

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Richard J. Parish	Chairman
Ruth R. Cain	Commissioner
L. Warren Lazenberry	Commissioner
Katherine E. Sasseville	Commissioner
Juanita R. Satterlee	Commissioner

In the Matter of the Proposed Amendment of Certain Existing Rules and the Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, Gas Utilities, Telephone Utilities, Motor Vehicle Transportation and Rules of Practice.	Docket No. A-8117-16 Minn Rules PSC 410-418 (ANNUAL REPORTS BY ELECTRIC AND GAS UTILITIES)

ORDER ADOPTING RULES

The above entitled matter came on for hearing before the Minnesota Public Service Commission on the 8th day of February, 1977, in the Large Hearing Room, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, after proper notice required by Minn. Stat. § 15.0412 (1976) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording intersted 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 applicable statutory standards and having confirmed the need for the above captioned rules and the reasonableness thereof,

NOW, THEREFORE, IT IS ORDERED THAT:

1. The Report of the Hearing Examiner (May 16, 1977) as it relates to the proposed Rules, Minn. Rules PSC 410-418, is adopted in its entirety as the Commission's final decision except as specified in paragraphs 2-7 of this Order.

2. Finding of Fact No. 16, on page 8-9GE, is deleted and in its place the Commission substitutes the following paragraph:

> 16. The spokesman for Northern States Power Company testified at the hearing that Rules 412(B)(1) and 416(B)(1) be amended to allow, at the utilities' option, depreciation accruals and reserves to be maintained on a functional rather than primary account basis. The Hearing Examiner accepted this position and recommended that the rules be amended on this point. The Commission does not agree.
>
> The rules as originally proposed have the advantages of the greater detail of the primary accounts and greater uniformity from utility to utility on an FPC-specified primary account basis rather than by utility-specified functional classifications. This is a desireable factor, in the Commission's view. Also, in the existing Minn. Rule PSC 361, relating to depreciation certification, the Commission requires utility companies to have their depreciation practices certified by the Commission. In those rules the Commission requires that assets be grouped by primary rather than functional account because of the greater similarity of assets and service lives in the primary classifications. The Commission noted at that time that this was not required by either the REA or FPC because neither agency requires

depreciation certification on a regular basis. The Commission also suggested at that time that electric and gas utilities should begin to prepare corporate ledger entries and balance sheets using depreciation accruals and reserves by primary account.

The rule as proposed is reasonable in view of the need for uniformity and in view of the ongoing depreciation certification regulation.

3. After the Hearing Examiner prepared his Report, the Minnesota Legislature enacted Minn. Laws 1978, chapter 795. This law removes from Commission regulation electric cooperative associations organized under Minnesota Statutes, chapter 308. Thus, the Commission no longer has statutory authority to require these electric cooperatives to file annual reports. However, Minn. Laws 1978, chapter 795, provides a procedure whereby the members of cooperatives may by special election accede to Commission regulation to the same extent as investor-owned public utilities, including the filing of annual reports. These rules are amended to incorporate the effect of this law by providing a new definition ("Minnesota regulated electric cooperative") meant to refer to an electric cooperative association whose members have chosen to be regulated under Minn. Laws 1978, chapter 795. This rule is numbered PSC 410F. For additional clarification, PSC 414 and 415 incorporate the new definition. Also, "public utility" defined in PSC 410D includes a reference to Minn. Laws 1978, chapter 795.

Since annual reports by municipally-owned utilities are not being required by these rules, PSC 410 is amended to remove municipal utilities from the definition of "public utility."

4. After the hearing, changes in federal law abolished the Federal Power Commission (FPC) and established the Federal Department of Energy (DOE). Thus, PSC 410C is clarified to refer to the appropriate subagency of the DOE which assumes the annual report authority formerly exercised by the FPC.

5. In PSC 410B., the Commission adds the word "which" between "utility," and "files" for grammatical purposes.

6. A number of typographical errors occur in the Hearing Examiner's Report which the Commission will correct. On Report at 5-GE, final line, "PSC 413B(9)" should read "PSC 412B(9)."

On Report at 6-GE, under "Proposed PSC 413" (#10.), all references to "PSC 411" and "PSC 412" should read "PSC 412" and "PSC 413" respectively. Thus, in line 4 of paragraph 10, the reference should be to "PSC 412;" in line 5, "PSC 413B;" line 6, "PSC 412B;" line 7, "PSC 413B(9)" and "PSC 412B(9)" respectively.

On Report at 6-GE, under "Proposed PSC 414" ("#11.), line 7, "PSC 413B." should read "PSC 414B." In line 9, "'report requirement'" should be deleted and "a reporting requirement" inserted therein.

On Report at 6-7-GE, under "Proposed PSC 416" (#13), the fifth line on 7-GE, between "deleting" and "the", insert "and adding".

7. Proposed Rule PSC 417 is withdrawn.

8. The Rules proposed by the Commission are modified to implement the Examiner's Findings of Fact and Conclusions and the Commission's Finding in paragraphs 2-7 above, and as modified, the Rules are hereby adopted by the Commission.

9. This Order is effective immediately.

/s/ Leo J. Ambrose
By the Secretary

DATED: MAY 30 1978

RULES RESOLUTIONS

A-8117-16 It was voted to adopt the report of the hearing examiner, as amended by the Order Adopting Rules dated May 30, 1978, recommending the approval of gas and electric accounting and annual report rules (Minn. Rules PSC 410-418). The Commission Secretary was directed to transmit the aforesaid rules to the Attorney General for approval.

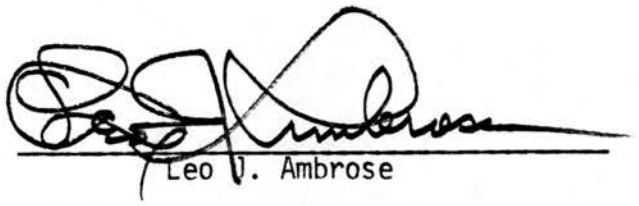
CERTIFICATE OF COMMISSION'S

ADOPTION OF RULES RESOLUTION

I, Leo J. Ambrose, do hereby certify that I am Secretary of the Public Service Commission, a Commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of the resolution adopted at a meeting of the Public Service Commission duly and properly called and held on the 30th day of May, 1978; that a quorum was present at said meeting; that a majority of these present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

801. A-8117-16 It was voted to adopt the report of the hearing examiner, as amended by the Order Adopting Rules dated May 30, 1978, recommending the approval of gas and electric accounting and annual report rules (Minn. Rules PSC 410-418). The Commission Secretary was directed to transmit the aforesaid rules to the Attorney General for approval.

IN WITNESS WHEREOF, I have hereunto subscribed my name this first day of June, 1978.



Leo J. Ambrose

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

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

In the Matter of the Proposed Amendment of Certain Existing Rules and the Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, Gas Utilities, Telephone Utilities and Motor Vehicle Transportation.	DOCKET NO. A-8117-16 STATEMENT OF NEED FOR PROPOSED RULES PSC 410-418 (FILING OF ANNUAL REPORTS BY GAS AND ELECTRIC UTILITIES) (NEW)

The above-captioned matter as it relates to the rules governing the filing of annual reports by the electric and gas utilities under the jurisdiction of the Minnesota Public Service Commission (hereinafter the "Commission") involves the promulgation of new rules. These rules have been designated PSC 410-418.

The impetus for these rules stems from the Minnesota Public Utilities Act, Minn. Stat. Chapter 216B (1974). The authority of the Commission to promulgate these rules is found under Minn. Stat. § 216B.10, Subd. 4 (1974). Minn. Stat. § 216B.10, Subd. 4 (1974) provides that:

> The Commission may require any public utility to file annual reports in the form and content, having regard for the provisions of this section, as the Commission may require, and special reports concerning any matter about which the Commission is authorized to inquire or to keep itself informed. The Commission may require the reports to be verified. The basic financial statements in the annual report of a public utility may, at the direction of the public service commission, be examined by an independent certified public accountant and his opinion thereof included in the annual report filed with the Commission.

The overall objective of the Commission is to monitor the service and the financial activities of the utility to insure adequate and reliable service at reasonable rates. In order to meet this objective, the Commission has promulgated financial rules (Minn. Reg. PSC 350-395) as well as customer service rules (Minn. Reg. PSC 279-336). In addition, the Commission is planning to promulgate engineering technical standards rules. Proposed rules PSC 410-418 set forth procedures and filing requirements which allow the Commission to monitor the service and financial activities of the utilities.

The reports required by these proposed rules are necessary to:

1. Provide a basis for the refinement of Commission policy guidelines for on-going monitoring of utility performance.
2. Accumulate historical and projected financial and statistical information for rate proceedings.
3. Accumulate annual financial, rate and quality of service information on key indicators, such as fuel costs.
4. Accumulate statistical information for various external reports and inquiries.
5. Accumulate intrastate gross operating revenue data for the Commission's assessment of regulatory fees to utilities.
6. Accumulate financial and statistical information for internal Commission reports.

It is necessary for these rules to apply to all Minnesota public utilities (cooperatives, investor-owned and municipals) because their accounting practices are subject to the jurisdiction of the Commission under the Minnesota Public Utilities Act, Minn. Stat. § 216B.02 and § 216B.10, Subd. 6 (1974). These affected utilities would be required to file an annual report as prescribed by these rules with the Commission.

Under these proposed rules, a public utility which files an annual report with a federal agency having rate making authority must file a certified copy of the report with the Commission. A public utility which does not file an annual report with a federal agency having rate making authority may file with the Commission a report which complies with the reporting specifications of either the appropriate federal agency or this Commission. This is necessary in order to avoid the added expense which would be incurred by a public utility in filling out and filing several different annual reports containing essentially the same information and data.

Under the proposed rules, reports by a public utility which has multi-state operations must provide the information listed below concerning its Minnesota operations. The information includes:

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.
2. Summary of the depreciation accrual for the year.
3. Materials and supplies.

4. Accumulated deferred income taxes, if applicable.

5. Accumulated investment tax credit.

6. Statement of income for the year.

7. Operating revenues.

8. Operating and maintenance expenses.

9. Taxes charged during the year.

The report must also include the method or basis used in making the allocations between jurisdictions. The Commission's jurisdiction extends only to the intrastate portion of a multi-state utility's operations. This information is necessary to accomplish the same regulatory purposes discussed above.

In addition to the above-mentioned reports, the proposed rules require a public utility to include copies of all financial, statistical or operational reviews or reports which the utility has prepared for distribution to its stockholders, bondholders, patrons or the appropriate governing authority with its annual report filing. This information is necessary to provide a quick means whereby the Commission can verify the accuracy of the utility's annual report.

Dated: January 14, 1977

PSC-77-011-BS
A-8117-16

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE PROPOSED AMENDMENT OF CERTAIN EXISTING RULES AND THE PROPOSED ADOPTION OF NEW RULES RELATING TO ELECTRIC AND GAS UTILITIES.	REPORT AND MEMORANDUM OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on February 8, 1977, before Bernard Singer, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Public Service Commission on May 16, 1977; and

WHEREAS, the Public Service Commission has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Public Service Commission has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Public Service Commission has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report and Memorandum, the Public Service Commission has the responsibility of submitting the complete hearing record and the rules as adopted by the Commission to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 10th day
of November, 1977.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

M E M O R A N D U M

The Public Service Commission has submitted the rules they propose to adopt following public hearings, with one exception. In the Notice of Hearing and in the rules as proposed to be adopted, the Public Service Commission had proposed a separate rule relating to the recording and reporting of lobbying expenses. That proposal has no affect on any of the rules submitted on October 31 and which are the subject matter of this Report and Memorandum. That proposal will be the subject matter of a subsequent filing with the Chief Hearing Examiner pursuant to Minn. Rule HE 108.

With respect to Minn. Rule PSC 299 (the cold weather rule), the Commission, in its Notice of Hearing and published proposals, had proposed to delete the rule in its entirety. They now propose to amend the rule rather than repeal it. The Chief Hearing Examiner is of the opinion that to do so is not a substantial change which would require a new Notice of Hearing and hearing as none of the criteria contained in Minn. Rule HE 108 can be said to be affected. This particular rule was the one which was discussed the most at the hearing and in written comments by not only the affected utilities but by members of the public. All classes of persons were represented at the hearing. The rule does not go to a new subject matter nor does the final rule make a major substantive change that was not raised by the original Notice of Hearing in such a way as to invite reaction at the hearing. Quite the contrary! More time was spent on this rule at the hearing than any other rule. Lastly, while the rule is different from the presently-existing rule, the changes are minor and the rule is not fundamentally different from the existing rule.

DPH

STATEMENT OF COMPLIANCE WITH
MANUAL OF RULE MAKING PROCEDURES

MINN. RULES PSC 410-418

I, Larry Salustro, do hereby declare that I have examined the proposed rules relating to Gas and Electric Utilities Annual Reports, Minn. Rules 410-418, 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.

Larry Salustro
Special Assistant
Attorney General

MINNESOTA PUBLIC SERVICE COMMISSION

Dated: November 25, 1977

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Karl F. Rolvaag	*Chairman*
Arlen I. Erdahl	*Commissioner*
Richard J. Parish	*Commissioner*
Katherine E. Sasseville	*Commissioner*
Juanita R. Satterlee	*Commissioner*

In the Matter of the Proposed Amendment of Certain Existing Rules and the Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, Gas Utilities, Telephone Utilities, Motor Vehicle Transportation and Rules of Practice.	*DOCKET NO. A-8117-16* *MINN. RULES PSC 410-418* *(ANNUAL REPORTS BY ELECTRIC AND GAS UTILITIES)*

ORDER ADOPTING RULES

The above entitled matter came on for hearing before the Minnesota Public Service Commission on the 8th day of February, 1977, in the Large Hearing Room, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, after proper notice required by Minn. Stat. § 15. 0412(1976) 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 applicable statutory standards and having confirmed the need for the above captioned rules and the reasonableness thereof,

NOW, THEREFORE, IT IS ORDERED THAT:

1. The Report of the Hearing Examiner as it relates to the proposed Rules, Minn. Rules PSC 410-418 is adopted in its entirety as the Commission's final decision except for Finding of Fact No. 16, on page 8-9GE, in place of which the Commission substitutes the following paragraph:

> *16. The spokesman for Northern States Power Company testified at the hearing that Rules 412(B)(1) and 416(B)(1) be amended to allow, at the utilities option, depreciation accruals and reserves to be maintained on a functional rather than primary account basis. The Hearing Examiner accepted this position and recommended that the rules be amended on this point. The Commission does not agree.*
>
> *The rules as originally proposed have the advantages of the greater detail of the primary accounts and greater uniformity from utility to utility on an FPC-specified primary account basis rather than by utility-specified functional classifications. This is a desireable factor, in the Commission's view. Also, in the existing Minn. Rule, PSC 361, relating to depreciation certification, the Commission requires utility companies to have their depreciation practices certified by the Commission. In those rules the Commission requires that assets be grouped by primary rather than functional account because of the greater*

similarity of assets and service lives in the primary classifications. The Commission noted at that time that this was not required by either the REA or FPC because neither agency requires depreciation certification on a regular basis. The Commission also suggested at that time that electric and gas utilities should begin to prepare corporate ledger entries and balance sheets using depreciation accruals and reserves by primary account.

The rule as proposed is reasonable in view of the need for uniformity and in view of the ongoing depreciation certification regulation.

2. *The Rules proposed by the Commission are modified to implement the Examiner's Findings of Fact and Conclusions and the Commission's Finding in paragraph 1 above, and as modified, the Rules are hereby adopted by the Commission.*

/s/ LEO J. AMBROSE
By the Secretary

DATED: AUG 8 1977

CERTIFICATE OF COMMISSION'S

ADOPTION OF RULES RESOLUTION

I, Sharon A. Schmidt, do hereby certify that I am acting Secretary of the Public Service Commission, a Commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of the resolution adopted at a meeting of the Public Service Commission duly and properly called and held on the 8th day of August, 1977; 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 has not been rescinded or modified.

1200. A-8117-16 It was voted to adopt, as amended, the report of a hearing examiner recommending approval of Gas and Electric Rules (Accounting and Annual Report: PSC 410-418). The order as adopted substitutes one paragraph relating to the allocation by primary (not functional) accounts.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 20th day of March, 1978.

Sharon A. Schmidt

Sharon A. Schmidt

R E S O L U T I O N

It was voted to adopt, as amended, the report of a hearing examiner recommending approval of Gas and Electric Rules (Accounting and Annual Report: PSC 410-418). The order as adopted substitutes one paragraph relating to the allocation by primary (not functional) accounts.

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Karl F. Rolvaag	Chairman
Arlen I. Erdahl	Commissioner
Richard J. Parish	Commissioner
Katherine E. Sasseville	Commissioner
Juanita R. Satterlee	Commissioner

In the Matter of the Proposed Amendment of Certain Existing Rules and the Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, Gas Utilities, Telephone Utilities, Motor Vehicle Transportation and Rules of Practice.	DOCKET NO. A-8117-16 MINN. RULES PSC 410-418 (ANNUAL REPORTS BY ELECTRIC AND GAS UTILITIES)

ORDER ADOPTING RULES

The above entitled matter came on for hearing before the Minnesota Public Service Commission on the 8th day of February, 1977, in the Large Hearing Room, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, after proper notice required by Minn. Stat. § 15.0412(1976) 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 applicable statutory standards and having confirmed the need for the above captioned rules and the reasonableness thereof,

NOW, THEREFORE, IT IS ORDERED THAT:

1. The Report of the Hearing Examiner as it relates to the proposed Rules, Minn. Rules PSC 410-418 is adopted in its entirety as the Commission's final decision except for Finding of Fact No. 16, on page 8-9GE, in place of which the Commission substitutes the following paragraph:

> 16. The spokesman for Northern States Power Company testified at the hearing that Rules 412(B)(1) and 416(B)(1) be amended to allow, at the utilities option, depreciation accruals and reserves to be maintained on a functional rather than primary account basis. The Hearing Examiner accepted this position and recommended that the rules be amended on this point. The Commission does not agree.
>
> The rules as originally proposed have the advantages of the greater detail of the primary accounts and greater uniformity from utility to utility on an FPC-specified primary account basis rather than by utility-specified functional classifications. This is a desireable factor, in the Commission's view. Also, in the existing Minn. Rule, PSC 361, relating to depreciation certification, the Commission requires utility companies to have their depreciation practices certified by the Commission. In those rules the Commission requires that assets be grouped by primary rather than functional account because of the greater

similarity of assets and service lives in the primary classifications. The Commission noted at that time that this was not required by either the REA or FPC because neither agency requires depreciation certification on a regular basis. The Commission also suggested at that time that electric and gas utilities should begin to prepare corporate ledger entries and balance sheets using depreciation accruals and reserves by primary account.

The rule as proposed is reasonable in view of the need for uniformity and in view of the ongoing depreciation certification regulation.

2. The Rules proposed by the Commission are modified to implement the Examiner's Findings of Fact and Conclusions and the Commission's Finding in paragraph 1 above, and as modified, the Rules are hereby adopted by the Commission.

/s/ LEO J. AMBROSE
By the Secretary

DATED: AUG 8 1977

MINNESOTA RULES AND REGULATIONS
RELATIVE TO THE FILING OF ANNUAL
REPORTS FOR GAS AND ELECTRIC
REGULATION

CHAPTER ELEVEN - PSC 410-418
GAS AND ELECTRIC UTILITIES

PSC 410 Definitions. For the purpose of PSC Rules 410-418, the following definitions shall apply:

A. "Commission" means the Minnesota Public Service Commission.

B. "Federally regulated" means the utility, excluding a municipally-owned utility, which files an annual report, prescribed by the federal agency having rate making authority.

C. "FPC" means the Federal Power Commission or its successor agency in the Federal Department of Energy.

D. "Public Utility" is defined in Minn. Stat. § 216B.02, subd. 4, as amended by Minn. Laws 1978, chapter 795 ~~, and shall also include municipally-owned utilities~~.

E. "REA" means the Rural Electrification Administration of the United States Department of Agriculture.

F. "Minnesota regulated electric cooperative" means a cooperative utility association which elects to have its rates and practices regulated by the Commission, as provided in Minn. Laws 1978, chapter 795.

PSC 411 General application.

A. Any public utility regulated under Minn. Stat. ch. 216B and subject to the provision of PSC Rules 350-352, Minnesota Uniform System of Accounts, is covered under the provisions of PSC Rules 410-418.

B. Each public utility shall file with the Commission a completed annual report as hereinafter prescribed in these rules on or before May 1 of each year covering its operation for the preceding calendar year.

C. In the event that a public utility has ceased operation through a merger or sale of any of its plant during the calendar year, each of the involved public utilities shall be responsible for filing an annual report with the Commission which reflects the operations of the properties which were subject to such sale or merger.

D. Notwithstanding these rules, the Commission may require special report(s) concerning any matter under the jurisdiction of the Commission.

PSC 412 Annual report: electric public utility, federally regulated.

A. Each electric public utility subject to federal regulation shall file with the Commission one ~~certified~~ copy of the prescribed federal agency or authority annual report form (FPC Annual Report Form No. 1 or 1F) certified by a company officer.

B. Reports by an electric public utility which has multi-state operations shall provide information concerning its Minnesota jurisdictional operations on the schedules listed below. ~~Such schedules shall be prepared using the same format used in reporting total company data and shall be clearly labeled Minnesota Operation at the top of each schedule. Schedules shall include:~~

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.

2. Summary of the depreciation accrual for the year.

3. Materials and supplies.

4. Accumulated deferred income taxes.

5. Accumulated investment tax credit.

6. Statement of income for the year.

7. Operating revenues.

8. Operating and maintenance expenses.

9. Taxes accrued, prepaid and charged during year.

Statements shall be included setting forth the method or basis used in making allocations between jurisdictions.

PSC 413 Annual report: gas public utility, federally regulated.

A. Each gas public utility subject to federal regulation shall file with the Commission one ~~certified~~ copy of the prescribed federal agency or authority annual report form (FPC Annual Report Form No. 2 or 2A) certified by a company officer.

B. Reports by a gas public utility which has multi-state operations shall provide information concerning its Minnesota operations on the schedules listed below. ~~Such schedules shall be prepared using the same format used in reporting total company data and shall be clearly labeled Minnesota Operation at the top of each schedule. Schedules shall include:~~

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.

2. Summary of the depreciation accrual for the year.

3. Materials and supplies.

4. Accumulated deferred income taxes.

5. Accumulated investment tax credit.

6. Statement of income for the year.

7. Operating revenues.

8. Operating and maintenance expenses.

9. Taxes accrued, prepaid and charged during year.

Statements shall be included setting forth the method or basis used in making allocations between jurisdictions.

PSC 414 Annual report: Minnesota regulated electric cooperative, REA corporation or association.

A. Each Minnesota regulated electric cooperative subject to REA regulation shall file with the Commission one ~~certified~~ copy of the prescribed REA annual report form (REA Form No. 7 and Form No. 7A) certified by a cooperative officer.

B. Reports by an electric cooperative which has multi-state operations shall provide information concerning its Minnesota operations on the schedules listed below. ~~Such schedules shall be prepared using the same format used in reporting total company data and shall be clearly labeled Minnesota Operation at the top of each schedule.~~ Schedules shall include:

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.
2. Summary of the depreciation accrual for the year.
3. Materials and supplies.
4. Accumulated investment tax credits.
5. Statement of income for the year.
6. Operating revenues.
7. Operating and maintenance expenses.
8. Taxes accrued, prepaid and charged during year.

Statements shall be included setting forth the method or basis used in making allocations between jurisdictions.

PSC 415 Annual report: Minnesota regulated electric cooperative, non-REA corporation or association.

A. Each Minnesota regulated electric cooperative not subject to REA regulation shall file with the Commission one ~~certified~~ copy of the prescribed REA annual report form or the prescribed Minnesota Annual Report ~~(----------)~~ certified by a cooperative officer.

B. Reports by an electric cooperative which has multi-state operations shall provide information concerning its Minnesota operations on the schedules listed below.~~--Such-schedules-shall-be-prepared-using-the-same-format used-in-reporting-total-company-data-and-shall-be-clearly-labeled-Minnesota Operation-at-the-top-of-each-schedule.--Schedules-shall-include~~:

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.
2. Summary of the depreciation accrual for the year.
3. Materials and supplies.
4. Accumulated deferred income taxes.
5. Accumulated investment tax credit.
6. Statement of income for the year.
7. Operating revenues.
8. Operating and maintenance expenses.
9. Taxes accrued, prepaid and charged during year.

Statements shall be included setting forth the method or basis used in making allocation between jurisdictions.

PSC 416 Annual report: electric and gas public utilities non-federally regulated.

A. Each electric or gas public utility not subject to federal regulation shall file with the Commission one ~~certified~~ copy of the prescribed federal agency

or authority annual report or the prescribed Minnesota Annual Report ~~(--------~~ ~~--------)~~ certified by a company officer.

B. Reports by an electric or gas utility which has multi-state operations shall provide information concerning its Minnesota operations on the Schedules listed below~~.--Such-schedules-shall-be-prepared-using-the-same-format used-in-reporting-total-company-data-and-shall-be-clearly-labeled-Minnesota Operation-at-the-top-of-each-schedule.--Schedules-shall-include~~:

1. Summary of utility plant in service and accumulated depreciation and amortization reserves by primary account.

2. Summary of the depreciation accrual for the year.

3. Materials and supplies.

4. Accumulated deferred income taxes.

5. Accumulated investment tax credit.

6. Statement of income for the year.

7. Operating revenues.

8. Operating and maintenance expenses.

9. Taxes accrued, prepaid and charged during year.

10. Operating Revenues, Firm and Interruptible Gas Sales.

Statements shall be included setting forth the method or basis used in making allocations between jurisdictions.

PSC ~~417--Annual-report:--municipally-owned-utility.--Each-municipally-owned utility-shall-file-one-copy-of-the-prescribed-Minnesota-Annual-Report.~~ RESERVED.

PSC 418 Additional reports. In addition to the above mentioned reports, each public utility shall also include with its annual report filing, a

copy of any financial, statistical or operational reviews or reports which public utility would prepare for distribution to stockholders, bondholders, patrons, or the appropriate governing authority.

ORIGINAL

GC-77-011-BS
-8117-16

COMMISSION
ORIGINAL

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
FOR THE PUBLIC SERVICE COMMISSION

RECEIVED
Dept. of Public Service
MAY 16 1977
Commission Support

In the Matter of the Proposed Adoption of Amendments of Certain Existing Rules, and the Proposed Adoption of new Rules Relating to Weights and Measures, Electric and Gas Utilities, Telephone Utilities, and Motor Vehicle Transportation.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Bernard Singer, duly appointed Hearing Examiner from the State Office of Hearing Examiners, on February 8, 9, 10, and 11, 1977, in the large hearing room, American Center Building, St. Paul, Minnesota.

This was a rules hearing held pursuant to Minn. Stat. Ch. 15 to determine whether the proposed amendments to certain existing rules and the proposed new rules should be adopted as follows:

I. WEIGHTS AND MEASURES DIVISION - Proposed amendments to Rules PSC 120 and 122, the proposed deletion of Rules PSC 106, 123 and 124; and proposed Rule PSC 128.

II. MOTOR VEHICLE TRANSPORTATION - Proposed amendments to Rules PSC 2 and 5.

III. TELEPHONE UTILITIES DIVISION - Proposed amendments to and new rules to Rules PSC 179 to 185; proposed rules PSC 215 to 219.

IV. ELECTRIC AND GAS UTILITIES - Proposed amendments to and new rules to Rules PSC 279 to 336; proposed rules PSC 410 to 418; proposed rules PSC 420 to 423.

The report of the Hearing Examiner herein is divided into four sections corresponding to the four divisions stated above. Each section will list the names of persons who appeared on behalf of the Public Service Commission and the witnesses who presented testimony relevant to the subject matter of that particular section of rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1976), this Report shall be available for review to all affected individuals

upon request for at least ten days.

The Commission shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than ten days subsequent to the receipt of this Report. This submission shall also clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Commission on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Commission shall be responsible for filing the rules with the Attorney General.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On October 15, 1976, the Commission filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On January 5, 1977, a Notice of Hearing and a copy of the proposed rules were published at 1 State Register 968.

3. On December 30, 1976, the Commission mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On January 14, 1977, the Commission filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statements of Need; and
(g) The Statements of Evidence;
(h) The names of Public Service Commission personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the dates of the hearings.

5. At the hearing, the Commission presented a number of suggested revisions to the telephone, gas and electric rules as originally proposed. These revisions were read into the record at the hearing, but were not published in the State Register, nor were they mailed to the Secretary of State's list. On motion of counsel representing various parties, the Hearing Examiner agreed to continue the hearing until the date the transcripts of the record were made available to parties requesting same, and the 20-day period for submitting written statements commenced on that date. The telephone, gas and electric hearings terminated February 17, 1977, and the record remained open through March 9, 1977 for the receipt of written comments and statements. The Weights and Measures hearing record remained open through March 2, 1977. The Motor Vehicle Transportation hearing record remained open through March 3, 1977.

IV. GAS AND ELECTRIC UTILITIES DIVISION

Hearing held February 8, 1977.

Jerome Getz, Assistant Attorney General, appeared on behalf of the Public Service Commission. Rolland Eck, Financial Analyst; John Schneider; and William F. Deppe, Chief of the Financial Evaluation Section, appeared and testified on behalf of the Commission. Thirty-eight persons attending the hearing signed the register. The following persons presented testimony at the hearing: Gene Sommers, Attorney, Northern States Power Company; Richard Kirkham, Minnesota Municipal Utilities Association; Jeremy Lane, Attorney, Legal Aid Society of Hennepin County; Barbara Stromer, Director of Assistance Payments, Minnesota Department of Public Welfare; Ann Darby, Minneapolis Urban League; Vusumuz Zulu, Pilot City Regional Center, Minneapolis; Richard Auld, Minnesota Office of Consumer Services; Donald Jannette, Interstate Power Company; Joel Fischer, Ramsey County Legal Assistant; William D. Carstedt, General Counsel, Interstate Power Company, and John Moore, Attorney, Northern States Power Company.

FINDINGS OF FACT (Cont.)

Proposed PSC 410 - 418

GENERAL REMARKS

6. Statutory authority to promulgate these rules is found in Minn. Stat. § 216B.10, subd. 4 (1976). The proposed rules set forth procedures and filing requirements which allow the Commission to monitor the service and financial activities of the utilities. The reports required by these proposed rules are necessary to provide a basis for the refinement of Commission policy guidelines for ongoing monitoring of utility performance; to accumulate historical and projected financial and statistical information for rate proceedings; to accumulate annual financial, rate and quality of service information on key indicators, such as fuel costs; to accumulate statistical information for various external reports and inquiries; to accumulate intrastate gross operating revenue data for the Commission's assessment of the regulatory fees to utilities; and to accumulate financial and statistical information for internal Commission reports. These rules

must necessarily apply to all Minnesota public utilities, including cooperatives, investor-owned and municipals whose accounting practices are subject to the jurisdiction of the Commission under Minn. Stat. §§ 216B.02 and 216B.10, subd. 6 (1976). The Public Service Commission has documented its statutory authority to promulgate these rules.

Proposed PSC 410

7. This rule lists five definitions which are definitions of words which are utilized throughout the annual report rules. The definitions are clear and concise and are necessary for the interpretation of the following rules.

Proposed PSC 411

8. This rule specifically states that any public utility regulated under Minn. Stat. Ch. 216B is subject to the provisions of proposed PSC Rules 410 - 418. It further requires each public utility to file with the Commission a completed annual report on or before May 1st of each year covering its operations for the preceding calendar year. It also provides for the Commission to require special reports concerning any matter within its jurisdiction. The rule is necessary and reasonable.

Proposed PSC 412

9. This rule relates to electric public utilities which are federally regulated and requires this type of utility to file with the Commission one certified copy of the prescribed federal agency or authority annual report form. The Commission proposed at the hearing, a revision of PSC 412(B). This subsection requires electric public utilities which have multi-state operations to provide information concerning their Minnesota operations. The originally proposed rule provided that such information shall be provided on schedules which shall be prepared using the same format used in reporting total company data and shall be clearly labeled "Minnesota Operations" at the top of each schedule. The proposed deletion removes this reporting requirement on this type of form. Subsection "B" in the proposed rule lists nine types of schedules for reporting the required information. At the hearing, the Commission proposed a change in PSC 413B(9)

which requires, under the proposed amendment, a report of taxes accrued, prepaid, and charged during the year. The proposed change included a requirement for reporting of accrued and prepaid taxes. The amendment is reasonable and the changes do not materially change the meaning of the rule.

Proposed PSC 413

10. This rule provides for the filing of annual reports by electric public utilities - federally-regulated. This rule contains the same type of reporting requirements as specified in proposed PSC 411 for gas utilities. At the hearing, the Commission proposed amending PSC 412B in the same manner and with the same deletions as in PSC 411B. They also proposed amending PSC 412B(9) with the insertion of the same words as in PSC 411B(9). The rule is reasonable, and the proposed amendments do not materially change the meaning of the rule.

Proposed PSC 414

11. This rule provides for each electric cooperative-REA corporation or association, to file with the Commission one certified copy of the prescribed REA annual report form. If the cooperative has multi-state operations, the report requirements shall include information only concerning its Minnesota jurisdictional operations. This rule was amended by the Commission at the hearing by deleting the wording in PSC 413B. that was deleted in the aforementioned PSC 413 and 412. The Commission also amended PSC 414B(8) by adding "report requirement" for "taxes accrued and prepaid" in addition to taxes actually charged during the year. The rule as proposed is reasonable.

Proposed PSC 415

12. This rule provides for annual reports by electric cooperatives-non-REA corporation or association. This rule requires reports by each electric cooperative not subject to REA regulation on prescribed Minnesota annual report forms. The rule was amended at the hearing in the same manner as the aforementioned PSC 414, 413 and 412. The rule as amended is reasonable.

Proposed PSC 416

13. This rule provides for annual reports by electric and

gas public utilities that are non-federally regulated and requires the utility to file a certified copy of the prescribed federal agency or authority annual report or prescribed Minnesota annual report form. This proposed rule was also amended by deleting the same words as in PSC 415, 414, 413 and 412. The Commission also proposed the addition of PSC 416B(10) providing for a report on operating revenues-firm and interruptible gas sales. The amendments do not materially change the rule, and the rule is reasonable.

Proposed PSC 417

14. The Minnesota Municipal Utilities Association requested exclusion, for annual reporting purposes, of all municipal gas and electric utilities. They also requested exclusion from annual reporting purposes of all municipal gas and electric utilities with $25,000 in total utility revenues or less. This second request would include seven of the smallest municipal utilities operating in the state of Minnesota. The Municipal Association also requested that the proposed rules be modified so as to exclude municipal utilities not required to report to the FPC from the proposed reporting requirements. The Public Service Commission contends that the FPC does not require any municipal utility having gas operating revenues to file annual report forms. They further argue that the FPC currently requires municipal utilities having annual electric operating revenues of $250,000, and more, to file FPC form 1-M. Minnesota Municipal Utilities Association contends that Minn. Stat. § 216B.10 is permissive rather than mandatory and that the proposed rules go beyond the permissive authority of the statute as it refers to municipal utilities. They further argue that the Public Service Commission, through the rule-making provisions herein, appears to be involved in an effort to bring municipal electric and gas utilities under its control, and that is clearly contrary to the intent of the Legislature. They stated that the Commission has no need for or use for the detail requested on the report forms as they do not control rates of municipal utilities. They further stated that the requirement that municipal utilities make reports

requested in these rules would place a considerable burden upon them. The Public Service Commission proposes to design forms for the use of municipal utilities so that the necessary municipal regulatory data can be collected and evaluated for Commission usage in the areas in which they have regulatory authority. The proposed rule PSC 417 requires each municipally-owned utility to file one copy of a prescribed Minnesota municipal annual report. The requirement of an annual report form from municipally-owned utilities is not an unreasonable or burdensome one, and the rule, as proposed, is reasonable and necessary.

Proposed PSC 418

15. This rule requires public utilities, in addition to the reports required in PSC Rules 412 through 417, to file with its annual report, copies of any financial, statistical or operational reviews or reports which they will prepare for distribution to stockholders, bondholders, patrons or the appropriate governing authority. The rule is necessary in order for the Commission to evaluate the entire financial structure of the public utilities and the reasonableness of the rule has been documented.

16. Northern States Power Company proposed amending language to PSC 412B(1) and 416B(1) by striking the period at the end of the subsection and adding these words: Or functional classifications necessary for allocation. The company argues, as a basis for this amendment, that much of their plant, especially in the transmission and distribution category, is booked under either transmission or distribution, but the function of the facilities which are booked in those classes are other than transmission, etc. They have the functionalization of their plant computerized in such a way that they can determine from their plant records and report on the annual report essentially the same way that they report in a rate case, that is by the function of the plant rather than by a book classification. For that reason, and to report clearly the financial information being requested in the rules, Northern States Power Company feels that the additional words in their proposed amendment would allow for their particular type of classifications.

The proposed amendment by Northern States Power Company is reasonable and does not materially change the meaning of the rule as proposed. The rule should be rewritten to include this additional language.

17. Subsection A of proposed PSC 412, 413, 414, 415, 416 requires the utilities to file with the Commission one certified copy of the prescribed report form. Northern States Power Company contends that an ambiguity lies in the rule as proposed. Is the determination of certification to be by the federal agency or an officer of the utility company? They propose to amend subsection (a) of each of the aforementioned rules by inserting the words: "one copy of the annual report form certified by a company officer." It is proposed that this wording would be clear and would remove any ambiguity in the proposed subsections. NSP's contention is reasonable; it is recommended that subsection (A) of each of the aforementioned rules be rewritten to include those clarifying words.

Proposed PSC 420 - 423

18. These proposed rules relate to the reporting of lobbying expenditures of gas and electric utilities. The Commission asserts its authority to promulgate these rules under Minn. Stat. §§ 216B.08 (1976), and 216B.10, subds. 3(3) and (4). In adopting the FPC Uniform System of Accounts for Gas and Electric Utilities, the Commission adopted the entire system of accounts. This allows for subdivision of any accounts, provided the integrity of the prescribed account is not changed. The Commission further asserts that the Common Cause report, wherein 31 states failed the accountability test, including Minnesota, focussed on the need for account changes and reporting requirements of lobbying expenses to the Commission. These proposed rules are being promulgated by the Commission in order to meet the need for accountability of lobbying expenditures incurred by public utilities. In addition, the Commission has stated that there is a need to have an annual report to the Commission as to the cost of lobbying in order for the Commission to determine the reasonableness and the propriety of the expense in relation to the revenue requirements of a public utility. The subdivision of accounts to record the

costs of lobbying is necessary to expedite the reporting process. They further state that without separate and identified accounts, the reporting of lobbying expenditures would be a lengthy and economically undesirable task.

19. The Commission argues that it is not attempting to assert jurisdiction or duplicate what is already required by other agencies, nor is it intending to replace any reporting already performed by utilities. The Commission contends that the Minnesota State Ethical Practices Board regulates lobbyists, not utilities, and the information filed with the Board is not an adequate substitute for the information which would be elicited under the proposed rules. They state that only lobbyists are responsible for filing information with the Board; that there is no assurance that all information relevant to a given utility's lobbying efforts can be derived from the lobbyist's report; that there is no sanction which can be imposed on the utility if its lobbyists fail to report; and there is no requirement that lobbyists' salaries be reported to the Board. Salary information may not be relevant for the purposes of the Board, but is relevant to rate-making.

20. The Commission, in proposing these rules, has attempted to adopt the requirements as set forth by the Board as closely as possible. They state that the utilities should be able to report to the Public Service Commission by using the information included in the report to the Board, and by adding the required salary and expense costs without providing an undue burden to the reporting utilities.

21. The State Ethical Practices Board filed written comments to the proposed rules stating that in 1974, the Board was charged under the Ethics in Government Act, Minn. Stat. § 10A, to provide and administer the first permanent lobbyist registration and reporting program in the history of Minnesota. The Act provides for registration and reporting of individuals who are paid or authorized to spend money by another individual or association, and who spend over five hours in any month, or more than $250 in a calendar year attempting to influence legislative or administrative

action by communicating with or urging others to communicate with public officials. The statute further defines what is an "administrative action" and who are "public officials". The law does not require the reporting of associations or individuals retaining or employing the lobbyists. Salaries of lobbyists are not reportable disbursements, although fees of paid expert witnesses and expenses incurred in securing such testimony are reportable.

22. The Board contends that the rules, as proposed by the Public Service Commission, requiring reporting of lobbyists and utilities by the Public Service Commission, duplicates responsibilities and duties already being performed by the Board; poses problems with the absence of definition; and mingles reporting of lobbying disbursements with campaign contributions and expenditures. The Board has spent two years promulgating rules, issuing advisory opinions, providing forms and monitoring the reports of lobbyists' disbursements. The Board further contends that if the Public Service Commission requires a report from a utility of the total amount of lobbying expenditures made by all of its lobbyists in a calendar year, that that amount might be better based upon the disbursements presently being filed by registered lobbyists of that utility with the Board rather than have the Commission attempt to duplicate the effort of the Board by setting up a parallel system for lobbyists' registration and reporting. The total amount spent lobbying by each utility might well be provided to the Commission by the Board.

23. Northern States Power Company opposes the adoption of the proposed rules for four reasons: (1) neither the Common Cause report nor the record in this rules proceeding supports the need for the proposed rules as expressed by the Commission; (2) the proposed rules duplicate the requirements of the State Ethical Practices Board; (3) the proposed rules are not sufficiently clear to enable a utility to comply with them; and (4) the proposed rules conflict with the Uniform System of Accounts. NSP argues that the "lobbying expenditures" referred to in the Common Cause report uses the term "lobbying" in the most commonly understood sense; that is, the attempt to exercise influence by personal, informal communications and constant access. This meaning

sharply contrasts with the meaning of "lobbying" in the proposed rules. The PSC has included all forms of communications and contacts, formal as well as informal within their term "lobbying". NSP maintains that the PSC has misunderstood the Common Cause Report's criticism of the PSC and that this misunderstanding is reflected in the proposed rules. NSP further argues that the proposed rules do essentially duplicate the requirements of the Minnesota Ethics in Government Law, with two minor differences between the statutory requirements and the requirements of the proposed rules. To the extent that the proposed rules apply to all other administrative proceedings in addition to rule-making and plant siting cases, they exceed the requirements of the Ethics in Government statute. Secondly, the proposed rules require the recording of salaries of representatives who attempt to influence legislative or administrative action.

24. NSP further raises several questions regarding the interpretation of meaning of the proposed rules and contend that if the rules are adopted as proposed, the Commission will be forced into an administrative quagmire. NSP further contends that the proposed rules conflict with the requirement of the Uniform System of Accounts. The expenses recorded in a sub-account of Account No. 930 will create a two-fold conflict in that these expenses will be classified as "lobbying expenditures" which directly contravenes the current USA definition of such expenditures; and secondly, recording these expenses under Account No. 930 will mean that they will not be recorded under accounts Nos. 920 and 923, the accounts in which the USA currently direct public utilities to record these expenditures. NSP proposes that the PSC issue a new set of rules which would incorporate a limited definition of the term "lobbying expenditure" and "lobbyists" and establishing one new sub-account under Account No. 426.4 in which public utilities would be required to record all "lobbying expenditures" as that term is defined in (a).

25. Otter Tail Power Company filed written arguments opposing the proposed rules, contending that they are unreasonable and a duplication of efforts by the State Ethical Practices Board. They

strenuously objected to the public service Commission entering into an area which has been adequately provided for by the legislature and assigned to an official agency of state government. They claim that the information required by the Commission rules may readily be obtained from the Board. There is no reason to duplicate the effort proposed in the proposed rules. They further argue that the definition of lobbying expenditures in the proposed rules appears to exceed the definition currently utilized in the Board's rules. They also contend that the definition of lobbyist again exceeds the Board's definition.

26. Minnesota Power & Light Company believes that lobbying-related expenses are comprehensively reported to the Board and any additional reporting represents a duplication of effort. They would not object to a rule which would require verifiable copies of reports filed by a regulated public utility with the Board being periodically filed with the Commission. MP&L contends that any other matters relating to the proper classification or treatment of lobbying-related expenses would more properly be addressed during a rate case audit and the subsequent proceedings.

27. Interstate Power Company also argued that the proposed rules do not adequately define the scope of activities and expenses to be embraced by the proposed reporting requirements. The proposed definitions are so broad and unlimited as to require disclosure which would be both meaningless in terms of identifying lobbying expenses and in direct conflict with the legislature's statutory definitions of lobbying and lobbying expenditures. Interstate argues that the Commission did intend for the rules to encompass activities and expenditures greatly beyond the scope of the existing ethics in government laws, which themselves are so encompassing as to apply to activities beyond any common understanding of the term "lobbying". The Commission proposed the rules in response to the Common Cause report, but Interstate contends that Common Cause is using the term "lobbying" in its most abused form to include "meals and gifts to Commissioners", etc. They argue that the reporting requirements of Minn. Stat. Ch. 10A

apply to a far broader scope of activity than seems to be encompassed in the Common Cause definition of "lobbying". For that reason, Common Cause is in error, and as a result, are being unjustifiably harsh and critical of the Commission. They state that the Common Cause report fails to constitute any support for the need for the proposed rules relating to lobbying and expenditures, both because of its error in including Minnesota among the states which fail to comply with its standards and because it fails to refer to or suggest any need for any disclosures not already required by Minn. Stat. § 10A. The fact that the Minnesota Legislature has already specifically legislated on the matter of disclosure of lobbying expenditures constitutes a basic foundation of Interstate's objections to the proposed rules. They further argue that the specific authority given the Board with respect to lobbyists' expenditure disclosures supersedes and preempts the general power and authority given the Commission. They have no objection to a rule requiring utilities to furnish the Commission with copies of reports submitted to the Board. Interstate asserts that the information required by the Commission for rate-making purposes is already appropriately categorized on its records maintained in accordance with the Uniform System of Accounts, which system is maintained by companies such as Interstate with multi-state operations on a uniform basis.

28. In summary, the proposed PSC 420 to 423 does not appear to be adequately based on statutory authority, needed or reasonable. The rules appear to have been precipitated as a result of the Common Cause report on accountability of state public utility commissions dated August, 1976. Even though Minnesota was among 15 out of 39 states that had no rule or statute requiring lobbying expenditures to be separately identified in the utilities' accounts, the Ethics in Government Act, Minn. Stat. § 10A, provides and administers an adequate lobbyists registration and reporting program in Minnesota. As pointed out by Minnesota Power & Light Company, any matters relating to the proper classification or treatment of lobbying-related expenses would more properly be addressed during a rate case audit and subsequent proceedings.

The Commission Staff has adequate opportunity to audit utility books and also to have access to reporting forms of lobbyists filed with the Ethical Practices Board. These two sources of information should provide adequate information to determine expenditures by a utility for lobbying purposes. The requirements of the proposed rules would duplicate the reporting procedures now in effect with the State Ethical Practices Board and would cause an undue burden upon gas and electric utilities in Minnesota. For that reason, the Public Service Commission has exceeded its statutory authority and has not demonstrated the need for and the reasonableness of PSC 420 - 423.

Proposed PSC 279 - 336 (Customer service standards, new rules and amendments to existing rules.)

GENERAL COMMENTS

29. The existing regulations governing customer service standards for public electric and gas utilities under the jurisdiction of the Public Service Commission became effective on February 11, 1976. The Commission assumed state-wide jurisdiction over public gas and electric utilities on January 1, 1975. Every public utility operating in Minnesota has been operating under the existing gas and electric customer service rules since the February 11, 1976 effective date. The Commission alleges that its experience since that date has shown that the existing rules are deficient in a number of areas. Certain rules are unenforceable, others are ambiguous. In addition, some of the rules are grammatically incorrect. The Commission felt that a complete review of the existing customer service rules was necessary in order to fulfill its statutory obligation. The rule that drew the most criticism and comment from the public, legislators and governmental agencies is PSC 299, commonly referred to as the "Cold Weather Rule". The Public Service Commission recommends that this entire rule should be deleted for reasons which will be discussed in detail later in this Report. Twelve detailed written memoranda were filed by various utility companies, legislators, and representatives of governmental agencies after the hearing.

Proposed PSC 280

30. That PSC 280, regarding complaint procedures, be deleted in its entirety since the requirements set forth in that rule are duplicated in proposed PSC 282, which, as amended, outlines the procedure under which a utility will handle a customer complaint or inquiry. Said deletion is reasonable and necessary.

Proposed PSC 281

31. That because of the length and controversy of some sections of this proposal, each section of the original proposal will be treated separately below.

PSC 281A

32. PSC 281A, as amended, states clearly and concisely that the customer information sign must state where, when and to whom a complaint must be directed along with the address of the Public Service Commission and its availability for mediation upon written request. Every gas and electric utility operating under the existing rules is required to have signs in its office with this information. The amendment is being offered for the limited purpose of clarification, does not involve a substantive change in the existing rule and is reasonable.

PSC 281B

33. This rule, as amended, requires every utility to publish customer information booklets. Subsection (1) of this rule sets out the requirement for utilities' customer policies in six different areas to be included in this information. The Commission asserts that the amendments to PSC 281B are being offered for the limited purpose of clarification and do not involve a substantive change in the existing rules. The Commission alleges that the current rule is deficient in that it doesn't specify what is to be included in the customer information rules. PSC 281B requires that a utility shall publish its customer information "at its expense". Peoples Natural Gas Company contends that (a) the initial preparation and subsequent periodic updating of such material could easily generate costs which would outweigh the benefits of such information, and (b) that if the phrase "at its expense" is intended to mean that the utilities are to make

such information available to their customers "as part of the utility's service covered by the utility's rates", that the foregoing language be substituted for the words "at its expense". They assert that this recommended change is intended to avoid a possible interpretation as to the effect that the expense of preparing such information is to be a "below the line" cost to be excluded from the utility's cost of service.

The ambiguity which is claimed by Peoples does not actually exist in the reading of the rule, and the words "at its expense" are easily interpreted as an expense of the public utility in doing business. For that reason, the rule, as proposed by the Commission, should be adopted.

PSC 281B.3.

34. This rule requires the title, address and telephone number of the department of the utility to which complaints should be directed, including a telephone number for customers to call in emergency situations and adds the additional wording "or a concise statement as to where such information can be obtained". Northern States Power Company claims that the proposed amendment is reasonable and will not constitute a hardship for utility customers. On the other hand, the Legal Aid Society of Minneapolis argues that said rule should not be amended as the present rule attempts to put all necessary information in the customer's hands at one time, and the amendment would weaken that policy. The Commission claims that some of the larger utilities are unable to print all of the information of the different telephone numbers that they have for their different departments on the information form; in that case, the practice is to put a concise statement advising customers to consult the telephone directory to find this information. The Commission has accepted this in the past as compliance with the rule. The rule, as proposed, is reasonable and is not weakened by the proposed amendment.

PSC 281B.4.

35. This rule requires that the customer information include the rules and regulations of the Public Service Commission concerning complaints and customer relations. It specifically

identifies PSC 282B and 303 for inclusion. The Legal Aid Society of Minneapolis contends that the rule should be expanded to require inclusion of the information contained in PSC 298 (disconnection of service rules); PSC 299 (cold weather rule); PSC 300 (notice: Other time requirements); PSC 301 (manner of disconnection); and PSC 302 (reconnection of service). They state that unless the customer knows his rights, he will be severely hampered in enforcing those rights and that the present information booklets are totally inadequate to inform the customer of his rights.

The requirements of PSC 281B.1 include the necessity for a utility to set out its policies governing, among other areas, notice of disconnection, disconnection of service, and reconnection of service. In the customer information booklet, the customer will have an opportunity to learn the utility's own customer policies governing these areas without the additional inclusion of PSC's 298, 299, 300, 301 and 302 as a specific requirement of subsection (4). The rule, as proposed by the Commission, is reasonable.

PSC 281B.5.

36. This subsection deletes the requirement that the deposit and guarantee standards of the utility be included in the "customer information". The reason for the deletion is that this requirement is now included in proposed PSC 281B.1. The rule adds the requirement of a statement that the Minnesota Public Service Commission regulates this utility and is available for mediation upon written request and the address of the Minnesota Public Service Commission. The rule, as proposed, including the aforementioned deletion, is reasonable.

PSC 281C

37. This rule relates to information which utilities must include in their billing statements and includes the wording "or a concise statement as to where such information can be obtained". The Commission claims that larger utilities find it difficult to list all phone numbers of various departments on billing statements, and the proposed amendment will allow them to comply with

the rule. NSP, one of the largest utilities in Minnesota, conducts its operations through numerous geographic divisions and subdivisions. They have numerous district or area offices located within these geographical subdivisions, and each of these offices has separate telephone listings and addresses in the local telephone directory. If each telephone number and address were to be set forth on bill statements, it would be necessary for NSP to have printed 44 separate bill statements and to code all customer accounts in these 44 areas so that each customer in each area was provided with appropriate telephone number and address. They argue that a customer is more likely to dispose of or lose his bill stub than his telephone directory. They further argue that no evidence was introduced at the hearing that any one of their 976,000 customers was unable to reach the company by telephone or mail. They submit that the proposed amendment to PSC 281C.1. is reasonable and will not constitute a hardship for their customers.

38. The Legal Aid Society of Minneapolis takes issue with the alleged lack of space on the bill to print this information and argues that there is a sound policy for giving customers this information on the bill. They further state that the proposed change will make it more difficult for customers to register complaints and there is no need for the proposed amendment.

39. That the proposed PSC 281C, as amended by the Commission, is reasonable and should be adopted.

Proposed PSC 282

40. PSC 282, as amended, constitutes a consolidation of several existing PSC rules. The rule contains the requirements currently set out in PSC 280, 282, 286, and 287. Subsection C provides that when the Commission forwards a customer complaint to the utility, the utility shall notify the Commission within five (5) business days regarding the status or disposition of the complaint. Peoples Natural Gas Company urges that this rule be changed to enlarge the period to ten days, claiming that five days is inadequate considering mail service, and the frequent need for the recipient office to check with another office for

additional information. The proposed amendment to subsection C by Peoples Natural Gas is based on sound reasoning and should be adopted by the Commission. The rule, as amended, is reasonable and necessary.

Proposed PSC 284, 285, 286, 287, 295

41. That the proposed rules drew no criticism or public comment, either during or after the hearing, and are reasonable and necessary.

Proposed PSC 296

42. The Commission proposes changes in the existing PSC 296 by the deletion of subsections (b) and (c). The rule relates to extension of service, and the Commission states the need for the deletion arises from the fact that the rule presently is ambiguous in that it does not indicate whether it applies to a gas or electric utility or both, and if it applies to gas utilities, it is ambiguous because gas utilities do not have service areas as defined in Minn. Stat. § 216B.10, subd. 6. Secondly, the Commission states that the rule fails to define what is meant by the terms extensions and service areas and that the rule is merely a liberal re-wording of Minn. Stat. § 216B.04. The present rule makes mandatory a requirement that all extensions be completed within 90 days, and with the Commission's approval, an additional 90 days. The statute, on the other hand, is construed by the Commission as merely establishing a guideline for furnishing adequate service and not as a mandatory time period for making extensions of service. The Legal Aid Society of Minneapolis opposes the deletion of subdivisions B and C for two reasons. First, that the requirements of Minn. Stat. § 216B.04 can be construed as mandatory, and if the utilities find compliance with the statute impossible, they should seek an amendment to the statute. Secondly, any ambiguity in the term "service area" can be resolved by clarifying the definition rather than deleting the regulation.

43. The Commission disagrees with this statutory construction. In the event the statute is construed as setting forth a mandatory service extension requirement, the Commission still

supports the deletion of the rule, contending that there is no need for a rule when the legislature has clearly spoken on the matter. The Commission's position is that the situation governed by the rule is covered by Minn. Stat. § 216B.04, and there is no justifiable need to duplicate the provisions of the statute by the promulgation of the rule. Also, the reason for the deletion of subsection C is that this rule was proposed as a modifier of subsection B. Since subsection B is proposed to be deleted in its entirety, it then follows that subsection C is unnecessary. Minnesota Gas Company supports the proposed amendment to PSC 296.

The rule, as proposed, including the deletions of subsections B and C from the existing rule, is reasonable and should be adopted.

Proposed PSC 298

44. PSC 298 outlines the permissible and non-permissible reasons for disconnecting service to a customer. The rule also specifies when notice is required prior to the disconnection of service. The present rule, according to the Commission, is not readily understandable, and proposed PSC 298 is a total revision of the existing rule into four subdivisions:

A. Disconnection of service with notice - permissible reasons;

B. Disconnection of service without notice - permissible reasons;

C. The temporary disconnection of service;

D. Non-permissible reasons to disconnect service.

PSC 298A

45. PSC 298A eliminates the provision in existing PSC 298 (a) which requires that the utility must apply a customer's deposit and accrued interest to any liability of the customer and return any remaining balance to the customer within ten days of disconnection. PSC 298A.1. eliminates the provision of the existing PSC 298(a)(1) which provides that utility service can be disconnected for non-payment only when the amount of the deposit, plus accrued interest, has been used to satisfy the incurred obligations. The purpose of obtaining a security deposit is to protect paying customers against losses incurred because of non-

paying customers. If the non-paying customer's deposit is first applied to his unpaid account, and his service thereafter is terminated, in order to accomplish the purpose of securing the deposit under the conditions established by the existing rule, service would not be re-established until the customer had paid all remaining liability and had made an additional deposit. The Commission asserts that it would be easier for the defaulting customer to re-establish service by being obligated to pay outstanding liabilities only as opposed to additionally being obligated to make another deposit. To waive the requirement for an additional deposit under these conditions would defeat the purpose for taking the deposit in the first instance. They maintain that the present PSC 298(a)(1) is totally inconsistent with the concept of security deposits. Applying security deposits to arrears prior to disconnection would be the equivalent of converting security deposits into prepayments. Under the proposed rule, service would be disconnected when the amount of the deposit equalled or exceeded the outstanding bill. At this point, the customer has the option to either make another deposit or allow his service to be disconnected. This procedure would protect paying customers from non-paying customers and fulfill the purpose of security deposits. The intent of the amendment, as stated by the Commission, is that a utility may disconnect service for non-payment of bill only when the amount of the billing equals or exceeds the amount on deposit with the utility. In its written comments submitted within the 20-day period after the hearing, Commission recommends that PSC 298A.1. be amended to read as follows:

> For failure of the customer to pay a bill for utility service, but only when the amount of the customer's outstanding bill equals or exceeds the amount of the customer's deposit.

The proposed amendment omits the words "when due" after the word "service" as originally proposed by the Commission.

46. Northern States Power Company submitted a rather lengthy memorandum with respect to the present inadequacies and ambiguities in the existing PSC 298 and asserted that the proposed amendments addressed these defects and should be adopted. Otter

Tail Power Company stated that the proposed rule should be modified to allow disconnection for non-payment of a bill when the amount of the billing exceeds the amount on deposit with the company as set forth in the new Commission-proposed rule. They strongly object to a requirement for the application of the deposit prior to disconnection.

47. State Senator Tim Penny, in written comments submitted after the hearing, suggested that the real reason for the proposed amendment is a desire to help the utility and not the consumer. He asserts that the proposed amendment would allow the utility to disconnect service much sooner because the deposit would not have to be used first to satisfy the incurred obligation. Therefore, action under the proposed amendment would actually cost the customer more because he would have to pay to have service reconnected. . . Service that had been disconnected, even though he may have had enough money on deposit with the utility to satisfy the incurred obligation. He therefore argued that the proposed amendment would prohibit a customer from using his own money for the purpose for which it was given to the utility. He contends that the existing language in PSC 298(a) and 298(a)(1) should be retained because deleting it would deprive consumers of the protection that the deposit requirement was designed to provide. He also disagrees with the proposed amendments to PSC 298(c)(1) and (2) (Landlord-tenant rule) as it would allow the utility to disconnect a tenant's service for the landlord's non-payment even without offering that tenant the opportunity to subscribe for service in his or her own name. He stated that the proposed amendments would require the utility to only make a good faith attempt to advise tenants of their intent to discontinue service. He stated that the existing language provides tenants at least some protection against having their service disconnected when a landlord fails to meet his obligation.

48. The Legal Aid Society of Minneapolis argued that the present language in PSC 298(a)and (a)(1) should be retained with the exception that PSC 298A.1. should specify that nonpayment of a bill means "nonpayment of the customer's bill for utility service"; PSC 298A.2. should be amended to include the words "for

failure of the customer to meet the deposit and credit requirements contained herein." This rule is subject to the requirements of PSC 298A.1.; PSC 298A.3. should be amended to spell out that it relates to customerswho fraudulently deceive the utility by attempting to apply for service under a false name or in the name of a person who does not want service in his name; PSC 298A.9. should be amended to limited compliance with "the lawful order of any governmental authority"; and PSC 298(b)(4) should not be deleted but should be added to proposed 298B.

49. The rule, PSC 298, as proposed by the Commission, corrects the defects and ambiguities in the present existing PSC 298, and there is no necessity for the adoption of the recommendations of the Legal Aid Society of Minneapolis with respect to this rule. Even though there is commendable merit in the proposals and arguments of the Legal Aid Society, the rules, as proposed, are not so ambiguous as to have a need for the additional proposed language of the Legal Aid Society.

That PSC 298, as proposed by the Commission, is necessary and reasonable.

Proposed PSC 299

50. On February 11, 1976, PSC 299, commonly called the "Cold Weather Rule", became effective. The Public Service Commission now proposes the deletion of said rule in its entirety. They state as reasons for its deletion, that the rule makes disconnection and consequently collections difficult, if not impossible during the winter months. The rule prohibits a utility from disconnecting service 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. The Commission contends that the present rule offers little, if any, protection against disconnection during extremely cold weather. The rule also prohibits a utility from disconnecting service on a Friday or a day before a legal holiday if the low temperature during the previous day fell below 32° Fahrenheit, as reported by the National Weather Service at its first order station nearest the residence. The

Commission submits that it is meaningless to determine whether or not service can be disconnected on a given day based on the temperature of a previous day. Subsection (b) of rule PSC 299 provides that 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 fell below 32° Fahrenheit, the utility must 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 include the billing name and service address at which service was disconnected and information that a threat to health and life might exist to persons occupying the premises.

The Commission contends that they have received numerous requests from both local law enforcement agencies and county welfare agencies asking that the Commission define what responsibility those agencies have under the rule. The Commission cannot order these agencies to act on behalf of the utility customer whose service has been disconnected as described above. They claim that although the rule does not specifically state that local law enforcement and county welfare agencies must act in this event, an inference can be drawn that those agencies are required to make some affirmative response when receiving such information from the utilities. For that reason, they suggest PSC 299 be deleted in its entirety. They further argue that the necessity of securing weather information and co-ordinating this information with disconnect notice requirements make disconnection very cumbersome. Without the threat of disconnection, the utility's bad debt expense increases. This additional expense must then be assumed by the utility's paying customers. They further argue that the present requirement to notify both local law enforcement and county welfare officials is very difficult, especially in rural communities, and in some cases, such notice could be construed as an invasion of privacy. The Commission further contends that limitation on termination of service during cold weather was not eliminated in its entirety. The review of existing rules and the proposed rules demonstrates an elaborate

system of billing and notice requirements such as the provisions of proposed PSC 301B. They insist that any suggested amendments to the existing cold weather rule do not adequately address the problem. If a customer is unable to pay his bill during cold weather, it follows that he will be unable to pay his bill during warm weather. They further add that the customer who needs financial assistance will still have time to seek public assistance under existing rules PSC 300 and proposed PSC 301B. The Commission contends that the current cold weather rule encourages the nonpayment of bills during extremely cold weather.

51. Numerous oral and written comments were made during the course of the hearing and after the hearing with reference to the proposed deletion of this rule by the Commission. The consensus of the individuals and social welfare agencies who appeared in opposition to the proposed deletion was that if the rule does not provide adequate protection, it should be revised, not deleted. Deletion of the rule would jeopardize the health and safety of every consumer. The consensus of the comments indicated that the cold weather rule could be strengthened to provide adequate protection to consumers by adopting revised language.

52. The Minnesota Department of Public Welfare recommends the following revision to PSC 299(b), rather than deletion of the entire rule:

> PSC 299(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° Fahrenheit, the utility shall inform the customer that the appropriate local welfare department has emergency services and may provide financial assistance.

The Welfare Department stated that it is apparent that the prohibition against termination of residential utilities during subzero weather minimizes human risk and for that reason should be maintained. A survey of local welfare agencies indicated that approximately 50% of the utility disconnections referred to them by the utility companies were not welfare recipients. The existing notification rule implies that the welfare departments

must contact utility customers and offer services. Some individuals whose utilities have been disconnected may consider contact by the welfare department as an invasion of their privacy. The welfare agencies have a multitude of public responsibilities that must be met through tax funds, and the public cost of administering the provisions of PSC 299 may be inordinately high in relation to the possible social benefits derived. Deleting the safeguards, as set forth in the rule, would present an unnecessary risk to an inestimable number of people.

53. The Ramsey County Welfare Department suggested that PSC 299(b) should be changed to read as follows:

> 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° Fahrenheit, the utility shall inform the local law enforcement department and the appropriate county welfare department only when there is information available that a threat to health and life might exist to persons occupying the premises. In these instances, the utility shall provide the name, address, and telephone number at which the service was disconnected.

The Ramsey County Welfare Department goes on to state that its experience with this section of the rule is such that very few of the many notices received are, in fact, life-threatening situations. In that sense, present procedures are wasteful of time and resources.

54. The State Office of Consumer Services agrees with the Commission that to base the operation of a shut-off prohibition on the weather of the day previous to disconnection, as is done in in the existing rule PSC 299(a)(1), offers the consumer inadequate protection. However, they do not agree that the solution is to offer no protection in exchange for what currently exists. They propose a re-draft of that portion of the rule to base its operation on the weather of the proposed day of disconnection and on the temperature of freezing, 32° Fahrenheit, rather than zero degrees Fahrenheit. Their proposed wording for that portion of the rule is as follows:

> (a) Notwithstanding the provisions of PSC 298, no utility shall disconnect residential service on the day when the temperature is 32° Fahrenheit

or lower, or may reasonably be expected to be 32° Fahrenheit or lower, by forecast of the National Weather Service station nearest the residence.

They find it reasonble to eliminate PSC 299(a)(2) in its entirety in light of the provision suggested by the Commission in proposed PSC 301B. They assert that if their suggested language were adopted, the notification of law enforcement and welfare agencies would perhaps be unnecessary.

55. Additional revisions of the language of PSC 299 were suggested by State Senator Tim Penny and the Legal Aid Society of Minneapolis.

56. Otter Tail Power Company, Benco Electric Company and Northern States Power Company all agree that the present PSC 299 should be deleted. Northern States Power Company asserts that, in lieu of PSC 299, proposed PSC 301B was added. That rule provides that utility service cannot be terminated on any Friday, Saturday, Sunday or legal holiday or at any time when the utility's business offices are not open to the public. Northern States Power Company adopted and implemented winter disconnection procedures well before the existence of the Public Service Comission. These procedures are still used in conjunction with PSC 299. Their procedures, in addition to those presented by PSC 299, are that when the 24-hour predicted low temperature is to be 20° or colder, and if the disconnection in any way affects the primary heat source of the premises, a personal contact must be made with an adult at the premises subject to disconnection 24 hours in advance of disconnection. They further state that if proposed PSC 301B does not adequately address the cold weather situations, then they recommend that any adopted cold weather rule incorporate the following provisions:

"If disconnection affects the primary heat source of the premises:

(1) utility service cannot be disconnected if the predicted 24-hour (12:00 a.m. to 12:00 p.m.) temperature as reported by the National Weather Service at its first order station nearest the residence is to be zero degrees Fahrenheit or lower.

(2) If the predicted 24-hour (12:00 a.m. to 12:00 p.m.) temperature as reported by the National Weather Service at its first order sta-

tion nearest the residence is to be 20° Fahrenheit or lower, a representative of the utility must make personal contact with an adult at the premises to be disconnected at least 24 hours in advance of disconnection."

NSP opposes the suggestion of the Department of Public Welfare that utilities be obligated to notify customers subject to disconnection that public assistance might be available. They argue that electric and gas consumers should not be obligated to subsidize the operations of the Public Welfare Department.

57. A thorough review of all of the statements and testimony presented with regard to this rule indicates that deletion of the existing rule is not a solution to whatever problems may have arisen as to enforcement under the existing rule and would result in unpredictable dangers to public utility consumers in the state of Minnesota. A thorough review of the filed and oral comments indicates that a more proper re-write of the language of of the existing rule would be as follows:

PSC 299

(a) Notwithstanding the provisions of PSC 298(a), no utility shall disconnect residential service, if said disconnection affects the primary heat source of the premises:

(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° 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° Fahrenheit, the utility shall inform the customer that the appropriate local welfare department has emergency services and may provide financial assistance; in addition, the utility shall notify the local law enforcement department and the appropriate county welfare department, only when there is information available that a threat to health and life might exist to persons occupying the premises. In these instances, the utility shall provide the name, address and telephone number at which the service was disconnected.

That the deletion of PSC 299, as proposed by the Commission, is unreasonable, and that the amended rule as stated above, is

reasonable and necessary and should be adopted by the Commission.

Proposed PSC 300

58. This rule defines what constitutes adequate notice as that term is used in the rules. The Commission is proposing a new PSC 300A and the deletion of the existing PSC 300(a). They also propose amendments to PSC 300(b) to be known as PSC 300B; PSC 300(c) to be known as PSC 300C; PSC 300(d) to be known as PSC 300D, and PSC 300(e) to be known as PSC 300E. In addition, they propose a new PSC 300F and the deletion of the existing PSC 300(f).

PSC 300A

59. The existing PSC 300(a) requires that all notices of disconnection must be by certified mail. Certified mail requires a receipt signed by the addressee. If the addressee is not home, or refuses to answer the knock of the postman, a note is left in the addressee's mailbox stating that the letter awaits him at the local postal station. The notice of disconnection must be sent 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. The Commission notes that it has been the experience of the utilities operating under this rule that a person intent on avoiding payment of his utility bill will not sign a receipt for a certified letter or travel to the local post station to receive notice that his utility service is about to be disconnected. The requirement of certified mail will not enhance the prospects of receiving notice and will only be used as a tool by those who do not intend to pay. Another factor is the high cost of mailing a certified letter ($.73) vs. first class mail ($.13). A large saving can be insured by eliminating the certified mail requirement and still insure that the customer is receiving adequate notice prior to disconnection. In light of the above-stated reasons, the Commission proposes an amendment to PSC 300(a) to provide that notice of disconnection will be by first class mail only. Notice will be sent to the address where the service is rendered or to the address where the bill is sent if different from the address where service is rendered. A representative of

the utility will make an affidavit under oath that he deposited in the mail the notice properly addressed to the customer.

60. Minnesota Power & Light Company has maintained a record of returns of letters sent out by each method. They have determined that approximately 18% of those notices sent out by certified mail have been returned while less than one percent of those sent out by first class mail are returned as undelivered to the customer. Otter Tail Power Company contends that the existing rule has increased mailing and labor costs which are assumed by all customers of the utility. The value of the rule as it presently exists appears to be in question simply because of the utility's customers refusing to accept certified mail. It is submitted that a greater number of customers would actually receive the notice and would read the notice if it was sent by first class mail. Benco Electric Company also agrees to the deletion of the requirement for certified mail.

61. State Senator Tim Penny contests the arguments of the Commission for the proposed amendments. He states that most customers would rather bear the added expense of certified mail than face disconnection because they did not receive notice by first class mail and that said amendment is particularly dangerous in light of the proposed deletion of the cold weather rule. Cost of certified mail is not an adequate argument for making a change that could have disastrous results.

62. NSP strongly urges that the proposed PSC 300A be adopted. All bills, including those containing "reminder notices" and "important notices" are presently mailed by NSP by first class mail. During the period June 1, 1976 to December 31, 1976, NSP mailed, by certified mail, 149,046 Notices of Disconnection. Twenty-four percent of these notices of disconnection were returned by the post office as undeliverable. During the same period of time, all notices which were mailed by first class mail to the same people at the same addresses, <u>less than one percent</u> were returned by the post office department as undeliverable. That includes 313,286 "important notices" mailed in the metropolitan area alone. They strongly argue that the additional expense is

not warranted by the results achieved.

63. That PSC 300, as proposed by the Commission, is necessary and reasonable.

PSC 300B, 300C, 300D, 300E

These rules drew little criticism or comment and are reasonable as amended.

PSC 300F

The present PSC 298(c) is an attempt to protect tenants from the difficulties of termination of service because of a defaulting landlord, particularly an absentee landlord. That rule provides that service to the landlord cannot be terminated unless where "feasible", the occupant is offered an opportunity to subscribe for service in his own name. The proposed PSC 300F is a new provision that addresses itself to notice of disconnection of service. The existing rule is deficient for several reasons: First, the task of contacting each individual tenant to determine whether he or she is desirous of being responsible for utility service for the entire building is unreasonable. Secondly, because of the current deposit rules, it would be difficult, if not impossible, for a utility to obtain a deposit from an individual tenant to secure payment of bills which could amount to hundreds of dollars per month. Third, the rule of legality is questionable as it allows the utility and the tenant, neither having any ownership interest in the property, to establish a contractual relationship for utility services thereto without a hearing or order from the Commission or the courts. The proposed rule requires the utility to make a good faith attempt to notify tenants prior to disconnection. Such notice required by this provision must precede the action to be taken by at least five days, excluding Sundays and legal holidays.

64. NSP fully agrees with the Commission that the existing rule is defective; however, they question that the proposed rule is a reasonable alternative. They are strongly of the opinion that the posting of notices as provided in the Minneapolis and St. Paul ordinances is an excellent way for notifying tenants in multiple dwelling units of pending termination of utility

service and recommend that proposed 300F be amended to so provide.

65. That the proposed PSC 300F is reasonable and necessary and a good faith attempt could include the posting of notices to inform the tenants without any additional language in the rule.

Proposed PSC 301

66. This rule deals with the manner of disconnection of service and the Commission proposes the elimination of the existing PSC 301(a) which contains the requirement for the utility to attempt, on at least three separate occasions, in good faith to obtain personal contact with the consumer in the event personal contact or contact is not made by certified mail. The Commission contends that by adopting disconnection notice by first class mail, it will be presumed that the mail is delivered and the customer received notice. The proposed subsection B is a new subsection which provides that service shall not be disconnected for nonpayment of bills on any Friday, Saturday, Sunday or legal holiday, or at any time when the utility's business offices are not open to the public. The Commission amended the proposed subsection at the hearing to include the wording "for nonpayment of bills".

67. People's Natural Gas Company takes issue with PSC 301A which provides in part that a representative of the utility shall, at all times, be capable of receiving payment. They allege that such a procedure will encourage chronically slow paying customers to ignore collection notices and wait until the utility representative appears in person to shut off service.

68. NSP agrees that the existing PSC 301(a) be totally deleted, stating that first class mail is a far better vehicle for providing notice than certified mail. They further state that mailing notices of disconnection by first class mail and a personal visit to the premises at the time of disconnection provides a wholly adequate and much more satisfactory method of communication than existing PSC 301(a).

69. The Legal Aid Society of Minneapolis argues that the existing PSC 301(a) should not be deleted because the rule puts no intolerable burden on the utilities and ordinary mail is, in

many instances, not adequate to insure notice. They further contend that the present rule could be misinterpreted, as applied to a multiple dwelling, to mean that the utility representative need not go to the door of a customer's apartment unit inside the building. Since the purpose of the personal visit requirement is to give the customer one last chance to remedy the cause of the proposed disconnection, they suggest that the rule should be clarified to eliminate any misunderstanding by amending the first sentence of PSC 301A by adding the following language following the word "rendered":

> "and an attempt to make personal contact with the customer at the address. If the address is a building containing two or more dwelling units, the representative shall make a personal visit to the door of the customer's dwelling unit within the building. If security provisions in the building preclude free access on the part of the representative, the representative shall attempt to gain access to the building from the caretaker, for the purpose of attempting to make personal contact with the customer."

70. The above wording, as proposed by the Legal Aid Society of Minneapolis, is reasonable and necessary to avoid any misinterpretation of the rule and should be incorporated into the rule as adopted. That PSC 301A and B, as amended, are reasonable and necessary.

Proposed PSC 302

71. This rule is being amended to clarify ambiguous language. There is no substantial change in the body of the rule and there were no public comments or criticism with reference to the proposed change. That the amendment to the existing rule is reasonable and necessary.

Proposed PSC 303

72. This rule outlines the dispute procedures to be followed by the utility and establishes the escrow payment plan for disputing bills. The Commission asserts that this is not a collection device solely for the benefit of the utility. The rule places an affirmative duty on the part of the utility to resolve all disputes regarding billing prior to the disconnection of service. The amendments to this rule are found in subdivision G.6. and G.7.

73. PSC 303G.6. is being amended to clarify the fact that by submitting the escrow payment form to the Commission, the customer has filed an informal complaint against the utility, pursuant to the Commission's Rules of Practice. In light of the above amendment, the existing PSC 303(g)(7) is no longer necessary. If a customer desires to dispute his estimated bill, the proper procedure for him is the filing of an escrow payment form with the Commission. The rule as proposed is reasonable and necessary and should be adopted.

PSC 303G.7.

74. This rule provides that upon settlement of the dispute, any sums found to be entitled to be refunded to the customer shall be supplemented by a 6% per annum interest charge from the date of payment to the date of return by the utility. The Legal Aid Society of Minneapolis proposes that this rule should be deleted and the present PSC 303(g)(8) should be retained. They state that the penalty rule is simply an incentive to the utilities to keep accurate records and not to overcharge; if the only penalty was a requirement that interest be paid at the legal rate, there would be no penalty at all, and thus no incentive. They contend that the existing PSC 303(g)(8), which is proposed to be deleted, includes a penalty of ten percent of the amount found in error and the ten percent rule is a reasonable regulation in furtherance of the statutory goals.

75. The opposite view was expressed by Pickens, Mather & Company in their written comments filed after the hearing in which they submit that, given current interest rates, and the likelihood that future interest rates will continue to be in excess of six percent, the proposed revision in effect offers the utility a very expensive form of borrowing. They assert that a more equitable approach would be a rate equal to the rate of return permitted the utility by the Commission with respect to the class of customers in which the customer receiving a refund fits. Also, they argue that a penalty should be imposed in addition to the interest charged in the event that the refund is payable by virtue of the failure of the utility to comply with the regulations and/or orders of the Commission.

76. Proposed PSC 303I is a completely new rule and is necessary to clarify the fact that the utility is not obligated to suspend discontinuance of service upon the filing for review with the Commission, unless the customer pays, when due, all current bills rendered during the pendency. It also provides that all designated disputed payments of portions made after the first filing for review shall be considered to be made in escrow.

77. That the proposed PSC 303 is supported by the Commission's Statement of Need and is reasonable and should be adopted.

Proposed PSC 311

78. The Commission proposes deletion of subsection (b) of the existing rule which provides that a self-read utility must read its meters at least once every 12 months upon a change in customers, and upon a customer's request. A number of electrical cooperatives are experiencing great difficulty in complying with this annual meter reading requirement. When a utility is operating in many counties, it is difficult to get a reader to every customer once 12 months. In addition, the rule does not take into consideration the situation in Minnesota where the reading of meters may be impossible because of inclement weather. The original intent of this subsection was to insure that billing errors, due to inaccurate meter readings, or other meter malfunctions, would be discovered at reasonably short intervals. The intent of the subsection to protect the customers from extraordinarily large bills has been transferred to PSC 314 and 315. Accordingly, the Commission proposes deletion of subsection (b) from the existing rules. That the proposed deletion is necessary and reasonable and should be adopted.

Proposed PSC 313

79. The Commission proposes that the existing rule be amended completely in that it adopts an outlined procedure. The rule governs the content and information required to be stated in the utility bills and should enable the customer to understand the factors upon which his bill is based. The rule is amended by outlining the information required on the billing statement. The information required under subsections A.1., .2, .3, .4, .6, .7,

.8, .9, .10, .11 and .12 is currently required under the existing rule, and the utilities already have this information readily available on their billing statements. The proposed subsection A.5. is a new provision requiring that a customer's billing statement contain a complete itemization of all charges incurred at all levels of customer usage. At the present time, a customer can only calculate his average rate which is never equal to the price of additional energy consumed or conserved. The price information required under the proposed rule is essential so that retail customers will be able to make rational decisions regarding their usage. The provision contemplates that the customer's total consumption will be broken down according to separate rate blocks, and the charge for consumption in each block set forth. With the aid of a copy of the applicable rate schedule, a customer could readily compute and check his bill. This information is necessary so that a customer can make an intelligent decision regarding how to conserve energy.

80. Minnesota Gas Company opposes the proposed PSC 313A.5. because the rule assumes that a customer must have a current rate schedule in his possession to make a check calculation. Customer doubts as to bill accuracy will not be removed by making a number of calculations for each portion of the customer's bill as would be required by this rule. Minnesota Gas Company claims that they have qualified customer accounting representatives who assist all customers who wish to check the accuracy of the amount of the bill. They also provide current rate schedules upon request to anyone who wants a copy. They argue that they have just completed a complete re-design of their bill, changed the form of the bill and re-programmed the computer to accommodate the requirements of the existing PSC rule. The new bill form has been in use only a few months, and the customers are just starting to become familiar with it. Another change would simply further confuse all the customers for the benefit of the few who may want to see an arithmetic computation of each segment of the bill. They would have to completely change their bill form and lease an additional expensive computer to achieve

these ends. The cost of re-designing the bill and owning or leasing the additional expensive computer equipment cannot be justified when compared with the small benefit to the few customers who may question the computation of their bill. They further argue that it is doubtful that the tracing of the calculation of each step or block of energy consumption in the bill will generate any stronger or meaningful economic signals to the customers and his recognition of the total amount of his bill.

81. Northern States Power Company opposes the proposed section A.5. alleging that under the existing rule, a customer can make such calculations. The proposed subsection will increase the bill size from its present 8 1/2" to as much as 16 1/2". Under the proposed subsection, if consumption from more than one electric or gas meter is to be shown, the bill becomes correspondingly longer or two bills must be sent thus increasing mailing costs. NSP claims that if the proposed subsection is adopted, its anticipated expenses will be in an initial estimated programming cost of $50,000, and an increased annual expense for bill stock and printing of $127,000. They argue that no evidence was introduced that customers are presently having difficulty in understanding their bills or that the proposed change will be used by customers to reduce consumption or to make selective appliance purchases.

82. That the proposed rule section, PSC 313A.5. should not be adopted in light of the evidence presented by the utility companies. Based upon the arguments, testimony and exhibits introduced by the companies, the adoption of this subsection would create an undue hardship upon the companies, would create excessive costs and would not simplify explanations of the billing charges to the utility's customers.

83. Proposed PSC 313B is a new rule which allows any utility which is unable to comply with any of the provisions of PSC 313A within 12 months of the effective date of this rule to petition the Commission for either a temporary exemption or a permanent exemption. The Commission contends this rule is necessary to insure an equitable transition period for the implementation of

PSC 313A. The Commission's reasoning is that if 313A.5. is adopted, many utilities will have to re-program their billing procedures and dispose of whatever billing forms they have in stock on hand. It is for that reason that they stress that PSC 313B be adopted. However, if the Commission deletes proposed subsection A.5. from PSC 313, as recommended above, there will be no necessity for the inclusion of subsection B as there will be no transition period necessary for the conversion to bills containing complete itemizations of all charges incurred at all levels of customer usage. For that reason, subsection B should be deleted from the proposed rule.

Proposed PSC 314 and 315

84. PSC 314 and 315 are companion regulations which relate to the adjustment of bills and billing errors for electric and gas utilities, respectively. Since these proposed rules involve a highly technical area, the Commission relied upon regulations now in existence in other states. The proposed amendments are based upon the current regulations in South Dakota. The existing rules are primarily being amended to clarify ambiguous language and to make the rules equitable for all concerned parties. Proposed PSC 314 deals with the adjustment of bills by electric utilities because of inaccurate meters or billing errors. Proposed PSC 315 deals with adjustment of bills for gas utilities because of inaccurate meters or billing errors. The existing rule was drafted in part from the Wisconsin Public Service Commission rule and in part from the North Dakota Public Service Commission rule. What the draftsman did was to apply the Wisconsin rule to "fast meters" and the North Dakota rule to "slow meters". Hence, if a meter operates fast, requiring a customer refund, the rule affording the customer the largest refund was applied. If the meter operated slowly, resulting in an undercharge, the rule allowing the least payment has been used. The Commission found no justification for this unusual and discriminatory treatment and feels that the standard to be applied should be the same in each case. As proposed, the new rules correct the deficiencies as stated.

85. Northern States Power Company agrees with the Commission that these two sections are probably the most confusing, inadequate and arbitrary sections of the customer service rules. The purpose of the sections is to establish procedures for collecting undercharges and the refund of overcharges arising as a result of inaccurate meters and billing errors. They also agree that the new proposed rules are far superior to the existing rules. NSP asserts that the proposed rules deal with all parties fairly by establishing uniform applications. Customers who have used more utility service than that for which they have paid should, within uniform limitations, be obligated to make payment so that their utility usage is not subsidized by other customers. Conversely, customers who have been overcharged for utility service should, within uniform limitations, be entitled to refund for the same period that would have been subject to a charge. The new proposed rules will accomplish this end. Also, the new proposed rules establish for all categories a maximum time limit of liability. They establish statutes of limitation for the purpose of establishing limits on rights and liabilities.

86. State Senator Tim Penny takes issue with the proposed PSC 314 and 315, asserting that since the accuracy of meters and bills are matters under the control of the utility, the rules should provide the utility with some incentive to keep their meters and bills as accurate as possible. He maintains that the existing rules were designed to be self-enforcing by providing the utilities with such incentive; the proposed rules provide no such incentive. He takes issue with the reasoning to amend the existing rules PSC 314 and 315. He argues that the proposed amendments would give an unfair advantage to a utility company that fails to keep meters and bills as accurate as possible.

87. The Legal Aid Society of Minneapolis also contends that PSC 314(b) and PSC 315 should not be amended to the extent proposed. They argue that where an error results from equipment failure, the customer should be given the benefit of the doubt so that every effort will be made to avoid a customer being overcharged for utility equipment failure.

88. That the Public Service Commission, in its statement of need, has presented ample testimony and justification for the proposed amendments to PSC 314 and 315 and has thoroughly documented the reasonableness and necessity for the proposed changes in these two rules.

Proposed PSC 325

89. The existing PSC 325 states that a utility shall not require a cash deposit or other guarantee of any customer who has established good credit. It further states that deposits can be secured only if the customer has an unsatisfactory credit rating. The Commission contends that these references are inconsistent and involve too much editorializing rather than practical application. No criteria is stated in the existing rules as to the definition of good credit. The Commission contends that the determination of whether the applicant has good credit with a particular utility company should be made solely by that company. If the company determines that the applicant has good credit, with that utility, it would grant service without a depositor guarantee requirement. Conversely, if the utility determines lack of established good credit, it could require a deposit or guarantee. The Commission has determined that the utility should have the right to judge whether or not the applicant satisfies the requirement of established good credit and for this reason, recommends deletion of the existing PSC 325 in its entirety and replaced with the proposed PSC 325. The rule, as proposed, is reasonable and necessary and should be adopted.

Proposed PSC 326

90. This rule outlines the permissible means of guaranteeing payment. The Commission contends that the existing rule appears to be in conflict with Minn. Stat. § 325.637 (1974) which was enacted by the 1974 legislature. This statute regulates utilities as to customer deposits. Subsection A.3. requires utilities to pay interest on deposits in excess of $20 at the rate of six percent per year. The Commission included this provision in the rule to reconcile the conflict between the existing PSC 326(a)(3) and Minn. Stat. § 325.637 (1974). The Legal

Aid Society of Minneapolis suggests that the phrase "compounded annually" should be inserted after the rate of interest of six percent per year, and that the phrase "in excess of $20" be deleted. They argue that deposit requirements should not be permitted to become a money-making proposition for the utilities and under the rule as proposed, they could. While the loss to a customer in an individual case might be small, the potential gain to the utility, when thousands of deposits may be pooled, is not. They argue that the proposed rule, including their proposed changes, would not place the rule in conflict with the statute because the statute does not prohibit paying interest on deposits under $20, nor does it prohibit compounding interest.

91. John H. Kraft, an attorney in Olivia, Minnesota, submitted a written comment to proposed PSC 326A.2. suggesting that an ambiguity must be corrected. The rule requires a deposit in addition to payment of an outstanding bill or a part of such bill as has been resolved to the satisfaction of the utility. He points out that utility companies can and have attempted to require an individual who has filed bankruptcy to not only pay a deposit but also to pay the unpaid balance of an existing bill which has been extinguished in bankruptcy proceedings and is no longer a valid legal debt. He proposes that the rule be amended, and it is agreed that the rule should be amended to read:

> PSC 326 A.2. 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, except where such bill has been discharged in bankruptcy.

That the rule, as amended, is necessary and should be adopted.

92. That the proposed PSC 326A.3. should be amended to include the aforementioned recommendations of the Legal Aid Society of Minneapolis. That the proposed rule, including these recommendations, is reasonable.

93. The proposed PSC 326A.7. provides that a utility shall not require a deposit of any customer without explaining in writing why that deposit or guarantee is being required and under what conditions, if any, the deposit will be diminished upon

return. Peoples Natural Gas Company states that a utility should always be willing to give a customer an explanation as to why a deposit is requested, but that this is not necessary for all customers, many of whom understand the reasons for the deposit request. This places an unnecessary burden on the utility for a practice which has been in general use by utilities for many years. They suggest that the first sentence of section 7 be revised to include the phrase "if requested by a customer", a utility will explain in writing why a deposit is being required.

This subsection, as proposed by the Commission, is not unreasonable and does not place an undue burden upon the utilities. If a customer is required to make a deposit, he is entitled to know, in writing, why that deposit is being required, and under what conditions, if any, the deposit will be diminished upon return. The rule, as proposed by the Commission, is necessary and reasonable.

That the proposed PSC 326, as amended above, is reasonable and should be adopted.

Proposed PSC 327

93. This rule relates to good credit and impermissible reasons for guaranteeing payment. The Commission states that the present deposit rules are deficient in that they fail to determine what constitutes good credit, and in order to correct this defect, proposed PSC 327 has been amended. The amendment provides that a utility may determine whether a customer has established good credit. The amendment allows the utility to collect a deposit from any person who has not established good credit with that utility. It further states that "marital status" cannot be used as a reason for determining whether or not a deposit should be required of a utility customer. This is in keeping with the current state law on discriminatory practices and procedures. The amendment does not require the utility to undertake an extensive and costly credit check of every applicant for new service.

94. The Legal Aid Society of Minneapolis suggests that the title of proposed PSC 327 should read: "Good Credit and Impermissible Reasons for Requiring a Guarantee of Payment." That

suggestion is reasonable and should be adopted by the Commission as the rule title.

The Legal Aid Society of Minneapolis also proposes that the title to proposed 327B should be amended to read: "Impermissible Reasons for Requiring a Deposit or a Guarantee of Payment." That recommended title change is reasonable and should be adopted by the Commission.

Peoples Natural Gas Company questions the criteria set forth in subsection A for good credit. They recommend a better criteria would be "those customers who have not paid after the discount date on more than one occasion during the past 12-month period." They assert that this information is readily available from existing records and would provide a reliable measure of a customer's credit.

95. That the proposed PSC 327 sets forth adequate criteria for determination of good credit and the rule as proposed by the Commission, is reasonable and should be adopted.

Proposed PSC 328

96. This rule is being deleted in its entirety. It is a definition rule that states that the terms "dispute" and "disconnect" are defined in PSC 303 and 295. However, an examination of those two rules will reveal that there is no definition of these words included in those rules. The Commission contends that it is not necessary to include definitions of these two words within the rules. That the proposed deletion is necessary and reasonable and should be adopted.

Proposed PSC 335

97. The Commission proposes to delete subsection (a) of the existing rule because it duplicates the requirement of PSC 281B, as proposed, and, in addition, the rule is being deleted because it is costly and impossible for the utility to keep current customer information booklets at every establishment where a customer may pay his bill. Many utility bills are paid at locations which do not operate under the control of the utility, such as drug stores, supermarkets, etc. The Commission contends that the customer has been adequately informed of his rights

and liabilities without the added expenses to companies pursuant to PSC 335(a). They also propose the deletion of subsection (b) in its entirety because it duplicates the requirement of PSC 281. In addition, the Commission contends that it is costly and next to impossible for a utility to keep signs at every establishment where a customer must pay his bill. The Commission also proposes that subsections (e) and (f) be deleted from the existing rule because they duplicate the requirements currently found in PSC 310B.

98. That PSC 335, as proposed, is reasonable and necessary and should be adopted.

CONCLUSIONS

1. That the Commission gave due, timely and proper notice of the hearing herein. All other substantive and procedural requirements of the statute and applicable rules have been fulfilled.

2. The Public Service Commission has statutory authority to adopt the proposed rules.

3. With the exceptions noted in the Findings, the Commission has demonstrated the need for and the reasonableness of the proposed rules.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

That the proposed rules be modified as suggested in the Findings, and that as modified, they be adopted.

Dated this 16th day of May, 1977.

BERNARD SINGER
Hearing Examiner