter dated January 8, 1975, Mr. Patrick Leary, representing Lyon-Lincoln Electric Cooperative, suggests that PSC 300(c) be deleted to not require a signed receipt of the personal delivery of notice by a representative of the utility. Mr. Leary states that most people, in order to avoid delivery of notice, will not sign a receipt.

The Commission has met the intent of this suggestion by allowing a representative of the utility to affirm in writing that delivery was attempted in good faith where signed receipt has not been obtained from the customer or a member of the customer's family of a responsible age. The Commission finds that the regulation PSC 300(c), has therefore been amended to meet the concerns expressed by Mr. Leary.

By letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company, suggests that if all prior billings have been sent to the billing address and not returned, that there is insufficient reason to suspect that the addressee is unaware of the situation. He suggests that the dual notice requirement should be eliminated and that the notice of disconnection by (certified) mail need not be delivered to both the address where the bill is sent in addition to the address where the service is rendered.

The Commission finds that it is neither difficult nor expensive for a utility to determine if the service address is different from the billing address and that in light of the consequences, that a utility should send the notice of disconnection to both the address where service is rendered and if different, the address where the billing is sent. Accordingly, the suggestion by Mr. McGannon is not warranted.

Mr. McGannon suggests that if a customer refuses acceptance of a (certified) letter, he will additionally not sign receipts of personally delivered notices. Accordingly, he suggests deletion of PSC 300(c).

As discussed above, the possibility of the customer refusing to sign the personally delivered notice has been considered by the Commission. The Commission has amended the originally proposed regulation by providing for the affidavit which may be signed by a representative of the utility as outlined above. The Commission finds that further change of PSC 300(c) is not warranted.

Mr. McGannon suggests that the Commission adopt a different record keeping system than that prescribed in originally proposed PSC 300(d). He states that when notice of discontinuation is sent out by Northern States Power Company it is recorded on the customer's credit record.

As discussed above, the Commission finds that the intent of PSC 300(d) was that a record of all notices that were sent should be kept rather than a "copy." The purpose of this provision is to allow the Commission the ability to trace a history of a particular complaint or to view the notice and complaint procedures of a utility as a whole. For this purpose, the Commission finds that the utility would comply by keeping "records" of notices sent. The inter-relationship between the notice rules and the dispute rules (PSC 300 and 303) should provide the proper incentive for the utility to keep actual notice of some of the notices, especially the disconnection notices which were sent out. Although keeping these notices is not required by the amendment made in this rule, the Commission finds that it would be to the best advantage of the utility to do so. If a copy of the actual notice sent was kept by the utility, the utility would be in a better position to demonstrate that a notice was sent should a dispute arise between a customer and a utility. As noted above, the wording of PSC 300(d) has been amended to read that a <u>record</u> of all notices should be kept rather than a <u>copy</u> of all notices.

Mr. McGannon suggests that PSC 300(f) should be amended to provide that the utility shall compensate the customer for any direct damages which result from an improper notice. He suggests such change for clarification of the determination of what "damages" encompass.

The Commission finds that the intent of the regulation was to compensate for any reasonable damages caused by a failure of the utility to provide adequate notice. The Commission finds that the purpose of this regulation was to encourage compliance by the utilities with the notice provision. While Mr. McGannon provides no rationale for the choice of the word "direct" the Commission finds that some clarification of the intent of this regulation is in order. Accordingly, the Commission has amended PSC 300(f) and has inserted the word "reasonable" to describe the damages for which the customer shall be compensated.

By letter dated January 3, 1975, Mr. William D. Carstedt, representing Interstate Power Company, suggests that PSC 300(c) provide a method whereby the representative of the utility may affirm in writing that a personal notice was attempted to be delivered where the customer has been unable to sign them or where some member of the customer's family of a responsible age has been unable to sign them. He suggests the addition of this provision to eliminate the problem of a customer refusing to sign.

The Commission finds that, as stated above, such change is necessary and has amended PSC 300(c) to provide that in the alternative of the receipt being signed by a customer or a member of the customer's family, that the representative of the utility may affirm in writing that delivery was attempted in good faith. The Commission finds that this amendment meets the considerations expressed by Mr. Carstedt.

Mr. Carstedt suggests that PSC 300(d) be changed from a "copy" of all disconnect notices to a "record" of all disconnect notices should be kept. He makes this suggestion to make it clear that it would not be necessary for a utility to retain duplicate copies of identical forms of notices.

As discussed above, the Commission has found that the intent of the rule was to provide that a record of all disconnect notices be kept rather than a copy and has made the suggested change.

By letter dated January 17, 1975, Mr. Jay D. Myster, representing Otter Tail Power Company, made suggestions concerning PSC 300(a) in regard to the requirement of registered mail, and made suggestions in regard to PSC 300(c) in relationship to the ability of a representative of a utility to affirm that a notice of disconnection was attempted to be delivered in good faith.

The Commission finds that as both of these suggestions have been adequately discussed above, that no further discussion is necessary and that the concerns expressed by Mr. Myster have both been answered in the amendments to this rule.

By letter dated January 20, 1975, Mr. Harold LeVander, representing the Minnesota Association of Electric Cooperatives, suggested that PSC 300(d) be amended to provide that "a sample copy of all notices must be kept on file by the utility and must be made available to the Commission." He makes the suggestion that because of the large numbers of disconnect notices and final disconnect notices, this provision should be restricted at least to final notices and it would be preferable, further, to restrict it to a requirement that utilities simply keep a sample copy of the kind of notices sent to any delinquent customer.

While the Commission, as stated above, has found that the intent of PSC 300(d) was that a record of all notices must be kept by the Commission rather than a copy of all notices and has amended the regulation to that effect, the Commission finds that a requirement that only a sample copy of the notices be kept would be ineffective for the purposes of this regulation. The Commission finds that for purposes of complaint procedures, as well as rate proceedings, that the record of all notices must be available to the Commission in order for the Commission to determine the existence of reasonable service. A file copy of a sample of these notices does not begin to approach the purpose of this rule and, therefore, this change should not be made.

By written comments received by this Commission January 20, 1975, Mr. Elmer B. Trousdale, representing Peoples Natural Gas Company, submitted suggestions concerning PSC 300(a) suggesting change of the requirement of "registered mail" to "certified mail." In addition, Mr. Trousdale suggests that PSC 300(d) change the word "copy" to the word "record" for the notices to be kept by the utility.

As the Commission has made these changes and discussed them above, the Commission finds that further comment on these suggested changes is unnecessary.

Mr. Trousdale suggests the deletion of PSC 300(c) in that he is of the opinion that the requirements of this regulation are impractical, unnecessary, and expensive.

The Commission finds that PSC 300(c) is first an alternative in lieu of mailing. The Commission finds that while personal delivery is expensive, it is not mandatory and is only an alternative available to notify a customer of impending action. The Commission finds that the utility should not object to this in light of the requirement of PSC 301 which additionally requires a personal visit when service is being disconnected. The Commission finds that the retention of this regulation is necessary to comply with the goal of this regulation that personal notice be assured as nearly as practicable to the customer.

Mr. Trousdale suggests that PSC 300(e) be amended to read: "Disconnection of service notice shall contain advice to the customer as to the reason for the disconnection and that absent correction of the noted condition, service will be disconnected on or after seven days from postmarked date on the notice."

Mr. Trousdale suggests that specification of the date of disconnection is not feasible where computer billing is used.

The Commission finds that the regulation permits the date of disconnection to be a date whereby the liability of the utility to continue to provide service has ceased and that actual disconnection may occur on any date subsequent to the date of disconnection. As provided in these regulations, the date of disconnection must be preceded by five days with a notice that such disconnection will occur. As provided in PSC 298(a)(1), the utility may disconnect service for nonpayment of bill. Therefore, the Commission finds that upon a determination by the utility that a customer has not paid his bill within the time limits required by the utility, the requirements of these regulations insist only that a notice of impending disconnection be given five days prior to the actual date of disconnection. The Commission finds that these rules do not force a utility to disconnect on the actual date of disconnection but only that the utility follow the steps required to be reasonably sure that the customer is aware that service will be disconnected. The Commission finds that in view of the total regulations, PSC 298(a)(1), PSC 300 and PSC 301, the problems presented by Mr. Trousdale are adequately met. The Commission finds that absent further rationale provided by Mr. Trousdale, no change is required in this regulation.

By letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, suggests that all notices of any action by the utility shall be by first class mail and suggests that the requirement as to certified or registered mail should be deleted in its entirety. Mr. Gill states that first class mail is adequate for all correspondence.

The Commission finds that the intent of PSC 300(a) was not just for correspondence. The intent was to assure as nearly as practicable that a customer has actual knowledge of the impending action. If the utility is able to prove compliance with PSC 300, no customer will be able to use the dispute procedures claiming lack of notice.

The Commission finds that first class mail does not give the utility any proof of mailing. The Commission further finds that if a customer avoids the utility's attempt at personal notice, the utility additionally would not be sure that a notice had been received. The Commission finds that the remaining alternatives are: registered or certified mail which generally costs 95 and 30 cents respectively (in addition to regular postage). The Commission finds that while this is an additional cost, these alternatives are inexpensive compared to the cost of a personally delivered notice in PSC 300(e). The Commission finds that while the proposed rules do not disallow a personal notice through the telephone, there is no guarantee that telephones alone could achieve the desired result of actual notice. Therefore, the Commission finds that in consideration of the intent of this regulation, that certified mail is the best method of notice of disconnection. The Commission finds that while this involves a greater cost than first class mail, it also provides the utility with assurance that a notice will be returned if unable to be delivered. Upon return, the utility may then attempt to contact the customer in good faith through the telephone or by personal notice.

By requiring the notice of certified mail, the Commission feels the number of disputes and the number of disconnections may be significantly reduced.

The Commission also finds that in consideration of the climatic situations in the State of Minnesota, that this requirement serves to protect the Minnesota consumer from the possibility of sustaining a long period of time without heat. By assuring as nearly as practicable that the customer will be personally aware that a disconnection will occur, the customer will have a better opportunity to

avoid the consequences. The Commission finds that if disconnection notices were sent only by first class mail, the utility would never know whether the customer was aware that service was being disconnected nor would the customers ever have the assurance that they would know if their service were ever to be disconnected. In light of the possible consequences that could result from this situation, the Commission finds that a stronger notice requirement is necessary. Accordingly, the Commission has adopted the requirement that notice of disconnection may be by certified mail or in the alternative, by personal notice by a representative of the utility to the customer.

The Commission notes that various other comments regarding the requirement of certified or registered mail in PSC 300(a) and the issue as to whether a record rather than a copy of all notices sent must be kept by the utility within PSC 300(d) were made by various other participants. As these changes have been made, the Commission finds further comment on them would only be repetitious.

By letter dated January 20, 1975, Mr. A. L. Pooler, representing Minnesota Gas Company, suggests the addition to PSC 300(e) by adding the phrase that continued service by the utility, after the date of disconnection specified in the notice to the customer, shall not prevent or stop the utility from disconnecting service at a subsequent time. Mr. Pooler suggests that the reason for this change is that it is impossible to give exact notice of service termination.

The Commission finds that, as stated above, the date of disconnection is the date for which the utility will no longer be under a responsibility to provide service to a customer. The Commission recognizes the problem of determining the exact time service will be disconnected and has not found that the continuation of service after the date of disconnection in any way will obligate the utility to continue service. In light of the provisions of PSC 298 and PSC 300, the Commission finds that no further change in the rule is necessary.

PSC 301 - Manner of Disconnection and Suspension

PSC 301 govern the manner in which service may be disconnected. This regulation attempts to accomplish personal contact and attempts to assure the customer every opportunity to pay the bill, while at the same time will not allow the customer to forestall disconnection through the use of a procedural obstacle. The Commission finds that with this regulation there is no method available to the customer to avoid the burden of the bill except by actual payment of the bill, but at the same time there is every opportunity given the customer to meet the bill obligations. The Commission finds that no disconnection will be allowed until the utility has obtained personal contact or contact by certified mail with the customer; or in the alternative, the utility has attempted on at least three separate occasions to obtain personal contact in good faith and has been unable to do so. Upon these requirements of attempted personal notice, the service may be disconnected only by a personal visit by a representative of the utility to the address where the service is given. The Commission finds that even at the time of disconnection, that a customer should have the ability to avoid disconnection by making payment of the outstanding bill and, therefore, the Commission finds that the requirement that a representative of the utility shall be able to accept payment is in order.

During the course of the hearings, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, questioned the requirement of PSC 301(a) towards the issue of what constituted the meaning of three separate good faith attempts to obtain personal contact. He asked whether or not these contacts could be by telephone or whether the utility was required to send a representative out on three separate occasions to make personal contact with the customer (Transcript, pp. 243-244).

The Commission finds that within the meaning of personal contact, a telephone contact would suffice. However, the Commission finds that the making of three attempts at personal contact must still conform with the requirements of PSC 300. The requirement of that regulation requires that all notices of disconnect must be by certified mail (PSC 300(a)) or in lieu of certified mail, the notice of disconnection must be delivered by a representative of the utility and such notice must be in writing, signed by the customer if present or some other member of the customer's family of a responsible age, or affirmed in writing by the representa-

tive of the utility that delivery was attempted in good faith. The Commission finds that the use of a telephone may not replace the requirements of PSC 300. However, within the requirements of PSC 300 and PSC 301, an additional attempt at personal contact may be made by telephone, that is, after having attempted to reach the customer by mail or by personal visit or both, a remaining occasion to obtain personal contact may be by telephone where it is required before disconnection in PSC 301(a). The personal visit required of every disconnect action under PSC 301(b) would constitute the third attempt at personal contact.

The Commission finds that the suggested change communicated to the Commission by Mr. LeVander by letter dated January 20, 1975, which provided that service may not be disconnected unless the utility has tried in good faith to contact the customer in person, by telephone, or by first class mail, would not be acceptable as it would provide a conflict between PSC 301(a) and PSC 300(a). The Commission finds that such a conflict cannot be permitted in the regulations and, therefore, finds that no change as suggested is warranted.

By letter dated January 8, 1975, Mr. Patrick Leary, representing Lyon-Lincoln Electrical Cooperative, suggests that the personal contacts outlined in PSC 301(a) should be allowed by telephone.

As discussed above, the Commission finds that as there is no prohibition in the rules against telephone contacts, that they would be permitted under the requirements of this rule as long as they are made in "good faith" and as long as the requirements of PSC 300 have been complied with.

By letter dated January 17, 1975, Mr. James R. Habicht, representing Minnesota Power and Light Company, suggests that PSC 301(a) is unclear as to the "time frame that defines a separate visit." He also suggests that the word "personal" as used in PSC 301(a) should be deleted.

The Commission finds as to the first suggestion of Minnesota Power and Light Company that the word "separate" indicates that each attempt to contact the customer should be made at different times rather than three repeated attempts. The Commission would emphasize that the determination of the time frame of these visits would be determined by the words "good faith" and should not be further delineated as to specific intervals of time in which the three contacts should be made. Therefore, the Commission finds that further delineation of the time period for the three attempts to reach the customer are unnecessary.

The Commission finds that in conjunction with the purpose of the rules a utility should not be able to disconnect service to a customer at the utility office. The purpose of the personal visit in conjunction with the disconnection is to provide sufficient assurance that the customer does know of the impending disconnection; and secondly, to give the customer every opportunity in which to pay the bill or remove whatever cause exists for the disconnection before the actual disconnection occurs. If the suggestion by Mr. Habicht is accepted, the customer could have his service disconnected without a final opportunity to avoid such disconnection by payment of the bill. The Commission finds that the suggestion frustrates the intent of the rule and is directly opposed to the intention of PSC 301.

By letter dated January 3, 1975, Mr. William Carstedt, representing Interstate Power Company, suggests that the personal visits be required only if the attempted first class mail contact fails. In other words, the suggestion is that assuming a first class mail notice of disconnection were approved, that the disconnection would need be by personal visit only if such notice had failed.

The Commission finds that the suggested change by Interstate is ambiguous and as no rationale was provided, the Commission finds no sufficient reason for this change. The Commission would point out that it is difficult to determine whether a first class mail contact had failed and as the Commission has found that the notice of disconnect can better be provided by certified mail, this suggestion is inconsistent with the regulations. Further, the Commission finds that as stated above, the intent of this rule is to insure personal contact between the utility and the customer and the suggested change by Mr. Carstedt frustrates this purpose. The Commission finds no further rationale as to why this suggested change should be adopted and accordingly finds that the suggestion by Mr. Carstedt should not be accepted.

By written comments received by the Commission dated January 20, 1975, Mr. Elmer Trousdale, representing Peoples Natural Gas Company, objects to PSC 301(b) citing that it would give the customer the incentive not to pay until the final disconnection visit.

The Commission recognizes that this possibility may exist. However, the Commission finds that the resolution of such problems exists in the implementation of

the utility's own rules and the utility's determination of its own process as to how disconnections are going to be accomplished. As no suggested alternative language was provided by Mr. Trousdale, the Commission finds no changes in order.

The Commission finds that consistent with its goal of insuring that reasonable and adequate service is provided to utility customers, that PSC 301 adequately provides for this reasonable service and assures customers that service will not be disconnected without as nearly as practicable the utility notifying the customer of the impending disconnection. The Commission finds that PSC 301, when considered in conjunction with PSC 300, attempts to reassure the customer while at the same time does not place a cost burden upon the utility for its disconnection procedures. The Commission would like to point out that no information was provided by any participant either at the hearings or by written comment as to the increased costs involved in this procedure and that, therefore, it finds that the cost increases would not be significant.

The Commission has made one change in PSC 301 which has not been discussed. The Commission finds that in lieu of the change in the notice requirements, PSC 300, which requires notice of disconnection to be sent by certified mail rather than registered mail, that where reference is made in PSC 301(a) to the notice provision in PSC 300, that the wording should be changed to conform to the amendment made to PSC 300. Accordingly, PSC 301(a) shall begin and read: "Service may not be disconnected if personal contact or contact by certified mail with the customer has not been obtained . . ."

PSC 302 - Reconnection of Service

The Commission finds that PSC 302 separates the charge for reconnection of service from any means of penalizing the customer. Accordingly, the Commission finds that the fee charged by a utility must therefore be based only upon the cost to the utility to reconnect service. The Commission finds that the utility must justify the cost in its tariff applications made before this Commission. The Commission finds that this regulation is substantially the same as the regulation in the State of Washington. The Commission finds that the term "valid cause" pertains to those situations enumerated in PSC 298(a) which permit the charge of a reconnect fee.

During the course of the hearing, participants either expressed satisfaction with this regulation or made no comment. Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, states that as far as he was

concerned, PSC 302 was all right (Transcript page 248).

By letter dated January 17, 1975, Mr. James R. Habicht, representing Minnesota Power and Light Company, suggested that PSC 302 should provide a higher disconnect fee. He suggested the reason is that the utilities should keep the charge where the cost originates.

The Commission finds that the object of PSC 302 is not to charge a disconnect fee but rather to charge a fee for reconnection of service. The costs of disconnection, if any, perhaps could be filed in the tariff filing; however, this cost should be substantiated rather than simply imposed or presumed as a standard of the utility.

The Commission finds that a disconnect fee, therefore, is not germane to the purposes of this rule and, therefore, the Commission finds no need for the suggested change.

By letter dated January 8, 1975, Mr. Richard Zehring, representing the Greater Metropolitan Federation, suggests that PSC 302 should be amended to allow that past charges could be payable according to a schedule rather than a lump sum.

The Commission finds that the charge for reconnection of service should not in itself be a substantial charge and,therefore, in absence of any estimated costs submitted by any of the participants, the Commission finds no rationale for dividing this charge into installment or scheduled payments.

The Commission is aware that this rule may require the customer reconnecting service to pay all past bills before service can be begun. The Commission finds that the reference to the new deposit requirements allow a utility to require payment of all or part of past bills before reconnection or before a customer has satisfied the deposit requirements as provided in PSC 326(a) (2). The Commission finds that no rationale was provided by Mr. Zehring. The Commission has no data on which to determine whether or not these amounts as a lump sum rather than scheduled payments, would pose a problem for the customer.

Additionally, the Commission finds that as presented in testimony by the Commission staff at the hearing that research in the experience of Wisconsin and Michigan clearly demonstrate the difficulty in enforcing scheduled payment procedures. The Commission finds that the use of payment schedules should be left to the discre-

tion of the utility, subject to the requirements of these regulations. (See for example PSC 314 & 315).

By letter dated January 20, 1975, Mr. A. L. Pooler, representing Minnesota Gas Company, suggests that PSC 302 be amended and should provide that the customer settlement, which as originally proposed, was merely described as "satisfactory," should be "satisfactory to the utility" before service is restored. He states that the present rule is ambiguous as to whether the utility or the customer or the Commission should be satisfied for the settlement of the outstanding bill.

The Commission finds that the intent of PSC 302 was that the reconnection should be based upon settlement of the outstanding bill to the satisfaction of the utility. Without such a requirement, the customer would seem to be able to force the utility to reconnect regardless of whether the customer had paid the arrearages. Accordingly the Commission finds that PSC 302 should be amended to conform with the intent of the original proposed regulation and should read "in the event service has been disconnected for valid cause by the utility, the customer shall, in addition to any new deposit requirements, pay a reconnect fee based on cost of reconnect as filed with tariff in addition to making a settlement satisfactory to the utility of the outstanding bill before service is restored."

The Commission finds that no further comments were provided by participants and that, therefore, no further changes are necessary to this regulation.

PSC 303 - Disputes

The Commission adopts PSC 303, Disputes, to provide the customer with an equitable dispute procedure while keeping the work for the utility and the Commission in short and efficient manner. The Commission finds that substantial testimony was provided by the Commission staff in reference to the promulgation of this regulation. The Commission addresses its findings first to the testimony provided by the staff and then will address comments made by the various participants.

The Commission finds that dispute resolutions vary significantly from one state to another in their utility regulations. The Commission finds that the dispute regulations of Michigan are lengthy and involved. The Commission finds that Michigan disallows any disconnection of service while a dispute is in progress and that through the Michigan regulations, it is possible for a customer to avoid payment of a bill in dispute for a period of 25 days after the "date of disconnection." This length of time is subject to the scheduling of hearings by both the utility and the Commission. Through this scheduling procedure, the time limit could triple the waiting period to as much as 40 additional days.

The Commission finds that the dispute regulations must be read in conjunction with the rest of the regulations promulgated herein. The Commission finds that the deposit regulations (PSC 326-328) protect the utility for only a period of two months at the most. The Commission finds that if it adopted the Michigan regulation, the utility would quickly become unsecured against nonpayment as the waiting period provided in the Michigan regulation could easily extend beyond two months. The Commission finds that adoption of the Michigan regulation would be inconsistent with the Minnesota Public Utilities Act which requires the regulations to be consistent with the utility's financial requirements.

The Commission finds that the regulations in the State of Iowa (section 19.4(19), Gas, and section 20.4(21), Electrical, Iowa Departmental Rules) deal with disputes only to the extent of requiring the utility to "investigate promptly," "keep a record," and submit the record to the Iowa Commerce Commission. The Commission finds that within the Iowa regulations, disconnection of service occurs irrespective of whether a dispute is in process.

The Commission finds that the regulations in the States of Michigan and Iowa demonstrate the extremes of the relationship between the dispute regulations and the disconnection of service regulations. The Commission finds whereas the Michigan regulation allows the dispute to interrupt the disconnection procedure, that Iowa's does not.

The Commission finds that if the assumption is made that all disputes are valid, then the Michigan regulations would be the best in that they insure that the customer should not be made to bear the burden of paying a bill that he or she does not owe.

On the other hand, if the assumption is made that all disputes are invalid and are merely an attempt by the customer to avoid bill-paying responsibilities, the Iowa and other state regulations would seem to be more appropriate in that the use of the dispute procedures would not interrupt the payment of bills.

However, the Commission finds that disputes are neither all valid nor all invalid and that, therefore, the model provided by the Iowa or Michigan regulations do not adequately handle the problem of the inter-relationship between dispute procedures and disconnection procedures. The Commission finds that the appropriate regulation of disputes should not burden the customer with an unreasonable or unnecessary payment nor should it make the utility bear the burden of frivolous, delaying disputes. The Commission finds that PSC 303 adequately meets this objective.

The Commission finds that the appropriate regulation of disputes in their inter-relationship with the ability of the utility to disconnect service should first place upon the utility the burden of resolving the dispute rather than the Commission. The Commission should be available for dispute resolution only when the customer and the utility have reached an impasse. In addition, the Commission finds that such procedure would lower the administrative costs of the Commission. The Commission finds that the appropriate dispute regulation should not give the customer any opportunity to avoid the legitimate responsibility to pay bills and also that it should remove the penalizing effect of paying a bill which is not owed by the customer. The Commission finds that the appropriate regulation should insure a utility that its legitimate financial requirements will be met and that such regulation is necessary to be in compliance with the requirements of the Public Utilities Act.

The Commission finds that PSC 303(a), (b) and (c) place initial responsibility upon the utility to investigate disputes promptly. The Commission finds that PSC 303 requires that upon dispute the utility shall investigate the dispute, advise the customer of the utility's determination of its result, and that the utility attempt to resolve the dispute. Only upon the completion of these three steps may the utility withhold disconnection of service as required in PSC 303(d). The Commission finds that PSC 303 (d) provides the incentive for the utility to investigate as it may not threaten disconnection of service until the utility has completed its investigation. The Commission finds that PSC 303(d) places the burden on the utility only until the utility has resolved the dispute to its satisfaction. The Commission further finds that the utility must complete its own dispute resolution procedures before either the Commission or the customer becomes further involved.

The Commission finds that it is with the "escrow payment" (PSC 303(e) through (g)) that the customer may avoid the "burden" of paying an invalid bill even though the customer is still required to make payment of such bill to the utility. The Commission finds that the burden in paying an invalid bill actually exists with the alternative use that a customer could make of the funds which have been withheld. Although an exact cost factor of the "alternative use" of the money that a customer would use to pay a bill cannot be determined, the Commission finds that an incentive of ten (10%) percent gives the customer the benefit which reasonably attempts to offset the burden. The Commission finds that the ten (10%) percent payment should compensate the customer adequately for any payment made which is returned because the utility has been in error.

The Commission finds that this ten (10%) percent charge provided in PSC 303(g)(8) does provide the utility with an additional cost; however, the Commission finds that this additional cost is only to the extent that the utility has been in error. The Commission finds that while the utility faces a ten (10%) percent charge for its error, it, on the same hand, receives the payment and will have the use of the funds in dispute under the same time schedule and under the same circumstances as if the money was received in normal billing. The Commission finds that under this procedure the utility can look only to itself for upholding the payment

schedule provided under its billing procedures. The Commission finds that the longer that the utility continues its own dispute resolution process, the longer the utility will have to wait for payment. The Commission finds that while receipt of the payment should speed up the utility's investigation process, the ten (10%) percent charge will, on the other hand, cause the utility to take due care in resolution of the dispute.

The Commission finds that this dispute payment fee or charge of ten (10%) percent is not without precedent and refers to the record. (See staff case, T. pp. 41-48).

The Commission finds that the use of the dispute procedures will insure the utility sufficient revenue to meet its needs by preventing a customer from withholding payment through the use of any dispute procedures; while at the same time will insure a customer of adequate compensation for any funds taken through improper billing or other errors made by the utility. The Commission finds that the cost of implementation of such dispute procedure will be no greater than the cost of alternative procedures suggested by participants at the hearing or found and considered by the Commission's staff.

The Commission recognizes that situations may arise in which the customer is unable to pay the disputed bill. The Commission recognizes that if a bill is legitimately in error, the customer should have no obligation to make such payment simply because of the utility's fault. Therefore, the Commission finds that PSC 303(h) is necessary to provide in special, extraordinary circumstances a means by which the dispute of the bill may be resolved before the customer is required to pay. The Commission wishes to emphasize that this regulation will be used in a limited circumstance only when the Commission has determined upon appeal by a customer that the customer is first unable to make the payment; secondly, that the customer has a probable claim in the dispute; and thirdly, that a hardship may result in the event that a utility is allowed to discontinue service for non-payment of this disputed bill. The Commission emphasizes that this regulation is severely restricted and will not be available to the customer wishing merely to avoid his or her legitimate responsibilities. Accordingly, the Commission has allowed the extension of this situation to exist for a period not to exceed 30 days.

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, made numerous suggestions in regard to

PSC 303. Those suggestions follow:

Mr. LeVander stated that PSC 303 should change the time sequence in which a dispute could arise and not allow the customer to wait until the day of disconnection to make his dispute and, therefore, extend the time period in which he would be forced to pay before the disconnection could begin.

The Commission finds that the regulation does not in any way allow a customer to extend the time of payment. The Commission finds that a bill is due when a utility has determined it to be due providing that the billing regulations have been complied with (PSC 310-316). The Commission finds that if a utility has complained about a customer disputing a bill on the date of attempted disconnect, the length of time which would extend and prohibit the disconnection rests entirely upon the utility's discretion. The Commission finds that the regulation provides that disconnection may proceed when the utility has completed its investigation of the dispute and this investigation need only be to the utility's satisfaction as provided in PSC 303(d) and (e). The Commission finds that the responsibility for a customer delaying payment of the bill rests entirely by these regulations upon the utility and, therefore, the utility should resolve the problem within its own procedures.

Mr. LeVander stated that in his opinion, PSC 303 (e) would be more satisfactory if the interest charged upon the amount of disputed bill returned were 8 or 6 percent (transcript page 252).

The Commission finds that the purpose of the interest returned is more than just a penalty-incentive upon the utilities to make correct bills. The Commission finds that the interest charges have a two-fold purpose in that, one, it should lower the amount of incorrect bills and secondly, it should compensate the customer for being forced by the utility to pay an inaccurate bill. The Commission finds that because the utility is in a monopoly status and the customer has no ability to bargain or choose a different utility to provide his service and because the provision of energy is an essential item which every customer must purchase in one form or another, that the customer should be adequately compensated for payments of sums which the utility had no right to collect.

The Commission finds that while 6 or 8 percent interest would seem to coincide with the interest paid on regular savings accounts, the Commission has received no data that the funds used to pay incorrect bills are necessarily retrieved from a savings account. The Commission finds that there is no way to ascertain the value of funds taken from a customer to pay an invalid bill. The Commission finds that in situations of lower income customers, the funds used to pay an incorrect bill could very well be taken from funds used for essential and necessary items which, of course, would have a higher value to the customer than 6 or 8 percent. Although the 10 percent figure is an arbitrary figure, it does demonstrate the importance of the funds which are forced to be paid through these regulations and by the threat of disconnection of service.

The nature of utility service differs from other commodities and services in that a customer will not purchase a product if its cost is too high, whereas a customer is forced to purchase the utility product. This situation places upon the utility a higher responsibility to be correct in the amounts it charges for this service and to compensate the customer when the customer is forced, as these regulations do force, to pay an excessive charge which was incorrectly determined by the utility.

The Commission finds that the suggested change to 6 to 8 percent is not warranted and that the percentage figure charged for incorrect bills should remain

at 10 percent.

Mr. LeVander spoke to PSC 303 (h) and questioned the meaning of the originally proposed terms "colorable claim" and "hardship." He questioned the Commission as to whether or not under the terms a medical or some other kind of emergency would be included in the application of PSC 303 (h). He stated that, as written, the regulation was too broad. (Transcript, pp. 252-253).

The Commission recognizes the vague nature of the word "colorable" when used in the context of PSC 303 (h). Therefore, the Commission finds that it is within the intent of the regulation that the determination of applicability of this emergency status should exist upon the determination by the Commission that a customer has a claim which in all probability has some merit in the dispute. The Commission finds that a more appropriate term would be "probable" which should be inserted in place of colorable as used in PSC 303 (h).

The Commission finds the meaning of the word "hardship" to be easily determinable. The Commission finds that the regulation places the determination of both probable claim and hardship in the hands of the Commission and that as experience dictates, it is left with discretion to determine the outer boundaries of these two terms. Therefore, the Commission finds no requirement that hardship be further defined than it is in the regulation as originally proposed.

The Commission finds that the intent of PSC 303 (h) is to provide relief in the extreme circumstance where the customer has met two conditions. The Commission finds that first, the customer must have a claim in the dispute that would entitle the customer to some refund if the customer's assertions were found to be true; and second, that the customer would be placed in a hardship situation were the customer forced to pay the additional amount of the disputed portion of the bill. In conjunction with the intent of the Commission that the dispute regulations should not provide customers with a procedural roadblock to payment of the bill, the Commission has ascribed to this regulation a period of only 30 days in which the "emergency status" may exist. In addition, the Commission finds that it can, within its own organization, provide the appropriate screening facilities to separate legitimate customer emergencies from dilatory situations. No alternative language was suggested by Mr. LeVander. The Commission finds that in the absence of any suggestion no change should be made in the regulation beyond the change noted above.

By letter dated January 3, 1975, Mr. William D. Carstedt, representing Interstate Power Company; and as submitted in similar form by letter dated January 8, 1975, Mr. Patrick Leary, representing Lyon-Lincoln Electrical Cooperative; by letter dated January 17, 1975, Mr. James R. Habicht, representing Minnesota Power and Light Company; by letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company; by letter dated January 17, 1975, Mr. Jay D. Myster, representing Otter Tail Power Company; by written comments received January 20, 1975, Mr. Elmer Trousdale representing People's Natural Gas Company; and by letter dated January 22, 1975, Richard Gill, representing North Central Public Service Company, the suggestion was made that PSC 303 be amended to provide that the first line should read, "Whenever the customer advises the utility's designated person, or agent, or employee, or representative", in place of the originally proposed PSC 303 which required the customer to advise the utility's designated "officer."

The concern of the commentators was that as originally worded PSC 303 might be prone to the interpretation that a customer must advise a corporate office of the utility that the bill is in dispute. Other commentators suggested that the "officer" was too imprecise and that for clarity a different term should be used.

The Commission finds that the intent of PSC 303 was not to burden the utilities by forcing the customer to contact any corporate officer but that the intent was that the utility should designate some representative to whom disputes and notice of disputes can be directed rather than leave the position ambiguous which could, in certain circumstances, frustrate the dispute procedure. Therefore, the Commission finds that it is within the intent of originally proposed PSC 303 that it be amended to read "Whenever the customer advises the utility's designated person prior to the disconnection of service, that any part of the billing as rendered or any part of the service is in dispute. . ."

By letter dated January 3, 1975, Mr. William Carstedt, representing Interstate Power Company, suggests that the requirement be added to PSC 303 which would require the customer to submit the dispute of the bill within 15 days of receipt of the bill. Mr. Carstedt indicated that this procedure would avoid giving the customer a "free ride".

The Commission finds that the problem of giving a customer a "free ride" will not exist in this regulation as under no circumstances except for extreme

exception in PSC 303 (h), may the customer use the dispute mechanism to avoid payment. The Commission finds that the customer should have every opportunity before disconnection, to have that same period available to determine whether or not he will dispute the bill. These regulations provide no means by which the customer may postpone disconnection except that the utility itself must be fully satisfied of its own investigation of the dispute before it may disconnect. Since the Commission does not control the time that a utility takes to investigate a dispute, the Commission finds that such problems are resolved by the utility itself rather than to have the Commission force the utility to resolve the dispute within a particular period of time. The Commission finds that no further rationale was presented as to why a time limit should be provided and the Commission finds that perhaps the commentators have misconstrued the regulation as to its relationship with payment of bill. The Commission again would emphasize that under the dispute procedures, the customer has no means of avoidance of payment of the bill beyond the period in which the utility investigates the dispute or in the extreme exception of application to PSC 303 (h).

In a letter dated January 8, 1975, Mr. Richard Zehring, representing the Greater Metropolitan Federation, suggested that PSC 303 (b) should be amended to add that when a utility advises the customer of the result of its investigation that it also contain a full and concise explanation of the procedure available under these regulations to arbitrate such disputes.

The Commission finds that the rules under the complaint procedures place the responsibility upon the utility to adequately inform the complainant of the dispute procedures available and, therefore, further infommation at this point would not be necessary. (See PSC 280-287). As Mr. Zehring provided no rationale for this change, the Commission finds no further reason as to why the addition should be made to the rule.

Mr. Zehring suggests that PSC 303 (b) be amended to provide a period of delay of discontinuation of service for ten days after the utility has completed its investigation. Mr. Zehring states that the purpose of the ten day period would provide a buffer to forestall disconnection against the "good faith" customers.

The Commission finds that this is opposed to the purpose and intent of PSC 303.

The Commission finds that the intent of this rule is not to allow the dispute procedure to become a haven for perennial "bill avoiders." To offset the "good faith" complainants, the rule has injected a heavy charge of ten (10%) percent of the bill when the utility is in error. This charge, it is anticipated, will be an incentive for the utility to keep errors at a minimum, while not allowing the customer any delay in payment, thus keeping frivolous claims down. The Commission notes that other participants at the hearing wanted the time limit in which a customer could complain about a bill to be shortened before the disconnection procedures. The Commission finds that as it has not shortened the period before disconnection in which a customer may dispute the bill, accordingly, in the interests of all concerned, it has not lengthened the period after the utility has completed its investigation in which a customer could pay the bill.

In a letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, suggests that PSC 303 be amended in the introductory paragraph to read that "Whenever the customer advises the utility's designated person prior to the date of disconnection of service that any part of the billing as rendered . . . is in dispute . . ." Mr. Gill states that the customer disputing the bill should not be allowed to wait until the actual disconnection before disputing an order to delay as long as possible and, therefore, that the date of disconnection should be used instead of the actual disconnection.

The Commission finds that the delay between the "date of disconnection" and the actual disconnection is the responsibility of the utility. Although the Commission recognizes that it is difficult to coincide the two dates together, there is no reason suggested by Mr. Gill why the customer should not get the benefit of the utility's inefficiency. The Commission is reminded that the customer still cannot postpone payment of the bill and when the bill is due under the proposed dispute procedures, the customer has no means of avoiding it except the utility's own delay in enforcing the rule by disconnecting service. Therefore, the Commission finds that the suggested change is not needed.

Mr. Gill suggests amendment of PSC 303(d) so that the section would read that the utility must withhold disconnection of service until the investigation is completed provided that the customer pays the reasonable undisputed portion of the bill. This suggestion would allow disconnection of service before the utility's own investigation when the customer has refused to pay the undisputed portion of the bill.

This suggestion was similiarly stated by Mr. David McGannon, representing Northern States Power Company, by letter dated January 7, 1975, and by Mr. Jay Myster, representing Otter Tail Power Company, by letter dated January 17, 1975.

Mr. Gill states that the customer should not be allowed to withhold payment of amounts due because some part of the total bill is disputed.

The Commission finds that the concern expressed by Mr. Gill results from an incorrect reading of the regulation. The regulation provides that no customer should be forced to pay a disputed bill before the utility itself has completed its own investigation. The Commission finds that this rule carries a built-in incentive. The faster the utility investigates the matter to its satisfaction, the sooner the utility will be paid in full. By allowing the entire bill to be withheld, the utility is forced to resolve those complaints which may be of little monetary value, but very painful to the customer.

The Commission finds that the purpose of the dispute provisions is not only to resolve disputes between the utility and the customer in the areas of the amount of the bill but is also available to resolve other disputes between the utility and the customer, which may not directly be reflected in the amount of the bill. Under the latter circumstances, the customer's only lever in forcing the utility to negotiate the complaint is withholding the entire payment. Therefore, the addition suggested by Mr. Gill would frustrate the customer's ability to dispute non-monetary matters between the utility and the customer. Accordingly, the Commission finds that no change should be made in PSC 303 (d).

By letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company, suggests that all disputes within PSC 303 should be in writing to the utility.

Although no supporting rationale is given, the Commission would like to point out that the dispute procedures provide an easy method to handle the harrassment possibility through "telephone" complaints which Mr. McGannon alludes to in his suggested change. The Commission finds that when the customer and the utility have been unable to resolve the dispute, that at that point the dispute takes the form of a written complaint in the escrow payment proceedings provided in PSC 303 (g). Up until that time, the utility is free to handle the disputes in any way that it deems adequate and in the situation of harrassing telephone calls, the

utility can simply and very quickly resolve the dispute "to its own satisfaction" and, therefore, not be bothered by what it would deem a harrassing customer.

On the other hand, the Commission finds that many disputes are of an immediate nature and the requirement that the initial dispute or complaint be in writing would merely frustrate the attempt of a customer to find some relief through the utility.

By letter dated January 3, 1975, Mr. William Carstedt, representing Interstate Power Company, suggests that the Commission should delete the 10 percent charge and leave the allowable interest to be determined by the Commission in PSC 303(e), which the Commission has renumbered PSC 303(g) and (h). This suggestion was similarly stated by Mr. James Habicht, representing Minnesota Power and Light, by letter dated January 17, 1975. Other written comments received by the Commission suggested changes of the 10 percent charge to, for instance, 6 percent, as was suggested by Mr. Patrick Leary, representing Lyon-Lincoln Electrical Cooperative, by letter dated January 8, 1975, and by Mr. J. Myster, representing Otter Tail Power Company, by letter dated January 17, 1975; by People's Natural Gas Company, by its representative, Elmer B. Trousdale, by letter received by this Commission January 20, 1975; or a change to 8 percent interest as was suggested by Richard Gill, representing North Central Public Service Company, by letter dated January 22, 1975.

Mr. Gill suggests that the reason for this change is for consistency in that utilities do not prosper by making excessive charges to customers and, therefore, the charge does not need to be made to enforce the utility to provide correct bills. Mr. Trousdale suggests that interest rates fluctuate and that the rate charged on the return of disputed bills should be the same as the rate charged on customer deposits.

The Commission finds that the purpose of this charge of 10 percent upon the amount of the disputed portion of the bill has a twofold intent. First, with the high charge, the utility will have an incentive to investigate and resolve legitimate disputes. Second, the high charge is compensation for those customers forced to pay bills which are not entitled to the utility. For poor customers who are harmed comparatively more by having to pay an excessive and improper bill, the interest should be higher than bank interest because, if the customer had the free use of that money, he or she would use the amount for other necessities rather than to "invest" in a savings account. Such necessities would have a higher alternative value than a mere six (6%) percent interest.

The Commission refers here to the presentation made by the Commission staff during the course of the hearings and upon the record.

The Commission finds that if it were allowed to change the interest rate on this charge, it would result in the amount being unpredictable thereby reducing the incentive advantage gained by having the amount stated in the rule.

It is not within the second purpose of the ten (10%) percent charge to equate bank rates, but to compensate the customer for the alternative use of the money.

The Commission would point out that this ten (10%) percent charge is based only upon the amount of the bill which has proved to be in error. The undisputed portion of the bill or the amount found not to be in error will not be subject to this additional charge.

Mr. Habicht suggests that by letting the Commission set the rate, it would more closely approximate market fluctuations. The flexible approach should state the criteria as being a close approximation of the cost of capital to the utility so that the interest rate remains compensatory to the customer rather than punitive to the utility.

The suggestion by Mr. Habicht that the interest be keyed to the "market rate" has been well taken by this Commission. However, the Commission finds that the cost of capital to the utility is not the market rate for the cost of "doing without" to the customer. The Commission similarly finds that the market rate for this money to the customer is not necessarily the market rate of a savings account. The Commission would readily adopt the "market rate" of this money to the customer if a participant at the hearings could provide such data. The Commission is unable to determine what the current "market rate" for this type of charge is and, therefore, finds that the ten (10%) percent charge is most reasonable. The Commission finds that it must be remembered that as the fault for billing errors rests entirely with the utility, that the cost of the incentive to reduce errors must be added to determine proper compensation in arriving at the appropriate charge to be made upon these bills in dispute.

Finally, the Commission finds that the ten (10%) percent charge does not at all address the problem of the bill-avoiding customers who use the dispute procedure for a delaying tactic as the ten (10%) percent charge would never reach them unless they had a legitimate complaint and the utility was indeed found to be in error. The Commission finds that if as implied by the various utility participants, the

amount of billing errors are low and that the "utility does not prosper by making excessive charges to the customer, then the 10 percent charge will not be a heavy cost factor to these utilities.

Mr. Richard Zehring, representing the Greater Metropolitan Federation, by letter dated January 8, 1975, suggests that PSC 303 (e) be amended to allow that upon the utility's findings, the customer be offered an opportunity to subscribe to a payment schedule rather than to make full payment of the bill which is due.

As discussed above, in response to an earlier suggestion made by the Greater Metropolitan Federation in regard to PSC 302, the Commission finds that the use of a payment schedule beyond the requirements contained in this regulation (PSC 303 (h)) should not be controlled by the regulations of the Commission but should rather be left to the discretion of each utility. As discussed above, the Commission finds that absent any rationale for the use of schedule payments provided by Mr. Zehring, no change should be made.

By letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, suggests that PSC 303 (e) be amended to provide that in addition to the customer submitting full payment of the bill, that the customer also submit an interest charge of 8 percent per annum from the date that the payment was originally due. Mr. Gill suggests that if the utility is to pay interest on disputed amounts to be refunded, it is only proper that the customer do the same.

The Commission finds that these regulations attempt to stop customers from using the dispute mechanisms to avoid payment by requiring complete payment even when there is a valid dispute. The high interest charge of 10 percent is a counterweight to equitably protect the customer from errors made by the utility. If the customer is late in payment under PSC 303 (e), it is a matter between the utility and the customer in that the only reason the customer would be late for payment would be that the utility has delayed its investigation of the customer's dispute. This way, the utility has no incentive to investigate disputes and may let them wait for a long period of time. By permitting the utility to collect the 8 percent interest rate, this incentive to correct errors is lost. The Commission finds that the possibility of delaying investigations will result and that

eventually more disputes will come to the attention of the Commission. Therefore, the Commission finds that charging the customer with an eight (8%) percent interest rate from the time between the termination of the utility's investigation and the time when the payment was originally due, is inappropriate for the purpose of this rule.

By letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company, urges amendment of PSC 303(e), which has been renumbered by the Commission to PSC 303(f). He suggests that upon the findings of the utility through its own investigation the customer must submit payment and the customer may designate all or any part of such payment which is in dispute to be in escrow providing the customer has followed the required procedures. This suggestion in essence provides that the customer need not submit the entire bill through the escrow payment procedures but may designate only that portion of the bill which is in dispute.

The Commission finds that the original intent of PSC 303(e) and now renumbered PSC 303(f) was not to foreclose the customer, by his or her own choice, from paying the undisputed portion of the bill. The Commission finds that as the ten (10%) percent compensation charge will only apply to the amount of error, the practical effect of putting all or part of the bill in escrow payment will be no different in application to the utility or to the customer. The regulation provides that the utility may treat an escrow payment as it would treat any other payment made by the customer, as provided in PSC 303(g)(4) and that, therefore, since the funds are in the hands of the utility, there would be no difference whether the customer submitted all or part payment of the amount of the bill in escrow or not.

The Commission finds, on the other hand, that the addition of such wording to the regulation would emphasize the fact to the customer that he may dispute only a portion of the bill and further would enable all parties to concentrate on the precise area of the dispute rather than be uncertain as to exactly what the customer is complaining about. The Commission finds that as long as it is left to the discretion of the customer how much of the payment he may designate as in dispute, that no harm will be done by the addition of the suggested wording. Accordingly, the Commission finds that PSC 303(f) should read to provide that if the dispute is not resolved to the satisfaction of the customer, he or she must submit the entire payment and may designate the disputed portion to be placed in escrow to the utility.

In conjunction with the suggested change above by Mr. McGannon in regard to the designation of the disputed portion of the bill, he suggests that PSC 303(h) be amended to read: "If the customer is unable to make payment of the disputed bill or portion thereof into escrow, he or she may apply to the utility to waive its right to disconnect. If the utility ~~with-reasonable-grounds~~ refuses to waive its right to disconnect, the customer may apply to the Commission for emergency status. If the Commission determines the customer has a reasonable chance of prevailing in the dispute and that hardship may result in the event of disconnection of service, it may declare an emergency status to exist, require the customer to pay the undisputed portion of the bill and order the utility to continue service for a period not to exceed 30 days."

First, the Commission finds that the change suggested in PSC 303(h) as it applies to the distinction between the disputed and the undisputed portion of the bill is not necessary. The change suggested by Mr. McGannon to PSC 303(f) allows the customer to designate what part of the bill would be in dispute. Upon designation in the escrow payment form, that amount would be the only amount subject to PSC 303(h). The Commission finds that it is unnecessary to further address the disputed portion of the bill in that the amount on the escrow payment form will be the amount to which PSC 303(h) applies.

The suggested change in which the Commission determines whether a customer has a reasonable chance of prevailing is similar to the wording which the Commission has amended to PSC 303(h). The Commission has changed the wording from whether a customer has a colorable claim to whether the customer has a probable claim. The Commission finds that the word "probable" is similar in meaning to the words "reasonable chance of prevailing" and that the suggestion by Mr. McGannon would, therefore, be repetitious.

The rest of the suggested change by Mr. McGannon to PSC 303(h) is directly contrary to the intent of the regulation. The Commission finds that this suggested change would produce two results. The Commission finds that it would place the initial burden of determining when the customer would be entitled to "emergency status" upon the Commission rather than the utility. By requiring the utility to first decide whether the request for "emergency status" was reasonable, some claims for this application will never have to reach the Commission and will be

accepted by the utility itself. In general, the utilities provided testimony at the hearings that they extend service to customers in arrears for humanitarian and other reasons. In light of such testimony, no reason is presented why they would be unable to initially determine whether a customer should be granted "emergency status."

The second result of the change suggested by Mr. McGannon is the deletion of the standard "reasonable grounds" by which the utility may refuse to grant "emergency status." With this deletion, the application of the customer to the utility for "emergency status" would be perfunctory. By the time the customer has reached the point of possible use of PSC 303(h), the utility has already submitted its investigation back to the customer and has made its own determination as to the correctness of the amount of the bill. Obviously, absent extenuating factors anticipated by the standard, the utility would be justified in refusing to waive its right to disconnect. PSC 303(h) with the phrase, "with reasonable grounds," directs the utility to consider additional factors before determining whether the customer is entitled to the "emergency status."

Therefore, the Commission finds that the suggested changes by Mr. McGannon should not be made in PSC 303(h) except to note that the intent of the relationship between the disputed and the undisputed portions of the bill are implied within this provision as it directly relates to PSC 303(f).

Mr. McGannon suggests the addition of a new section to PSC 303 which would be numbered PSC 303(i): "Notwithstanding anything herein to the contrary, the utility shall not be obligated to suspend discontinuance of service upon the filing for review with the Commission, unless the customer shall pay, when due, all current bills rendered during the pendency of the review. If following the first filing for review with the Commission, the same customer or any other person, files for any subsequent review by the Commission pertaining to the same account, such subsequent filing shall not relieve the customer from the obligation to pay for service rendered after the first filing. If subsequent requests for review are filed during the pendency of the first review, all designated disputed payment or portions thereof made after the first filing shall be considered to be made in escrow."

The Commission first notes that Northern States Power Company provided no substantial oral testimony on this rule at the hearings nor have they provided

substantial comment on this proposed rule in their written suggestions, although their comments on other rules would have some application to this suggestion.

The Commission finds that the major intent of the lengthy suggestion is to allow the utility to continue collecting payment of bills which are not in dispute although they may be owed and past due at the time the customer disputes a bill. The Commission finds that there is nothing in these regulations, other than PSC 303(h), which stops the utility from collecting payment for bills whether they are in dispute or not. The Commission points to PSC 298(a)(1) which allows disconnection of service upon nonpayment of the bill. The Commission notes that this regulation makes no reference to the dispute procedures in any way. The Commission also notes that PSC 303(f) provides that the customer must submit the entire payment of the bill in escrow before the dispute can proceed. This requirement is restated again in PSC 303(g)(1). If the customer has not complied with the provision of PSC 303(a) through (g), nothing prohibits the utility from disconnecting service whether there is an obligation of the customer for past bills or for the disputed bill. The Commission notes that there is one exception to the right of the utility to disconnect service for nonpayment of bill which is provided in PSC 303(h). However, as noted above, this only applies to the escrow payment procedure with which the customer must have already filed and which may apply only to the billing which is in dispute. Absent any further rationale, there is no evidence provided to the Commission that PSC 303 should be amended to add Mr. McGannon's suggested changes.

By letter received January 20, 1975, Mr. Elmer Trousdale, representing Peoples Natural Gas, suggested that PSC 303(e) be amended to read that the customer, upon the findings of the utility, must <u>within the next business day</u> submit payment in full.

The Commission finds that the payment relationship between the customer and the utility is not affected by this regulation as it now stands. A customer, late in payment, must resolve his tardiness with the utility. The only aspect which slows down the disconnection procedure for late payment is the utility's own tardiness in the investigation of the dispute and this Commission provides <u>no standards</u> as to how quickly the utility must finish its own investigation. Once the utility has determined the amount due, the customer must pay the bill subject to the possible exception in PSC 303(h). Under the notice provision of PSC 300, all

disconnection notices must precede the action to be taken by five days. Subject only to this requirement, there is no further time limit given to a customer to submit the payment in full. Upon the findings of the utility, the customer must pay the bill if it is then due or when it is due or the customer will face the disconnection procedures provided elsewhere in these regulations.

No rationale for this rule is suggested by Mr. Trousdale. The Commission finds no further reason as to why this change should be made.

Mr. Trousdale suggests that after the utility's mailing of its findings to the customer under PSC 303(e) that a time limit of two business days be allowed in application of PSC 303(h). This change would allow the customer two days to apply for "emergency status" after the utility has submitted its findings as to the dispute.

The Commission finds that Mr. Trousdale suggests no reason why a customer's appeal to the Commission for "emergency status" would not be timely made under the present proposed rule. As discussed above, where the rule is silent, the other rules contained within these regulations will apply. Therefore, the Commission finds that upon notification by the utility of the result of the investigation, the payment could be treated as due and disconnection could proceed as otherwise provided in PSC 298(a)(1) and PSC 300(a) and (b).

In light of the concern presented by the utilities towards the delay pending a utility's own investigation, it is only proper that when the utility's investigation is completed, the customer should not be given further time to delay the payment based upon the utility's findings and investigation.

Mr. Trousdale suggests additional amendments to PSC 303(h) which would put deadline requirements upon the utility and the Commission to determine emergency status. The responsibility for determination of an "emergency status" rests entirely upon the utility first and the Commission second. Upon its findings, a utility may disconnect service in the event the customer has not paid. This disconnection is subject only to the five day delay required by the notice provision, PSC 300(b). Inherent in this five day limit is a deadline on the customer to apply for "emergency status" and the Commission to determine whether such a situation exists. As these deadlines are subject to the same discussion above, the Commission finds that in absence of any rationale provided by Mr. Trousdale, that the rules should remain as determined by the Commission and that these suggested changes should not be accepted.

Mr. Trousdale suggests the addition of a new regulation to the dispute procedures and has entitled the suggested regulation PSC 304, "Disconnection of Service," which reads: "If the (disconnection) of service is necessary on account of any one or more of the reasons stated in PSC 298, the utility may, at its option, physically disconnect the service at the meter or if access to the meter cannot be readily gained, at the appropriate point on the service line."

The Commission finds, first, that no rationale was provided by Mr. Trousdale for this suggested new regulation and, further, that no comments were received at the oral hearings concerning this suggested regulation. The Commission finds that this suggested regulation is redundant and unnecessary in light of the disconnection procedures which are set out in PSC 298, the notice procedures which are set out in PSC 300, and the manner of physical disconnection which is set out in PSC 301. The suggested regulation conflicts with all of these regulations and, if adopted, would require amendment of the regulations which have already been adequately discussed above and to which comments by Mr. Trousdale have been answered in the discussion of each one. The Commission finds that as no rationale was provided, further comment and adoption of the suggested regulation is not warranted.

By letter dated January 17, 1975, Connie Green, Acting Director of the Office of Consumer Affairs, City of St. Paul, suggests that PSC 303(e) which has been renumbered by the Commission PSC 303(f), should be amended to provide for an arrangement of a payment plan over some period of time with the customer paying each month his or her current bill plus a portion of the past due account until the arrears have been erased. She states that in the instances of large past due bills, the customer may not be financially able to make the full payment once the dispute is settled.

The Commission finds that payment plans exists in the States of Michigan and Wisconsin. While the Commission recognizes the concern of the Consumer Division of the City of St. Paul, the Commission staff's research of these two states indicates that Commission enforcement is too difficult.
This difficulty is underscored by the fact that all of the participants who have suggested the adoption of a payment plan have provided neither data on the success of similar plans nor suggested wording for such a regulation before the Commission. In light of the difficulties in other states, the Commission finds that it should also consider its own staff limitations before enacting such a payment schedule plan.

The Commission does not imply that arrangements should not be encouraged between the utility and the customer regarding payment of bills. As was demonstrated at the hearings, the Commission finds that many utilities already have such payment plans in operation (comments by Mr. David McGannon, representing Northern States Power Company, Transcript p. 305). The Commission finds that the use of such payment plans could better be implemented through encouragement by the Commission rather than through means of a strict rule.

Ms. Green further suggests that PSC 303(e) should be amended to provide that with the written findings from the utility, that the utility also inform the customer of the right to review by the Commission. She states that such information should be more than implied.

The Commission finds that the information of the escrow payment procedures, as discussed above, is adequately covered in PSC 280-287, as well as PSC 303(g)(1) as the utility must provide the customer with an "escrow payment form."

The Commission finds that in addition to the requirements of these rules, the utility is under an obligation of good faith to insure that the customer is aware of the dispute procedures.

Ms. Green suggests amendment of PSC 303(e) which has been renumbered by the Commission PSC 303(f), by dropping the requirement of full payment after the utility has finished its investigation and instead providing for payment in disputed cases after the Commission review. She states that disconnection of service should also be withheld until after the Public Service Commission review.

She states that the utility companies do not need to suffer any loss from the deferment of disputed payments until after the Commission review. This would eliminate the utility having to incur costs of complex administration and record keeping as well as potential interest payments. She says by this method the cost of withholding disconnection is compensated.

The Commission finds that this suggested change is contrary to the purpose of the dispute regulations. The Commission finds, first, that by delaying both payment and disconnection until the Commission has reviewed the dispute, that the "deadbeat" customer would be more likely to use the dispute mechanism in bad faith to avoid payment. The Commission finds that this, in turn, would increase

the workload of the Commission and impede the utility's cash and financial requirements through delay. The Commission finds that the method prescribed in the regulation separates the legitimate disputes from the frivolous ones.

Second, the Commission finds that forcing the payment on those customers who have legitimate disputes is indeed a heavy burden, especially upon the poor, which they can little afford. Nevertheless, the ten (10%) percent charge imposed upon the utility for error in billing is intended to be an incentive to both reduce utility errors and disputes, and to provide an adequate compensation for those poor and other customers forced to pay a bill which is in error.

The Commission finds that the delay of payment and delay of disconnection urged by Ms. Green would force major revision of all of the regulations which have been written in reference to the dispute mechanism. If the disputes were allowed to delay these procedures, further protections would have to be written into the other regulations to protect the utility and the customer as well.

Ms. Green suggests that PSC 303 should make some distinction between commercial and residential customers. She suggests that the rationale for this change is based upon the assumption that the other changes by the St. Paul Office of Consumer Affairs would be adopted. She suggests the change would enable the utility to distinguish frivolous claims by commercial enterprises to retain needed operating capital.

The Commission finds that even if it were to adopt the other suggested changes by Ms. Green, the city suggests no valid reason why frivolous claims presented by residential customers should be allowed and frivolous claims presented by commercial customers should not. The Commission finds that such change absent further rationale should not be adopted.

In general response to all of the comments made upon the dispute regulation, the Commission finds that this regulation is an attempt to solve an old problem: that is, how to provide an equitable rule without any "loopholes" which could be used by the utilities or the customer. The Commission finds that the Commission staff made extensive study of this problem, and their research is documented in the staff case contained in the record. The Commission finds that the major thrust of this regulation is to provide incentives to both sides to settle the dispute.

The Commission finds that the larger the consequences, the greater chance that the parties will settle their problem rather than continue to dispute. The Commission finds that this, in turn, will reduce the number of disputes which eventually come before the Commission.

The Commission finds the following incentives exist for the customer to settle the dispute. First, the legitimate disputant will be willing to pay, even though he knows the bill is in error, because he will receive an additional refund of ten (10%) percent of the bill found to be in error. Second, the illegitimate disputant will find no "loophole" in the rules by which he can avoid payment. The regulations provide absolutely no delay in payment of the bill. Once the customer finds he can gain nothing by disputing the bill, he will have to look elsewhere to avoid his responsibilities and the Commission finds that there is no procedure for this avoidance within any of the Commission regulations.

The Commission finds the following incentives for the utilities: research reveals that many utilities delay their investigation of disputes for long periods of time. In many other states, the state regulatory bodies permit utilities to collect bills despite the existence of disputes. The result of this is that there is no lever upon the utility other than the regulatory commission to force resolution of the problem. The result is, in turn, that the commissions and regulatory agencies become burdened, which, enhanced through bureaucracy and lack of staff, leaves them unable to promptly handle the problem. This delay and burden upon the commissions, in turn, gives little incentive to encourage the utilities to resolve the dispute as the utilities realize that the delay will work in their favor.

In the area of disputes, the Commission finds that the utility is most concerned with revenue. Therefore, payment of bills promptly is the lever with which utilities will respond. In PSC 303 this lever of prompt payment is provided in two ways: first, the utility need only look to itself when it is concerned about a customer delaying payment. The longer the utility delays its own investigation, the longer the customer need not pay the disputed bill. Once the utility resolves the bill to its own satisfaction, the revenue will start to flow.

Second, the utility will have another incentive to make its investigation complete as well as fast. Once a utility finishes its investigation, it faces a charge

of ten (10%) percent of the error if it is wrong. Such a cost additional to the utility should encourage the utility to urge complete investigations before it turns the matter over to the Commission.

The Commission finds that the regulation as originally proposed does contain some errors which have been corrected.

The Commission finds that PSC 303(e) through (f) should be changed in its numbering order to better describe the mechanism of the "escrow payments."

The Commission finds that PSC 303(e) should be amended to read "upon the findings of the utility, the customer must submit payment in full of any bill which is due." The Commission has placed the rest of the provisions of PSC 303 (e) as originally proposed in following numbers. The reason for this change is to demonstrate that the payment of the disputed bill should be made before any of the escrow payment procedures is begun. The Commission finds that this change is not a substantive change but merely is a change to demonstrate to the customer the relationship of the payment of the bill to the dispute procedures.

The Commission finds that following the new change to PSC 303 (e), that PSC 303 (f) should be amended to read: "If the dispute is not resolved to the satisfaction of the customer, he or she must submit the entire payment and may designate the disputed portion to be placed in escrow to the utility. Such payment shall be called an 'escrow payment'."

The Commission finds that again the regulation should emphasize the fact that the payment must be made before the dispute procedure continues. The Commission finds that this change is well within the intent of the originally proposed regulation.

The Commission finds that under the regulations that if the customer is not satisfied with the utility's decision, the customer must bear the responsibility of appeal to the Commission. Therefore, the customer should forward the complaint to the Commission and not have the utility involved in filing the complaint. Therefore, the language of originally proposed PSC 303(e) has been reorganized and has provided in PSC 303(g)(3) that the customer has the duty to forward the copy of the "escrow payment form."

The Commission has reorganized the language of PSC 303 to adequately describe the procedures of the escrow payment clauses. Accordingly, the Commission has

renumbered elements of PSC 303(e) through (g) and has added language which better describes the procedure as originally intended.

PSC 303(g), Escrow Payments, begins with customer payment of the amount due as shown on the bill through a provided "escrow payment form" which has been clearly marked as such and provided by the utility.

PSC 303(g)(2) provides that on the form provided by the utility, space must be supplied for the customer to adequately explain why the utility's resolution of the dispute is unsatisfactory. The Commission finds that this was within the original intent of PSC 303(f) as originally proposed. The rest of the requirement of PSC 303(g)(2), that the form must be in three copies, has been placed in the regulation to describe in better detail the format of the "escrow payment form."

The requirements in PSC 303(g)(4) regarding the application by the utility of the escrow payment is a substantial restatement of the contents of originally proposed PSC 303(e) in the second paragraph, which stated in the same language that the utility may apply the escrow payment as it would apply any other normal payment received by the utility.

The Commission finds that the wording in PSC 303(g)(5) is necessary to indicate the original intent of the regulation that at no time should the procedures of escrow payment restrict or prohibit the customer and the utility from resolving the dispute on their own.

The Commission finds the intent of PSC 303(f) as originally proposed was that at some point in the dispute procedures, the customer should indicate that the resolution of the dispute by the utility was not satisfactory. This intent has been carried forward and renumbered in PSC 303(g)(6). When the customer submits the "escrow payment form" to the Commission, it is at that point at which the customer is requesting review of the dispute by the Commission. The Commission finds that this addition is necessary to indicate the exact point at which the customer has requested review and to also indicate that it is the intent of this regulation that the burden of requesting review is upon the customer and not the utility and that the customer must submit the "escrow payment form" before the review procedures will be implemented by the Commission.

PSC 303(g)(7), which states that procedures by the Commission must insure the opportunity of a review by all parties to the dispute, is a clarification

in wording of the original intent of PSC 303(g) as originally proposed to the Commission.

The Commission finds that the amount of the charge as originally proposed in PSC 303(e), second paragraph, that of a "ten (10%) percent interest charge from date of payment to the date of return by the utility," was intended to be more than simple "bank" interest. The Commission finds that this charge must be in the form of a charge rather than interest to encourage the utility not to make mistakes. The Commission finds that if the charge is reduced, the result will be to lower the incentive to avoid errors. The Commission finds that most utilities pay on an average of at least ten (10%) percent interest for its debt costs and that a corresponding ten (10%) percent "interest" based upon annual interest would, therefore, really not be an additional burden and would not be an additional incentive. The Commission finds, therefore, that the adoption of a ten (10%) percent charge is to be preferred over the adoption of a ten (10%) percent interest upon the amount found in error through the dispute procedures. Therefore, the original wording of PSC 303(e) which provided for "a ten (10%) percent interest charge from the date of payment to the date of return by the utility," is not appropriate with the total intent of the regulation as originally proposed and that the more appropriate wording in compliance with the intent of this regulation should be; "that upon settlement of the dispute, any sums found to be entitled to be refunded to the customer shall be supplemented by a payment by the utility of a fee of ten (10%) percent of the amount found in error which was paid to the utility through the escrow payment."

The Commission finds that it has ample authority under the Minnesota Public Utilities Act to exact a fee in this form. The Commission finds that Minn. Stat. Sec. 216B.23, subd. 2 (1974) provides:

> Whenever the Commission shall find . . . practices . . . or service to be unjust, unreasonable, insufficient, preferential, unjustly discriminatory, or otherwise unreasonable or unlawful or shall find that any service which can be reasonably demanded cannot be obtained, the Commission shall determine and by order fix reasonable measurements . . . acts . . . or services to be . . . imposed . . . and followed in the future in lieu of those found to be . . . inadequate or otherwise unlawful, and shall make any other order . . . as shall be just and reasonable.

The Commission finds that the ten (10%) percent fee charged upon the amount of error would be consistent with the purpose of the above-quoted statute and, additionally, would be consistent with the purposes of the

original intent of the dispute regulation. Therefore, the Commission finds that the change of the dispute payment made by the utility as discussed above, is in order and has accordingly amended PSC 303.

C

SERVICE BILLING

The regulations hereunder, PSC 310-316, govern the basis upon which bills may be charged. The Commission finds that the requirement of accurate billing is part and parcel of the requirements of the Public Utilities Act which directs the Commission to insure the customer has just and reasonable rates. Accurate billing is also part of the Commission's requirement to direct utilities to be "consistent in application" of their rates. Further, Minn. Stat. Sec. 216B.03 (1974) directs the Commission to resolve any doubt as to reasonableness in favor of the consumer.

In addition to these general directives, the Commission finds that the Public Utilities Act specifically directs the Commission to regulate billing procedures. Minn. Stat. Sec. 216B.09 (1974) states:

> The Commission . . . may ascertain and fix just and reasonable standards . . . regulations, or practices to be observed and followed by any or all public utilities with respect to the service to be furnished; ascertain and fix adequate and reasonable standards for the measurement of the quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the service; prescribe reasonable regulations for the examination and testing of the service for the measurement thereof; establish or approve reasonable rules . . . and standards to secure the accuracy of all meters . . . used for the measurement of any service . . . .

The Commission finds that the Public Utilities Act is explicit. The Commission finds that it is empowered to control the basis upon which bills may be rendered as well as the meter standards, estimated billing procedures, the content of bills, and the allowable adjustments of both electric and gas bills due to inaccurate meters or other errors.

The Commission finds that the experience of customer billing practices by utilities in other states has been that the courts have favored the customer in disputes as to correct billing practices. The Commission finds that the Pennsylvania Superior Court has held:

> A utility can only charge the customer the lawful rate as tariffed. It cannot make a special contract with the customer. There can be no favored treatment for a customer. It cannot demand or receive a greater or lesser rate than specified in its tariff.

West Penn Power Co. v. Nationwide Mut. Ins. Co., 228A 2d 218, 69 P.U.R. 3d 61 (Pennsylvania Superior Court 1967)

The Commission finds, therefore, that there is ample precedent both from the Minnesota Public Utilities Act and from judicial decisions to enact the proposed service billing regulations.

PSC 310 - Billing Basis

The Commission finds that PSC 310 describes the basis of bills and is a standard provision found in most other state regulations.

The Commission finds that PSC 310(b) is suggested by a similar regulation in the state of Wisconsin. PSC 310(b) insures the customer that the utility is bound to aid the customer in paying the lowest lawful rate.

The Commission finds that the requirements of PSC 310(c) are necessary to keep the customer aware of how his bill is computed and to keep the customer aware of the variance in rates which will be applied to the bill. The utility shall deliver to the customer the rate schedule applicable to his type of service any time the rate schedule is changed. The Commission finds that this is a necessary provision, especially in light of the fact that the energy situation in Minnesota is subject to changes as to the cost of such energy in the future.

During the course of the hearings, Mr. D. H. Buswell, representing Interstate Power Company, questioned whether PSC 310(b) vested the utility with the responsibility of the customer to choose the lowest rate (Transcript page 402).

The Commission finds that the intent of PSC 310(b) is not to place any responsibility with the utility as to which rate a customer chooses, but to vest with the utility the responsibility of advising the customer of the optional rates available and to include in this advice the various cost factors which will enable the customer to make a better choice by himself.

During the course of the hearing, Mr. Jay Myster, representing Otter Tail Power Company, suggested that PSC 310(a) provided a problem for those utilities who have estimated billing. He stated that PSC 310(a) should have a provision allowing for estimated billing (Transcript P.405-406). This suggestion was also made by Mr. Richard Gill, representing North Central Public Service Company (Transcript P.430).

The Commission finds that PSC 310(a) was intended to include bills for service based upon both meter readings and estimated meter readings. This implication was also contained in the fact that PSC 312 was promulgated to provide those procedures necessary for a utility to use an estimated billing

procedure. However, the Commission finds that to the extent that any ambiguity may result,the addition of the words "estimated usage" to PSC 310(a) would not conflict with the original intent of the regulation and, therefore, could be added. Accordingly, the Commission finds that PSC 310(a) should read: "Bills for service will be based upon meter readings or estimated usage and computed in accordance with the applicable schedules on file with the Commission."

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, stated that within the practice of the cooperatives there are numerous examples of self-billing procedures. He questioned the Commission as to whether the wording in PSC 310(a) which requires bills for service to be based upon meter readings would allow the member of a cooperative to read his own meter if that were the situation or whether or not the ability to self-read a meter is not within the guidelines of PSC 310(a) (Transcript page 411). This comment was presented in similar form by Mr. Patrick Leary, representing Lyon-Lincoln Electrical Co-operative (Transcript page 451).

The Commission finds that PSC 311(b) provides that a utility may permit the customer to supply meter readings on a form supplied by the utility. The Commission finds that as this is an accepted procedure for meter reading under PSC 311, it is within the wording of PSC 310(a) which requires bills for service to be based upon meter readings. Accordingly, the Commission finds that no amendment to PSC 310(a) is required and that self-read meters as prescribed by other regulations is within the meaning of "meter readings" as contained in this regulation.

Mr. LeVander discussed the requirement of PSC 310(c) which, as originally proposed, provided that the utility should deliver the rate schedule to each customer with the first billing of each year and at the time of any change in the applicable rate schedule. He stated that he questioned whether or not there was a necessity of having to provide the rate schedule to the customer with the first billing of each year when the rate had not been changed. He stated that the utilities would be happy to furnish the rate information to the customer at any time in which there is a change in the rate and, in addition, he noted that the customer can always call the cooperative utility at any time to get the information that he wants. He emphasized, however, that if the rates had not changed, then he failed to see any need to supply the information with the first

billing of each year. He noted that such requirement would be a substantial cost factor to the utilities (Transcript page 412). By letter dated January 24, 1975, Mr. Willard Anderson, representing Agralite Cooperative, made a suggestion similar to Mr. LeVander's.

The Commission finds that the purpose of this regulation is to provide that the customer should always have within easy access the applicable rates used in determining the charge on his bill. This objective is contained throughout these rules. For instance, the Commission finds that PSC 281(b)(2) provides that the rate schedule pertaining to the customers of that area should be available in the customer handbook. The Commission finds that reference to PSC 310(c) is made in that above cited regulation as meeting the sufficient requirements of what must be contained within the rate schedule. The Commission further finds that access to this information is readily obtainable through PSC 281(c) which requires the utility's billing statement to contain information on filing complaints and where further information may be found at the utility. The Commission also finds that PSC 313, which controls the content of the bill, requires the utility to provide information on the bill showing the past and present meter readings and the dates of each, the class of service and other applicable information necessary for the customer to determine both the correctness and the rate application necessary to determine the charge on the bill. The Commission further finds that protection is afforded through these regulations to a customer in PSC 298(b)(7) which protects the customer to a certain degree over the misapplication of rates which may be due to the incorrect application of the rate schedule by the utility to the amount of energy consumed by the customer. The Commission finds that in regard to this last regulation, it is necessary that the customer should have ready access to the correct applicable rate schedule in order to determine whether or not the utility has misapplied the rates. The Commission further finds that the requirements of PSC 335 provide that the utility must post notices of the availability to the public of the applicable rate schedules and other rules and regulations as well as the availability of the customer handbook. This regulation is further evidence of the intent of the regulations to assure that the customer will have access to the applicable rate schedule and that as such, it will be readily available.

In light of all of these regulations, which directly or indirectly address

the availability of the current rate schedule to the customer, the Commission finds that there is adequate provision within the other regulations for the customer to find the applicable rates. The Commission finds the requirement to provide the applicable rate and deliver same to each customer at the first billing of each year is too costly in light of the application of these other regulations mentioned above. Therefore, the Commission finds that such requirement should be dropped from the regulations and, accordingly, has amended PSC 310(c) to require only that the utility deliver the applicable rate schedule to each customer at the time that there is a change of rates.

During the course of the hearing, Mr. Patrick Leary, representing Lyon-Lincoln Electrical Cooperative, suggested that regarding PSC 310(c), a utility should provide the applicable rate schedule every 24 months rather than with the first billing of each year. He stated that the changed requirement would be more acceptable to his utility as Lyon-Lincoln Electrical Cooperative sends out the applicable rates with a rate book which is sent out every 24 months.

The Commission finds that as it has deleted the requirement that the rates be

sent out at the beginning of each year, the change suggested by Mr. Leary is unnecessary and the utility is free to send out the rates at any time it chooses as long as it is in compliance with the other regulations.

By letter received January 20, 1975, Mr. Elmer Trousdale, representing Peoples Natural Gas, suggests that PSC 310(a) allow for the use of estimated meter readings by the utilities. Similar suggestions were made by Mr. William Carstedt, representing Interstate Power Company, by letter dated January 3, 1975, and by Richard Gill, representing North Central Public Service Company, by letter dated January 22, 1975. The intent of these commentators was to protect their bimonthly reading policy and their estimated reading policy.

As stated above, the Commission finds that it was within the intent of PSC 310(a) that the word "meter readings" should include the use of estimated meter readings as provided in PSC 311 and PSC 312. Accordingly, the Commission, for purposes of clarity, has added the words "or estimated meter reading" so that PSC 310(a) now reads "bills for service will be based upon meter readings or estimated usage . . . ."

Mr. Trousdale suggests that PSC 310(b) should be amended so that the regulation would read that where a customer is eligible to take service under more than one rate, the utility shall advise the customer in the selection of rates which in its judgment result in the lowest cost of service. The purpose of this change is to protect the company from circumstances where the customer takes the rate which he and the utility believe to be the lowest and circumstances beyond the utility's control prove that the other rate was the lowest. The utility wishes to avoid any liability for suggesting one rate when subsequently the customer finds that another rate is lower.

The Commission finds that it was within the intent of originally proposed PSC 310(b) that the choice of rates always should rest with the customer and that the utility should only advise the customer and not be held to any liability should the choice of rates by the customer prove to be incorrect. Therefore, the Commission finds no problem with adding the language for clarity: "which in its judgment." By this regulation the utility's duty is only to advise and it shall not be held responsible for the choice that the customer makes.

By letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company, suggests that PSC 310(c) add the provision that the notice of rate changes can be mailed or delivered rather than just delivered to each customer.

The Commission finds that this addition is not needed. Within the word "deliver," the utility may use the mail as one alternative to meet this requirement. The intent of the rule was not to require personal delivery by a representative of the utility upon the change of rate schedules, but rather to deliver the rate schedule through the mails or any other means which the utility finds appropriate.

Mr. William Carstedt, representing Interstate Power Company, suggests that PSC 310(b) be changed to permit the utility to "assist" rather than "advise" the customer in the choice of rates. Additionally, Mr. Carstedt suggests that a phrase be added to the end of this regulation to provide that the responsibility of the choice of the rate rests with the customer.

The Commission finds that there is little difference between the word "advise" and the word "assist" as used in PSC 310(b) and as Mr. Carstedt provided no rationale as to why the change should be made, the Commission finds that no change is necessary. The Commission finds that there is ample description within PSC 310(b) to indicate that the responsibility for the choice of rates rests with the customer and that it is only the duty of the utility to present to the customer the various choices of rates and to demonstrate to the customer which one would have the lowest cost based on the projected consumption. Because there are too many factors which could change the application of one rate in regards to another, the Commission finds that this regulation places no liability upon the utility for an incorrect choice made by the customer. Therefore, the Commission finds that the additional language is unnecessary and, accordingly, the amendment should not be made.

Mr. Carstedt suggests that PSC 310(c) should be deleted entirely. He states that other sections provide for the availability of rate information to the customers and that this is unnecessary.

The Commission notes in reviewing all of the written comments made by Interstate Power Company that this participant has suggested that the information as to rates

be deleted under each rule. If the Commission were to accept all of Interstate Power Company's suggested changes, there would be no rate information available. The Commission finds that consistent with Interstate Power Company's suggestion, it should not urge the deletion of rate information based upon the availability of this information elsewhere when it has suggested that the rate information also be deleted in those other areas.

The Commission finds that PSC 310(c) is a necessary element to the entire organization of the regulations. For instance, the Commission finds that the rate schedule that should be available to the customer through the customer information as provided in PSC 281 is described in the terms provided by PSC 310(c). Deletion of PSC 310(c) would necessitate major revision of PSC 281. In addition, the Commission finds that absent the availability of a rate schedule, a customer will be unable to determine the accuracy of his bill and the accuracy of the charge made by the utility. The Commission finds that the availability of the applicable rate schedule and the information provided by the utility every time the rate schedule is changed, is consistent with the requirements of the Public Utilities Act which provides that regulations should be promulgated in order to assure that a utility provides reasonable service to a customer. Therefore, the Commission finds that PSC 310(c) is a necessary regulation and that it should not be deleted.

The Commission notes that by letter dated January 17, 1975, Mr. James Habicht, representing Minnesota Power and Light Company, and by letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, both suggest deletion of PSC 310(c) similar to those discussed above. The Commission finds that in light of the discussion over the necessity of PSC 310(c) that such deletion is not in order and that further comment is unnecessary.

PSC 311 - Meter Reading and Billing Periods

The Commission finds that PSC 311 reconciles the conflict between the cost of reading meters and the need for a customer's bill to be accurate. Since access to meters is often unavailable, the utility must be allowed to permit the customer to read his or her own meter. All of the state regulations reviewed by the Commission provided for this process in one form or another. The Commission finds that in review

of the other state regulations, a distinction lies in the intervals between which a utility must read the meter. The Commission finds that the time limit between which a utility must read the meter varies from three months to 12 months.

The Commission is aware that many utilities reduce costs by the use of estimated bills, customer-read meters, and bimonthly bills. Because of sparse information provided at the hearing and by written comments pertaining to the cost of bimonthly billing and the amount of errors involved, the Commission finds that it cannot determine at this time the advantages or disadvantages of such systems. Therefore, the Commission finds that the appropriate regulation should provide that bills be based upon a monthly basis with authority to remain in the Commission to extend the billing time period upon application and good cause shown. The Commission finds that research of other state regulations reveal that the regulations are split on this issue. About half of the states reviewed provide for one month billing periods and the other half allow bimonthly billing periods.

During the course of the hearing, comments centered around the requirement of PSC 311(b) and the interval during which a utility must read the meter at least once. As originally proposed, the regulation provided that the utility must read the meter at least once every six months and that on the other monthly periods it could allow the customer to read the meter. Although the Commission based this time period upon the experience in other state regulations, it met with strong objection from various participants.

During the course of the hearing, Mr. D. H. Buswell, representing Interstate Power Company, questioned whether the six month interval during which a utility was required to read the meter really takes into consideration the situation in Minnesota where the reading of meters is impossible because of inclement weather. Mr. Buswell stated that his utility was on a meter reading schedule and that once a day was missed in the schedule because of inclement weather, it is impossible to catch up until the following month (Transcript pp. 403-404).

Mr. Jay Myster, representing Otter Tail Power Company, stated that the period should be extended from six to 12 months. He stated that it was a current practice of his utility to read the meters every 12 months and the interval readings were done on a bimonthly basis by the customers. Mr. Myster stated that as his utility serves rural areas, it is sometimes even difficult to get a reading once every 12 months (Transcript page 406).

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, questioned the necessity and advisability of having to read the meter by the utility every six months. He stated that in many cases among the electrical cooperatives, the meters are not read for one, two years or even three years and he stated that there may be cases where the readings are not done for longer periods than that. Mr. LeVander stated that at some time there should be a cutoff and a meter should be read, but he suggested that the Commission consider a longer period than six months. He stated that when a utility is operating in many counties, it is difficult to get a reader to every customer once every six months. He stated that some utilities operate within a driving distance of up to 50 miles away from the headquarters and that such driving distances become a sizable cost to these utilities. As an alternative, Mr. LeVander suggested that meters be read at least every two years or perhaps longer if the cooperative could show good cause for it.

Mr. LeVander also questioned the propriety of the requirement in PSC 311(b) which provides that the meter be read every time there is a change in customers. He stated that for the utilities which he represented, there is a practical problem of catching up with the changing customers because many times a new customer has been receiving service for quite some time before he gets his name in and the utility finds out who he is. He stated that there is some lag in catching up with new customers. In addition, he stated that where the utilities can follow the change in customers instantaneously, the utility is still faced with people moving in and out of apartments in three and six month intervals and that requiring the utilities

to read the meters that frequently would be too burdensome. Mr. LeVander stated that it would be more appropriate for the cooperative utilities that the meter be read when a customer applies for membership in the cooperative rather than at the point where he becomes a "customer." He states that he had no objections to a requirement that the utility read the meter upon a customer request.

In conjunction with Mr. LeVander's extensive comments, by letter dated January 20, 1975, Mr. LeVander suggests amendment of PSC 311(b) to provide that a utility may permit the customer to supply meter readings on a form providing that the utility representative reads the meter at least once every 24 months or when requested by the customer for good cause. Within this letter, Mr. LeVander incorporates the comments provided during the course of the hearings. (The comments made by Mr. LeVander may be found in Transcript pp. 412-418.)

Further comments were provided by Mr. David McGannon representing Northern States Power Company. He stated that it was the policy of Northern States Power Company to obtain an actual reading of the meter every 12 months. He stated, in addition, it was also the policy of Northern States Power Company that if the customer owes the utility more than what was estimated during the period between meter readings, the customer is given the additional period equal to the period between meter readings in which to make up the difference. He stated that Northern States Power Company is of the opinion that NSP's rule takes care of the burden of forcing a customer to be held responsible for a large bill because the utility delayed for so long a period between actual meter readings.

He stated that reducing the requirement from 12 months to six months would necessitate hiring more personnel and, as a consequence, raise the cost of such procedure. (Transcript page 437.)

Mr. Patrick Leary, representing Lyon-Lincoln Electrical Cooperative, stated that his utility also was opposed to the requirement that the utility read the meter at least every six months. He stated that such a requirement would place a burden upon his utility to hire two additional men. He stated that Lyon-Lincoln

Electrical Cooperative does not feel that it is necessary that the meters be read every six months because the customers are intelligent and are able to read them accurately themselves.

By letter dated January 17, 1975, Mr. Jay Myster, representing Otter Tail Power Company, suggests amendment of PSC 311(b) by changing the six month requirement to 12 months which would thus require the utility to obtain an actual meter reading once every 12 months when the self-read billing system is used.

By letter dated January 23, 1975, Mr. L. M. Stardig, representing Itasca-Mantrap Cooperative Electrical Association, suggested that as all customers for his utility read their own meter, that the six month time period is too short. He stated that Itasca-Mantrap Cooperative reads the meter only when there is a discrepency. He did not delineate further what was meant by a "discrepancy." He stated that Itasca-Mantrap Electrical Cooperative would have to raise its rates in order to comply with this proposed rule.

By letter dated December 24, 1974, Mr. Willard Anderson, representing Agralite Cooperative, stated that the originally proposed requirement in PSC 311(b) of six months would force his utility to go to a monthly billing and meter reading which in turn would cost the members of his cooperative "thousands of dollars every year."

By letter dated January 10, 1975, Mr. Axel H. Johnson, representing Kandiyohi Cooperative Electrical Power Association, stated that the requirement of PSC 311(b) in which the utility representative was required to read the meter once every six months was objectionable to his cooperative. He stated that apparently no consideration had been given in the rule to the fact that many rural electric cooperatives have their customer members read the meter and sometimes even calculate the bill and send in the meter reading with the calculated bill and payment. He stated that getting meter readings every six months, or even every two years, would cause additional burden of costs to the cooperative. He estimated that the requirement of PSC 311(b) would probably require, if enacted as originally proposed, about 300 manhours of time plus transportation and other costs causing a total expense of something like approximately $2,250.00 every time meter readings are needed. He stated that this would not be an everyday job and, therefore, additional temporary

help would have to be hired and trained and additional temporary transportation would have to be provided that could not be used during the rest of the interim periods. He stated that even getting meter readings every two years would cause an undue hardship. He stated that, therefore, because of the high cost factors, the requirement that the meter be read every six months is unnecessary.

Mr. Johnson stated that his cooperative had a policy where every employee when on the job in the vicinity of a meter gives a meter a cursory visual check and takes a meter reading and reports it to the office. He stated that forms are available for this, making it easy and practical for all employees to do it. He stated that employees are also instructed to get meter readings when any other work is done at or near any meters served by his system. He stated that, in addition, his cooperative had a substantial meter testing program that helps find problems of any kind with meters that are in use. He stated that he believed that the present meter reading policy of his cooperative was sufficient.

In addition, Mr. Johnson stated that in almost one hundred (100%) percent of the cases of customers moving away and moving on to his system, obtaining accurate meter readings for cutoff and starting bills is easily received from the member customers moving on or off. He stated that in almost one hundred (100%) percent of the cases, the customers are willing to cooperate and are honest in their reportings to the utility.

The Commission finds that PSC 311(b) caused more comments from the broadest number of participants than any other regulation proposed at the hearing and discussed through written comments. The Commission finds that the requirement that a meter be read every six months, as originally proposed, may indeed be a heavy cost burden upon the utility. The Commission finds that this cost burden is unreasonable in relationship to the benefits achieved. The Commission finds that amendment of PSC 311(b) is in order. The Commission must bear in mind in promulgating this amendment that these regulations must be consistently applied throughout the State of Minnesota. Whereas the requirement that meters be read every six months may be a costly burden and provide little benefit for the customers and the utilities in

rural areas, the same does not necessarily follow for customers and utilities in urban areas. In an attempt to compromise the interests of all customers in the State of Minnesota, the Commission has amended PSC 311(b) to require that a utility representative read the meter at least once every 12 months or at an interval determined upon petition to the Commission. The Commission finds that if the 12 month period is overly burdensome upon some utilities, that they may petition the Commission to extend this period for a longer duration.

By amending this regulation, the Commission finds that it should not neglect consideration of customers of the utilities who may be forced to pay extraordinary bills based upon their own inaccurate reading of the meter or other meter malfunction. The Commission finds that as the original intent of PSC 311(b) was to insure that these types of errors would be discovered at reasonably short intervals, some additional protection should be made to keep the original intent of the six month period within these regulations. Accordingly, the Commission has transferred the intent of PSC 311(b) to protect the customer from extraordinarily large bills, to PSC 314(b)(2) and PSC 315(b)(2). These regulations have been correspondingly amended to require that where a utility has undercharged a customer as a result of incorrect reading of the meter or other similar reasons, that the utility may not bill for the amount of the undercharge which occurred more than six months prior to the adjustment. This restriction of six months coincides with the regular period during which a utility would have originally read the meter had PSC 311(b) not been amended. The Commission finds that the protection provided for the customer against long periods of incorrect charges remains the same and that, therefore, the original intent of PSC 311(b) is still maintained in these regulations.

The Commission, by this amendment, does not wish to have the regulations imply that a shorter meter reading period would not be appropriate by a utility. The requirement of PSC 311(b) provides the maximum period during which a utility must read the meter and, in instances where self-read meters are not used by a utility or where the provisions of PSC 312, which refers to estimated billings, are

not used, the utility is still under the same obligation to read the meter every month as provided in PSC 311(a). The Commission finds that PSC 311(b) is to be used only in lieu of actual meter readings by the utility as provided in PSC 311(a).

The Commission finds in order to prevent undue hardship upon two customers, one of which is leaving the premises and the other one of which is becoming a customer of the utility, that the utility should still be required to read the meter every time there is a customer change. While this is an additional cost upon the utility, the Commission finds that it is necessary in order to prevent inequitable distribution of the bill between two customers. The Commission further finds that this regulation is necessary in order for the Commission to comply with Minn. Stat. Sec. 216B.06, (1974) which requires that;

> [N]o utility shall directly or indirectly . . . receive from any person a greater or less compensation for any service rendered by the utility than that prescribed in the schedule of rates of the public utility . . . ."

Therefore, the Commission finds that both the new and the old customer should only be required to pay compensation for actual service received and that the actual determination of service can only be achieved by a meter reading made by the representative of the utility.

By letter received by this Commission on January 20, 1975, Mr. Elmer Trousdale, representing Peoples Natural Gas Company, suggests that PSC 311(a) be amended to provide that the readings of all meters used for determining charges shall be made each month unless otherwise specified in the utility's contracts or tariffs. This amendment would shift the discretion from the Commission (upon petition by the utility) to the utility itself (in its filed contracts and tariffs) as to whether meter readings would be based upon a charge each month. Mr. Trousdale states that Peoples Natural Gas Company has a bimonthly reading policy now.

The Commission finds that such amendment is contrary to the intent of PSC 311(a). The Commission finds that the substance of Mr. Trousdale's suggestion would provide

that a utility can determine on its own the frequencies within which meter readings must be made either through the self meter reading process or through an actual meter reading process. In determination of what constitutes reasonable service, the Commission finds that the utility, through such an amendment, would have the responsibility of determining whether service has been reasonable based upon the frequency of its meter reading charges rather than the determination made by the Commission. The Commission finds that such an amendment would be a neglect of its responsibilities prescribed by the Public Utilities Act which require the Commission to determine whether service has been reasonable. The Commission finds that such determination should not be left in the hands of the utility, but should rather be the responsibility of the Commission and, accordingly, rejects the suggested amendment.

By letter dated January 17, 1975, Ms. Connie Green, representing the Office of Consumer Affairs, City of St. Paul, suggests that PSC 311(b) be amended to provide that the situations requiring meter readings by a utility representative should be printed on a form supplied to the customer. She stated that it is important that a customer be aware of the policies and be aware of the times to which he or she is entitled to an accurate meter reading by the utility.

The Commission finds that Ms. Green's proposal is within the information to be provided by the "customer information" as required by PSC 281. PSC 281(b)(1) requires the utility to provide its own rules within the "customer information." PSC 281(b)(4) provides that the rules and regulations of the Public Service Commission should also be within the "customer information." The second provision would include PSC 311. Absent any further rationale, the Commission finds no specific reason as to why this particular rule should be outlined beyond what is available through the "customer information." It is the purpose of PSC 281 to accomplish the task with which Ms. Green is concerned.

By letter dated January 17, 1975, Mr. James Habicht, representing Minnesota Power and Light Company, suggests addition to PSC 311(a) a phrase which would allow readings of all meters to be made each month unless authorized by the Commission upon petition by the utility or unless an estimated billing is made in conformance with PSC 312. Mr. Habicht states that as constructed, PSC 311 implies that it is mandatory

to petition the Commission before an estimated bill can be sent.

The Commission finds that these regulations cannot be read in an isolated manner. Rather, they must be read in context with each other. PSC 312 adequately prescribes the procedures through which an estimated bill may be rendered. This regulation is an example of where the Commission regulation has "otherwise authorized" (as worded in PSC 311(a)) the alternative means of meter readings.

The requirements of PSC 312 will not be contradicted by implication through a narrow reading of PSC 311(a). The Commission finds that the intent of PSC 311(a) is that readings of meters shall be on a monthly period rather than for a longer period. Therefore, billing and charges will be based upon monthly consumption. PSC 312 lists those circumstances where the monthly reading requirement of 311(a) may be estimated instead of actually made. PSC 312 still enforces the monthly computation of readings, which is the purpose of 311(a). The Commission finds that there is no need to amend this part of PSC 312 into PSC 311(a).

By letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, suggests that PSC 311(a) should be amended by providing that reading of all meters shall normally be made each month. He also suggests amendment of PSC 311(b) by inserting in the provision that a utility may permit the customer to supply meter reading forms when reasonably there is a change in customers and when reasonably requested by the customer. He further suggests amendment of PSC 311(c) to provide that if the billing period is longer or shorter than the normal billing period by more than seven (rather than five) days, the bill shall be prorated on a daily basis.

Mr. Gill states that these changes are needed to be consistent with PSC 312 and in order to allow clarification, diversity and flexibility in the regulations.

The Commission finds that these changes may create a point of dispute with the utility disagreeing with the Commission as to when the word "normally" permits meter readings to be made other than each month, or when the word "reasonably" determines that there is not a change in customers or determines that a customer has not requested a meter reading. The Commission further finds that the change from five to seven days on the billing period as suggested by Mr. Gill in PSC 311(c) adds nothing to the diversity and flexibility of the regulations and absent further rationale provided by Mr. Gill, the Commission finds no reason to change the day period.

The Commission finds that no further comments were provided upon PSC 311 and that the regulation as it has been amended by the Commission, is consistent with the original intention of the regulation and is also consistent with the determination of reasonable service and appropriate billing procedures as required by the Public Utilities Act.

PSC 312 - Estimated Billing

The Commission finds that a procedure by which bills may be estimated is necessary to permit the utility to continue charging for service when it is unable, impractical, too costly, or otherwise disadvantageous to obtain an actual meter reading. It is primary in the Commission's objective that a provision for estimated billing insure a customer is provided as nearly as possible with accurate charges for service rendered. Within this objective, the Commission finds that it is additionally necessary to provide remedies for the customer in situations where an error has been made in the estimated billing procedure. The Commission finds that an estimated billing procedure is common to regulations of other states. Experience in the other states differs as to the approach of the other regulations in regards to the period during which an estimated billing may continue. The Commission finds that PSC 312 is a compromise of the various regulations studied and attempts to reach a median between those regulations which severely restrict the period during which a bill may be estimated and those regulations which are too generous with the period during which a bill may be estimated. The Commission finds that an estimated billing may not automatically be applied by a utility. PSC 312(a) lists those conditions when an estimated billing may be rendered. The utility may estimate a bill when access to a meter cannot be gained and the customer has failed to supply a meter reading form as permitted in PSC 311(b). The utility may also render an estimated bill in cases of an emergency or when the customer has not conformed with the meter reading plan.

The Commission finds that PSC 312(b) limits the number of consecutive estimated bills to two with the exception of unusual cases or when approval is obtained from a customer. The Commission further finds that PSC 312(b) allows this period to be extended if the customer continues to fail to supply meter reading forms as provided

in PSC 311(b).

The Commission realizes that one of the problems with extended periods of estimated billing may work to the disadvantage of a customer if upon an actual meter reading, it is discovered that the customer used a high percentage of energy during a short period of time. If the utility uses a rate system which charges a higher cost for larger volumes of energy consumed during a short period of time, then the customer may be forced by an estimated procedure to pay a higher rate. The Commission finds that PSC 312(c) is necessary to avoid that problem. It requires that upon an actual meter reading or when the estimated bill appears to be abnormal, the bill for the entire period shall be computed at a rate which contemplates the use of service during the same entire period. The provision allows the customer the assumption that during an estimated billing period, use of energy was at a level average rate.

During the course of the hearing, Mr. D. H. Buswell, representing Interstate Power Company, suggested that there is a problem in reading meters in the inclement weather. He stated that because meter readings were on a cycle basis for his utility and are so fully scheduled that in the event of inclement weather, if a meter reader gets two or three days behind, there is no way that he can catch up and that the only alternative for the utility is to not read a proportion of the meters until the next cycle comes around, usually 30 days later. (Transcript pp. 404-405).

The Commission finds that, during the course of the hearings, no utility suggested that it could not obtain an actual meter reading within a 90 day period. The Commission finds that as PSC 312(b) allows such a period, that the concern of Mr. Buswell is met by the regulations as they stand and that, therefore, no amendment is necessary. Mr. Buswell did not suggest either in oral hearings or written comments any alternative language.

During the course of the hearing, Mr. Richard Gill, representing North Central Public Service Company, suggested that the phrase, "or extreme operating conditions" should be added following "in cases of emergency" in PSC 312(a). He stated that this would take into account the situations where weather might dictate that it would be impossible to perform the contemplated services (Transcript page 430).

The Commission finds that it was within the intent of PSC 312(a) that "in cases of emergency" should include situations of inclement weather. The Commission finds that the addition of the language "or in extreme operating conditions" adds nothing further to the normal understanding of the word "emergency." Therefore, the Commission finds that the suggested language is unnecessary as when extreme operating conditions do exist, that would be construed under PSC 312(a) as to be a case of emergency.

During the course of the hearing, Mr. David McGannon, representing Northern States Power Company, suggested that the limit in PSC 312(b) which is "that more than two consecutive estimated bills shall not be rendered without approval from the customer or in unusual cases," should be extended to three consecutive month periods. He stated that when a utility is faced with inclement weather situations the meter reader does not go out at all and therefore he does not leave a card so the customer is unable to fill out the card because he never got it.

Mr. McGannon stated that Northern States Power Company has experienced unusual winter months, and there may be three consecutive months where the weather was bad in the same cycle. He stated that the request from two months to three months as to the provisions of PSC 312(b) would be more reasonable under the climatic situations in Minnesota.

The Commission finds that PSC 312(b) prefaces the two consecutive month requirement, with the statement "only in unusual cases . . . ." shall more than two consecutive estimated bills be rendered. Therefore, the concern of Mr. McGannon has adequately been considered in this regulation and that should a utility experience inclement weather three months in a row on a billing cycle, this would be considered to be an "unusual case." The provision does not need to be amended to provide for three consecutive estimated billing periods.

By letter dated January 20, 1975, Mr. Elmer Trousdale, representing People's Natural Gas Company, suggested that PSC 312(a) be amended to provide the introductory phrase, "in cases of emergency" should be changed to "in cases of bad weather or reasonable cause." He states that meter reader schedules are fixed and cannot

economically be varied. This concern over the wording "in cases of emergency" was expressed by other commentators. By letter dated January 3, 1975, Mr. William Carstedt, representing Interstate Power Company, suggested that the language in place of "in cases of emergency" should be "in cases of emergency or extreme weather conditions or other operating conditions." Mr. Carstedt stated that the reason for this would be to make it clear that weather conditions shall constitute good reason for estimated billing.

By letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, suggests that the words, "in case of emergency," should be amended to read, "in case of emergency or extreme operating conditions." He stated that weather, sickness, and other factors should be included in the protection of this rule.

By letter dated January 17, 1975, Mr. Jay Myster, representing Otter Tail Power Company, suggested that PSC 312(a) be amended to add after the words, "in cases of emergency, or extreme operating conditions." He said that the reason for such a change is self-explanatory.

In response to all of these concerns over the meaning of "in cases of emergency," the Commission notes that the commentators all had a different term which they wanted to be included in the permissible reasons for the rendition of estimated bills. The Commission finds that the inclusion of all of these terms by their very wording would necessarily exclude other circumstances which could be considered to be an emergency. In addition, the Commission notes that all of the suggested changes carry with them a sense of urgency and immediate necessity. The Commission finds that all of the situations could be construed as an "emergency" as used in this regulation and that therefore the better regulation should contain just the phrase, "in cases of emergency." It is unnecessary to delineate further the situations in which such an emergency would be deemed to exist. The Commission finds that the utilities in using the estimated billing procedure are under a duty of good faith. Subject to this duty, the utilities should be able to determine when a situation of urgency and immediate necessity exists which would require an estimated billing and which would fall within the provisions of a case of emergency.

The Commission finds that some of these suggested changes which provide for "other reasonable cause," would be too ambiguous in that it would be left to the utility to determine at its discretion when it would be able to estimate a bill. The possibility for abuse would be created with the use of this language.

The Commission finds that the language as originally proposed most adequately meets the intended situation. The utility may render an estimated bill when the situation is urgent, i.e. of immediate necessity; that is an "emergency."

By letter dated January 17, 1975, Mr. James Habicht, representing Minnesota Power & Light, suggests that PSC 312(a) be amended to add the phrase at the end of that regulation, "or any other methods specifically certified by the Commission." The purpose of this amendment would be to allow the Commission to certify other methods by which an estimated billing procedure will be approved. He states that this method would be more flexible than the current regulation.

The Commission finds that in the future situations may arise which, within the intent of this regulation, call for an estimated bill but because of the wording of this regulation would be excluded from an estimated billing procedure. In light of this possibility, the Commission finds that a provision should be added to allow the Commission to authorize other circumstances which would warrant an estimated billing procedure. Therefore, the Commission has amended PSC 312(a) to add to the end of PSC 312(a) the wording "or any other method authorized by the Commission."

The Commission finds originally proposed PSC 312(a) provided that the utility could provide a minimum or estimated bill when the conditions permit. The Commission finds that the inclusion of the words, "a minimum or" is vague and is not used elsewhere within these regulations. The Commission finds that because other regulations do not address the issue of a minimum bill, the inclusion of this phrase is not necessary. The estimated bill is required by the regulations to be based upon the customer's normal consumption for a corresponding period during the preceding year, or on the customer's average consumption during the three preceding months or any other methods specifically authorized by the Commission. The Commission finds that the termination of an estimated bill is therefore amply defined and that the inclusion of the words, "a minimum bill" are unnecessary in light of the above language. Accordingly, the Commission finds that as there is no use for the phrase it should be deleted and has amended PSC 312(a) to delete the phrase, "a minimum or" where it is used within this regulation.

In light of the comments made both at the oral hearing and by letter, the Commission finds that there was no further discussion on this regulation and,

therefore, no further amendments or changes in the regulation is necessary. This regulation is consistent to the requirement of reasonable service provided in the Public Utilities Act.

PSC 313 - Billing Content

The Commission finds that PSC 313 governs the content and information required to be stated in the bills. The Commission finds that this regulation is similarly found in other states, notably Wisconsin. The Commission finds that with this listed information, the customer will be able to understand the bill and the factors upon which it is based. Such procedures are consistent with the requirement that a customer should be provided with reasonable service, and the requirement that bills should be accurate. The Commission finds that PSC 313 should be understood in light of the fact that the utility is also under a responsibility to provide the customer a more detailed explanation of the factors discussed in PSC 313. This responsibility is outlined in the "customer information" as provided in PSC 281(b).

Pursuant to the utility's responsibility to provide reasonable service, each customer should be provided a bill as promptly as possible following the reading of the meter. It is necessary for a customer's bill to provide the present and past meter readings in order for the customer to accurately compute the amount of energy consumed. The Commission finds that within the contents of the bill the following should be provided: the date of the present reading, the number and kinds of units metered, the class of service, the date in which the bill is due, the amount of state and local taxes, and the information required by customer complaint Rule PSC 281(c), which directs the customer how to register an inquiry or complaint and notifies the customer of the availability of the "customer information" containing the information to compute a bill plus other information.

The Commission finds that the regulations do not mention nor do they imply acceptance of the net and gross billing procedures which exist in other states and exist as a practice among some utilities. The Commission finds that the application of "net and gross bills" may or may not be permitted by these regulations depending upon individual application. The Commission feels that the application of "net and gross bills" is adequately governed by PSC 325-328, which regulate the permissible means of assuring payment, as well as PSC 301(a) which

governs the basis upon which bills may be provided, and including PSC 400-406, which as proposed, will govern the application procedure and rate filings. The Commission finds that the acceptability of "gross or net" bills cannot be governed by regulation but must be applied upon individual application. Such applications must take into consideration the other requirements of this regulation. If use of net and gross billing is acceptable in certain circumstances, some statement as to its placement in a billing statement should be provided within this regulation. Therefore, the Commission finds that it is appropriate to include within PSC 313 the requirement that where applicable the bills shall show the net and gross amount of the bill and the date after which the gross amount must be paid.

The Commission finds that different factors may be involved in the measurement of service and the application of rates. Therefore, the Commission has allowed that PSC 313 should contain factors such as, but not limited to, "demand charges" and "energy charges." The Commission does not imply that the information delineated constitutes the limits of these factors nor does it imply that when these factors are used in computation of a bill that they should always be included. The Commission nevertheless finds that the determination of the inclusion of these additional factors shall be governed by the requirement of PSC 313 that the bills shall show "all data necessary for the customer to check the computation of the bill." The Commission finds that the inclusion of additional terms will be governed by what is necessary to compute the bill.

It is essential for the customer to know the factors upon which his bill was based. When the bill is based upon factors other than meter readings, that is estimated bills, it should be distinctly marked as "estimated bills."

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electric Cooperatives, stated concern over the provision of PSC 313 which states, "where applicable, bills shall show the net and gross amount of the bill and the date after which gross amount must be paid." As far as the electrical cooperatives were concerned, he stated, they do not use a net-gross means of calculating the bills. He stated that they use a system that if a customer is late so many days, there is a penalty provision. In his opinion this is definitely a proper charge to be made. He stated that the utilities would hope that the terminology here is not intended to rule out that (referring to the penalty provisions) kind of a billing method. He stated that

he would not want the regulations to rule out the basis of the actual bill plus a penalty and that it would be acceptable as part of the rules of the individual company. (Transcript page 419).

The Commission finds that the intent of PSC 313, is not to authorize a billing system which would otherwise be nonpermissive under other regulations contained herein. The Commission finds that PSC 313 requires only that the net and gross amount of bills shall be stated on the bill where that is applicable. The Commission finds that other regulations adequately determine the basis upon which bills shall be provided. PSC 310(a) requires bills for service to be based upon meter readings or estimated usage and computed in accordance with applicable rate schedules on file with the Commission. The Commission finds that the rate schedules filed by the utility will be governed by proposed PSC 400-406 and that, in addition, if additional funds are required by a utility beyond the basis of the actual bill, such additional requirements will be governed by PSC 325-328 which governs deposits or guarantees; i.e. means of assurance of payment. The Commission finds that without case-by-case information, it could not determine whether a "net and gross bill" or an "actual charge and following penalty" would meet the requirements of these regulations. Neither could the Commission determine whether these factors would meet the requirements of these regulations. The Commission finds that such circumstances should be individually dealt with upon individual proceedings with each utility and the Commission.

Mr. LeVander further commented that this regulation in addition to PSC 281(c) requires a sizable amount of information to be contained upon an envelope-sized bill. He stated that if all of the factors and elements necessary for a member to use in computing his bill must be included on that bill, that the size of the bill would have to go to 8½ x 11 size paper and would definitely be something beyond what is in use by the utilities now. He stated that it is a matter of practicality as to how many pieces of information can be contained upon the size of one bill and suggested that perhaps some of these factors could be shown elsewhere.

In response to Mr. LeVander's comments, the Commission finds that with one exception, the participants at the hearing and the participants who provided written comments did not submit an example of their current bills. The Commission finds that it does not have adequate information to determine the degree with which a

bill can support the space requirements of PSC 313 and PSC 281. The Commission can only conclude therefore that the space requirements of these regulations must be acceptable to the utilities despite their statements to the contrary. The utilities did not find it necessary to submit to the Commission an example of their current bills with the space that they estimate these regulations would require. Therefore, the Commission finds no substantial rationale nor data with which to determine that the requirements of PSC 313 are excessive in relationship to the space requirements of the utility's bills.

During the course of the hearing, Mr. Patrick Leary, representing Lyon-Lincoln Electrical Cooperative, suggested that PSC 313 should be amended to provide for the allowance of self-billing material as well as the actual utility bill. He stated that his utility has a "self-billing booklet" so that he would prefer that the requirements of PSC 313 would allow the inclusion of this information on the booklet rather than the inclusion of this information within each bill. (Transcript page 453).

The Commission does not find that it should state whether or not a verbal description of a bill would meet the requirements of this regulation. Rather the Commission finds that the requirements of PSC 313 are clear as to what is required to be stated upon each bill and that the submission of billing forms as required in the tariff filings elsewhere in these regulations, will be judged to be in compliance or not to be in compliance based upon the individual application to these regulations. The Commission finds that these regulations present an objective standard by which the utility may judge the appropriateness of its own procedures. The Commission finds that this regulation, PSC 313, will be applied to the individual circumstances with the provision that "data necessary for the customer to check the computation of the bill" will determine the appropriateness of each application.

The Commission, therefore, finds that as self-billing procedures are provided for in PSC 311(b), that self-billing per se will be acceptable, as long as the procedures of the rest of these regulations are met and that, therefore, PSC 313 cannot be used to arbitrarily exclude self-billing. Self-billing procedures must nevertheless still meet the same requirements that utility billing procedures would have to meet. Accordingly, the Commission finds no rationale further provided by Mr. Leary as to why this is not in order.

By written comments received by this Commission dated January 20, 1975, Mr. Elmer Trousdale, representing People's Natural Gas Company, suggests that PSC 313, be amended by providing that the bill shall contain the class of service or rate schedule number. Also he suggests that PSC 313 be amended by deleting from the same sentence the requirement that the bill should contain the information required by the customer complaint rules PSC 281(c).

Mr. Trousdale provides no rationale as to why such amendments and deletions should be made. The Commission finds that this change would greatly reduce the utility's responsibility in that the "rate schedule number" would merely be a codification of the rate which would be applied to the customer and the customer would have to look elsewhere to determine the correct rate applied. Mr. Trousdale does not indicate exactly what would be included in the term "rate schedule number" and in absence of any rationale, the Commission cannot really accept such a change. The Commission reiterates the intention of PSC 313 to provide the customer with data necessary for the customer to check the computation of the bill. Mr. Trousdale has provided no rationale as to why the inclusion of a "rate schedule number" will better enable a customer to compute the accuracy of his bill.

The Commission finds that deletion of the requirement that the bill should contain the information required in PSC 281(c) would be inconsistent with the provisions of PSC 281(c) which require the bill to contain the statement that the customer should register any inquiry or complaint at the address and telephone number of the utility and designate where the customer may initiate an inquiry or complaint. The requirements of PSC 281(c) also require notice to customers of the availability of the "customer information." The Commission finds that such requirements are consistent with the goal that the utility should readily facilitate communication between the utility and the customer in order to enable the utility to provide reasonable and adequate service to its customer. The Commission finds that without such information provided on the bill, the customer would not have at his or her ready disposal the ability to communicate with the utility and further would not be directed as to where additional information could be obtained, through the "customer information." Therefore, the Commission finds that such amendments and deletions are inconsistent with the intent of these regulations and are not consistent with the provision by the utility of reasonable service as required by the Public Utilities Act.

By letter dated January 17, 1975, Mr. James Habicht, representing Minnesota Power & Light Company, suggests that PSC 313 should substantially be amended because Minnesota Power & Light has a limited amount of space on the portion of the bill which the customer retains and for this reason only essential data should be provided. He states that Minnesota Power & Light does not make any special notation when a bill is for a minimum amount as that is understood to be part of the rate schedule and the standard billing procedure. He states that the important fact is that the customer can inquire as to whether this rate code as they provide is the proper one for his particular usage. He states that in the interest of economy of operation, he suggests deletion of the provision of PSC 313 which would require the bill to contain "the last meter reading" and also the "minimum" deleted from the last sentence of PSC 313. It is his feeling that the cost to the customer to make these changes in relationship to the benefits he will receive, justifies the restrictiveness of these requirements.

The Commission, as noted above, finds that no examples of a utility's bill was presented at the oral hearings nor,with one exception,was any example presented in the written comments. The Commission finds that if it were to adopt the suggestions made by the various participants, including Minnesota Power & Light Company, it would merely be adopting their suggested changes in the wording of the regulations based upon their "opinions" as to the increased cost of the requirements of this regulation. The Commission finds that it cannot delete the requirements of PSC 313 upon such minimal rationale. Consistent with the other purposes of these regulations, a customer should be able to determine whether or not the bill as rendered by the utility has been correctly computed. To determine the correct computation of the bill, anyone, be he customer or utility, would need to know the present and past meter readings. Knowledge of only the present meter reading becomes a figure with which no comparison can be made and therefore becomes useless to the customer in determination of the accuracy of his bill. Therefore, the Commission finds that this suggested deletion of the words "last preceding meter readings" is inconsistent with the purpose of this regulation and the Public Utilities Act.

As stated above, the Commission does find that the inclusion of the word, "minimum,"within PSC 312 and PSC 313 is unnecessary in light of the fact that nowhere else in the regulations is the term used. Accordingly, the Commission accepts the

suggestion of Minnesota Power & Light Company and has deleted the reference to "minimum bills" where made in these regulations.

By letter dated January 17, 1975, Mr. Jay Myster, representing Otter Tail Power Company, suggests that PSC 313 should be amended to have the first sentence of that regulation read, "the utility shall bill each customer as promptly as possible following the reading of his meter or upon an estimation of a bill pursuant to a bi-monthly reading of his meter."

Mr. Myster suggests this change in conjunction with other suggested changes relative to a bimonthly billing policy.

The Commission finds that a bimonthly meter reading policy per se is not acceptable to these regulations. The regulations do allow circumstances which would permit a bimonthly policy, however, PSC 311(a) states that "readings of all meters used for determining charges to customers shall be made each month unless otherwise authorized by the Commission upon petition by the utility." In light of this regulation, the Commission finds that the remaining regulations should not refer to "bimonthly billing" which would imply acceptance of such a procedure. Rather the Commission finds that if a "bimonthly billing period" should prove to be acceptable to the Commission upon petition by the utility, the Commission's order may refer to any other ancillary changes necessary for the utility to comply with the remainder of these regulations. Therefore, the Commission finds that reference to bimonthly billing procedures, as suggested by Mr. Myster, should not be kept within the regulations, but could be permitted upon petition to the Commission.

PSC 314 - Adjustment of Bills: Electric

PSC 314 and PSC 315 are companion regulations which relate the adjustment of bills and billing errors for electric and gas utilities respectively. The Commission finds that with the promulgation of these two regulations, it has relied upon the regulations in existence in other states in that it involves a very technical area which at the time of promulgation was not entirely within the capacity of the Commission staff.

This regulation determines the adjustment of bills when a meter used for measuring the amount of energy used by a customer is found to be in error beyond a minimum standard. In the event of such error, this regulation determines the method for recalculation and adjustment of bills which will accurately determine the correct

amount of energy consumed by the customer as nearly as practicable. This regulation must bear in mind the fact that the customer should not be made to suffer an error for which the utility is responsible. Therefore, a customer should not have to pay for service which was not received nor should a customer have to pay for errors during an unreasonable amount of time. A customer should not be forced to undergo financial hardship due to an accelerated payment for a utility error which lasted over a long period of time.

On the other hand, the Commission finds that the errors of a utility in the misapplication of rates or inaccurate meters ultimately must be carried by the remaining customers of the utility. Although the error is the responsibility of the utility, the customer with whom the utility has dealt should not be permitted a windfall because of such utility error.

The Commission finds that there is a necessity to adjust bills which have been inaccurately charged due to errors in meters as well as bills which have been inaccurately charged because of incorrect reading of the meter. Such necessity exists whether it is due to the customer through a self-billing procedure or due to any number of possible utility errors. Those possible errors include the utility's own meter reading, incorrect application of the rate schedule, or incorrect connection of the meter. Other similar reasons include improper voltage, improper frequency or wave form, improper power factor, or errors due to temperature variation. Accordingly, the Commission has provided for the correction of such errors within these regulations.

The dilemma facing the meter error section of PSC 314 is how to strike a balance between the need for equitable bills which must be based upon accurate meters contrasted to the fact that all meters, being mechanical, eventually will error and replacement of these errant meters is a high cost. Some degree of error must be allowed in the meters in order to protect the utilities against an inordinate error replacement cost which ultimately must be passed on to the customers.

The Commission finds that all state regulations which were reviewed provide for a minimum error. The Commission finds that a 2% error on watt hour and var meters and a 1.5% error on demand meters for electric energy is about average. The Commission also finds that a 2% error for gas meters appears to be about average.

The Commission finds that because a customer has no direct control over the accuracy of a meter, especially when it errors in the utility's favor, PSC 314 and PSC 315 attempt to place as much responsibility as is equitable upon the utility while recognizing the fact that a customer should be expected to pay for service actually received.

The Commission recognizes that it faces a balancing test between the concern of the customer that he be charged accurately for service received, and the interest of the utility and its other customers to avoid paying for free service provided to an individual customer.

These regulations permit a utility to bill a customer for the utility's error. However, they will not permit the customer's credit to be jeopardized by the failure to pay such bill unless and until the customer has agreed or the Commission has determined the appropriate time schedule and the appropriate amount of such payment. This is provided in PSC 298(b)(4) or (7).

The Commission finds that the primary difference between the gas and electric regulations, PSC 314 and PSC 315, is the difference of allowable error between gas and electric matters.

The Commission notes the discussion above (Page 138 et seq) pertaining to PSC 311(b) which has been changed to allow for a period of 12 months (or longer upon petition by the utility) between actual meter readings by the utility. The 12 month period was a change from 6 months as originally proposed. In order to compensate this longer period, and hence reduced protection, the Commission finds that PSC 314 and PSC 315 should be changed to permit only a six month period by which a utility may bill a customer for errors in meter reading. If a utility becomes burdened by too many meter reading errors it can initiate more frequent meter readings than is required by PSC 311(b). By placing a limit upon back billing due to meter reading errors, regardless of whether the errors were caused by the customer reading the meter or the utility reading the meter, the incentive is placed upon the utility to maintain a frequent accurate reading of the meter by its own representative. This alleviates the burden of requiring the utility to obtain an acutal meter reading every six months but does not place any more penalty upon the customer as the amendment to PSC 314 and PSC 315 restrict errors for meter reading to the six month period as was originally proposed in PSC 311(b).

PSC 314(a) through (g) was the organization of the regulation as originally proposed. The Commission finds that this could better be organized by dividing application of adjustment of bills between those bills needed to be adjusted because of inaccurate meters and those bills needed to be adjusted because of billing errors. Accordingly, the Commission has renumbered the organization of PSC 314 and PSC 315 by numbering originally proposed PSC 314(a) through (e) under the heading of "Inaccurate Meters" and renumbered them (1) through (6) and put that under the heading entitled (a) Inaccurate meters. The Commission has renumbered PSC 314(f) and (g) to PSC 314(1) and (2) under the heading PSC 314(b) "Billing Errors." The Commission finds that this reorganization is for purposes of clarity and that there is not substantial change in the regulation by such renumbering. Accordingly, the Commission has also renumbered PSC 315 which relates to the adjustment of gas bills in the same manner.

PSC 314(a)(1) places an error variation upon a var watt hour meter of 2% from a standard of 100% and upon a demand metering installation of 1.5%.

During the course of the hearing, Mr. Jay Myster, representing Otter Tail Power Company, read into the record a letter commenting on such a similar standard from Otter Tail's meter testing department. The letter stated that the representative of the department could not understand why a "demand meter" should be more accurate than a "watt hour meter" when they are inherently less accurate. The representative continued that there are two common types of demand meters. The first one is a mechanical one and it operates from the kilowatt hour meter through a set of gears and uses a timing loader. It cannot be more accurate than the kilowatt hour meter but it could be less accurate. The second type of demand meter is called a "thermal demand meter" and it operates independently of the "kilowatt hour meter," but it is, the representative stated, generally less accurate than a "mechanical demand meter." However, since this second type of meter is of simpler design and has fewer moving parts it tends to have greater long term accuracy and stability than the mechanical type. The representative stated in the letter that he agreed with the 2% limit on accuracy for the "watt hour" meter but would recommend that the rule adopt the specifications in the American Standard Code for Metering, Fifth Edition, ASAC 12-1965 which was introduced as an exhibit. In reference to this particular exhibit, the letter stated that Otter Tail Power Company would like to have adopted in the Commission's rules part 8.2.1.1, which reads:

> the performance of a demand meter or register shall be acceptable when the error in registration does not exceed 4% in terms of full scale value when tested at any point between 25% and 100% of full scale value.

The representative of the Otter Tail Power Company stated in the letter that this accuracy is appropriate for use with a "demand meter" because generally the portion of the billing resulting from the "demand meter" is much lower in dollar charges to the customer than the portion of the billing from the "watt hour meter." He states that such a standard would be more reasonable (Transcript pp. 407-409).

The Commission finds that while it is grateful for the submission on the record of these additional standards, Mr. Myster provided no rationale as to why these standards would better suit the requirements of the Public Utilities Act. The Commission finds that a 2% error on watt hour and var meters and a 1.5% error on demand meters for electric energy and a 2% error for gas meters is about the average error allowed by the states which already have regulations in force. The experience of these states is a better yardstick by which to determine the correct percentage allowable for error rather than a percentage which is not in use but is merely proposed by an association sponsored by the "Edison Electric Institute," which is now the American National Standards Institute. The Commission therefore finds that the original proposed meter error percentage, as is found to be the practice in other state regulatory agencies, should be preferred over a proposed regulation which has not had such similar experience.

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, suggested that PSC 314(b), which has been renumbered by the Commission PSC 314(a)(2), should be amended to provide that the error in registration due to "creep" shall be calculated by timing the rate of creeping and assuming this creeping affected the registration of the meter for 25% of the time since the last test or since the meter was installed or within the last year whichever occurs first. He states that there should be some cutoff time perhaps not to exceed one year during which the "creeping" can be compensated. (Transcript page 421).

The Commission finds that in most cases a "creeping" meter works to the detriment of the customer in that the customer is charged for more energy than he

consumes. The Commission further finds that the customer has no way of knowing whether his meter is "creeping" in most cases, and further, that absent a dispute as to the bill, the customer has no real leverage with which to force a utility to repair a "creeping" meter. The Commission finds that the customer should not in any way be made to bear the burden of a malfunction of utility equipment with which the utility is totally responsible. If the limitation of adjustments for "creeping" meters is to be within one year, the utility may very well find it more economical not to repair meters that have a potential possibility of "creeping" and to rather just pay the one year's "fine", whenever a "creeping" meter is discovered. Such a regulation should not be enacted which would work to the detriment of the customer and perhaps cause even more meter errors than exist at present. Therefore, the Commission finds that such suggested change is not in order.

During the course of the hearing, Mr. Richard Gill, representing North Central Public Service Company, commented upon PSC 315(f) which has been renumbered by the Commission PSC 315(b)(2). Mr. Gill questioned whether this regulation involved an inconsistency with PSC 298(c)(4), which has been renumbered by the Commission PSC 298(b)(4). He stated that the utility would like to see it made clear that there isn't any inconsistency between the provisions in that PSC 298(b)(4) says that it is not permissible to disconnect based upon a failure to pay a charged bill because of an inaccurate meter which he assumed referred to a charge that is subsequently shown to have been inaccurate due to the poor meter. He stated that his utility would assume that if the provisions of PSC 315(b)(2) were met that disconnection would no longer be impermissible (Transcript pp. 431-432).

The Commission, in partial response to the concern expressed by Mr. Gill, has amended PSC 298(b)(4) to provide that a customer may be protected against disconnection for a bill charged because of an inaccurate meter only until the utility has determined the amount due and the customer and the utility have agreed on that amount or in the alternative that that amount due has been determined through these regulations, the Public Service Commission, or the courts. When the correct amount to compensate for the inaccurate meter has been determined, the customer is no longer protected against disconnection in PSC 298(b)(4).

The Commission finds that in light of the changes of PSC 298(b)(4) no further changes are necessary in PSC 315 or PSC 314.

During the course of the hearing, Mr. Dick Bisanz, representing People's Natural Gas Company, commented upon the interrelationship of PSC 315(b), 315(c) and the current cycle of meter repairs which is used by the utility. Mr. Bisanz testified that his utility is on a ten year repair cycle and replacement cycle for meters and emphasized that if the wording as proposed in this regulation were imposed and there was an adjustment, a utility could not accurately determine the period of inaccuracy. In that instance you would have the adjustment period going back five years where in fact it may be only a day or a week or two in which the error has been in existence. He stated that he was puzzled between the distinction between PSC 315(b) which permits a utility to go back half the period before the last testing which in his example could have been years, whereas if the inaccuracy would be in favor of the utility the maximum regression period would be six months. In light of the distinction between PSC 315(b) and PSC 315(c), Mr. Bisanz suggests that the same time limit should be placed upon both and suggests a time limit of six months in which to estimate the period of inaccuracy (Transcript pp. 433-434).

In response to Mr. Bisanz's question, Mr. Dennis Larson, representing the Commission staff, stated that since these regulations do not control how often a meter must be tested it is left to the utility to determine by its own experience how often to test it. He stated that in light of the fact there is no regulation which sets an exact time for testing a meter, that some alternative incentive must be created to encourage the utility to test the meters often. He stated that if the utility faces the possibility of compensating customers for meter errors in the utility's favor for periods which have a potential of being very long, as in the case suggested by Mr. Bisanz of up to five years, that this higher cost of correcting meter errors will encourage a utility to test the meters more often. He stated that it becomes a matter of comparing cost, of which is cheaper, the cost of testing the meter or the cost of compensating customers for meter errors (Transcript page 434).

The Commission finds that the customer of a utility has no means to insure himself that the utility is accurately charging for energy consumed. The customer does not have the expertise needed to test his own meter and therefore must rely upon the utility to accurately measure the energy the customer receives. In light

of this circumstance, the Commission has the duty under Minn. Stat. Sec. 216B.09 (1974) to:

> ascertain and fix adequate and reasonable standards for the measurement of the quantity, quality, pressure, initial voltage, or other conditions pertaining to the supply of service and prescribe reasonable regulations for the examination and testing of the service and for the measurement thereof . . . .

and further, under this same section, the Commission is charged with the responsibility to:

> establish or approve reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters, instruments, and equipment used for the measurement of any service of any public utility.

In light of these factors, the Commission finds that there should be a distinction in the term of compensation for inaccurate meters between those meters which fault to the benefit of the utility and those meters which fault to the benefit of the customer. The utility would find little reason to correct meters should it be limited to a small time period for which it was responsible to compensate for errors in a customer's benefit. The Commission finds that where the utility has undercharged resulting in the customer owing a larger bill, that without a time period in which to determine the amount of error, the utility could require a charge which would become a heavy penalty upon the customer. The customer is in no way responsible for this error and the customer should not be made to bear the brunt of it. Therefore, in the latter case, the Commission finds that the period of error should be reduced to a small length of time not only to lessen the burden on the customer but also to encourage the utility to frequently test its meters. The Commission finds that such a requirement is not an unreasonable request upon the utility in that the utility is free to determine how often it wishes to test meters. If the utility is confident that its meters are accurate, it need not test them very often. However, should a utility have meters of poor accuracy, then the customer and the Commission would expect the utility to bear the responsibility of those errors and not pass them on to the customer. The Commission finds that regulations which recalculate bills for fast meters differently than they recalculate bills for slow meters is not a new type of regulation. The Commission finds that this type of procedure is common to several regulations which were reviewed particularly in the state of Iowa. Therefore, the Commission finds that PSC 315 and PSC 314 regarding the different rates of error compensation when a meter is fast or when a meter is slow, should not be further restricted than it already is in the above cited regulations.

During the course of the hearing, Mr. Bisanz also suggested that some language be devised to determine what the term "inaccuracy" means as used in PSC 315. (Transcript page 435)

In response to Mr. Bisanz's suggestion, Commissioner Rolvaag, Chairman of the Minnesota Public Service Commission, stated that he would hope that Mr. Bisanz would reduce such a suggestion to a written comment. In reply to Chairman Rolvaag's question, Mr. Bisanz said that he would. (Transcript pp. 435-436)

The Commission finds that there is no reason at this time to further delineate the definition of inaccuracy beyond that provided in PSC 314(a) and PSC 315(a) which have listed the amount of allowable variance before a meter must be corrected and a billing must be corrected. The Commission finds that such a variance under the common understanding of the word shall constitute an "inaccuracy." The Commission further finds that no suggested definition of the word "inaccuracy" was submitted by any representative of People's Natural Gas Company during the period open for receiving written comments on these rules and that therefore no change in the wording of PSC 315 in relationship to the definition of "inaccuracy" should be made.

During the course of the hearing, Mr. David McGannon, representing Northern States Power Company, submitted comments upon the fact that PSC 314 and PSC 315 allow a utility to bill a customer for errors of a meter in the utility's favor only for a period of six months and do not similarly restrict a utility from paying a customer for errors in the customer's favor. He stated that it was inequitable to have two different time limits depending upon who would benefit from the error. He stated that it was his opinion that the regulations were derived one half from the state of Wisconsin. That state corrects errors to one-half from the time from the meter installation but that rule applies to both fast and slow meters. He stated that the other half of the rule was derived from a regulation in the State of North Dakota which has a six month time limit again applicable to both fast or slow meters. He stated that it was the position of Northern States Power Company that the rules should be consistent and should be either one way or another or otherwise an inequitable result would be obtained. Mr. McGannon stated that whether it is a fast or a slow meter, the same ruling should be applied.

Mr. McGannon further reiterated similar comments in a letter dated January 7, 1975. In that letter, Mr. McGannon stated that Northern States Power Company finds no justification for a rule which if a customer deserves a refund the largest refund is applied, and if a utility has undercharged, the least payment is used (Referring to PSC 314(a)(2) and (3) - this rationale also would equally apply to PSC 315(a)(2) and (3)).

The Commission finds that while Northern States Power Company has accurately construed the application of the regulation, it is not without precedent. While the regulation is a combination of the language suggested in the Wisconsin regulation and the North Dakota regulation as Mr. McGannon asserts, other states provide for variations between adjustments for undercharges and overcharges, notably Iowa. The Commission finds that there is a good reason for this distinction. A customer has no means to keep meters accurate. The complete control of meters is in the hands of the utility. By placing a higher possible loss on the utility for an inaccurate meter, it is hoped that an incentive is created which will encourage the utility to keep these meters in reasonable repair.

As stated above, the Commission finds that the proposed regulation is within the requirements of the Minnesota Public Utilities Act, consistent with the financial requirements of the utility and in furtherance of the goal of the Public Utilities Act to provide reasonable service to the customers in Minnesota.

Mr. McGannon expressed concern over PSC 314(e), which has been renumbered by the Commission PSC 314(a)(5). Mr. McGannon's comments were in reference to the situation where a customer has been underbilled after which a bill has been submitted to him on a different form. The last sentence of the regulation states that "the charge shall not show as arrears on any bill for service."

Mr. McGannon stated that it was his understanding that the undercharge or overcharge for which the customer is being billed will always appear on a separate hand bill. If a utility is separately hand billing a customer for this amount of money and the customer does not dispute the bill, he saw no reason why it could not be added to his regular monthly billing rather than sending the customer two separate bills. He stated that the burden of continuing to bill a

customer on a separate form is not warranted and therefore suggested deletion of the last sentence quoted above (Transcript pp. 440-441).

The Commission finds that the intent of PSC 314(a)(5) was to adequately inform the customer that this portion of the bill was for an inaccuracy caused by a meter error. The intent was also to protect the customer from paying a bill which the customer may validly dispute. If the action is within the normal billing procedure, the customer would have no reason to know of such a distinction. Therefore, the customer would be removed from the ability to dispute the findings of an incorrect meter. While various utility participants at the hearings stated that they send correspondence to customers informing them that a meter error has been found, no testimony was provided that such practice was common throughout all of the utilities of Minnesota. Even where used by a particular utility, it was not demonstrated that such a procedure was followed in every case. Customer reliance in such a procedure could not be assured. The Commission finds that the procedure provided in PSC 314(a)(5) is also provided in similar form in PSC 315(b)(2) in relationship to bills for gas service.

The Commission finds that throughout the oral and written comments received on this regulation, no data was provided as to the cost of such billing procedure. The Commission further finds that a bill charged for an inaccurate meter should not be considered to be "in arrears" because this billing is the first time the customer has had an opportunity to pay for such billing errors. The Commission therefore finds that the ability of the customer to know that a bill is being charged for an inaccurate meter rather than for the current service will enable a customer to judge the findings of such a bill. The customer should also know that this bill is not, in fact, for service rendered and thereby should not place the customer in arrears. To the extent Mr. McGannon interprets this rule as requiring two separate mailings, he has misconstrued its intent. This sentence merely requires the amount billed for the undercharge or overcharge to be shown as a separate item from the total amount billed for regular service.

Mr. McGannon addressed comments concerning PSC 315(c), which has been renumbered by the Commission PSC 315(a)(3), to that part of the regulation which requires "no back billing from the time of notification by the customer will be sanctioned if the customer has called to the utility's attention his doubts as to the meter's accuracy and the utility has failed within a reasonable time

to check it."

Mr. McGannon posed the following hypothetical: Assume that a meter malfunctioned on January 1, and on June 1 the customer called the malfunction to the attention of the utility. Assume further that the utility did not get out to repair the meter until September 1 but upon repair the utility was able to determine that the meter had been inaccurate between June 1 and September 1. He stated that it was unreasonable to imply through this regulation that a utility cannot back bill the customer back to January 1. Mr. McGannon stated that he had hoped that the purpose of the regulation was not to use the delay of the utility in repairing a meter as a means by which the customer can avoid payment of a bill to correct an error which had been in existence for a long period of time before the customer called the situation to the attention of the utility.

The Commission finds that PSC 315(a)(3) addresses the problem where a customer has been undercharged by an incorrect meter and that a utility then subsequently determines that the customer owes for a substantial amount of energy which was missed by the error. The Commission finds that this regulation particularly addresses the problem where a customer would be owing additional sums. The utility will regain its lost revenue whenever it discovers the error of the meter. There is concern whether a utility would repair the meter promptly when the utility could be assured that later repairs would result in the same amount of income. Therefore there would be no incentive for the utility to repair right away. The purpose of this sentence in this regulation is to encourage the utility to repair a malfunctioning meter as soon as possible. This provision prohibits the utility from charging the customer for the error of the meter during the time period between when the customer called the problem to the attention of the utility and the time that the utility actually did repair the meter. The Commission finds that this part of the regulation does not in any way address the time period before the customer notified the utility through this rule. The customer does not have at his disposal a means by which he could avoid payment of the bill which corrects a malfunctioning meter. The Commission finds that although the concern expressed by Mr. McGannon is a very valid one, the regulation does not apply to such a situation in terms which would enable

a customer to take undue advantage of the regulation. The utility is, in light of the remainder of these regulations, still adequately protected to obtain its revenue. The only concern of this regulation is that the utility repair meters as quickly as possible once the customer has notified the utility of a meter malfunction or a possible meter malfunction. The time period of delay in which a utility does not repair the meter should not be made to work against the interests of the customer.

By letter dated January 8, 1975, Mr. Richard H. Zehring, representing the Greater Metropolitan Federation, suggested that PSC 314(f), which has been renumbered by the Commission PSC 314(b)(1), should be amended to allow the customer to choose whether he wants the refund in cash or credited to his account.

The Commission finds that this change suggested by the Greater Metropolitan Federation should not be made. The refund for billing error may be only one portion of a customer's entire bill and if a customer is in arrears for other service received, the utility should have the ability to choose between a refund in cash with a bill outstanding or to credit the refund to the customer's account. The utility always faces the possibility of never collecting arrears and the utility is entitled to payment for a utility bill regardless of the source of that payment. The Commission finds that no rationale was provided by the Metropolitan Federation for this change. Absent any further reason for it, this amendment should not be made.

Mr. Zehring further suggested that PSC 314(g), which has been renumbered by the Commission PSC 314(b)(2), should allow the customer to pay the undercharge through a "reasonable payment schedule for its discharge." He stated that the Greater Metropolitan Federation saw no reason why such protection should not be available to electric users.

The Commission finds that the payment of undercharges is governed by both PSC 293(c)(4) as well as PSC 314. The Commission notes PSC 293 requires the amount and payment schedule of the error to be jointly set by the customer and the utility or to be set at a reasonable amount as determined by the Public Service Commission through these regulations or the courts. The Commission further finds that as PSC 314 would prohibit any charges for underbilling more than six months in arrears, it already has provided a limit for these inaccurate

meters. The Commission finds that while a six month undercharge may be a burden on some customers, the rules have consistently avoided the enactment of any payment plans because of their cumbersome application. As a six month period would be the maximum to determine the amount that a customer would be required to pay there is no implication in these regulations that the customer should be required to pay that undercharge within a period less than six months. As PSC 298(c)(4) provides means by which a neutral party may determine the amount as well as the method of payment, the Commission finds no further need for mention of a payment schedule within this regulation.

Mr. Zehring suggests addition of a new subsection to PSC 314 to provide that "no back billing will be sanctioned if the customer has called to the utility's attention (the meter's inaccuracies) and the utility has failed to check it."

The Commission finds that this procedure was provided under PSC 315(c) as originally proposed and was inadvertently left out of PSC 314. The Commission finds that as the intent of these companion regulations was to insure that the customer would not be made to bear the brunt of utility errors, the distinction between gas and electric utilities as provided in PSC 315 and PSC 314 should not be made to inequitably apply to one user over another. Therefore, the Commission finds that PSC 314 should be amended in PSC 314(a)(6) to read at the end of that section, "No back billing from the time of notification by the customer will be sanctioned if the customer has called to the utility's attention his doubts as to the meter's accuracy and the utility has failed within a reasonable time to check it." The Commission finds that such addition is within the intent of originally proposed PSC 314 and is identical language to PSC 315 and therefore should be amended.

By letter dated January 17, 1975, Mr. James Habicht, representing Minnesota Power & Light Company, suggests that PSC 314 should be amended by deletion of the requirement that the bill should be distinctly marked for an inaccurate meter. He stated that a customer is always well aware of an inaccurate meter. He commented that the bill does not need to be so marked.

The Commission finds that there is no data provided by Minnesota Power & Light Company to support the contention that a customer is always well aware of an inaccurate meter. A customer may not always be aware that the bill is for corrections rather than for service. Additionally, there was no data presented by any of the participants that a customer would be aware that a meter had been corrected.

The Commission finds that there are minimal cost factors involved in the distinct marking of a bill to show an inaccuracy and that a customer can only refuse to pay a bill for an inaccurate meter for a short period of time. The limit extends until the inaccuracy has been determined by agreement between the customer and the utility or in the alternative by the Public Service Commission, these regulations, or the courts. (See PSC 298(c)(4)). Therefore, the Commission finds that the language referred to by Mr. Habicht should not be deleted.

By letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company, suggests that PSC 314(e), which has been renumbered by the Commission PSC 314(a)(4), should be amended to read that if the recalculated bills due to inaccuracy of the metering equipment indicate an amount due, the utility may bill the customer as provided in PSC 314(g) (renumbered by the Commission PSC 314(b)(2)).

Mr. McGannon states that the purpose of this amendment is to avoid confusion because parts of PSC 314 relate directly to inaccurate meters and other parts relate to other situations.

The Commission is aware of the application of this rule to "inaccurate meters," "billing errors" or "misapplication of rates" which may, as originally proposed, have resulted in confusion between the proper application of the proper rule in various circumstances. Therefore, to alleviate this possible confusion, the Commission has renumbered PSC 314, as discussed above (p. 159) and has provided that the first five sections of PSC 314, which were originally numbered PSC 314(a)-(e), should be renumbered PSC 314(a)(1)-(6) as all of these sections relate just to inaccurate meters. PSC 314(g) and (f) should be renumbered PSC 314(b)(1)-(2) as these regulations deal directly with errors in billing. The Commission finds that the proposed changes avoid the confusion created by the earlier proposed regulation PSC 314 and answers the problem raised by Northern States Power Company. The Commission, therefore, has accordingly made the changes which were needed as pointed out by Mr. McGannon.

Mr. McGannon also suggested that PSC 314(f), which has been renumbered by the Commission PSC 314(b)(1) should be amended to not allow separate billing for bills to correct errors and should further be amended to make it clear that no interest shall be paid on the amount of refund or overcharge. He stated that no

interest should be paid just because of these errors.

The Commission finds that Mr. McGannon did not provide any reason why the utility errors for these mistakes should not be charged with interest. The Commission finds that it is still an error which forces the customer to pay for service he or she did not receive and it is still a taking of revenue without compensation to the customer as the customer received neither the energy charged nor, under Mr. McGannon's suggestion, interest on the use of his money incorrectly taken by the utility. The Commission, however, has not stated in this regulation whether the errors should be paid with interest or without.

The Commission finds that the determination of the error and the determination of interest is governed by the dispute procedures, PSC 303. Therefore, if a customer has disputed a meter bill and through the dispute procedures has brought it to the attention of the utility and the utility has refused to correct the error itself rather than waiting for the Commission to force correction, then the utility should pay interest on the return of the amount of the overcharge. On the other hand, where the customer has not gone through the dispute procedures to the point where the customer would be entitled to additional compensation through the charge provided in PSC 303, there is no provision that the utility must pay interest upon the amount of the overcharge. The Commission finds that there will be some instances which will not require interest to be paid and some which will, depending upon the mechanism by which the error was discovered, corrected, and resolved to the satisfaction of the customer. Beyond the regulations discussed, there is no requirement for interest to be paid upon a refund of a metering or billing error of the utility.

As noted above, the Commission has amended PSC 311(b) to extend the time period within which the meter must be read by a utility representative from six months to twelve months or possibly longer. The Commission has correspondingly amended PSC 314 to restrict the periods within which a utility may backbill a customer for an error in reading the meter. In companion with the amendments made in PSC 311, PSC 314(b)(2) has been amended to provide that "when a customer has been undercharged as a result of incorrect reading of the meter . . . . the utility may not bill for the amount of the undercharge which occurred more than six months prior to adjustment." The Commission finds that this adjustment of PSC 314 should

not be a burden. If a utility discovers that it has too many customer meter reading errors beyond the six month period, it can simply initiate more frequent meter readings by its own representatives. These regulations give the utility the choice of determining its cheaper cost; that is, whether the cost of meter reading every six months is higher or lower than the cost of revenue lost due to errors in meter readings which lasted more than a six month period.

The Commission notes that this six month time limit was not added to PSC 314 (b)(1) which deals with errors in the customer's favor, that is, overcharges. Such errors for overcharges should be refunded to the customer in total regardless of the cause.

By written comments received by the Commission January 20, 1975, Mr. Elmer Trousdale, representing People's Natural Gas Company, suggested that PSC 315(a) should be amended to read "whenever a meter is found to have an error . . . a recalculation . . . shall be made for the period of inaccuracy," and then delete the rest of the regulation (". . . assuming an inaccuracy equal to the maximum past percentage"). Mr. Trousdale went on to suggest that the rest of the regulation should read, "the recalculation shall be made on the basis that the service should be 100% accurate. The meter error should be one half of the algebraic sum of the error at full rated flow plus the error at check flow." (Emphasis supplied by Mr. Trousdale.)

Mr. Trousdale stated that it is inequitable to recalculate bills for fast meters differently than the recalculation of slow meters and his suggested changes of PSC 315(a)(1) outlined above were made to make the period of inaccuracy for both fast and slow meters to be consistently one half of the algebraic sum of the error at full rated flow plus the error at check flow.

The Commission finds that the original wording, as discussed above, gives more incentive to keep meters accurate. PSC 314 and PSC 315 are based upon the Iowa regulations and the Iowa Commerce Commission has not reported any difficulty enforcing this regulation. The Commission finds that this regulation is not discriminatory nor inequitable against the utility as it is the utility that controls the accuracy of the meters and the customer has no other means to keep meters accurate other than through the dispute procedures and through the incentive produced on the refunds of errors. The Commission finds that the change suggested by People's Natural Gas Company and by other commentators would make the error

adjustment the same for slow and fast meters. By putting a limitation upon the refund returned to a customer, the utility is exacting payment from a customer for service for which the customer may not have received. This is strictly prohibited by Minn. Stat. §216B.06 (1974). On the other hand, the Commission finds that placement of a time period during which a utility cannot bill a customer is necessary in order to provide an incentive for the utility to repair meters. If a utility were allowed to charge for undercharges over a disproportionate period of time, the customer of the utility would be at the mercy of the utility to pay a large bill whenever the utility decided to fix the meter. Therefore, a utility would have no incentive to keep meters accurate within a short period of time and may very will find it to be best to allow meter errors to continue over a very long indefinite period of time. This would subject the customer to a large bill with which the customer would be ill-equipped to pay. Such a burden should not be borne by the customer especially in consideration of the fact that the customer has had no responsibility for such error. Therefore, the Commission cannot accept the suggested change made by Mr. Trousdale.

Mr. Trousdale suggests that PSC 315(b), which has been renumbered by the Commission as discussed above to PSC 315(a)(2), should be amended to restrict the correction for meter errors to errors since the enactment of the Public Utilities Act, that is January 1, 1975.

The Commission finds that, with the exception of certain specific areas expressly noted in the Public Utilities Act, the effective date of the Commission's authority to regulate gas and electric utilities began on January 1, 1975. Therefore, it is provided within the Public Utilities Act that all regulations may not begin application until after this date (with the exception of certain expressed areas not applicable to this concern). Therefore, the Commission finds that no specific reference need be made to January 1, 1975 within each regulation.

As Mr. Trousdale provided no further rationale for this addition, the Commission finds that the regulation should not be so amended and has not amended PSC 315(b) to add the suggested date.

By letter dated January 8, 1975, Mr. Richard Zehring, representing the Greater Metropolitan Federation, suggested that PSC 315(e), which has been renumbered by the Commission PSC 315(b)(1), should provide that a customer have a choice as to whether the refund should be in cash or credit to his account as is provided by PSC 314(f), which has been renumbered by the Commission PSC 314(b)(1).

The Commission finds that Mr. Zehring has misinterpreted the application of PSC 314 where it states in PSC 314(b)(1) that "the amount of the overcharge shall be refunded or credited to the customer." The Commission finds that the choice between refund or credit of the overcharge is not a choice of the customer but rather it is a choice of the utility. The Commission finds no indication in PSC 314 that the customer has a choice in the manner in which he is credited with the overcharge made by the utility. Accordingly, the Commission finds that there should not be similar choice in PSC 315 as suggested by Mr. Zehring. As Mr. Zehring provided no further rationale for this change, the Commission finds that the regulation is adequate as provided and that the choice between a refund or a credit to a bill should be at the discretion of the utility.

By letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company, suggests that PSC 315(a) and (c), which has been renumbered by the Commission PSC 315(a)(1) and (3), should be amended to change the percentage of error from 2% to 3%. Mr. McGannon stated that 3% is the well "recognized standard for gas meters."

By letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Commission, makes a similar recommendation.

Mr. Gill suggests that this will reduce the necessity for bill recalculation. A 3% metering error would result in a small cost adjustment to the average customer on an annual basis, he commented. This suggestion was submitted in similar form by Mr. A. L. Pooler, representing Minnesota Gas Company, by letter dated January 20, 1975.

The Commission finds that while some industries may use a 3% error to determine the standard of error for gas meters, it is not the solely recognized standard for meter error. As provided by the Commission staff during the course of the hearings, the Commission finds that a 2% error is also a recognized standard of error within the industry. The Commission finds that other state regulations have used the error at 2% and that absent any data that such error is too restrictive upon the utilities, the Commission finds that the 2% ratio is more appropriate for the purposes of the Public Utilities Act. The Commission finds as no other rationale was given by Mr. McGannon other than that 3% was the well recognized standard for gas meters, that this change should not be made.

Regarding Mr. Gill and Pooler's comments, the Commission recognizes that the difference between a 2% and 3% error standard would result in a small cost adjustment to the average customer, but the Commission nevertheless finds that especially in the situation of large customers the difference between 2% and 3% error may indeed be a substantial cost. If a meter is allowed to error at 3%, that energy which is not being delivered to the customer but for which the customer is being charged, is an unreasonable charge and is an example of the utility's receiving revenue and the customer receiving no service. The Commission finds that this change from 2% standard error to 3% standard error should not be made.

Mr. McGannon suggests that PSC 315(b), which has been renumbered by the Commission PSC 315(a)(2), should be amended to limit the period of error to not to exceed 12 months, and this language should replace the language in the regulation which provides that "if the period of inaccuracy cannot be determined, it shall be assumed that the full amount of inaccuracy existed during the last half of the period since the meter was last tested."

The Commission finds the time period used to determine the inaccuracy of a meter shall be since the meter was last tested. This will encourage utilities to test meters often. By keeping the original rule, the Commission finds that there is an additional incentive for the utility to replace old meters. Research by the Commission staff revealed some utilities in other states are still maintaining meters which were put in use before 1930. If this Commission were to adopt a regulation which would limit payment recovery by a utility to the most recent twelve months, once the twelve month period had expired, the utility would have minimal incentive to replace old meters. The Commission finds that if the regulations provide a refund retroactive to the date the meter was last tested, then the utility will provide a more efficient and accurate testing program. Therefore, the Commission finds that absent any rationale given by Mr. McGannon, that this change should not be made.

Mr. Gill suggests that PSC 315(b), which has been renumbered by the Commission PSC 315(a)(2), should change the dollar amounts to be refunded to the customer from $1.00 to $5.00 for an existing customer and from $2.00 to $7.00 for a person no longer a customer of the utility. This suggestion was submitted in similar form by Mr. A. L. Pooler, representing Minnesota Gas Company, by letter dated January 20, 1975.

Mr. Gill suggests that unless the dollar amounts are changed, the utility will expend a relatively large amount of money to give the customer a very small benefit.

The Commission finds that although the benefit to the customer may be small in the utility's opinion, it may be very large to the customer. During the hearings, the question was asked of all the utilities to submit data as to the monetary effect of these regulations. The Commission finds that North Central Public Service Company's comments on this regulation provide no data as to the mailing and investigation cost incurred by a utility and the amount of refunds which would be avoided between the changes in dollar amounts from $1.00 to $5.00 or from $2.00 to $7.00. The Commission makes no finding whether a utility will expend a large amount of money to give the customer a smaller benefit when these lower dollar amounts are maintained. However, until the commentators provide data to support such assertions of a heavy cost, the Commission finds no rationale to make such proposed change. Therefore, the Commission finds that the suggested change should not be made.

Mr. Gill suggests that PSC 315(c), which has been renumbered by the Commission PSC 315(a)(3), should have the following underlined language added to the last sentence: "No back billing <u>from the time of notification by the customer</u> will be sanctioned if the customer has called to the utility's attention his doubts as to the meter's accuracy and the utility has failed within a reasonable time to check it."

Mr. Gill states that this would preclude a customer from profiting from a long-term error merely because he has notified the utility of his suspicions.

The Commission finds that it was within the intention of the initial proposed regulation that the purpose of the last sentence of PSC 315(a)(3) was to encourage a utility to check a meter upon notice by the customer as soon as possible and that if a meter had been in error to the detriment of the customer that the customer should not be held responsible for the error during the time between which the customer called it to the utility's attention and when the utility finally rectified the problem. The Commission finds that in order to clarify the intent of the last sentence of this regulation that the suggested language should be added to demonstrate that the sanction against back billing as provided in that regulation is only during the period between the time of

notification of the customer and the time that the utility has repaired the meter. Accordingly, the Commission has amended PSC 315(a)(3) to provide that "no back billing, from the time of notification by the customer, will be sanctioned if the customer has called to the utility's attention his doubts as to the meter accuracy and the utility has failed within a reasonable time to check it."

Mr. A. L. Pooler, representing Minnesota Gas Company, by letter dated January 20, 1975, suggests that PSC 315(d), which has been renumbered by the Commission to PSC 315(a)(4), should be amended to read that the utility in the case of a nonregistering meter may render an estimated bill without any qualifications. The suggested change deletes the condition that a utility may only render an estimated bill if it is not at fault in allowing the nonregistering meter to be in service.

Mr. Pooler states that the current proposed rule places the burden of proving fault on the utility. He said that it would involve a hearing. He commented that the mere fact a meter fails to register should be sufficient to allow billing a customer for a nonregistering period.

The Commission finds that a "nonregistering meter" is not a meter that has been slow or fast in its measurement of energy consumed, but rather has completely failed to function. While the other regulations provide for adjustment of a meter which has been slightly inaccurate, the regulations cannot view in the same manner a meter which has not metered at all and which has completely malfunctioned. The Commission finds that a utility has the responsibility to install correct meters. Until a utility can present a prima facie case that failure to meet that responsibility was not intentional, no customer should be forced to pay for a potentially higher cost. Meeting such a burden as is provided in PSC 315(a)(4) would not necessarily require a hearing as Mr. Pooler fears. However, if a customer disputes the estimated bill before the Commission, the burden should be upon the utility to show its lack of fault in the matter.

This additional requirement in the case of a nonregistering meter is also necessary because of the uncertainty involved in estimating such bills. When a meter has merely slowed down or sped up, the utility is able with a certain

degree of mathematical certainty to determine both the percentage of error and the time period within which the error has occurred. Under such circumstances, the estimated bill may be presumed to be accurate. However, when the meter has not functioned at all, the utility has no way of knowing how much energy the customer consumed and therefore the estimation is more of a guess than mathematical judgment. Therefore the utility must meet a higher degree of responsibility and must be able to show when disputed that it was not at fault in causing or contributing to the malfunction. Accordingly, the suggested change by Mr. Pooler is contrary to the intent of the regulation and should not be made.

Mr. Pooler suggests that PSC 315(e), which has been renumbered by the Commission PSC 315(b)(1), should be amended by deleting the requirements that credits due a customer because of meter inaccuracies, errors in billing, or misapplications of the rate shall be shown separately and identified. Mr. Pooler suggests that there is no need to identify bills for meter errors and other malfunctions caused by the utility.

Mr. Pooler states that it would be difficult to include on each bill the requirements contained in the last sentence of the regulation. Mr. Pooler states that Minnesota Gas Company handles the explanation of overcharges by letter.

The Commission first finds that Minnesota Gas Company's procedure of informing the customer of the overcharges by letter would still be permitted and encouraged by the proposed rule. The letter could be attached to the bill and thus meet the requirements of this regulation. Further, the Commission finds that identification on a bill of these errors would not take an inordinate amount of space. The Commission finds that Minnesota Gas Company has not indicated what the costs of placing this information on the bill would be. If it were to accept this change, the Commission would merely be accepting the opinion of this utility. The Commission finds that as the charge for an incorrect meter is a charge for which the customer should be made aware and as the customer may not be aware that there has been a correction in his bill unless this wording is included, that this wording is necessary and consistent with the intentions of the Public Utilities Act. Therefore, the deletion suggested by Mr. Pooler cannot be accepted.

PSC 316 - Technical Terms

As was shown in numerous occasions during the course of the hearings, the terms used in PSC 310 through PSC 315, are of a highly technical nature. The Commission finds that it has been under a burden to accurately adopt such regulations in absence of a fully staffed engineering division. The Commission finds that the uncertainty as to the meaning of technical terms was shared by many participants at the hearing. For instance, the Commission finds that a major commentator on the regulations, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, was unable to inform the Commission as to what is a var or a watt meter. (Transcript page 421).

In light of the problem with technical terms contained within these regulations and the uncertainty as to their precise meaning by many in the trade, the Commission finds that an additional regulation should be added to this section of the regulations. The Commission does not promulgate this regulation with the intent to define such terms, but rather with the intent to direct the utilities and consumers alike to the proper definition which will be applied to these terms in the future. The Commission finds that in the future it will adopt a series of regulations addressed to Technical Standards and that upon this adoption, and after hearing upon these terms, the Commission will adopt a precise meaning for these terms.

Therefore, the Commission adopts PSC 316 which will direct the reader to the appropriate definition of these terms. The Commission finds that for the purposes of these regulations the following terms do need to be defined and will be defined upon hearing in the proposed Technical Standards by the Public Service Commission: 1. "average error", 2. "creeps", 3. "improper voltage", 4. "100% accuracy", 5. "test", 6. "working test standard."

In conjunction with the addition of the terms used in PSC 316, the Commission has added those terms as they would apply to the situation of inaccuracies either through meter reading or other causes as provided in PSC 314 and PSC 315. The Commission finds that the additional terms are usual causes of meter error and specifically will be dealt with when the engineering standards are determined by this Commission. Accordingly, the Commission finds that the addition of these terms to their use in PSC 314 and PSC 315 neither add nor detract from the original intent of the proposed regulation but merely delineate. The Commission finds that the original proposed regulation PSC 314 and PSC 315 originally applied to the situa-

tion of when a customer has been overcharged or undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter or other similar reasons. The amendments made by the Commission to these regulations delineate the "other similar reasons" for the overcharge or undercharge but do not limit these "other similar reasons" to such circumstances. The Commission finds that other similar reasons intended by the regulation were to include "improper voltage, improper frequency or wave form, improper power factor, or errors due to temperature variation". The Commission finds that it is within the intent of this regulation to include such terms. These terms by their inclusion do not limit the application of the regulation to these terms alone and do not restrict the regulation which previously provided protection when a customer had been overcharged according to "other similar reasons". These terms were intended to be included in the meaning of other similar reasons.

Accordingly, the Commission has amended PSC 314(b)(1) to include these terms discussed above.

D

DEPOSIT AND GUARANTEE REQUIREMENTS

The deposit and guarantee requirements of a utility are an attempt to meet the risk of bad debt losses. The Commission finds that all regulations governing deposit and guarantee requirements should be within that purpose. The purpose to meet the risk of bad debt losses was established as early as 1915 when the United States Supreme Court held that the rates of public service corporations are fixed in expectation that they will be paid and reasonable regulations tending toward prompt payment are necessary as the ability of such corporation to serve the public depends upon prompt collection of their charges. Southwestern Telephone Co. v. Danaher, 238 U.S. 482 (1915). The Commission finds that this is still the rule today. Nunemaker v. Pacific Telephone & Telegraph Co., 80 P.U.R. 3d 129, 138 (California P.U.C. 1969).

The Commission finds that when applied against this standard, the deposit requirement is acceptable only if it actually deters, defaults, or minimizes losses for the utility. As presented in the Commission staff case, one authority has concluded that it is questionable whether any utility has yet convincingly shown such correlation in its deposit requirements. Note, "Public Utilities and the Poor: The Requirements of Cash Deposits from Domestic Consumers," 78 Yale L.J. 448, p. 453 (1969). The Commission finds that it is within the intent of these regulations that the standard of payment performance should always be strictly applied to whatever method the utility uses to enforce payment.

The Commission finds that although deposits, guarantees, and other means of assuring payment must be held to a strict standard, they are permissible and may be used by the utility without violating the equal protection clause of the Fourteenth Amendment of the United States Constitution. The Commission finds that the California Supreme Court, in Wood v. California Public Utilities Comm'n. 93 Cal. Rptr. 455, 481 P.2d 823 (1971), held that deposits are nothing more than a part of the utility's rate structure. Insofar as this decision described the relationship that deposits play with a utility's rate structure, the Commission accepts and adopts the same determination in application of these deposit regulations toward the utilities. The Commission finds that deposits are necessary in enabling a utility to meet its financial requirements.

This finding does not mean that a utility using deposits to assure payment may use such methods without controls. Nor does it mean that the utility may prescribe the deposits without any outisde control. The decision in Wood, held that it was for the Public Utilities Commission to determine whether it is preferable to reduce bad debt losses by credit rules reasonably designed to do so or to spread those losses among all rate payers by increased rates. Therefore, the Commission finds that deposits are not the only method at its disposal to assure against the risk of bad debt losses and that, therefore, the deposit regulations should not be looked upon as the total answer to this problem.

The Commission finds that although other consumer industries have substantial problems with payment of bills, they generally do not require deposits. The Commission finds that most commercial enterprises extend longer credit than the utilities and do not require cash deposits. The Commission also finds that utilities have the added advantage of operating with a government regulated rate assuring the utilities the opportunity to earn a certain return. At the same time, the Commission notes that utilities do not get a choice as to which customers it may or may not serve, where other businesses may deny credit to any customers which it believes to be bad credit risks.

The Commission finds that the duty to serve the public adds to the utility the duty not to neglect one segment of the public in preference for another. Since some customers may have difficulty accumulating the necessary cash, a deposit requirement may deprive some people of a basic necessity, not because they could not

pay the utility bill, but because they could not raise the larger sum necessary for the deposit. Even for those able to furnish a deposit, having the money held indefinitely remains a serious inconvenience, if not a hardship.

As is the case with many utilities, the customers required to pay deposits must sustain an additional burden in the form of low interest rates, if any, usually paid on deposits. The legal interest which utilities pay hardly compensates poor families since the rate offered is usually far below the rate that would induce voluntary saving. Requiring deposits for some customers and not for others means that the utility service is considerably more costly for them than for the non-deposit paying customers.

Minn. Stat. Sec. 216B.07 (1974) states:

> No public utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage.

No regulation governing utilities may allow a utility to pursue a policy, including deposit policies, which will discriminate or "unreasonably disadvantage" one customer in preference to another.

Further, Minn. Stat. Sec. 216B.03 (1974) reads in relevant part:

> Every rate . . . shall be just and reasonable. Rates shall not be unreasonably preferential, unreasonably prejudicial or discriminatory, but shall be sufficient, equitable, and consistent in application to a class of consumers. Any doubt as to reasonableness should be resolved in favor of the consumer.

Although this section applies to rate regulations, it is also applicable to deposits as the courts have held the deposit rules to be part of the rate structure. (Wood v. California Public Utilities Comm'n, supra). The Minnesota Public Utilities Act requires deposits to be consistently applied and doubts as to reasonableness of application are presumed in favor of the consumer. The utility is left with the burden of proof that its deposits and other means of assuring payment are reasonable.

The Commission finds that other decisions and other regulatory commissions have held that the purpose of deposits is to assure payment and that in some situations, the guarantee of payment is the sole purpose of deposits. (See Re Rules and Regulations of Consumer Deposits of Municipal Electric Companies (1937) 20 P.U.R. (N.S.) 265 (New York)). The Commission finds, therefore, that as required by the Public Utilities Act the deposit criteria which a utility uses to determine whether a deposit will be required must bear a reasonable relationship to the assurance of payment for service received and at the same time, must not unreasonably discriminate between one class of customers and another. The Commission finds that the utilities

must meet both criteria.

The Commission finds that while some states allow a public utility to demand a deposit from any user (Vermont, Pennsylvania, Connecticut), most states prohibit exaction of deposits from consumers with "satisfactory credit." The Commission finds that of the various state regulations reviewed, the Iowa, North Dakota, Washington, Wisconsin and the N.A.R.U.C. regulations state that a utility may require deposits of those with unsatisfactory credit. The Commission finds that Michigan regulations give discretion to a utility in the negative: "A utility may not require deposits unless unsatisfactory credit has been established." The utility is severely restricted in its discretion under the Michigan regulation as the term "unsatisfactory credit" is strictly defined.

The Commission finds that for those state regulations which allow the utility discretion to determine "unsatisfactory credit," the requirement makes a certain amount of discrimination unavoidable. At the same time these regulations recognize that payment of deposits is a hardship and should only be required when necessary. When a customer faces a "satisfactory credit" requirement, he can in theory, always demonstrate good credit and exempt himself from the deposit. This suggests that the requirement is arbitrarily administered.

The Commission finds that for the poor, however, who are ignorant of their rights and unable to afford assistance to appeal a utility's decision, such a guarantee becomes an empty promise. Wherever a utility makes presumptions about credit with certain classes of customers, such as homeowners or persons employed for a certain period of time at one location, there arises a heavier burden on those falling outside the class to prove their "credibility." This burden falls increasingly upon the poor.

The low income consumers failing to meet the classes of customers deemed to have "satisfactory credit" by the utility have to provide deposits in greater numbers. These consumers use a stable amount of energy. A utility has little fear that they will turn to alternative services or move to a neighborhood where the utility does not demand deposits. In short, under the regulations reviewed by the Commission in other states, the utilities enjoy a captive market and a captive supply of capital at a relatively low cost. This supply of capital comes from a class least able to afford it.

When a state creates a right in its citizens to receive utility services at reasonable charges and on reasonable, non-discriminatory terms, there is considerable doubt that it can permit utility companies to demand an unreasonable tribute from one class of consumers simply because they are poor.

Facts which would show whether deposits fulfill their stated purposes, or whether the criteria for requiring deposits unreasonably discriminates against low income users, are peculiarly within the control of the public utilities themselves. The Commission finds that there is little evidence that utilities provide such information at rate hearings. Though certainly bad debt losses are considered in rate hearings in those jurisdictions reviewed, there is only limited inquiry into the relationship these losses play with the deposits. The Commission finds that there seems to be only limited concern with the role that uncollectables play in the determination of rates at all, regardless of the deposit policy. The Commission refers to decisions which considered bad debt losses in rate hearings. (See Re Southern Califonia Gas Company, 35 P.U.R. 3d 300 (Cal. Pub. Util. Comm'n. 1960), Re Central Wisconsin Gas Company, 3 P.U.R. 3d 65 (Wis. Pub. Svc. Comm'n. 1954), and Public Utilities Comm'n. v. General Telephone Co., 28 P.U.R. 3d, 413 (Pa. Pub. Util. Comm'n. 1959)).

The other side of the problem, that of prohibiting deposits or other credit guarantees entirely, only switches the burden of payment from the defaulting customer to the utility and ultimately to the consuming public as a whole. The purpose of deposits or similar alternatives is the assurance of payment of bills. Therefore, the lack of any deposit or guarantee may lead to an increase in bad debt losses. The Commission is reminded that utilities have no choice in the customers they serve. Their monopolistic position forces them, as a public trust, to serve all. Utility companies generally contend that unless some guarantee of payment is allowed, the small uncollectable accounts, which are too costly to pursue through legal processes, will raise the cost of utility operation and, consequently, increase the cost of service. In response to this situation, other jurisdictions have readily recognized the need of utilities for added protection to facilitate the payment of bills beyond the "usual collection practices." Berner v. Interstate Power Co., 244 Ia. 298, 57 N.W. 2d 55 (1953).

The Commission finds that the better rule governing the assurance of payment should be that procedure which is most reasonably related to the payment of bills. The Commission finds that instead of leaving the discretion over "satisfactory credit" to the utility, which may lead to abuse, the presumption should be that

all customers have good credit. The Commission finds that Wisconsin and similar regulations in Michigan provide:

> A utility shall not require a cash deposit or other guarantee as a condition of new service unless a customer has an outstanding account balance with the utility which accrued within the past six years and . . . remains outstanding and not in dispute.

Wisconsin Proposed Deposit Regulations, Section 113.131 and 134.061.

The Commission finds that such deposit requirements have been sustained in decisions in other jurisdictions:

> It is both feasible and desirable to require a gas company to institute a deposit policy which would require no deposit upon initial application for service but, rather, would base deposit requests upon actual payment record of the customer.

Re Washington Gas Light Company, 82 P.U.R. 3d 225 (P.C. 1970).

The above cited decision also ruled that though certain classifications may be used to exempt a customer from deposit requirements, the utility could not use arbitrary classifications to require deposits. In other words, being a tenant rather than a homeowner, or having changed jobs within the last two years, could not become a class by which the customer would automatically be subject to a deposit. As the court in Washington Gas Light Co., Supra. stated at 227: [T]he decision to require a deposit should be based on considerations directly relating to the credit reliability of the customer involved." The Commisison adopts this statement as controlling in its deposit regulations.

By tying the deposit requirement to an individual's own credit, there is less chance that groups such as the poor will suffer as much. The Commission finds that the Michigan and Wisconsin regulations go one step further and tie the credit to only the utility's own experience with the customer. The Commission finds that this requirement avoids the arbitrary determination of "satisfactory credit" by the utility based upon its own idea of what good credit should be.

It may still be questioned whether this formula is reasonably related to the assurance of payment. The basic question of whether there is any causal relationship between deposits and payment history is still not answered. As noted above, the information for such determination remains solely within the hands of the utility.

Assuming that deposits do reduce the bad debt losses, there still remains the question whether the Michigan and Wisconsin regulations, discussed above, contain enough "assurance." In a random study cited by the Commission's staff, utilities answering the questionnaire, indicated that the "shutoff accounts as a percentage

of total accounts ranged from .4% to 9.0%" Shelton, The Shutoff of Utility Services for Nonpayment: A Plight of the Poor, 46 Washington L. R. 745, 777 (1971). The Commission also reviewed the findings of a Pennsylvania Court in P.U.C. v. General Telephone Company (cite). This decision found a ratio of bad debt losses to total revenue to be .004%. There was no indication in the Washington study or in the Pennsylvania decision of what the reasons for the shutoff were; however, the Commission finds that it may be assumed that a very large percentage was for nonpayment of a bill.

To avoid burdening all rate payers, the Commission finds that the Wisconsin and Michigan regulations may not allow deposits to reach the total proportions of bad debt losses. The Commission finds that within these regulations reviewed, there is no provision for new customers who may not be good credit risks.

The Commission finds that in some situations, a utility may find it economical to have an arbitrary deposit policy. However, the Commission finds that such resulting economies do not justify the utility's disregard of its duty to serve each customer. The Commission finds that deposits must only be allowed when they actually bear a relationship to the standard of payment performance. The poor, simply because they are poor, must not be made to bear the deposit burden. The determination of "satisfactory credit" which excuses the deposit requirement must not be left to the discretion of the utilities, where a possibility of arbitrary application exists. On the other hand, the rate paying customer should not be made to bear the cost of the faulting customers through an increase of rates. The customers should be presumed to have good credit. These criteria present a broad spectrum of concerns to which the deposit regulations must respond. In reply to these concerns, the Commission finds that PSC 325-328, the Deposit and Guarantee Regulations, meet these concerns. The Commission finds that while deposits are permitted within these regulations, they are required only subject to objective standards within the regulations. A utility may not arbitrarily require a deposit of any customer, except those customers who have been unable to assure payment of their bills.

PSC 325 - Assurance of Payment

The Commission finds that PSC 325 prescribes that the utility shall not require a deposit or guarantee of any customer or applicant for service who has established

good credit. This regulation further delineates those areas in which a customer has not established good credit. PSC 325 is divided into "New Service" in which a customer has not received service from the utility for the preceding six months and into "Existing Service" in which the customer has received service within the past six months.

Under new service, a utility shall not be able to require a deposit or guarantee of payment as a condition of obtaining service unless that customer has an unsatisfactory credit standing with the utility due to a prior outstanding utility service account which remains unpaid or due to a situation which has existed in the past to which the customer has been liable for disconnection within these regulations. The Commission finds that PSC 325(a) also permits a utility to require a deposit where the credit history of the customer, as provided in these regulations, demonstrates that payment cannot be assured. The Commission finds that the determination of this credit history must be determined on objective criteria filed with the Commission in the utility's tariff. The Commission finds that such criteria must bear a reasonable relationship to the assurance of payment.

In regards to existing service, the Commission finds that PSC 325(b) limits the utility to requiring deposits from existing customers only upon conditions which exist between the utility and the customers themselves, and basically cannot use any outside criteria to determine the necessity of a deposit from an existing customer.

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, stated that within his organization, some cooperatives follow the practice of charging a deposit to every single member coming in for service. He stated that in other situations the cooperatives charge only commercial or industrial members a deposit and not residential customers on the grounds that commercial or industrial service is more costly and there is more exposure. Because there is more exposure, there is a higher risk. (Transcript page 466). Mr. LeVander described the divergence with which the cooperatives charge deposits which was based upon entirely different criteria. He also stated that the size of deposits vary considerably.

Mr. LeVander stated that in looking at the Public Utilities Act, he found nothing specifically in the Act as such which covers deposits. He stated that although there is general language, there is nothing that directly touches the

question; that is, the narrow question of deposits in that particular law. He stated that in 1974 the legislature did enact a law which touched directly upon the question of deposits and that it was the judgment of the Minnesota Association of Electrical Cooperatives that this particular law should be a major interest, if not controlling interest, to the Commission in arriving at the ultimate rules with respect to deposits. It is the judgment of Mr. LeVander's organization that the utility law is not specific directly with regard to the size of deposits, interest payments on deposits, when they have to be refunded, etc. But, the law does direct itself to those aspects which should be of substantial importance, if not overriding importance, to the Commission. He stated that such law should have overriding consideration to the regulations enacted within the Public Utilities Act (Transcript pp. 468, 469). The Commission notes that the legislation to which Mr. LeVander is referring is codified at Minn. Stat. Sec. 325.637(1974).

Mr. LeVander noted and objected to the instances in PSC 325 through 328 where the regulations were in conflict with the above noted deposit regulation (Minn. Stat. Sec. 325.637(1974). Mr. LeVander first pointed out that this Act does not address itself to the same terms addressed in PSC 326(a)(1) which limits the amount of the deposits to two months' bill. (Transcript page 474). Second, Mr. LeVander points out that the requirement of PSC 326(a)(3) which states:

> "Deposits shall bear an interest rate of not less than six (6%) percent interest compounded annually unless otherwise determined by the Commission. Interest on deposits shall be payable from the date of deposit to the date of refund or disconnection.",

is also in conflict with Minn. Stat. Sec. 325.637(1974), as it exempts interest obligation deposits of less than $20 (Transcript page 475). Mr. LeVander states that this would appear to cover all deposits regardless of their size. He states that compounding annually (as required by PSC 326(3)) would also conflict with the Act because the interest is paid or credited annually and is not compounded. Mr. LeVander states that deposits below $20 in amount should not be subject to the six (6%) percent interest as required by PSC 326(a)(3) but rather should be exempt from interest as they are under Minn. Stat. Sec. 325.637(1974). Mr. LeVander states that PSC 326(a)(4), which states in effect that a continuance of funds on deposit for a period of 12 months shall constitute good credit and shall require a refund of the deposit, is also in conflict with Minn. Stat. Sec. 325.637(1974). He states that this section does not contain within it any date upon which a deposit has to be returned and that, therefore, there is a conflict (Transcript p. 476).

Mr. LeVander supplied the Commission with his interpretation of the legislative history of this section and stated that some of the language in the regulations were contained in language which was rejected by the legislature, and the fact that such language did not survive he would construe as a legislative determination that the regulations were not what the legislature ultimately wanted to do in talking about the subject of deposits. (Transcript p. 476).

Mr. LeVander also stated that the requirement of PSC 326(a)(6), which requires upon termination of service the deposit will be returned within ten days, was also in conflict directly with Minn. Stat. Sec. 325.637 (1974). He noted that this section gives a utility 45 days in which to return the deposit to the customer. (Mr. LeVander's comments on the application of Minn. Stat. Sec. 325.637(1974) are found on pages 468 through 481 in the Transcript.)

Although Mr. LeVander's comments on the possible conflict with Minn. Stat. Sec. 325.637 (1974) were directed specifically to PSC 326, PSC 327 and PSC 328 as well as PSC 325, they were generally made towards the entire application of all of the deposit and guarantee regulations.

In response to Mr. LeVander's specific concern and also concerns outlined below by other participants concerning the applicability of Minn. Stat. Sec. 325.637(1974), Mr. Rod Wilson, Special Assistant Attorney General for the Public Service Commission, responded that Minn. Stat. Sec. 325.637 (1974) is a weak statute. He stated that the statute may easily be circumvented by lowering the amount of the deposit down to $20 or terming it a "prepayment" instead of a meter deposit. Mr. Wilson stated that the legal authority for the adoption of deposit and guarantee as contained in PSC 325 through 328 begins with section 216B.08 of the Public Utilities Act. He stated that this section gives the Commission broad rule-making authority and quoted a relevant portion of this section:

> "The Commission is authorized to make rules and regulations in furtherance of the purposes of this act."

Mr. Wilson stated that a utility would be hard pressed to argue that a rule which deals with customer deposits is not a rule that is in furtherance of the purpose of the Public Utilities Act.

Mr. Wilson stated that Section 69 of the Public Utilities Act, which is entitled "Construction" (Minn. Stat. Sec. 216B.66 (1974) reads:

> "This act is complete in itself and other Minnesota Statutes are not to be construed as applicable to the supervision or regulation of public utilities by the Commission."

Mr. Wilson further stated that Minn. Stat. Sec. 325.637 (1974) is not entirely superseded by the customer deposit rule in that it still would apply to those utilities specifically enumerated in the section but excluding public gas and electric utilities as defined in the Public Utilities Act. Finally, Mr. Wilson stated that the regulations proposed before the Commission and to which the Commission would adopt would be under the Administrative Procedures Act (specifically Minn. Stat. Sec. 15.0413, subd. 1 (1974)) which states that every rule or regulation which is adopted by a state agency shall have the force and effect of law. Therefore, Mr. Wilson concluded that Minn. Stat. Sec. 325.637 (1974) insofar as it pertains to public gas and electric utilities is superseded by the regulations under the Public Utilities Act. (Mr. Wilson's comments on the application of Minn. Stat. Sec. 325.637 (1974) are found on pages 483 through 485 in the transcript.)

The Commission finds that the regulation of deposit and guarantees and other means of assuring payment are an essential element of providing reasonable service to gas and electric customers. The Commission finds that the deposit requirement is necessary to enable utilities to meet their financial requirement in consideration of the existence of bad debt losses. Further, the Commission finds that absent any regulation, the use of deposits by a utility could lead to discrimination between customers which is prohibited by the Public Utilities Act, specifically Minn. Stat. Sec. 216B.07 (1974), and that failure of the Commission to regulate deposits to avoid such discrimination would be in violation of the requirements of the Public Utilities Act. Therefore, the Commission finds that it does have the requisite authority in which to regulate deposits, guarantees and any other means of assuring payment. The Commission further finds, as noted above, that within its authority under the Public Utilities Act it is directed to regulate in accordance with the provision of the Public Utilities Act every public utility and that such regulation is not within the discretion of the Public Service Commission but rather is a duty of the Public Service Commission as required by Section 216B.08 of the Public Utilities Act. In light of these requirements, the Commission

finds that it is its duty to prescribe regulations governing deposits and guarantees. Such regulations which it finds to be both necessary and consistent with the provisions of the Public Utilities Act, should be enacted and should be applied to the entire scope of the Public Utilities Act. The Commission finds, as stated in Minn. Stat. Sec. 216B.66(1974), the Public Utilities Act is to be construed as complete in itself and that all acts or parts of acts in conflict with the Public Utilities Act are repealed insofar as they pertain to the regulation of public utilities as defined herein. The Commission finds that as regulations properly adopted within the provisions of the enabling statute do have the force of law through the Administrative Procedures Act, Minn. Stat. Sec. 15.0413 Subd. 1(1974), the deposit and guarantee regulations should be construed as having repealed the applicability of Minn. Stat. Sec. 325.637(1974) where and if such conflict does exist.

During the course of the hearing, Mr. Richard Gill, representing North Central Public Service Company, questioned the meaning in PSC 325, as originally proposed, of "new service." He asked whether that was new on the system or whether somebody who moves within the system would also be considered a new customer. He stated that his utility would prefer that somebody who moves within the system would be considered a new customer for purposes of the deposit rule. Mr. Gill also suggested where mention was made in PSC 325 where service remained unpaid and not in dispute, that the sections be amended to describe the word "dispute" as reasonable dispute so that a customer would be required to have some claim of dispute and not merely the declaration of a dispute to foreclose implementation of the deposit procedures against him (Transcript page 488).

The Commission finds that it was within the intent of originally proposed PSC 325 to define the meaning of "new service" in PSC 325(a) and existing service in PSC 325(b). As such, it has amended those sections to provide a definition based upon whether a customer has received service within the past six months. This is discussed infra at 198-199.

The Commission also finds that the addition of the word "reasonable" to the description of a dispute as used in PSC 325 is unnecessary as the determination of whether an issue is in dispute is governed by Dispute Procedures, PSC 303 and further wording is, therefore, unnecessary.

During the course of the hearing, Mr. David McGannon, representing Northern States Power Company, suggested that PSC 325(a) created a problem for Northern States Power in the area where a customer has no credit standing at all whether it be good or bad. Mr. McGannon was referring to PSC 325(a)(3) which prescribes that a utility may require a deposit if the credit history of the customer demonstrates that payment cannot be assured and such credit history must be determined by objective criteria which are filed with the Commission in the utility's tariff. The regulation further requires the criteria to bear a reasonable relationship to the assurance of payment. Mr. McGannon stated that the problem was particularly significant for Northern States Power Company in the area of commercial and industrial operations. He stated that he would request the examination of the possibility of separating under this particular category residential, commercial and industrial so that it would provide the utility an opportunity to secure deposits from commercial or industrial operations that have no credit history with the company. He provided the example of a corporation being formed by five individuals and since the corporation had no credit rating and had limited liability to the five individual, there would be no way for the utility to be assured of payment because of the corporate shield. He stated that in this type of an instance, Northern States Power Company would like an opportunity to secure deposit (Transcript pp. 495-497).

The Commission finds that the problem raised by Mr. McGannon is a valid one; however, the Commission finds that the remedy for such a problem does not lie in amendment of the deposit regulations. It cannot always be determined whether a residential customer or a commercial customer should be held under a different circumstance in the use of the deposit regulations. While it may very well be that deposits are needed in greater frequency from commercial users, such classification could, on the same hand, arbitrarily exact a penalty from a customer where no extra charge need be made. The Commission notes that consistent with the deposit and guarantee regulations, PSC 325(a)(3) does not state what factors may be used to determine an adequate credit history. A utility could perhaps make a determination, based upon the factors used to distinguish a commercial from a residential account objective criteria, in its tariff filing. Such a determination may support an inadequate credit history and, thus, require a deposit. The Commission finds that there is no prescription in PSC 327(1) against factors that may be involved in the distinction between a commercial and a residential account. Therefore, the proper

distinction between commercial and residential accounts should be made in the criteria filed by the utility in its tariff rather than in the regulation per se.

By letter dated December 24, 1974, Mr. Willard Anderson, representing Agralite Cooperative, suggested that there was a conflict between PSC 297 and PSC 325. He stated that PSC 297 authorizes a utility to require "advance payment" when rendering temporary service while PSC 325 denies the use of deposit of those who have established good credit. He stated that this could create a conflict.

The Commission finds that the "advance payment" for temporary service is the one exception to the rule of PSC 325. For interpretation, the requirements of PSC 297 may be considered to be a determination by the Commission of a "standard which bears a reasonable relationship to the assurance of payment" as required by PSC 325. Therefore, the Commission finds that the possible conflict is resolved and that no amendment is necessary in the regulation.

Mr. Anderson states that PSC 325 should be amended to exclude the application of the deposit requirement from the seasonal accounts. In such instances, the utility should not be required to pay interest on the deposit, he stated. The investment required to give service to a seasonal account reasonably warrants such a deposit.

The Commission finds that Mr. Anderson gave no real reason as to why seasonal accounts should be singled out and given an advantage to the utility. If the cost and investment of seasonal accounts is so much higher, the difference should be reflected in the rate structure and not the deposit requirements. The purpose of deposits is to assure payment when there is a question based upon valid criteria as to the customer's ability to pay and the purpose is not upon the investment costs of the particular classification of the account. Therefore, the Commission finds no reason to single out "seasonal accounts" for special applicability of a deposit requirement.

By letter dated January 3, 1975, Mr. William D. Carstedt, representing Interstate Power Company, suggested that PSC 325 should differentiate between residential and commercial customers. This suggestion was substantially restated by Mr. Patrick Leary, representing Lyon-Lincoln Electrical Cooperative, by letter dated January 8, 1975; by Mr. James Habicht, representing Minnesota Power and Light Company, by letter dated January 17, 1975; by Mr. David McGannon, representing Northern States Power Company, by letter dated January 7, 1975; and by Mr. Jay Myster, representing Otter Tail Power Company, by letter dated January 17, 1975.

Mr. Carstedt states that it is necessary in situations involving commercial customers to entitle utilities to exercise their good business judgment in light of all relevant conditions to require deposits from commercial customers. Many commercial customers are likely to incur very large bills.

The Commission finds in addition to what is stated above (p. 194 et seq.) that many utilities have suggested such a distinction and that the distinction between commercial and residential customers and the factors involved in determining whether a customer is residential or commercial may very well be a valid reason to require a deposit from one group and not from another. However, the Commission finds that such a distinction need not be stated in the regulation.

First, the Commission finds that there may be a difficulty in defining "commercial" or "residential" customers. The Commission finds that if the distinction were made, the utilities may make the most of the differences and, therefore, could exact a deposit from a customer based upon such an arbitrary classification.

Second, the Commission finds that the utilities have available under the current regulations, the ability to require deposits from commercial customers. PSC 325 states:

> "The utility shall not require a deposit . . . of any customer who has established good credit . . ."

PSC 325(a) states:

> "A utility shall not require a . . . deposit . . . unless a customer has an unsatisfactory credit . . . standing . . . due to either of the following: . . . (3) the credit history as provided in these rules demonstrates that payment cannot be assured. The determination of an adequate credit history must be determined by objective criteria which shall be filed with the Commission in the utility's tariff."

The Commission finds that following PSC 325, PSC 327(a) and (b) prescribe impermissible means of determining the credit history. As long as the utility determines that a commercial customer does not have good credit and that this determination is based upon criteria filed with the Commission and the criteria is not prohibited by PSC 327, there is no reason why the utility will be prohibited from requiring a deposit from such a commercial customer. Therefore, the Commission finds that the regulations do provide a means by which the utility itself may demand a deposit from a commercial customer.

By letter dated December 23, 1974, Mr. L. M. Stardig, representing Itasca-Mantrap Electrical Cooperative, stated that PSC 325 should be amended to provide for some means of advance payments of one year's duration to cover the cost of expanding service. He stated that his utility had a few services sitting out in

the "boonies" that no one has ever used and that they exist just because someone signed a contract. He stated that if such advance payment could not be charged, that other members of the cooperative would have to pay for the labor to provide this installation.

The Commission finds that any advance payment which is not returned or applied to the first month's usage by a customer would be an assurance of payment and, therefore, would be subject to control by PSC 325-327.

This does not mean that the problem presented by Mr. Stardig would apply nor does it mean that Mr. Stardig would necessarily be able to require a deposit. PSC 296(a) controls "extension of service in excess of regular service" and allows the utility to charge the customer all or part of the cost of such installation. PSC 296(a) would probably apply to the case presented by Mr. Stardig. In addition, the Commission finds that with more information, such a situation might enable a utility to require a deposit from a customer, but this determination would depend upon the objective criteria which it files with the Commission and which meets the requirements of PSC 327. Within these guidelines, the Commission finds that no further amendment is necessary to PSC 325.

By letter dated January 10, 1975, Mr. Axel H. Johnson, representing Kandiyohi Cooperative Electrical Power Association, suggests that PSC 325 should be amended not to restrict deposits in any way from new customers. He states that when a new customer comes onto the system, it is difficult to know about his credit. He states that it is too late to require a deposit after the customer has defaulted.

The Commission finds that the present regulations provide that a utility has at its access the prior history of a customer's credit at other utilities, in addition to its own objective criteria filed with the Commission. The Commission finds that the crucial element of PSC 325 is that deposits must bear a reasonable relationship to the assurance of payment. Whatever rationale a utility uses to require a deposit, it must bear a reasonable relationship to the assurance of payment. The burden should be on the utility to justify its deposit rather than upon the customer to justify his good credit and that, therefore, the utility should not be permitted to arbitrarily require a deposit simply because a customer happens to fit the classification of being a "new customer." Therefore, the Commission finds that such amendment is inconsistent with the intent of PSC 325.

By letter dated January 8, 1975, Mr. Patrick Leary, representing Lyon-Lincoln Electrical Cooperative, and by letter dated January 7, 1975, Mr. David McGannon,

representing Northern States Power Company, suggest that a definition should be provided to define "new" and "existing" service. Mr. Leary states the fact that a person has one meter within the service area and then gets another meter, may or may not constitute new service under this regulation.

The Commission acknowledges that there was, as originally proposed, a problem with the distinction between new and existing service. Accordingly, the Commission has provided a definition in PSC 325 for "new service" which has been amended to read "new service means service extended to or requested by any customer who has not received service as a customer for the preceding six months." The Commission has also provided a definition of existing service and has amended PSC 325(b) to state that existing service means service presently being extended to a customer or which has been extended to a customer within the past six months. The Commission finds that these additional definitions to PSC 325(a) and (b) is within the intent of PSC 325 as originally proposed, and also meets the concerns expressed by the various utilities. The Commission finds that this regulation has been changed because as originally worded, it was too vague.

Mr. Leary states that PSC 325 should be amended to require that no interest be charged on deposits of less than $20 and should otherwise be in conformity with Minn. Stat. Sec. 325.637(1974). He states that the thrust of PSC 325 is to require no deposit for those persons who have good credit. He states that the Public Utilities Act did not cover this matter of deposit and that, therefore, Minn. Stat. Sec. 325.637(1974) should prevail.

As discussed extensively above, the Commission finds that this statute does not conflict, or if it does conflict, does not control over the authority of the Commission to regulate deposits and other means of assuring payment and that subject only to the requirements of the Public Utilities Act, the Commission is free to prescribe deposit rules. As the Commission finds no further rationale was provided by Mr. Leary, no amendment to PSC 325 should be made.

Mr. Leary states that PSC 325 should be amended to provide that the effective date of regulations 325 through 327 should be extended to one year.

No rationale was provided as to why such an extension was necessary. The Commission finds that no extension of the applicability of this rule should be made until the utilities provide some evidence that forcing compliance with the deposit rules would produce a hardship under the current effective date. Therefore, the

Commission finds that until data is presented as to the hardship and cost of the immediate applicability of this regulation, the extension of such date should not be made.

By letter dated January 8, 1975, Mr. Richard Zehring, representing the Greater Metropolitan Federation, suggests that PSC 325 should provide for a means to facilitate the return of existing deposits held by the utilities on behalf of persons who would qualify for service without deposit under the proposed regulations. Deposits should be returned at the earliest possible date following adoption of these rules, he stated.

As the Commission finds no rationale or data was presented under the suggestion made by the representative of Lyon-Lincoln Electrical Cooperative as to why the application of these regulations should be extended one year, the Commission further finds that no rationale has been provided by Mr. Zehring as to why additional language should be provided in the rule to force payment of deposits under strenuous restrictions. The Commission finds that as the regulations are now worded, the return of deposits will follow with the utility's duty to comply with the regulations once they are within the force of law and that no further language is needed in PSC 325.

By letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, suggests that PSC 325(a) be amended to delete the word "either" and insert the word "any" so that the regulation would read: "A utility shall not require a cash deposit . . . unless a customer has an unsatisfactory credit or service standard with the utility due to any of the following."

The Commission finds that it was a grammatical error in the original proposed regulation to use the word "either" and that such amendment should be made and accordingly, the Commission has inserted the word "any" for "either" as used in PSC 325(a).

By letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company, suggests that PSC 325(a)(3) should be amended to provide for a customer's credit history to be established from public records.

The Commission finds that the change suggested by Mr. McGannon would permit a utility to define "public records" and give the customer little control over what records the utility uses. Whatever criteria the utility uses to assure payment, it must be objective and available to the customer. If this is what was meant by

Mr. McGannon in the use of the words "public records," it is already within the criteria of PSC 325 through 327. If, however, the use of the term was meant to give the utility more discretion and to arbitrarily require deposits, it is contrary to the intent of these regulations and, therefore, the amendment should not be made.

Mr. McGannon suggests that PSC 325(b) should be amended to provide an additional reason for requiring a deposit which he suggests should be numbered (3); "that a deposit previously obtained from the customer, if found to be inadequate to cover two months' gross bill as provided in PSC 326(1)," should therefore be a condition upon which the utility may require an additional deposit.

Mr. McGannon states that if a customer's credit is such that a deposit is allowable when his new service is established, it follows that such a deposit should be increased if it does not meet the provisions of PSC 326(a)(1).

The Commission finds that there is nothing in the regulations which prohibit an increase in deposits as long as they may still be required and as long as they do not exceed two months' bill as outlined in that regulation. However, there may be situations where utilities continue to provide service even after they have achieved the right to disconnect a customer. The Commission finds that in order to remedy both of these problems, PSC 325 should be amended. The Commission, accordingly, has amended PSC 325(b)(1) to read "The service of the customer has been disconnected or has been liable for disconnect for nonpayment of a bill which is not in dispute." The Commission has also amended PSC 325(b)(2) to read "The service of a customer has been disconnected or has been liable for disconnect for any permissible reason which is not in dispute."

This amendment would solve the problem of where a deposit becomes less than the allowable amount for two months' gross bill and would permit a utility to increase the deposit requirement up to the two months' gross bill, and in addition, it would not penalize the utility which, although it had the right to disconnect, had decided not to disconnect for whatever reason.

This deposit rule should be read in light of PSC 298(a)(1) and (2) which require the deposit to be fully applied to the bill before disconnection for nonpayment may be implemented. The requirement of additional deposit to meet the expanded calculation of "two months' bill" should not be permitted as a means of

circumvention of the intent of these regulations. The deposit, no matter what size, must still be fully applied to the bill before disconnection is permitted.

Mr. McGannon suggests that PSC 325(b) should also add another section to require a deposit from an existing customer when the customer's credit standing is not satisfactory to the utility. Mr. McGannon states that if a deposit can be obtained because of an unsatisfactory credit history at the time of application for service, a deposit should be allowed if the customer achieves a poor credit rating with the utility after service is established. Mr. McGannon states that PSC 325(a) does not allow an initial deposit unless the applicant's credit history is negative. If the applicant has no prior credit history, either positive or negative, no deposit can be obtained and that, therefore, the addition to PSC 325(b) is needed should a utility discover a poor credit history after a customer has qualified as an "existing customer."

The Commission finds that once a customer has established service with a utility, the utility should look only to the particular experience with a customer rather than to outside circumstances. As long as a customer continues to make adequate payment of his bills, Northern States Power Company has presented no reason why later discovery of a "bad credit history" should change this deposit requirement. No doubt, Northern States Power Company is worried about the "deadbeat" customer whose credit history is unobtainable at the time he requests service. If such a customer is going to continue his non-payment, the utility will quickly discover it during the billing payment period, and may, through the already existing rules, require a deposit once the customer is in default on payments. The Commission finds that many customers will continue their payments for necessities such as utility service even though their financial situation as a whole may be in trouble. Therefore, after existing service has begun, the Commission finds that a "bad credit history" may no longer be relevant to the actual ability of the customer to make payment and that if the customer has been making prompt payment, the utility should not be able to rely upon a subsequently discovered "bad credit history" to require a deposit.

By letter dated January 20, 1975, Mr. A. L. Pooler, representing Minnesota Gas Company, suggests that PSC 325 should be amended to read "a utility shall not require a deposit or guarantee of payment of, or for, <u>any applicant for service who has established good credit. The utility shall be the sole judge as to whether the applicant has met this requirement.</u>"

Mr. Pooler suggests that Minn. Stat. Sec. 325.637(1974) should govern the deposit rules. He further states that the utility should have the right to judge whether or not the applicant satisfies the requirement of "established good credit." As stated above, the Commission finds that Minn. Stat. Sec. 325.637(1974) does not control. In addition, the Commission finds that the history of many utilities is that deposits are indiscriminately required through many irrelevant criteria. Often, deposits are required of low income people who are least able to afford such a payment (the equivalent of three months' bill) when they begin service. No assurance is made by Minnesota Gas Company that such use of the deposit rules would not result in similar injustices if they were to continue, subjectively, to determine what constitutes "good credit." The Commission finds that such unbridled use of deposit requirements could lead to unjust discrimination between various rate payers by the determination of the utility as to who should pay a deposit. The Commission finds that such use is prohibited by the Minnesota Public Utilities Act and that, therefore, a regulation to enforce that prohibition is necessary.

Mr. Pooler also suggests that PSC 325(a) should be amended to include the word "applicant" as well as customer when referring to a person receiving "new service." Mr. Pooler states that a customer is not a customer until he is extended service. Prior to receiving service, he is an applicant.

The Commission finds that the point is valid but a matter of semantics. Because of the previous additions of definitions of new and existing service, the word "customer" need not be eliminated. However, the Commission finds that the addition of the word "applicant" is within the meaning of PSC 326(a) and, accordingly, has amended PSC 325(a)(1) to read "customer or applicant." In addition, PSC 325(a)(2) has correspondingly been amended.

Mr. Pooler suggests that PSC 325 should be amended to provide a new section, PSC 325(a)(4) which should read: "The non-residential applicant has no prior credit history or record." This would permit a deposit requirement of such an applicant.

Mr. Pooler states that where the applicant has no prior credit record and the utility has no prior experience, it is the opinion of Minnesota Gas Company that a deposit should be allowed, especially with non-residential accounts.

The Commission finds that although the individual circumstance may exist where a credit history is unobtainable, no reason is presented by Minnesota Gas Company

why that concern could not be adequately presented under its objective criteria filed with the Commission as long as the criteria met the other requirements and restrictions of PSC 327. Therefore, the Commission finds that such circumstances could better be met in the filed objective criteria rather than in the precise wording of the regulation and that the amendment should not be made.

Mr. Pooler suggests that PSC 325(b)(1) should be substantially amended to delineate further circumstances of the determination "when a customer has been disconnected" which permits the use of deposits. One of the suggested changes is to extend the period of return of the deposit to 45 days. Mr. Pooler states it would be burdensome upon a utility to credit a deposit on shutoff for nonpayment and then go back to the customer and request another deposit. The customer almost always requests reconnect when service has been disconnected and, he stated, this is why Minnesota Gas Company suggests delaying the application of the deposit for 45 days.

The Commission finds that while there may be a procedural difficulty shuffling back and forth between deposits and reconnects, that such difficulty is overcome by the 10 day requirement on the return of deposit and that the further extension to 45 days is unnecessary.

The Commission finds that the determination of when a customer shall be required to make a deposit should be stated in objective standards and should be restricted as much as possible to only those conditions where the assurance of payment is demonstrably not provided. The Commission finds that PSC 325(a) does restrict the use of deposits when a customer is applying for new service to situations of direct past experience between the new customer and the utility or to situations as outlined in the credit history which the utility must file through objective criteria and which shall not be in conflict with the requirements of PSC 327.

The Commission finds that PSC 325(b) adequately restricts deposit criteria to past experiences between the utility and the customer after having already been an "existing customer." The Commission finds that the requirements of PSC 325 are consistent with the provision of reasonable service and are consistent with the requirements of the utility to meet its financial requirements and are, therefore, consistent with the Public Utilities Act.

PSC 326 - Permissible Means of Assuring Payment

Once it has been determined through PSC 325 that additional assurance of payment is required of a customer, PSC 326 outlines those means which are permissible by which a customer may assure payment. Those permissible means are restricted to two. A customer may assure payment by submission of a deposit which is prescribed

in PSC 326(a) or a customer may submit a guarantee of payment which is prescribed in PSC 326(b).

PSC 326(a) requires that a deposit shall not exceed two months' bill, shall be in addition to payment of any existing outstanding bill, shall bear an interest rate of not less than six (6%) percent unless otherwise determined by the Commission, and shall remain on deposit for a period of 12 months provided that during the 12 month period no additional condition was created which would require the necessity of assuring payment. Deposits may be freely used by the utility in application against any bill which has been determined by the utility to be delinquent. The regulation provides that upon termination of service the deposit shall be returned to the customer within ten days. Any requirement of a deposit will be accompanied by a written explanation of the reasons why the deposit was required by the utility.

PSC 326(b) allows a customer to assure payment through the use of a guarantee of payment in lieu of a deposit. The acceptance of a guarantee of payment in lieu of deposit is discretionary with the utility. Should the utility accept a guarantee of payment, the term of the guarantee shall be no longer than 12 months, shall be subject to an additional guarantee or deposit when the utility deems the guarantee insufficient, and shall be signed by a guarantor who is satisfactory to the utility. Should a customer be unable to assure payment within the provisions of PSC 325 as governed by PSC 327, the deposit and guarantee of payment are the only permissible means by which the utility may obtain further assurances.

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, stated a concern regarding PSC 327(a)(4) which provides that continuance of funds on deposit for a period of 12 months shall constitute good credit and require the return of the deposit. He stated that his concern was for the utilities who have taken deposits from all their members and may have sums built up of some size over the years. If this regulation would require them to turn around and immediately refund all of these deposits which have been in existence for over 12 months, there would be a substantial financial burden upon these utilities. Therefore, he suggests that if the Commission adopts this rule, he would like to have some lead time in which to get these deposits back to the utilities' members. (Transcript page 473.)

The Commission finds that it is unknown what amount of funds will be returned. Mr. LeVander neither provided data as to the financial impact which this regulation

would have upon the utilities he represented, nor suggested alternative wording. Therefore, the Commission finds that there was insufficient rationale to make this change and such amendment should not be made.

During the course of the hearing, Mr. Richard Gill, representing North Central Public Service Company, suggested that although his utility did not have any problem with PSC 326(a)(4) (which requires the return of a deposit after a customer has had a history of prompt payment for 12 months), it would be his suggestion to have some language in there in connection with continued delinquency or slow payment. He stated that even though a customer may have been able to avoid disconnection on the last day at many different occasions, it probably would be a good idea to keep his deposit. In conjunction with his suggestion, Mr. Gill, by letter dated January 22, 1975 suggested that PSC 326(a)(4) should be amended to read: "Continuance of funds on deposits for . . . 12 months shall constitute good credit and the deposit shall be refunded unless the customer's payment history evidences a repeated pattern of delinquent payments."

While the Commission finds that the wording, "a repeated pattern of delinquent payments" is too vague for the intent of this regulation, the Commission nevertheless recognizes the problem as described by Mr. Gill. Accordingly, as discussed above, (pp. 201-202), the Commission has amended the conditions under which a deposit may be required by amending PSC 325(a) and (b) to allow a utility to charge a deposit or guarantee of payment from a customer who has previously been disconnected or has been liable for disconnect. The problem presented by Mr. Gill suggests a customer who, although liable for disconnection, has not been disconnected for one reason or another. Considering the additional language of PSC 325, the customer liable for disconnection would be a condition anticipated by PSC 326(a)(4) which excuses the return of a deposit when an additional condition exists which would require continuing the necessity of assuring payment. Should a customer be liable for disconnect during the 12 month period, the utility could extend the period required for the deposit until a customer was able to establish a consecutive 12 month period free from any cause for disconnect. The Commission finds that this amendment of PSC 325 adequately meets the concerns expressed by Mr. Gill regarding PSC 326(a)(4).

Mr. Gill suggested that PSC 326(b)(1) which read in part, "(The guarantee) shall automatically terminate after the customer has closed his or her account with the utility," should be amended to allow the termination of a guarantee of payment only when the customer has paid his or her bill in full. Mr. Gill stated that the purpose of this suggestion was to clarify what was meant by the original wording of "closing an account."

The Commission finds that it was within the intent of this regulation that the guarantee should not terminate until the utility has been satisfied in the relationship with the customer. Therefore, the Commission has added the wording "and paid" to PSC 326(b)(1) to provide that a guarantee shall automatically terminate after the customer has closed and paid his or her account with the utility. The Commission finds that this adequately meets the concern expressed by Mr. Gill.

During the course of the hearing, Mr. David McCannon, representing Northern States Power Company, requested a definition of the term "termination" as used in PSC 326(a)(6).

The Commission finds that the word "termination" applies not only to disconnections of service but temporary disconnection as provided in PSC 298(a)(9). A "termination" exists whenever a customer stops service for whatever reason, even those not directly governed by these regulations. The word "termination" is an all-encompassing term which applies to more than just the disconnections under the Disconnection Procedures outlined elsewhere in these regulations.

During the course of the hearing, Mr. Patrick Leary, representing Lyon-Lincoln Electrical Cooperative, suggests in conjunction with his comments as to the applicability of Minn. Stat. §325.637 that PSC 326(a)(1) should be amended to provide in lieu of the size of the deposit equalling two months' gross billing, that also the application of the regulation should apply only to deposits over a minimum of $20.

The Commission has already discussed the relationship Minn. Stat. §325.637 (1974) plays with these regulations. Absent any other rationale for a $20 minimum by Mr. Leary, the Commission finds no reason for its implementation within these regulations. The Commission finds that a minimum deposit is still a burden upon a customer who can ill afford it and that, therefore, all deposits should be regulated and not just those above a minimum amount. The suggestion by Mr. Leary has not been amended to PSC 326.

By letter dated December 24, 1974 Mr. Willard Anderson, representing Agralite Cooperative, suggested that PSC 326 should not require the utilities to pay any interest on deposits for seasonal accounts. He stated that his utility questions the wisdom of having the utility pay any interest on any deposits as deposits usually will be relatively small in amount and to calculate such interest is quite burdensome on the utility.

The Commission finds that if the paperwork for figuring interest on deposits is too burdensome for a utility, that perhaps the better solution would be to prohibit deposits altogether rather than to control the interest charged with deposits. The interest requirements of a deposit may be a burden and cost factor to a utility. The Commission finds that this cost burden is one of the reasons why the interest on deposits is lower than the normal cost of debt for a utility. The advantage between a utility's higher cost of debt and the lower deposit interest should more than offset the cost burden involved. Further, the Commission finds that a deposit is a taking of funds from a customer. Absent any interest, the customer obtains no real benefits from the deposit. The interest on a deposit is essential to compensate the customer for this imposition.

By letter dated January 10, 1975, Mr. Axel Johnson, representing Kandiyohi Electrical Cooperative, suggests that PSC 326(a)(3) should be amended to charge interest in accordance with the requirements of Minn. Stat. §325.637 (1974); that is, the interest should not attach to deposits less than $20.

Mr. Johnson states that as the "deposit law" was passed before the Public Utilities Act, it should control and is sufficient as far as deposits are concerned.

As discussed above, the Commission finds that Minn. Stat. §325.637 has no application to regulations passed in furtherance of the purposes of the Public Utilities Act as the Public Utilities Act is intended to be an act complete in itself and be subject to no conflicting regulation. Therefore, the Commission finds that the suggested change should not be made.

By letter dated January 8, 1975, Mr. Richard Zehring, representing Greater Metropolitan Federation, suggests that PSC 326(a)(1) should be amended to read: "A deposit shall not exceed an estimated peak period one month's gross bill or existing one month's bill where applicable." He stated that under construction of the regulations as presented, it would be highly unlikely that an entire two months' bill could go unpaid without some disconnection and that, therefore, one peak month would be sufficient.

The deposit regulations may make it more difficult for utilities to demand deposits. The Commission finds that for many utilities the number of customer deposits may also substantially decrease. This may result in a higher probability that customers with deposits will default. The Commission finds that the present regulations delay disconnection for only a period of five days (PSC 300) after a customer is in arrears. In comparison, most utilities permit arrears for periods of up to more than 90 days. This "credit" extended to customers benefits both the customer and the utility. If the deposit amounts were decreased, the result might be that the utilities would discontinue such extension of credit policies and such a result is not within the intent and purposes of these regulations and the Public Utilities Act. Therefore, where a deposit is required, the Commission finds that it should equal a two months' estimated bill to encourage the utility to extend the period before disconnection as long as possible to enable the customer to continue receiving service before the disconnection is reached.

Mr. Zehring suggests that PSC 326(a)(5) should be amended to provide a first class mail notice of at least five days before a deposit will be applied by a utility to a customer's bill. He states that some notice should be sent to a customer when the deposit is going to be applied to the bill so that the customer will be able to avoid the disconnection.

The Commission finds that it was within the intent of PSC 326(a)(5) that the customer be apprised of the application by the utility of the customer's deposit to the customer's bill. However, the Commission finds that better language than supplied by Mr. Zehring could be used and, therefore, the Commission has added the words "with notice" to PSC 326(a)(5) so that the regulations shall read "with notice any deposit of a customer may be applied by the utility to a bill." The Commission finds that the proper notice is prescribed in PSC 300 and would meet the rest of the suggestions made by Mr. Zehring. Therefore, the additional wording suggested by Mr. Zehring is not needed in this particular regulation. Accordingly, the Commission has so amended PSC 326(a)(5).

Mr. Zehring suggests PSC 326(b)(2) should be amended to read: "Upon termination of a guarantee . . . a cash deposit or a new or additional guarantee may be required <u>for good cause</u> upon reasonable written notice to the customers. . . ." He states that the utility should not be given carte blanche to deem a guarantee insufficient once it has accepted a guarantee in the first place.

The Commission finds that the additional wording suggested by Mr. Zehring is within the intent of the regulation as originally proposed. The Commission finds that as it is entirely discretionary with the utility to accept a guarantee of payment in the first place, that once the utility has accepted such guarantee, it should not be able to later arbitrarily demand a deposit or other assurance without a reasonable justification for it. Therefore, the addition of the wording "for good cause" is consistent with the purpose of this regulation. Accordingly, the Commission has amended PSC 326(b)(2) to provide that an additional guarantee may only be required for good cause upon reasonable written notice to the customer.

By letter dated January 17, 1975, Mr. James Habicht, representing Minnesota Power and Light Company, suggests that PSC 326(a)(1) should provide a longer time frame for the amount of deposits required of commercial customers. This suggestion was made in conjunction with a similar suggestion distinguishing commercial and residential customers which was made to PSC 325 and discussed above (page 197).

He stated it is imperative that Minnesota Power and Light Company keep bad credit losses at a minimum as a matter of public policy based on the alternative of redistribution of these costs to the majority of those who meet their obligation.

While differences may exist between commercial and residential customers, the Commission finds that the resolution of this distinction rests in the objective criteria used by a utility to require deposits rather than in specific distinctions made in the regulations. As discussed above, these distinctions can best be applied to the objective criteria assuming they meet the requirements of PSC 327. However, a simple distinction between residential and commercial customers would, in itself, be insufficient to meet the requirements of PSC 327. The distinction between commercial and residential customers should not be made in PSC 326(a)(1).

Mr. Habicht suggests that PSC 326(a)(5) should be amended to cover estimated service on the meter, which is previously unbilled, to make it clear that the utility may apply the deposit against this service as well as the amount of payment actually due on the bill.

The Commission finds that the concern over lost revenue raised by Mr. Habicht is covered by other regulations within the Customer Service Standards. The utility is permitted to disconnect a customer once the deposit has been used. (PSC 298(a)(1) and 326 (a)(5)). This means that once a utility finds that the amount of the deposit has expired, no matter when within the billing sequence, then a disconnection will be permitted. It must be remembered that a utility may only disconnect in conjunction with a personal contact (PSC 301(b)). Therefore, at the

time of the disconnection, the utility will be able to obtain an actual reading thereby alleviating the need for an estimate. The Commission recognizes that instances may arise where access for disconnection may be impossible where a customer refuses to answer the utility representative's visit. In these circumstances, disconnection is not forestalled as PSC 301(b) requires a personal visit only to the address and not necessarily contact with the customer. Determination of the bill is also provided in PSC 312 which permits estimation of the bill "when access to a meter cannot be gained."

The utility need not estimate when the deposit is consumed in the middle of the second month, unless access at the time of disconnection is refused. The utility may estimate the time at which disconnection is necessary and permissible. As long as this estimate does not conflict with PSC 298(a)(1), it is not restricted. The Commission finds that the proposed change suggested by Mr. Habicht is not necessary in PSC 326(a)(5).

By letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, suggests that PSC 326(a)(5) could be amended by deletion of the second sentence which reads: "A utility may not disconnect service or shall not be entitled to demand an additional deposit until the deposit has been refunded or until the balance has been entirely used to pay an outstanding bill of the customer." He states that this deletion is non-essential as the matter is already handled in PSC 298.

The Commission finds that this requirement is substantially found in similar language in PSC 298. However, it should not be deleted as it is a necessary requirement for the understanding of the deposit regulations as well.

By letter dated January 7, 1975, Mr. David McGannon, representing Northern States Power Company, suggests that PSC 326(a)(3) should not be written to allow compounding of interest. He states that a deposit is taken from a customer because he is a bad credit risk. The customer should not be considered a bank depositor. Taking deposits, keeping records, etc., is an additional expense for the utility and, therefore, the compounding of interest is too much of a financial burden.

The Commission finds that the same argument could equally be made by the customer. Paying a deposit is an expense for the customer and six (6%) percent is hardly enough compensation for the use of a customer's money. If Northern States

Power Company wishes to avoid the compounding of interest, the Commission finds that an answer equally acceptable would be to raise the simple interest to seven (7%) percent. The Commission takes notice of Northern States Power Company's annual 1974 report in which, on page 16, they state that they are paying an effective rate of over 9.8 percent on their short term notes. If the utility has a high deposit expense, the Commission finds that this expense can be covered by the difference between the 9.8 percent they are paying on other notes and the lower six (6%) percent that they must pay on deposits. Such a percentage difference is a savings and if the paperwork is that much higher, the savings on the difference of interest may very well offset that cost. Therefore, the Commission finds that absent additional sufficient data, the requirement of compounding of interest should be maintained.

Mr. McGannon suggests that PSC 326(c), as originally proposed, be limited to application for new service in that PSC 325(a)(3) is the only provision which relates to credit history. He states that if the customer's service has been disconnected so that the deposit can be required under PSC 325(b), a credit history relating to other creditors would be quite useless.

Mr. McGannon suggests that the reference to utility credit is confusing and perhaps unnecessary. Mr. McGannon states that the utility to which application for service is made already has a credit history of the applicant. If that credit history were not negative, as provided in PSC 325(a)(1), (2) and (3), no deposit could be demanded and submission of a credit history is, hence, unnecessary. As regards the customer's credit history with a similar utility, if his credit history with the utility to which application for service is made is too adverse as to require a deposit, a favorable credit rating with a similar utility would appear to be immaterial.

The Commission finds that the inclusion of PSC 326(c), as originally proposed, is vague and confusing. PSC 325 describes those instances when a utility may require an assurance of payment no matter what form that assurance may take. PSC 326 describes the various means of assuring payment available. PSC 326(c) was intended to make available to the customer the ability to use his credit rating as a means of assuring payment. However, this section is really unnecessary since the very same credit history is used by the utility under PSC 325 to determine whether a means of assuring payment will even be required. Therefore, PSC 326(c)

is redundant with the eariler requirements in PSC 325 and should be amended to correct this situation.

The Commission does find that certain elements of PSC 326(c) should be maintained within these regulations. The second half of that provision, as originally written, provided that a utility may determine whether an adequate credit history has been shown, except that a customer's credit history at the same or similar utility that would otherwise demonstrate good credit pursuant to these regulations should be considered good credit before the utility. The Commission finds that it was within the intent of these regulations to permit a utility to use the credit history of a customer at another utility (within the provisions of these regulations) to determine the necessity of a deposit. That specific section of PSC 326 (c) should be maintained to determine and define the proper objective criteria used to require a deposit. Accordingly, this language has been kept in its same form and has been amended into PSC 327 (see below, p. 215 et seq.).

By letter dated January 17, 1975, Mr. Jay Myster, representing Otter Tail Power Company, suggests that PSC 326(a)(1) which limits the deposit to a two months' bill should be deleted. He states that Minn. Stat. §325.637 (1974) does not place any limit upon the size of deposits.

As already discussed above (page 192 et. seq.), the Commission finds that Minn. Stat. §325.637 (1974) should not have application to these regulations. The Commission finds that absent any other rationale, the deletion suggested by Mr. Myster should not be made.

Mr. Myster suggests that PSC 326(a)(5) should be amended to read: "Any deposit . . . . A utility may hold a deposit for a customer during disconnect proceedings and may then use such deposit to apply to an outstanding bill of a customer or refund the deposit upon disconnection." The basis of Mr. Myster's suggested change deletes the wording which prohibits disconnection until the deposit has been entirely used to pay the outstanding bill of the customer.

The Commission finds that the significance of the change in the wording is small. In addition, the Commission would like to comment that each utility was requested at the hearings to provide both data and substantiation for each change suggested. The Commission does not feel compelled to discuss at length changes such as this one suggested by Mr. Myster which merely change the wording unless some cogent reason is given for the change. As no rationale or discussion of this

proposed change was made by Mr. Myster, the Commission finds that the change is not needed and further discussion is unnecessary.

By letter dated January 20, 1975, Mr. A. L. Pooler, representing Minnesota Gas Company, suggests that PSC 326(a) should be amended to read: "Where required, a customer may assure payment by submitting a cash deposit."

Although no rationale was provided for this change, the Commission finds that while it may be implied that all deposits should be in cash, such additional wording would be acceptable to the intent of originally proposed PSC 326. Therefore, the Commission has amended PSC 326(a) by adding the descriptive word "cash" before the word deposit as used in that regulation.

Mr. Pooler suggests that PSC 326(a)(3) should be amended to read: "Interest rates shall be paid on deposits in excess of $20 at the rate of six (6%) percent per year. The utility may, at its option, pay the interest at intervals it chooses but at least annually by direct payment, or as a credit on bills." He states that this is necessary to be in compliance with Minn. Stat. §325.637 (1974).

As discussed at length above (page 192 et. seq.), the Commission finds that Minn. Stat. §325.637 (1974) does not control the regulation of deposits within the Public Utilities Act. Amendments to these regulations should not be made upon the basis of the existence of Minn. Stat. §325.637 (1974) on its own. Absent further rationale, the Commission finds no reason for such suggested change and none should be made.

Mr. Pooler suggests that PSC 326(a)(5) should be amended to read: "A deposit of a customer may be applied by the utility to the customer's account when the account has been determined to be delinquent by the utility." Mr. Pooler states that Minnesota Gas Company believes a customer should pay the bill when rendered regardless of the size of the deposit. The deposit should not be exhausted before disconnection.

At the hearings, it was requested of the utilities to submit factual data in support of suggested changes. In regards to the suggestion made by Mr. Pooler, some of the material which could have been presented in support of this change would have been Minnesota Gas Company's current experience with their deposits. Such questions as whether their deposits covered the arrears at the time of the dis-

connect could have been answered. If the proposed regulation were in effect, would there have been an increase in the bad debt losses during the last preceding year? This question also could have been answered. Without exception, the utilities have provided no such data whatsoever. Since the purpose of a deposit is to assure the utility that a customer will pay, such funds should be used to make the payment when the customer defaults rather than to be used to force the customer to make further payments. The regulation conforms with the intention to govern the assurance of payment. The Commission finds that no amendment should be made absent sufficient rationale. The regulation should remain unchanged.

Mr. Pooler suggests that with PSC 326(a)(7) the Commission should delete the requirement that the explanation be in writing and insert instead that the explanation be in writing if requested by the customer. He stated that responding in writing causes delay.

The Commission finds that as this regulation applies to the utility, the utility must bear the burden of explaining to the customer why he is distinguished as a member of a special class requiring the additional payment of two months' bill. To insure that the customer is aware of his classification and the reasons for it, this should be in writing rather than through another means of communication. In addition, this regulation provides an additional incentive for the utility not to require a deposit.

As this regulation applies to a customer, the requirement of a written reply insures the customer that he will be treated fairly. If the customer wants to dispute the decision as to the requirement of the deposit, a written response preserves a record. Therefore, the Commission finds that the notice of a requirement of a deposit should be in writing rather than through any other form.

PSC 327 - Credit History and Impermissible Means of Assuring Payment

PSC 325(a)(3) will be the provision most often used by utilities to require a deposit (or other means of assuring payment). Many of the utilities' comments on this section reflect a misunderstanding of the application of the rule. PSC 325 (3) describes "credit history" as that credit history provided in these rules. The credit history determination is largely governed by PSC 327.

With the exception of the second sentence in PSC 327(a), PSC 327 is stated in the negative. It restricts the determination of an adequate "credit history" to means other than those listed. This implies that any criteria filed by the utility which is not restricted by PSC 327, which is also

"objective" as required by PSC 325(a)(3) and, in addition, which "bears a reasonable relationship to the assurance of payment" as required by PSC 325 will be acceptable in the determination of an adequate "credit history" such that a deposit may be required.

The major distinction of PSC 327 by itself and as it is used in relationship to the other regulations (PSC 325-326) is that this rule places the burden upon the utility to prove that the customer does not have good credit.

The Commission incorporates by reference the staff case which is part of the record in its description of the criteria contained in PSC 327(a) and (b).

It should be noted that part of the deleted wording of PSC 326(c) has been transposed into the introductory paragraph of PSC 327. The Commission finds that the sharing of information about a customer's prior payment at other utilities should be a means available to determine the "credit" of a customer. Any history of prompt payment for a period of 12 months at any other Minnesota utility should be sufficient to prohibit a deposit being required from a customer when he or she applies for new service with a new utility.

Consistent with the purpose of encouraging utilities to share information, the Commission finds that the use of "credit bureaus" should be restricted except when information is shared between utilities. The distinction between other sources of credit and credit provided by the utilities lies in the fact that utilities sharing the credit information are subject to the same regulation provided in these rules. Credit bureaus are not. Therefore, a customer having established the term "good credit" within these rules will be assured that such "good credit" shall follow the customer when he or she changes utilities. The Commission has no authority to regulate the determination of good credit or lack thereof when dealing with other credit bureaus and credit agencies and, therefore, the Commission could not be assured that the same determination would be used when such credit information is passed on as is used in these regulations. Although the regulations do not prohibit the use of credit bureaus, it is in the best interests of the Public Utilities Act that they be severely restricted.

During the course of the hearing, Mr. Harold LeVander, representing the Minnesota Association of Electrical Cooperatives, stated that as far as he was concerned there were no objections to the basis upon which proper credit history cannot be determined under PSC 327(b)(1) except that he did object to the rule that in determination of credit history, a utility shall not require a deposit based upon home ownership. He stated that the owner/renter situation is one where that rule (PSC

327 (b)(1) would catch the utilities. He stated other jurisdictions, e.g., California, have recognized that it is permissible to distinguish the requirement of deposits upon the owner/renter basis. Therefore, he concluded that he would be in favor of deletion of the "owner/renter" distinction.

The Commission finds that no data has been presented other than the statement noted above by Mr. LeVander as to the current requirements of a utility in requiring deposits based upon the distinction of ownership of a home or rental of a home. The Commission finds that with the trend towards rental living among all types of individuals, there is a large likelihood that whether a customer rents or owns his home bears no reasonable relationship to his ability to pay a utility bill. The Commission finds that the factors which utilities have presented before the Commission do not bear a sufficient rationale to subtract this criteria from the restricted criteria. The Commission finds that the distinction of a deposit requirement based upon home ownership bears no reasonable relationship to the assurance of payment and, therefore, should not be available to a utility to determine whether a deposit will be required from a customer or not.

By letter dated December 24, 1974, Mr. Willard Anderson, representing Agralite Cooperative, suggested that PSC 327(b), which has been renumbered by the Commission PSC 327(b)(2), should be deleted. He stated that frequently the utility may have to rely upon a credit service for credit information.

The Commission finds that this regulation does not prohibit the use of credit services. However, since the credit information is often obtained by these services without the customer's knowledge and consent, the customer should have the right to control information which is properly his own. The intent of the regulation is not to prohibit use of a credit bureau, but it is to prohibit use of a credit bureau without the customer's consent and knowledge.

By letter dated January 8, 1975, Mr. Richard Zehring, representing Greater Metropolitan Federation, suggests that PSC 327(a), which has been renumbered PSC 327(b), should be amended to read: "As a condition of new or existing service, a utility shall not require, nor set the amount of, a deposit . . ."

Mr. Zehring states that the apparent construction of the regulation contemplates that the interdict on the basis of suspect criteria also include the setting

of the amount of the deposit.

The Commission finds that Mr. Zehring is talking about two distinct issues. First, he is concerned with whether a deposit is required. PSC 327 discusses this question. Second, he is concerned with what the amount of the deposit should be. PSC 326(a)(1) controls that issue and PSC 327 does not apply. The deposit, where required, will be an estimated two months' bill. The Commission finds that the utility may not use any language in PSC 327 to change the amount required on the deposit and that, therefore, the proposed amendment by Mr. Zehring is unnecessary.

Mr. Zehring suggests that PSC 327(b)(2) should be amended to read: "Refusal of a customer . . . shall not detrimentally or otherwise affect the determination of the utility . . . ." He states that the purpose of this amendment is for reasons of clarity.

The Commission finds that the addition of the words "detrimentally or otherwise" is repetitive of the intent and purpose of the regulation and adds little to the rule. Therefore, the Commission finds that such amendment should not be made.

By letter dated January 17, 1975, Mr. James Habicht, representing Minnesota Power and Light Company, suggests that PSC 327 should be amended to require the utility to furnish the name of the credit service used. He states that Minnesota Power and Light Company is aware of the need for a disclosure requirement, but the mandatory mailing of reports has the potential of causing ill feeling. The credit report should be available to the customer if he desires it, and if a mistake has occurred, he will make such a request.

The Commission finds that involved in this suggestion is a misreading of PSC 327. PSC 327 does not permit a utility's use of a credit report and then thereafter informing the customer of its use and its content. Rather, PSC 327 prohibits the use of a credit report as described in PSC 327(b)(2) unless the utility has received the prior approval of its use from a customer.

The Commission finds that a customer, who is unaware of the use of a credit report, will have little chance to find out whether a mistake has been made. Notification of the contents of a credit report only upon the customer's request is no assurance that the customer will know a credit report is being used. This affords the customer very little protection. Therefore, the Commission finds that the proposed amendment suggested by Mr. Habicht should not be placed in this regulation.

Mr. Habicht also suggests that PSC 327(b)(2) should be amended to read: "The determination of a customer's credit history shall not be made solely on the customer's refusal to permit the utility to use a credit rating or credit service other than that of the utility unless the customer refuses to supply other material information."

Mr. Habicht suggests that the purpose of this change is for clarity. He states that this change accurately reflects the interest of the parties and places a credit report in its proper perspective.

The Commission finds, first, that this change is more substantive than merely for purposes of clarity. It completely alters the application of the rule. The Commission finds that the credit history (as referred to by Mr. Habicht) of a customer is property of a customer and not of the utility. If refusal to permit the use of a credit report was an automatic cause for a deposit requirement, the credit report would not be to the customer's benefit, but would be for the utility. A customer is not protected from the use of his own credit report unless he has the absolute ability without penalty to deny that credit report's use. Therefore, the Commission finds that this suggested change by Mr. Habicht should not be made.

By letter dated January 22, 1975, Mr. Richard Gill, representing North Central Public Service Company, suggests that PSC 327(a), which has been renumbered by the Commission PSC 327(b)(1), should delete the words "income, home ownership." Mr. Gill states that these criteria do bear a reasonable relationship to the assurance of payment.

The Commission finds that the mere assertion by Mr. Gill that such criteria bears a relationship to the assurance of payment is insufficient rationale to warrant this change. The determination of adequate credit history rests with the utility rather than the customer. The utility must demonstrate that a customer cannot assure payment. The Commission finds that no data has been provided from any utility which demonstrates that income and home ownership do bear a reasonable relationship to the assurance of payment. Rather, the Commission, noting the staff case presented at the oral hearing, finds that the criteria of income and home ownership do not bear a reasonable relationship to the assurance of payment of a utility bill and that, therefore, they should be contained in the regulations of PSC 327 (b)(1) prohibiting the use of such criteria in requiring deposits.

By letter dated January 20, 1975, Mr. A. L. Pooler, representing Minnesota Gas Company, suggests that PSC 327(b)(1) should contain the following addition at the end of the section: "The section shall not apply to credit references given under PSC 326 nor to non-residential applicants."

Mr. Pooler states that if the terms "credit rating" as used in PSC 327(b)(1) are deemed to include only those of commercial credit reporting agencies, and not credit references given by the applicant, then the ambiguity is resolved.

The Commission finds that the discussion of Minnesota Gas Company is correct and that the credit provided by the customer voluntarily is not restricted in any means by PSC 327. As discussed above, the intent is not to restrict the use of such outside credit agencies, but to limit their use to the approval of the customer. The Commission finds that such limitation is only correct in that the credit information is the property of the customer.

The Commission finds that as the concern of Mr. Pooler has been met by the interpretation of these regulations, the suggested change is not necessary and, therefore, the Commission has not made the suggested amendment.

By written comments received January 20, 1975, Mr. Elmer Trousdale, representing Peoples Natural Gas Company, suggests that PSC 327(a), which has been renumbered by the Commission PSC 327(b)(1), should delete the prohibition of using "home ownership" in the determination of a requirement of a deposit.

Mr. Pooler stated that it is the company's experience that the difference between an owner and a renter is quite significant in establishing the need for a deposit.

The Commission finds that especially with the increased number of people turning to rental units because of the high cost of single family homes, the criteria and rationale for such a distinction becomes less valid. The utility has provided no data as to the distinctions and the ability of a renter vs. a home owner to assure payment. Under such conditions, the Commission finds that the proposed amendment should not be made.

The Commission finds that PSC 327, as enacted, reasonably meets the need to restrict deposit requirements to means which bear a reasonable relationship to the assurance of payment. As noted above, the Commission finds that the actual payment record of a customer is the best, and in the final analysis, perhaps the

only accurate means of following a customer's ability to assure payment. Any other criteria used by a utility will often lead to inequitable results. Instances in which a high income customer has defaulted, whereas a lower income customer has not, are too numerous to preserve the assumption that a lower income individual is less likely to pay for utility bills. It must be remembered that utility service is a necessity and that many people will go without other items to preserve the continued flow of electrical and gas energy. Just as income is an insufficient criteria to determine the ability to assure payment, so too is the existence or non-existence of home ownership. With the increase in the number of individuals using rental units, there no longer can be any assumptions about the abilities of customers to pay their bill based upon this classification. Home ownership has become a classification without a distinction. The Commission finds that the only accurate means to determine whether a customer will, in all probability, make prompt payment for a utility bill is that customer's own experience in previous other utilities. The Commission finds that such determination should be a burden borne by the utility rather than the customer and that a customer upon application for service should be presumed to have good credit until the utility is able to determine by these regulations that a customer cannot assure payment and that, therefore, a deposit or guarantee of payment will be required. The Commission finds that these regulations, PSC 325-327, are consistent with the purposes of the Public Utilities Act in that the regulation and restriction of deposits, being an integral part of a rate which a utility charges, is necessary to assure Minnesota consumers that they are being provided reasonable service by the utilities.

E

PUBLIC RECORD ACCESS

PSC 335 and 336 govern customer and public access to utility information. Though utilities may withhold some information from the public, the trend is in support of increased access to such information. The Commission finds such to be the case in other jurisdictions:

> Generally speaking, every point of contact between the public and a utility which relates to the performance by the latter of its public duties is subject to regulation by the state.

New Street Bridge v. Public Service Commission, 114 A. 387 (1921) (as reported in 73 C.J.S. Public Utilities Section 12 (1951).

By virtue of its public trust and favored monopolistic position, a utility must provide necessary information not only to its regulatory Commission and its customers, but also the public as well. This duty is prescribed by the Minnesota Public Utilities Act:

> Every public utility shall keep copies of the schedules open to public inspection under these rules and regulations as the Commission may prescribe.

Minn. Stat. §216B.05, subd. 3 (1974).

The Commission finds that these regulations attempt to balance the cost of furnishing information against the need for the public and customers to have access to such information.

PSC 335 - Information Available to Customers and the Public

The Commission finds that in PSC 335(a) is recognized the fact that many customers never pay their bills at the utility's main office. Many bills are paid in grocery stores, banks or such other agency arrangements. Nevertheless, this fact should not preclude a customer from the information provided in the "customer information" as required in PSC 281. The Commission finds that it should be remembered that the "customer information" will not be sent to every existing customer. The need for a customer to find the answer to his or her questions should outweigh the inconvenience that some "paying stations" will have to undergo.

The "customer information" is not intended to be the only information available to the public and customers. Rather, additional information should be provided on a flexible basis governed by the needs of the situation. Therefore, the Commission finds that the remaining provisions in PSC 335 relate to the additional information that should be available to the customer and, in certain

situations, to the public. For instance, a customer will be unable to accurately dispute a decision by the utility unless that customer has access to the utility's billing, complaint records, payment and deposit records of the customer for a certain period of time.

During the course of the hearing, Mr. Ed Tiemann, representing Minnesota Association of Electrical Cooperatives, stated that they had an objection to PSC 335 in the requirement of posting notice in areas which are not, in fact, controlled by the utility. He stated that the utility will not be able to enforce these regulations upon such agents. (Transcript p. 455.)

By letter dated January 20, 1975, Mr. Elmer Trousdale, representing Peoples Natural Gas Company, substantially reiterated Mr. Tiemann's concern. Mr. Trousdale stated that the problem with posting notices at "paying stations" can be cured by requiring data at the utility's place of business rather than where payments are received. He stated that business places which collect may object to signs and keeping handbooks (customer information).

The Commission finds that the existence of bill-collecting stations must be of some benefit to those stations that collect these bills. If the utility is going to accept bills paid through these stations, it must meet the same responsibilities that it would have to have to its customer should they come into the utility's own office. These stations exist in an agency relationship with the utilities and while the utilities may find that the stations object to such requirement, the control of these stations is not within the regulation of the Commission, but only through the regulation of the utilities themselves. The Commission finds that in light of the fact that most customers may never enter a utility office, the notice of the availability of such information should be provided where a customer does pay his bills. The happenstance that it is a "paying station" should not relieve the utility of this responsibility. Therefore, the Commission finds that the regulation should remain as enacted in that current "customer information" as required in PSC 281 should be kept on file in every station, office of the utility, and where customer payments are received. In addition, at these locations, suitable signs should be placed calling to the attention of the public that the rules, regulations, and rate schedules are available for inspection.

The Commission finds that there were only two comments received at the oral hearings and through written suggestions upon PSC 335. The Commission can only

infer that the remainder of PSC 335 meets with the approval of the various participants and that, therefore, the Commission has adopted the remainder of the regulation without change.

PSC 336 - Emergency Information

Because of the essential nature of utility service, and because of the dire consequences, as discussed above in PSC 299, which may result from the suspension of utility service to a customer, the Commission finds that it should be required of every utility to provide an emergency telephone number by which a customer may reach the utility at all hours concerning service deficiencies and emergencies which have occurred for whatever reason. The Commission finds that PSC 336, which states that the utility, for every municipality in which it serves, shall provide in the respective telephone directories a telephone listing by which the utility can be notified during a 24 hour day of any utility service deficiency or emergency which may exist, is a reasonable requirement.

The Commission finds that no comments were received from participants at the oral hearings and that no written statements were submitted upon the wording of this regulation. Therefore, the Commission concludes that this regulation met with no suggested changes or concern and, therefore, the Commission has enacted the regulation as originally proposed.

CONCLUSION

The Commission finds that these regulations are an attempt to coalesce the considerations of the utility, the consumer, and most importantly, the public. The Commission finds that these regulations will uniformly apply to utilities with due considerations to the variations among utilities. The Commission finds that the regulations uniformly apply to all customers and facilitate fairness between customers and utilities. While the Commission recognizes that disputes cannot be eliminated, it is felt that the dispute and complaint procedures within these regulations substantially reduce these conflicts. The Commission finds that the predictability of rules will resolve many problems before they ever become problems and that, therefore, these regulations hopefully will reduce the differences which may arise between utilities and customers. The Commission finds that through the uniform extension of service regulations, the duplication of facilities will be reduced which will result in further cost reduction to the customer. Finally, the Commission finds that these regulations will substantially provide reasonable rates

and services which are sufficient, consistent in application and equitable to the citizens of the State of Minnesota.

The theory of the regulation of public utilities is the protection of the public and the assurance of adequate service on the one hand, and on the other, a fair opportunity to the utility to secure, by business economy, a reasonable return from such services. However, the primary purpose for the regulation and for the Commission is to serve the interests of the public, and to that end, these regulations are addressed.

/s/ Lawrence J. Anderson
Lawrence J. Anderson
Secretary, MINNESOTA
PUBLIC SERVICE COMMISSION

Dated: January 19, 1976